SENATE—*Thursday, September 6, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Let us pray.

Our Father God, as we look inward at national concerns and outward at international problems give us grace and wisdom to look upward that we may discern Thy will for our Nation. Make us wise in all we ought to know, and strong in all that matters. Keep us alert in every emergency and ready for every test.

"Thy love divine hath led us in the past;
In this free land by Thee our lot is cast;
Be Thou our Ruler, Guardian, Guide and Stay.
Thy word our law, Thy paths our chosen way."

—DANIEL C. ROBERTS, 1876.

May Thy Spirit live within the President, the Vice President, the Members of Congress, and all who work with them for the welfare of our Nation, the peace of the world, and the upbuilding of Thy kingdom.

In the spirit of Christ we pray. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 6, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

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

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order this morning and I am prepared to reserve it, or yield it to the majority leader, or whatever.

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

Mr. President, he may wish to reserve his time. I have a little statement I will make on a matter that is, I suppose, not very controversial.

Mr. BAKER. Mr. President, judging that there is just an outside chance it might be controversial, I will, therefore, reserve my time.

SALT II AND RUSSIANS IN CUBA

Mr. ROBERT C. BYRD. Mr. President, my statement has to do with the Chrysler Corp. matter. But anent the current and ongoing discussions with reference to the Cuban situation, I think I should state for the RECORD that the administration will have adequate time to work out a resolution of the problem of the Soviet combat personnel in Cuba before the SALT Treaty is brought to the floor for debate.

CHRYSLER AID THROUGH AN EMPLOYEE-OWNED TRUST

Mr. ROBERT C. BYRD. Mr. President, on July 31, after experiencing a second quarter loss of $207 million, Chrysler Corp. formally approached the Treasury with a proposal for a $1 billion advance of future tax benefits. The company argued that without significant financial assistance from the Federal Government, it would be unable to make the capital investment necessary to meet competition and comply with federally imposed mileage and pollution regulations. By logical extension, Chrysler has alleged that without Federal financial help or waiver of Federal regulations, the company would be forced to wind down its operations or resort to bankruptcy proceedings.

Secretary Miller turned down the company's request for a tax advance but suggested that it rework the proposal in the form of a loan guarantee ranging from $500 to $750 million. Although he made no commitment, his suggestion of an alternative approach indicates that the Congress may be asked to consider some form of governmental assistance for Chrysler. A number of questions present themselves as a framework for considering any Federal assistance to the company:

First. Has the company exhausted every conceivable form of self-help and private sector initiative so as to avoid receivership or liquidation without Federal help?

Second. If, after exhausting all self-help possibilities, bankruptcy is likely without Federal help, what would be its impact on employment, competition, credit and equity markets, and the general economy?

Third. What would bankruptcy cost the Federal Treasury in terms of lost tax revenue, increased social costs, and most significantly, obligations of the Pension Benefit Guarantee Corporation to fund the guaranteed vested benefits of Chrysler's pension funds

Fourth. What are the philosophical issues raised by asking the taxpayer to rescue a large, privately owned company? In this context, might an approach which would funnel a Government guarantee through an employee-owned trust fund resolve some of the philosophical problems inherent in public assistance to a private firm?

PRIVATE SECTOR SELF-HELP

According to press reports, Chrysler has made some substantial strides in raising capital through the sale of nonessential assets.

Its financing subsidiary has sold $730 million in receivables; it has sold its real estate subsidiary for $200 million and a $70 million reduction in debt; and it has been successful in reducing its enormous inventory of $700 million (80,000) cars to about half. Its recently announced $400 rebate plan appears to be meeting with success.

However, these successes invite further challenges. The company owns 15 percent of Peugeot-Citroen and 15 percent of Mitsubishi. Is the sale of these assets practicable? Are there other assets which the company can liquidate? Are suppliers doing everything possible to extend payment terms? Can the company engineer manufacture and market a car or a line of cars which will reverse its plummet from a 16-percent share of the domestic auto market in 1970 to its current 9 percent? These are questions for which we need answers.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

BANKRUPTCY

It is still unclear whether the company will face bankruptcy without Federal assistance. But if that case is made convincingly, Congress must then attempt to evaluate the economic impact of bankruptcy of our third largest car maker.

Bankruptcy is generally triggered when creditors refuse to continue extension of credit. It usually takes the form of reorganization of a company's obligations or liquidation of its assets under a court ordered receiver. Reorganization is a much more likely avenue than liquidation in Chrysler's case. While there is no question that reorganization would involve some paring down, it is unclear how protracted or severe the impact of reorganization under bankruptcy would be. If a formal request for aid is made, hopefully Congress will address this question in depth.

COST TO THE GOVERNMENT—PENSION PLANS OBLIGATIONS

Besides estimating the impact of a Chrysler bankruptcy on Federal tax revenues and social service costs, Congress must also face the possibility that the Government, through the Pension Benefit Guarantee Corporation—PBGC—could lose up to three-quarters of a billion dollars.

In the worst case scenario, should Chrysler's pension funds terminate, the PBGC would be required to fund the unfunded pension benefits owed to Chrysler's workers.

Created by the Employee Retirement Income Security Act, the PBGC guarantees against shortfalls between pension plan assets and their liability for guaranteed vested benefits.

According to PBGC estimates, Chrysler's major pension plans have a shortfall of approximately $940 million. The insufficiency is not a problem as long as the plans continue to be funded by Chrysler and the large majority of plan beneficiaries continue working. The problem arises if the plans are terminated—which is a possibility if the company is forced into bankruptcy.

Chrysler's funds are not now fully funded, because the company anticipates, like the social security system anticipates, that people will "retire" over time, not all at once. Termination of the plans effectively grants all the workers their retirement benefits simultaneously.

The Federal Government does have the ability to step in as a senior creditor if it is forced to fund the plans' insufficiency. However, its priority over other creditors is limited to 30 percent of the company's net worth. The company's stock is trading at such a low level that the Government could probably recover only about $200 million under this priority formula. This would leave the Pension Benefit Guarantee Corporation with a $740 million obligation.

The enormous level of the PBGC potential shortfall is largely due to a quirk in the legislative history of ERISA. If net worth were based on book value, the PBGC would enjoy a comfortable margin of the company's assets from which to recover. But the Finance Committee's report on ERISA specifically states that net worth is to be determined by market value. Because of this definition, the Federal Government, through the PBGC, in the worst of all worlds, could lose up to three-quarters of a billion dollars.

EMPLOYEE TRUST FUND APPROACH

Chrysler's request has stimulated debate over the principle of Government aid to a large private firm. But this debate cannot exist in a vacuum. It must consider the cost of not helping as well as the form which the assistance takes.

Instead of a Government guarantee which is issued to Chrysler, I suggest that consideration be given to an employee trust, which would receive the benefit of the Federal guarantee. With the guarantee, the fund could go to the private markets and borrow money with a payback schedule consistent with Chrysler's needs. The fund could then lend the money to Chrysler with repayment terms similar to its borrowing from the public, with these two exceptions.

First, it would charge Chrysler a rate of interest higher than the rate it pays, since the Federal guarantee will allow it to borrow at a subsidized interest rate. The "spread" or profit that the trust earns on the interest rates would be passed on to the Federal Government as a fee for the use of the full faith and credit of the Government.

Second, the trust would lend to Chrysler through a debt instrument which could be converted into stock at the trust's option; for example, convertible debentures. The price at which the debt could be converted to stock would be the price at which the stock is trading on the date of any formal proposal.

If the company does turn around, the stock price will climb. In that case, the trust would convert its debentures into stock at the conversion price. It would sell enough stock at the higher prevailing price to repay its debt obligations, and still end up with a handsome block of Chrysler's stock which it could then sell, hold, or distribute directly to the workers.

The incentive to the workers to moderate pay increases in order to save their jobs exists already. This plan would offer a tangible financial reward to make the sacrifices necessary to keep their company a major competitive force in the domestic auto market.

If the company fails to rebound and continues to limp along, the funds will repay its creditors overtime with the payments it receives from Chrysler. The workers do not lose or gain anything. The Government will still collect its fee.

If the company defaults, the Government will honor its guarantee. Again, this plan would cost the workers nothing and the Government would be in the same situation it would have been in if it had offered the guarantee directly to the company.

I would like to emphasize again that we have not received enough information to reach a verdict on what role, if any, the Government should play in assisting Chrysler. Until the questions which I have raised today can be addressed, I shall reserve my final judgment. With that caveat, I hope that as the debate on Chrysler unfolds, serious consideration be given to the program of worker incentive which I have outlined.

Mr. President, I am ready to yield back my time, or reserve it, whichever.

Mr. BAKER. Mr. President, I might say a word on this subject, and the majority leader, I think, probably will not find it too controversial, but he may wish to reserve his time in that event.

Mr. President, I am sure no one will be put off by the mention of politics in this Chamber. Therefore, no one will be embarrassed when I say that I spent the month of August traveling about the country on a political adventure. To be exact, I covered 25 States in 28 days talking to Republicans and mentioning from time to time the possibility of the Republican Presidential nomination in 1980.

With that by way of preface to a brief remark about the distinguished majority leader's statement on Chrysler, I admit to some surprise that in the dozens, probably hundreds of meetings I attended in which questions were put by the audience, that one of the most often-asked questions was my possible attitude on Chrysler.

I had not assumed that issue had reached such proportions in the country; but based on that experience, I judge it had.

It is a matter of extreme interest to a great number of people. I am not prepared at the moment to say what the consensus of opinion is. I am prepared to report that it has already become an issue of great importance to at least the people I talked to.

My reply, Mr. President, was, "Frankly, I haven't made up my mind about Chrysler yet."

I talked to Mr. Riccardo, the chairman of the board of Chrysler, and told him at the time I was really not greatly attracted to the idea of creating an advance tax credit just by Treasury payment of $1 billion over 2 years, but that I would hope they would proceed with other suggestions and ideas.

I applaud the statement by Secretary of the Treasury Miller. I would add to the situation only these suggestions and recommendations, for whatever they are worth.

The first thing I want to insure is whether Chrysler can be saved. I do not want to see money poured down a rat hole. I hope Chrysler can be saved, but I want to see a detailed and careful analysis of their present situation and what might result from any sort of effort, whether a loan guarantee or a provi-

sion of chapter 11 of the Bankruptcy Act, or whatever.

I want to be reassured before we take any action that Chrysler can make it.

Second, I want to make sure that everything is done within the scope of propriety within the Chrysler organization. That includes both management and the employees of Chrysler, including the employees' pension trust.

Third, I want to examine not only what effect any sort of Federal action for Chrysler might have on Chrysler but also what effect it might have on the other automobile companies that make up the industry in this country and those which import automobiles into the United States. What will it do to the competitive nature of the auto industry in the United States?

Last, Mr. President, how can we do this without doing grave injury and jeopardy to the free enterprise and free market system, if in fact we do elect to find some sort of relief for Chrysler?

So it is a complex matter, one on which I have sought advice from distinguished bankers and security analysts and representatives and dealers in New York and others around the country.

It is a subject on which I have not made up my mind. I am pleased that the majority leader has brought this subject to our attention this morning.

I might say, parenthetically, that this is the second day of the resumption of our deliberations after the August break, and the second morning on which I have responded to his statements, and I do not intend to make this a miniforum of national issues. But I think this is one issue that deserves special attention, not only because of its importance but also, as I said earlier, because I have found that it is of concern to a great number of people.

I thank the distinguished majority leader.

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

DOROTHY BURNS

Mr. BAKER. Mr. President, it has been almost 30 years since Dorothy Burns first entered the service of the Republican membership of the Senate.

Since May of 1950, serving first under Minority Secretary Mark Trice and then with his successor Bill Hildenbrand, Dorothy Burns has been the calm in the midst of many a legislative storm, a steady rock amid the changing tides of political fortune.

For three decades, she has made an important contribution to keeping the Republican membership well organized, well informed, and well equipped to deal with issues as current as those on today's legislative calendar and as historical as the Korean war.

Now, having amassed more seniority here than any Republican Senator except MILTON YOUNG, having worked in 15 Congresses and under 7 Presidents, Dorothy Burns is about to retire.

It is a sad thing to see someone with so much experience, with such a sweeping view of the history of this institution, leave the place that has been her professional home for so long. Such things are inevitable, I suppose, but that does not make the prospect of losing a Dorothy Burns any more pleasant.

I have enjoyed my association with her as Republican leader, just as four of my predecessors in this office enjoyed that same association.

I know my colleagues on both sides of the aisle, and especially my fellow Republicans, will join me in thanking Dorothy for almost 40 years of loyal service to her country—including her previous service in the executive branch—and in wishing her good health and much happiness in her new life.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. BRADLEY, on my side.

Mr. BAKER. Mr. President, I yield the remainder of my time to the Senator from New York, on my side.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes, and then the Senator from New York (Mr. JAVITS) is scheduled to speak.

Mr. JAVITS. We are ready now.

Mr. ROBERT C. BYRD. Mr. President, the time that the minority leader and I have yielded to Mr. BRADLEY and Mr. JAVITS is yielded with the intention that they be recognized at this time, if the Chair so pleases.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that our special order for this morning be vacated.

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

REPORT ON THE STUDY MISSION TO THE OECD

Mr. JAVITS. Mr. President, on behalf of Senator Bradley and myself, I present to the Senate a report on a study mission to the OECD in Paris that we undertook on July 2 and 3, 1979. We were accompanied on this trip by Representative WYCHE FOWLER of the House Ways and Means Committee.

The purpose of our trip was to have an exchange of views with Ambassador Herbert Salzman and senior members of the U.S. Mission to the OECD and OECD Secretary-General Emile van Lennep and his senior staff on the major issues facing the international economy.

The United States is indeed fortunate in having such a distinguished and highly competent diplomat as Herbert Salzman as our Ambassador to the OECD. Both he and his very knowledgeable staff not only thoroughly briefed us but also demonstrated to us their close working relationship with the OECD Secretariat which insures strong U.S. influence in this international organization.

I believe that Senators will be interested in the views of Secretary-General van Lennep and the OECD economists with whom we talked, for they are among the very best that can be found in the international economic organizations. Mr. van Lennep conducted meetings forcefully and imparted a strong understanding of the critical nature of the issues the international system faces.

I would like to draw the attention of my colleagues to the recommendations section of our report and particularly to our recommendation that Senate and House members of committees concerned with international economic and monetary problems should avail themselves of the high degree of expertise found in the OECD Secretariat through regular briefing sessions similar to the one we recently undertook. Consideration should be given by the leadership to making such briefing sessions official missions for representatives of such committees, as these sessions provide very keen insight and innovative approaches to many of the international economic issues that will continue to face us for a long time.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

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

REPORT ON STUDY MISSION TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

I. INTRODUCTION

The purpose of the study mission to the OECD was to have an exchange of views with Ambassador Herbert Salzman and senior members of the US Mission to the OECD and OECD Secretary-General Emile van Lennep and his senior staff on the major issues facing the international economy.

The idea for such a mission arose at a meeting in March in Washington between Senators Javits and Bradley, Secretary-General van Lennep, and US Ambassador to the OECD Herbert Salzman at which Mr. van Lennep indicated the OECD's ongoing interest in having such exchanges of views with Parliamentary delegations from member governments to make the OECD more useful to the member countries. Senators Javits and Bradley welcomed the opportunity to hold such a meeting and underlined the importance such a meeting could have in improving the understanding in the Congress of the OECD and its functions.

As a result of this initial meeting, Senators Javits and Bradley, joined by Congressman Wyche Fowler from the House Ways and Means Committee, participated in two days of discussions in Paris. They were accompanied by Jacques Gorlin, Special Assistant to Senator Javits for Economic Affairs.

The OECD plays an important role in international economic organizations. It has had a long history of providing an important forum for international economic decision-making. Its membership is restricted to the industrialized democracies, and its value can be found in the organizational flexibility that permits a whole range of economic issues to be covered and analyzed in its forums.

It is especially important in serving as

the locus for economic policy coordination among the industrialized countries and provides the United States with a unique institution in which to advance and develop appropriate objectives and the means to attain them for the international economy.

The OECD is the successor of the Organization for European Economic Cooperation (OEEC), which was established in 1948 to administer Marshall Plan aid and the cooperative effort for European recovery from the economic devastation of World War II. As the 1950's drew to a close, it became increasingly obvious that changed economic conditions throughout the world called for new arrangements. The US and Canada joined with the countries of Western Europe to establish the OECD on September 30, 1961.

The Organization's objective is to promote policies designed to:

Achieve the highest sustainable economic growth and employment, while maintaining financial stability;

Contribute to sound economic expansion in member as well as non-member countries in the process of economic development; and

Contribute to the expansion of world trade on a multilateral, non-discriminatory basis.

The twenty founding members were later joined by Japan (1963), Finland (1968), Australia (1971), and New Zealand (1973) as full members of the Organization. Yugoslavia has been associated with, and the Commission of the European Communities has participated in the work of, the Organization since it was founded. (See attachment for a complete list of members and constituent groups of the OECD.)

Throughout the 1960's the principal value of the OECD to the US lay in the opportunity it provided for structured discussion among policy makers from member countries on current economic issues. The Organization was also used to address selected policy issues: qualitative and quantitative upgrading of official foreign assistance programs, the world food problem, regulatory approaches to ocean freight conferences, the liberalization of current and capital account transactions, and the avoidance of double taxation.

In the early 1970's, however, the fundamental character of the OECD and its value as an instrument of US and other industrialized nation foreign economic policy began to change. The breakdown of the Bretton Woods monetary system, the synchronized expansion and recession in the major OECD countries, unacceptably high rates of inflation, the oil embargo and the subsequent quintupling of the price of imported oil, and the increasing economic focus, political coherence, and militancy of the developing countries caused the US and others to turn to the OECD as the forum in which to seek solutions to these interrelated problems.

II. BRIEFING BY US MISSION

The two-day session began with a briefing for the delegation given by Ambassador Salzman and his senior staff at the US Mission on US interests in the OECD. Ambassador Salzman stressed that the OECD does not disburse funds, like the World Bank or other regional banks, nor does it assist in the functioning of the international monetary system, like the IMF; neither does the OECD have any sovereignty, like the European Economic Community. Rather, the OECD provides a valuable forum in which the process of international cooperation among the industrialized countries can unfold. Furthermore, the OECD provides both a place and an opportunity for the industrialized countries to caucus and work out their collective position visa-vis the developing countries on North/South developmental issues in preparation for UN meetings, such as UNCTAD. The OECD also provides a forum for the exchange of information on such diverse issues as East-West trade, developmental assistance, steel issues, environmental concerns, drug control, tourism, women's affairs and the negotiation of codes on the transfer of technology, foreign investment and on the behavior of multinational corporations.

The OECD also provides the industrialized countries with a highly skilled and motivated Secretariat which undertakes coordination and preparation for such high-level international meetings as the annual big power Economic Summits.

The annual Ministerial meeting of the OECD provides the member governments with an opportunity to review all economic issues in an interrelated context and to provide guidance to the member governments on economic policy for the coming year. Quite often, as this year's Communique, which is appended, demonstrates, the OECD Ministerial provides individual governments with the international impetus they require to take politically difficult courses of action.

In addition, Ambassador Salzman stressed the important role that the OECD and Secretary-General van Lennep have played in dealing with such adhoc issues as the recent consortium to provide increased capital transfers to Turkey. Another important function of the OECD is its relationship with the international business and labor communities through the Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC).

Following Ambassador Salzman's overview presentation, the Mission staff briefed the delegation on the OECD's role in international energy cooperation. The main body within the OECD is the International Energy Agency (IEA), which is composed of all OECD members with the exception of France, Iceland, Finland, and Portugal.

The IEA was created within the OECD framework in 1974 to serve as the focal point for consumer country cooperation. As explained by the Mission staff energy specialist, the IEA has agreed upon measures for emergency sharing of supplies in case of a future embargo, has a significant and growing research and development program for alternative energy sources, and has agreed upon a collective IEA-wide oil import objective of 26 million barrels a day in 1985—a 5 percent reduction from projected oil imports for 1979—as well as principles for reduced dependence on imported oil. The IEA conducts annual reviews of members' policies and progress towards achieving reduced dependence objectives. The OECD/IEA will have a key role in the follow up to the energy commitments made at the Toyko Economic Summit.

The US joined the Nuclear Energy Agency (NEA), which is the nuclear energy entity within the OECD framework, on October 1, 1976. The NEA is principally concerned with the nuclear fuel cycle and health and safety problems. Both the IEA and NEA are participating in the International Nuclear Fuel Cycle Evaluation (INFCE).

The delegation was particularly interested in the OECD Economic Policy Committee, chaired by US Council of Economic Advisors Chairman Schultze. Three times a year, the Committee, which brings together leading economic experts from the member countries, meets to make economic projections and provide recommendations for macroeconomic demand management, that is, recommendations on how monetary and fiscal policies can be used to bring supply and demand into balance based on full employment policies.

In this regard, the delegation agreed with the OECD assessment that present international economic conditions no longer permit the resolution of economic problems solely through demand management; that is, full employment can no longer be attained solely through traditional fiscal and monetary policies. Ambassador Salzman informed the delegation that, as a result of this perception, the OECD experts in the Economic Policy Committee have turned their attention to the supply side of the economic equation with a resultant transition from policies stressing demand management to those stressing the positive adjustment of the individual economies to the new realities and structure of the world economy. To aid the individual member governments to adopt suitable economic policies, the OECD has focused its efforts in recent years on the effect of various forms of governmental intervention in impairing the flexibility to adjust to changed conditions of the free market systems that generally characterize member country economies. The OECD has begun to apply cost-benefit analyses to the various domestic economic policies in the hope of improving productivity. Ambassador Salzman indicated that the "transparency" resulting from such OECD analyses helped member governments to choose among various policies by identifying—and, in some cases, quantifying—the costs of various national subsidies and interventions in the free markets.

III. PLENARY SESSIONS WITH OECD OFFICIALS

The delegation held two lengthy sessions with OECD officials. Representing the OECD Secretariat at these sessions were: Secretary-General van Lennep; Mr. Charles Wootton, Deputy Secretary-General; Mr. Gerard Eldin, Deputy Secretary-General; Dr. Ulf Lantzke, Executive Director, International Energy Agency; Mr. J. Wallace Hopkins, Jr., Assistant Executive Director, International Energy Agency; Mr. Stephen Marris, Economic Counselor to the OECD Secretariat; Mr. Plesse, Deputy to Mr. Marris; Mr. John D. Fay, Chief, Economic and Statistics Department, OECD; Mr. John Lewis, Chairman, OECD Development Assistance Committee (DAC); Mr. Fuhrer, Member, DAC Directorate; Mr. Gian Luigi Valenza, Special Counselor to the OECD Secretariat; and Mr. Kobayashi, Special Counselor to the OECD Secretariat.

In addition, the following members of the US Mission attended: Ambassador Herbert Salzman, Permanent Representative; Mr. Ralph Korp, Minister-Counselor for Economic and Financial Affairs; and Mr. Paul Stahnke, Counselor for Economic and Social Affairs.

Turning to the question of membership, the OECD officials stressed that, while the OECD has no intention of expanding its membership beyond the industrialized countries, it was quickly developing a functional involvement with non-members. The Secretariat cited the representation of individual OPEC donor countries on the Developmental Assistance Committee, which coordinates the actions of donor countries in providing official foreign assistance to the developing countries. The OECD has also invited some of the Newly Industrialized Countries (NICs) with significant steel production capacities to sit on the OECD Steel Committee. Also, individual NICs are invited to meet with the OECD to discuss matters of mutual concern in the area of trade-in manufactured goods. The delegation was able to clarify that these contracts were for the purposes of exchanging information and were not directed at any market allocation schemes.

With respect to East-West relations, the delegation sensed a certain reluctance on the part of certain member countries to deal with the Eastern bloc multilaterally through the OECD and a continued preference to deal bilaterally with the East.

The plenary sessions focused on the impact of energy developments on the future economic performance of the member governments, the international macroeconomic situation, and North/South and other developmental issues. The discussions were particularly timely in light of both the OPEC Ministerial meeting held the week before in Geneva at which the Cartel had announced a significant increase in the price of oil and the Tokyo Summit, which concluded with an agreement on international energy cooperation.

A. General discussion

Before launching into a substantive discussion on the economic issues, Secretary-General van Lennep provided a brief description of how the OECD operates. The Secretary-General indicated that the OECD is a homogenous organization that operates under a unanimity rule, which has instilled in the member governments a sense of responsibility for arriving at collective decisions. In fact, the Secretary-General views the OECD, by institutionalizing strengthened consultative procedures, as a model for other international organizations. The delegation was struck by the critical role of the US in the OECD and that, without US leadership in undertaking policy initiatives, the OECD would not be seized with the critical issues facing the international economy.

The homogeneity of membership does provide added strength to the OECD in following through on the US initiatives. Secretary-General van Lennep indicated that, since all the countries were democracies and followed "market economy" principles, the OECD was able to gear its analytical work to those economic issues which were of mutual concern to the member governments. The delegation notes that, in those areas in which a consensus has developed among member governments on policy direction, the OECD has been able to assume a leadership role in recommending policies. This has occurred in the area of science policy, where a consensus has developed on the need for policies that support innovation and R&D. In areas such as trade, monetary policy, and North/South relations, however, a consensus has not yet emerged among member countries; and, as a result, the OECD has more of an informational and consultative role than a policy direction role.

The delegation was particularly interested in the change in the OECD's research focus away from the short-term towards increased concentration on analyses of the long-term processes in such areas as energy, macroeconomics, and developmental issues. In this regard, the OECD is particularly suited to providing analyses on the relationship among functional issues and their implications for economic policy. As one member of the Secretariat indicated, the strength of the OECD is in its ability to interrelate work in different sectors of the national economies and especially in relating sectoral (i.e. manufacturing, agriculture, services, etc.) analyses to the larger economic issues. The delegation has reviewed a number of these inter-sectoral analyses undertaken by OECD economists and recommends them highly as important contributions to broader economic understanding. The delegation expressed its concern to the OECD officials that there was too little awareness, especially in the US Congress, of the valuable contributions the OECD is making. In response, the Secretary-General indicated that the OECD seeks to avoid institutional publicity in order not to antagonize certain member countries. The delegation is concerned that the lack of institutional identification that is reflected in this "low profile" approach could lead to a loss in the support for the OECD among member Parliaments.

B. The international energy situation

Dr. Lantzke, Executive Director of the International Energy Agency, briefed the delegation on the role of the IEA in coordinating international energy policy. Dr. Lantzke, while not minimizing the short-term energy problem facing the consuming countries, indicated that the real problem facing the consuming countries was in the long-term. The IEA projection of a short-term (1979–1980) shortfall of two million barrels of oil a day can be dealth with through artificial demand constraints. In the medium-term, through 1983–1984, the IEA sees a tight balance due to a slowdown in worldwide economic activity. Dr. Lantzke warned, however, that in this period any one producing country could cause major difficulties for the system and that the consuming countries should be prepared for sudden short-term problems due to possible supply disruption.

The delegation was also briefed on the mathematical model used by the IEA to forecast the energy situation through the year 2000. Under the best of circumstances (average economic growth of 3.4 percent per year; energy/GDP ratio of .8 and with Saudi Arabia producing 15 million barrels of petroleum per day), the IEA still projects a potential shortfall of 4 million barrels per day by 1985 and 20 million barrels per day by the year 2000.

The delegation concluded from Dr. Lantzke's briefing that the real energy problem facing the member countries was not the identification of required policies to meet these projected shortfalls but rather the willingness of member governments to implement the policies on a national level.

For example, Dr. Lantzke, while stressing the medium-term need of more effort in the energy/GDP ratio and the longer term need to accelerate coal, nuclear, and gas energy utilization, stressed the immediate political problems that the IEA has had with member countries. For example, the IEA has had great difficulty in convincing the Japanese to negotiate with their utilities to plan for the use of coal; the US to move away from artificially low energy prices; and, finally, both the Germans and the US to replace imports of heavy crude oil with coal imports. The delegation supports these efforts of the IEA to develop rational energy policies among its member governments.

The delegation questioned the IEA Secretariat officials about the possible political effects the energy problem might have on Western cohesiveness and the ability of the consuming countries to present a unified front against the OPEC cartel. France's unwillingess to join the IEA was cited by the delegation as a case in point. Dr. Lantzke expressed his concern that energy differences could break up the Western alliance and stressed the analytical and informational functions of the IEA, which could be used to avoid such devisiveness. Dr. Lantzke added that, since France's overall energy policies were in harmony with those of the other IEA countries, its non-membership did not pose a problem to IEA operations.

In a later meeting with US Ambassador to France Arthur Hartman, the delegation discussed the effect of France's absence from the IEA on the collective energy decisions taken it the Tokyo Economic Summit. The delegation stressed the importance of finding some method of bringing France into closer collaboration with the other countries within the IEA context. The delegation felt the IEA, as an international institution, should not be weakened.

With respect to alternate sources of energy, IEA officials took exception to the delegation's view about the potential for commercial use of solar energy. Dr. Lantzke indicated that IEA experts do not believe that the state of solar energy technology will make solar energy commercially viable through the end of the century. Dr. Lantzke agreed that investment must be funneled into the supply side of the energy equation in replacing, for example, heavy crude with coal sources in the European refining structure and in undertaking programs for demonstration plants for synthetic fuels. The delegation emphasized, however, that conservation measures were as important as increasing energy supply.

C. International Macroeconomic Situation

John Fay, Chief of the Economic and Statistical Department, provided the delegation with the OECD assessment of the international macroeconomic situation. As background, Fay indicated that, until three years ago, the OECD economists had had an optimistic view of the macroeconomic situation, with the US economy cooling off to lower inflation and Japan and Germany consciously expanding their economies to improve the management of the international economic system. While a 4½ percent annual growth rate is generally viewed as the minimum rate of growth needed to wind down unemployment, the OECD forecasters did not believe that more than a 3½ percent annual increase in economic growth was possible until a significant drop had occurred in worldwide inflation. The OECD economists warned the delegation that even before the most recent oil price increase member countries had to face up to the reality of slow growth and increased unemployment.

Now, with the oil price increase, the situation is even darker. Rather than a 3½ percent to 4 percent economic growth, as originally forecast, real growth of GNP will be 2 percent in the immediate (1979–1980) period. The US economy is now expected to be flat while the other countries will grow at about 2–2½ percent. As a result, unemployment will rise. the OECD is most concerned, however, that, in response to the oil increase, the Japanese and Germans will undertake tighter monetary and fiscal policies, which will have a further slowing-down effect on the world economy. The OECD economists estimate that the US will have about a 12 percent inflation rate, while Germany and Japan will have rates in the range of 7–10 percent with the other OECD countries being in the 12–15 percent range.

The delegation is most struck by the instability to the international payments system that the most recent oil price increase will cause. The OECD Secretariat estimates that the OECD countries will have a current account deficit of $25–30 billion. With respect to the impact of the latest oil price increase on the non-oil importing developing countries, the OECD estimates that they will run cumulative deficits of $40 million. These deficits will once again have to be financed either through the commercial markets or through government recycling mechanisms. While the international recycling system, mostly through the commercial banks, responded adequately, in 1973–75 to the first oil price shock, the OECD Secretariat economists shared the delegation's concerns about whether the

system can adequately respond this time around.

The ability of the developing countries to finance their growing debt is of special concern to the delegation, especially if consumer confidence weakens in the industrialized countries, which could lead to a major recession and increased protectionism, which would stifle the exports of the developing countries.

D. North/South issues

(1) Trade

Stephen Marris, Economic Counselor to the OECD Secretariat, briefed the delegation on the impact of the Newly Industrialized Countries (NICs) on world trade. He cited a recent OECD staff report analyzing the trading relationships in manufactured goods between the industrialized countries of the OECD and ten developing countries characterized by the staff as Newly Industrializing Countries (Brazil, Greece, Hong Kong, Korea, Mexico, Portugal, Singapore, Spain, Taiwan, and Yugoslavia). (A brief press release reviewing the study is appended.)

The results of the study show that, on balance, exports of industrialized countries to these NICs rose at a higher rate between 1963–1977 than did imports to the industrialized country markets from the NICs. This resulted in the gain of 500,000 jobs related to exports from the OECD countries to the NICs above those lost in comparison with imports from these countries. Mr. Marris indicated that, according to the OECD estimate, the US was an exception and, as a result of going into deficit in trade and manufacturing with the NICs, actually lost 200,000 jobs in the manufacturing balance. He hastily noted that this did not include the important area of US agricultural exports.

The delegation noted with interest the findings of the study and their implications for international ecomonic policy. The delegation agreed with the OECD's assessment that the preferred economic policy for these NICs should be to translate the fruits of their rising productivity into increased purchasing power for their populations by balancing their trade accounts and letting their currencies appreciate.

The delegation indicated, however, that this was not generally the economic policy that these NICs were following and recommended to the OECD Secretariat that it was in a better position that US officials to provide this policy advice to the governments of the NICs since the OECD's advice would be better received by these governments.

The delegation recognizes that, while the US has sought to encourage the Secretariat to engage in open exchanges of information on functional issues with the NICs, there has been resistance from other OECD governments. While it understands the OECD Secretariat's reluctance in this regard, the delegation urges the Secretariat to continue to undertake such consultations where possible.

The OECD Secretariat was particularly interested in the delegation's views on prospects for increased protectionism in the US. The delegation stressed the importance of finding new markets for the NICs in order to shift the focus of their exports away from sole reliance on OECD markets. While conceding the need for the development of Third World markets, the OECD Secretariat felt that the most critical factor for sustained LDC growth was a continuation of growth in the industrialized countries. The Secretariat has, in fact, discovered a correlation between the fear of rising protectionism in the industrialized countries and the level of anticipatory investment in the NICs.

The delegation notes that the importance of the NICs is in their demonstrated effect as success stories for other countries to follow in pursuing their developmental efforts. The Secretariat indicated that possible candidates for future NIC status were Chile, Argentina, Colombia, Malaya, Thailand, and the Philippines. Whether these countries actually attain such status depends on political circumstances as well as economic conditions. The delegation recommended to the OECD Secretariat that it should develop a grand design, including plans for a large capital fund, to deal with this issue of avoiding protectionism in the industrialized countries and increasing investment in Third country markets in order to foster the transition of more LDCs to NIC status.

(2) Developmental Assistance

The delegation was briefed by Mr. John Lewis, Chairman of the Developmental Assistance Committee (DAC) on how the OECD deals with the more traditional North/South issues:

1. The DAC coordinates and monitors every member country's performance in providing official assistance and provides a forum for the coordination of the industrialized countries' positions in the North/South Dialogue in preparation for meetings of such international organizations as UNCTAD.

2. The Executive Committee in Special Session permits senior economic officials at the level of US Under Secretary of State Cooper and his counterparts in other capitals to meet and discuss the broad range of macroeconomic issues that affect the developing countries.

3. The IEA has a special group on North/South relations.

Mr. Lewis described the OECD development strategy as having three broad elements:

1. better co-management of the world's interdependence with direct encouragement to the LDCs to assume new responsibilities for this co-management;

2. the need to try to maintain an open world economy and acceptance of mutually beneficial change. (The OECD estimates that, by the year 2000, the LDCs could represent 18–20 percent of the world's manufacturing capacity); and

3. the need to deal with the world's poverty through not only a "basic needs" strategy but also an industrialization strategy.

The delegation learned that, based on this three-part strategy, the OECD has sought to encourage both foreign and domestic investment in certain economic sectors of the LDCs, such as mining, energy, and food production, in order to better manage the world's resources and meet the needs of the LDC populations. Furthermore, the OECD, through the DAC, is attempting to review both the quality and quantity of official development assistance, which would improve the trading prospects of the NICs in Third country markets. The delegation especially concurs with the OECD Secretariat's recommendation that the North/South Dialogue could be improved through more contacts in diversified regional and functional forums rather than plenary sessions on a global basis.

Both the OECD developmental specialists and the delegation agreed that trade and maintenance of open markets were important to the success of the North/South Dialogue and that it was critical to move the LDCs to an open market strategy and away from their continued concern for managing the world economy. Mr. Lewis was especially concerned that, because of the OPEC price increases starting in 1973, the world, and especially the non-oil developing countries, have become dependent on large capital transfers through the commercial banking system. While this structure has propped up growth rates and put a floor under a worldwide recession in the past, all the discussants agreed that it is a very fragile basis on which to continue economic growth.

The delegation expressed its concern that, in the face of the most recent oil price increases, it will be very difficult to go beyond maintenance of present growth in the LDCs and suggested that the long-term answer was not more capital flows but the maintenance of open markets in the industrialized countries for LDC exports.

With respect to the effect of the oil price increase on the poorest countries, the delegation was informed that there was very little luxury use of energy, and, hence, one can expect very little cutback in energy use in these LDCs. Energy imports will continue to have priority claim for these LDCs, which will push aside other imports and add to the already severe strains facing these developing countries.

Recommendations

1. The Congressional delegation found the OECD Secretariat to be highly informed with a high degree of expertise. Senate and House members of committees concerned with international economic and monetary problems should avail themselves of the expertise and take part in such briefing sessions on a regular basis but no less than once a year. Consideration should be given to making this an official mission for representatives of such committees.

2. The delegation endorses the OECD's decision to focus on long-term issues. While such studies may not have an immediate impact on the policies of the member governments, the economic issues we are facing today are so complex and deal so much with the basic structure of the world economy that long-term analyses may very well uncover the only effective solutions. This will, however, put pressure on member governments of the OECD to ensure that the OECD's long-term proposals are carefully considered by policy makers.

3. The OECD Secretariat should be urged to increase its visability in providing international solutions to such pressing issues as energy; coordination of macroeconomic policy, especially in developing positive adjustment strategies; and the North/South Dialogue, including greater coordination of development assistance among donor countries.

4. The delegation is, however, concerned that some members would be reluctant to permit the OECD Secretariat greater visibility. This is a political issue within the Western alliance and should be resolved at the diplomatic level. The State Department should begin consultations—initially at the OECD Permanent Representative level—to develop a consensus behind giving the Secretariat greater freedom to analyze and provide policy prescriptions to deal with the major issues facing the present international economic system.

5. The OECD should undertake the development of a grand design which would bring together investment capital from the OECD countries and OPEC surplus countries for investment in the non-OPEC LDCs. This could involve guarantees by the OECD countries to the OPEC countries but would also involve the direct assumption by OPEC of risks in the economies of the recipient countries.

6. In developing such a "grand design for economic readjustment," the OECD Secretariat could work together with other specialists at the World Bank, the IMF, and regional development banks.

OECD, IEA AND NEA MEMBERSHIP

OECD	IEA	NEA
Full members:		
North America:		
Canada	Yes	Yes.
United States	Yes	Yes.
Western Europe:		
EC:		
Belgium	Yes	Yes.
Denmark	Yes	Yes.
France	No	Yes.
Germany	Yes	Yes.
Ireland	Yes	Yes.
Italy	Yes	Yes.
Luxembourg	Yes	Yes.
Netherlands	Yes	Yes.
United Kingdom	Yes	Yes.
Other:		
Austria	Yes	Yes.
Finland	No	Yes.
Greece	Yes	Yes.
Iceland	No	Yes.
Norway	Associate member.	Yes.
Portugal	No	Yes.
Spain	Yes	Yes.
Sweden	Yes	Yes.
Switzerland	Yes	Yes.
Turkey	Yes	Yes.
Far East:		
Australia	Yes	Yes.
Japan	Yes	Yes.
New Zealand	Yes	No.
Associated with the OECD: Yugoslavia	No	No.
Observer status, participates in the work of the OECD: Commission of the European Communities.	Yes	Yes.

MAIN BODIES OF THE OECD, WITH SELECTED SUBGROUPS

(By subject area)

GENERAL

Council. The decision-taking body of the Organization. Meets at least once a month except during August.

Executive Committee in Special Session (XCSS). Established in 1972 at U.S. initiative to consider significant interrelated economic policy issues which do not fall neatly within the scope of a single OECD body.

Ad Hoc High Level Group on Economic Relations Between Member Countries and Developing Countries (North-South Group) and High Level Group on Commodities (HLGC). Senior policy groups which backstop North-South issues. The Ad Hoc Group on the Common Fund, a subgroup of the HLGC, is the OECD caucus for the common fund negotiations.

INTERNAL OECD MATTERS

Executive Committee. Fourteen members. Act as screening body for reports, recommendations, etc. going to the Council. Other duties as instructed by the Council.

Budget Committee. Advises the Council on all questions related to the financial administration of the Organization, including preparation of annual budget.

ECONOMIC POLICY

Economic Policy Committee (EPC). Keeps under review the economic and financial situation and policies of Member countries, paying special attention to the international aspects of national policies.

Temporary Ad Hoc Working Party (TWP). Considers the economic, monetary and financial problems that could arise in relations between Member countries and oil-producing countries (excluding investment matters). Backstopped G-8 participation in the Financial Affairs Commission of CIEC. Follows balance of payments developments in smaller OECD countries.

Working Party No. 2 on Problems Concerning Economic Growth and the Allocation of Resources (WP-2).

Working Party No. 3 on Policies for the Promotion of Better International Payments Equilibrium (WP-3).

Working Party No. 4 on Costs of Production and Prices (WP-4).

Economic and Development Review Committee (EDRC). Conducts annual reviews of the economic situation in each Member country and reviews Member countries' economic policies.

Committee for Monetary and Foreign Exchange Matters. Established in 1973, it provides a forum open to all Members to discuss problems of monetary cooperation.

ENVIRONMENT

Environment Committee. Established in 1970 at U.S. initiative, it deals with all aspects of the environment with special emphasis on pollution problems. Has numerous subgroups for specific environmental problem areas.

DEVELOPMENT AND TECHNICAL ASSISTANCE

Development Assistance Committee (DAC). Concerned with all aspects of making national resources available to developing countries. Conducts annual reviews of Member countries' foreign assistance programs. Issues comprehensive annual report.

Technical Cooperation Committee (TECO). Supervises the Organization's technical cooperation activities with developing Member countries.

TRADE

Trade Committee. A forum for the confrontation of general trade policies and the examination of specific trade problems.

Working Party of the Trade Committee (TCWP). Carries forward the work of the Trade Committee between sessions of the Committee. Considers policy issues.

Group on Preferences. Established at U.S. initiative in 1971 to consider problems relating to the system of generalized preferences.

Group on Export Credits and Guarantees. Has concentrated on harmonizing export credit policies of Member countries.

FISCAL AND FINANCIAL MATTERS

Consortium for Greece and Consortium for Turkey. Established in 1962 to assist in financing the Greek and Turkish development programs. Chaired by a distinguished person, secretarial services provided by the OECD Secretariat. The Consortium for Greece is now inactive.

Committee for Invisible Transactions. Oversees the Code of Liberalization of Current Invisible Operations and the Code of Liberalization of Capital Movements.

Group of Film Experts. Deals with national restrictions on films.

Committee on Financial Markets. Established in 1969 at U.S. initiative to study means to improve the operation of national capital markets and the international financial market.

Payments Committee. Advises the Council on activities in this area and reviews reports and proposals by the Committee for Invisible Transaction.

Committee on Fiscal Affairs. Handles taxation matters, including the OECD's model convention on the avoidance of double taxation. Numerous working parties.

INTERNATIONAL BUSINESS AND INVESTMENT AND TOURISM

Committee for International Investment and Multinational Enterprises (CIME). Established in 1975 at U.S. initiative, the CIME deals with all aspects (except short-term capital flows) of the Organization's work on multinational enterprises and enterprises engaged in international investment.

Insurance Committee. Handles all insurance-related problems.

Committee of Experts on Restrictive Business Practices. Deals with the entire area of restrictive business practices. Has several working parties.

Tourism Committee. Handles the Organization's work in the field of tourism

TRANSPORTATION

Maritime Transport Committee (MTC). Handles all aspects of the Organization's work in the field of maritime transport. Has subgroups on UNCTAC Shipping Questions, Container Transport, Flags of Convenience, and Flag Discrimination.

Program of Cooperation in the Field of Road Research. All Member countries except Australia and New Zealand participate in a cooperative research program on problems of road transport.

CONSUMER AFFAIRS

Committee on Consumer Policy. Established in 1969 at U.S. initiative, it deals with all aspects of consumer affairs. Has subgroups on Labeling, Safety, Credit, and Undesirable Marketing Practices.

SCIENCE, TECHNOLOGY AND INDUSTRY

Committee for Scientific and Technological Policy (CSTP). Established in 1972 at U.S. initiative to deal with all aspects of science and technology. Includes social sciences, technology development and transfer, computer-based telecommunications and data processing subgroups.

Industry Committee. Overall responsibility for the Organization's work in the field of industry. Sector oriented, with subgroups for Textiles and Clothing, Pulp and Paper, Iron and Steel, Aluminum, Services, Regional Development Policies, and Future Industrial Structure.

SOCIAL AFFAIRS, MANPOWER AND EDUCATION

Manpower and Social Affairs Committee (MSA). Deals with manpower questions connected with the general objectives of the Organization and those social questions closely linked with manpower problems, including youth unemployment. At U.S. initiative, a Working Party on the Role of Women in the Economy was established in 1974. The MSA has numerous subgroups.

Education Committee. Established in 1970 to evaluate prospects and policies for educational growth and development to meet social and economic objectives. Several subgroups.

Center for Educational Research and Innovation. Established in 1967 to conduct programs in educational research and innovation. Has its own Governing Board. Mandate expires at the end of 1981.

AGRICULTURE AND FISHERIES

Committee for Agriculture. Has mandate to consider, advise and make recommendations to the Organization on agricultural problems and policies. Several subgroups.

Fisheries Committee. Established to deal with all aspects of fisheries. Meets infrequently and has minimal work program.

ENERGY

Committee for Energy Policy (CEP). Established in 1975 to replace the Oil Committee and the Energy Committee. Deals with all energy resources. Provides an OECD forum for interaction between the 18 IEA Members and Norway, an Associate IEA Member, and the OECD Members (Australia, Finland, France, Iceland and Portugal) which do not participate in the IEA.

International Energy Agency (IEF). Established in 1974 (at U.S. initiative) within OECD framework, its objectives are:

Development of a common level of emergency self-sufficiency in oil supplies;

Establishment of common demand restraint measures in an emergency;

Establishment and implementation of measures for the allocation of available oil in time of emergency;

Development of a system of information on the international oil market and a framework for consultation with international oil companies;

Development and implementation of a long-term cooperation program to reduce dependency on imported oil;

Promotion of cooperative relations with oil-producing countries and with other oil consuming countries.

Nuclear Energy Agency (NEA). Established in 1956 within the OEEC framework and continued under the OECD. The NEA promotes

the "confrontation and harmonization of programs and projects of participating countries relating to the development of research and industry in the field of the production and uses of nuclear energy for peaceful purposes . . ." The U.S. shifted from associate status to membership on October 1, 1976. New Zealand is the only OECD Member not participating in the NEA.

COMMUNIQUE

1. The Council of the Organisation for Economic Co-operation and Development met at Ministerial level on 13th and 14th June, 1979, under the chairmanship of Dr. Hannes Androsch, Vice-Chancellor and Federal Minister of Finance of Austria.

2. Renewed inflation and uncertain energy supplies have become major obstacles to achieving sustained economic growth and more jobs in OECD countries. Economic and energy policies must respond if serious consequences for both developed and developing countries are to be avoided. It will be easier to take the difficult decisions required if Member countries act together.

3. Ministers therefore agreed on the need for greater solidarity among Member countries. They carried forward the concerted action programme adopted last year, revised in the light of the current economic and energy situation, and agreed on some guidelines for policies over the medium term. They reviewed the outcome of UNCTAD V and reaffirmed their commitment to constructive co-operation with the developing countries.

I. OVERCOMING THE OBSTACLES TO SUSTAINED ECONOMIC GROWTH

4. The programme of internationally concerted action adopted last year has yielded positive results in more internationally balanced economic growth, reduced payments imbalances and greater exchange rate stability. It is encouraging that:

Some countries succeeded in bringing inflation back down to the level of the 1960s;

Where capacity utilisation has risen and profitability has improved, productive investment has picked up; and,

Where demand management policies and exchange rates have been working in the right direction international payments imbalances have been sharply reduced.

5. On the other hand:

Even before the sharp rise in oil prices the underlying rate of inflation had begun to pick up again in a number of countries;

Unemployment remains unacceptably high in most Member countries;

There has been a serious turn for the worse in the shorter and medium term energy situation; and,

With slow growth and high unemployment there is an ever present threat of increased protectionism in all its many forms.

6. Inflation. Ministers agreed that the most obdurate obstacle to faster growth and more jobs is the continuing high rate of inflation in many Member countries, and the risk that it may accelerate. Inflation undermines growth directly by creating uncertainty and inhibiting investment; it may also require governments to pursue restrictive demand management policies.

7. Energy. Ministers examined the economic implications of the energy situation. They took note of the outcome of the meeting of the IEA Governing Board at Ministerial level on 21st-22nd May. There is now a real danger that, without responsible policies by oil consumers and producers alike, the energy situation will seriously damage the world economy.

8. Without effective action to restore balance in world oil markets the rise in oil prices could set off a new inflation-generated recession as in 1974–75. Many of the measures needed to reduce the growth of energy consumption quickly may be painful, but if they are not successful the inevitable consequences in terms of increased inflation leading to less growth and more unemployment will be far more costly and socially detrimental.

9. There is no escape from the reduction of real incomes caused by higher prices for imported oil; claims for compensatory increases in money incomes will only make matters worse by aggravating inflation and increasing unemployment.

10. Payments imbalances. Welcome progress has been made in reducing payments imbalances within the OECD area, but they could re-emerge due to strengths and weaknesses in countries' competitive positions, and become again a constraint on growth.

11. Higher oil import bills will inevitably worsen the current account situations of oil importing countries. While existing financial mechanisms seem capable of providing sufficient finance to meet higher current deficits in most cases, the resulting increase in indebtedness is a matter of concern to oil importing countries, especially the developing countries among them. Ministers noted that in present circumstances, countries highly dependent on the spot market may face particular difficulties.

THE POLICY RESPONSE

12. Ministers recognised that economic and energy policies have become inseparable. They are convinced that there is a combination of policies which can, over time, significantly ease the energy and inflation constraints on economic growth and permit continued economic and social progress. To this end they have agreed on the following guidelines for policy.

POLICIES FOR THE NEXT 12-18 MONTHS

13. Ministers agreed that:

(i) The demand management elements in last year's concerted action programme will be carried forward with particular emphasis on:

The need for a cooling-off period in the United States to achieve an important reduction in the rate of inflation;

The desirability of avoiding a significant slackening of the growth of domestic demand in the rest of the OECD area, taken as a whole; and the role that, to varying degrees, Germany, Japan, Switzerland, Belgium, the Netherlands and Austria can play in this respect; and,

The need for virtually all other countries to pursue cautious demand management policies in order to reduce inflation and, in some cases, external deficits which pre-date the latest oil price rise.

(ii) To this end, however, effective action to reduce energy consumption, or increase production, or both, so as to implement the commitments agreed to in different fora to reduce Member countries' demand for oil on the world market by some 2 mbd is essential. The present degree of understanding of the operation of the oil market is unsatisfactory and should be improved.

(iii) Higher oil prices should be passed on in an appropriate manner to energy users in order to encourage conservation and the development of alternative energy sources. Member countries that have not already done so should raise the price of domestically produced oil to the world level as soon as possible.

(iv) Important efforts will be made to gain acceptance of the fact that the rise in oil prices reduces, for all social groups, the scope for higher real incomes.

(v) An assessment is being made, as a matter of urgency, of the progress that countries have made towards reduction of oil demand, and, under the direction of the Economic Policy Committee, of the macroeconomic consequences of the energy situation. When these have been completed the Organisation will examine the implications for demand management policy. If effective energy policies are not being implemented and substantial further oil price increases have occurred, growth objectives for 1980 will have to be reduced. Failure to limit the pass-through of higher oil prices into higher money incomes could also make more cautious demand management policies inevitable.

(vi) Close monetary co-operation, including through arrangements agreed between the United States, Germany, Japan and Switzerland, through the European Monetary System and through the IMF, will be continued.

POLICIES FOR OVERCOMING THE MEDIUM TERM CONSTRAINTS ON GROWTH—THE INFLATION CONSTRAINT

14. Although there are differences between Member countries in the success they have had in restoring the conditions needed for sustained non-inflationary growth, improved economic performance requires consistent and sustained attention to the price stabilization objective. Countries where domestic pressures on the price level have been reduced are better placed to increase economic activity and reduce unemployment. Other countries must concentrate on achieving better price stability; as they succeed in this they will create the conditions for sustained growth and policies can become more growth-orientated.

15. Better price performance requires cautious and steady monetary and fiscal policies. Budget deficits should not exceed any excess of savings in the private sector. Where rising taxes and social security charges have generated inflationary pressures the share of public expenditure in GNP will have to be restrained.

16. Better price performance also requires further efforts to seek greater consensus and where appropriate modify wage and price setting behaviour to restore the profitability of productive investment, ease inflationary pressures caused by the wage-price spiral, and facilitate necessary changes in relative prices and the structure of wages.

17. There is a risk that slow growth becomes self-perpetuating. It inhibits investment and encourages defensive attitudes on the part of Governments, business and labour such as protectionism and support for declining and inefficient activities. These reactions generally impair productivity and sharpen the inflation constraint on growth by raising costs and reducing the supply of available goods. It makes little sense to accept the need for a further period of unsatisfactory growth performance because of the inflation constraint if Governments then try to mitigate the effects on employment by measures which reduce productivity or increase costs and prices in other ways.

18. Cautious demand management policies should therefore be combined with action—or the unwinding of previous actions—to improve the supply side by benefiting from lower cost imports, encouraging investment, and facilitating necessary structural adjustments.

19. Ministers therefore stressed the importance of the special two-year programme on positive adjustment policies just adopted by the Organisation. All competent bodies of the Organisation will pay special attention to policies in their field of competence which have an impact on structural change. A special group of senior officials has been created to keep under review the macro-economic and international consequences of measures promoting or hindering necessary structural adjustments in the field of manpower, industrial, agricultral, regional, trade and other policies.

20. Positive adjustment should rely as far as possible on market forces to encourage mobility of labour and capital to their most productive uses. Measures to help sectors or

firms in difficulty should be temporary and integrally linked to the implementation of plans to phase out obsolete capacity and re-establish financially viable entities. Positive adjustment can be facilitated by the dissemination of better information on the costs and benefits of government measures, proper consultation between labour and management, vigorous action to maintain competition and curb monopoly power, policies that encourage research, innovation and investment, well designed regional policies, and efforts to avoid unnecessary regulation and reporting requirements.

21. Ministers also reaffirmed their attachment to an open world trading system and their determination to continue to fight against protections in all sectors and to work towards improvements in the system. They therefore:

(i) Welcome the completion of the Multilateral Trade Negotiations, and stressed the need for timely and effective implementation of the results.

(ii) Extended their 1974 Trade Declaration (the "Trade Pledge") for an additional year.

(iii) Agreed to make particular efforts in the work of the Organisation in the coming year to study the problems of agricultural trade.

22. Ministers agreed that better functioning of commodity markets, including improved market access and security of supplies, would benefit both consumers and producers and reduce one potential source of inflation.

23. There was broad agreement on the need, in appropriate cases, to pursue efforts to promote higher employment, particularly among the disadvantaged groups.

(i) There may be scope for modifying hiring practices in the public and private sectors to alleviate the problems of youth and disadvantaged groups and to respond to the growing demand for flexible part-time job openings. The Organisation should study the possible role of marginal employment subsidies, and of shifts away from heavy payroll taxes, as well as the impact of migration policies on employment and the efficient functioning of labour markets.

(ii) The possibility of work-sharing arrangements should be assessed; but attempts to increase the number of jobs by accelerating the tendency towards a shorter working week have to be looked at with caution since they may have inflationary consequences.

(iii) There may be scope for expanded training and retraining programmes as a vehicle for improving skills and hence future productivity, while reducing current unemployment.

Measures such as those described above should be undertaken only after consideration of their possible adverse impact on productivity and inflation.

THE ENERGY CONSTRAINT

24. Without strengthened policies energy supplies over the medium run will not be sufficient to support an adequate rate of economic growth. Taking into account the different situations in Member countries, Ministers agreed on the urgent need for:

(i) A pricing and tax policy for oil and other energy sources which recognises that the long-term trend of real energy prices is almost certainly upwards, and that this expectation should become firmly embedded in the consciousness of energy users.

(ii) Conservation programmes based on an appropriate mix of pricing policies, voluntary programmes, fiscal incentives and disincentives and mandatory controls where necessary; a major effort to increase production, trade and use of coal and gas; production of indigenous oil; continued development of nuclear power with the necessary safeguards, having due regard to legal and constitutional provisions; major R & D efforts on new energy techniques and renewable energy resources; and assistance to non-oil developing countries in the identification and development of their energy resources.

THE BALANCE OF PAYMENTS CONSTRAINT

25. To ease the balance of payments constraints on growth:

(i) Countries in a strong external position should maintain the momentum of domestic demand; deficit countries should concentrate on controlling domestic inflation; and exchange rates should play their proper role in the adjustment process.

(ii) The structural imbalances that remain call for resolute policies to improve productivity and stimulate exports in the deficit countries, and policies by the surplus countries to encourage imports and rely primarily on domestic demand for economic growth.

(iii) When current account imbalances nevertheless remain important, surplus countries should ensure offsetting capital outflows on a sustained basis. The Organisation is instructed to give further attention to these questions.

II. WORLD INTERDEPENDENCE AND RELATIONS WITH DEVELOPING COUNTRIES

26. Ministers considered the implications of global economic trends, for relations with developing countries. They reaffirmed the need for strengthened co-operation with the developing countries which is an indispensable element in achieving more sustained and stable world economic growth and which provides an improved basis for development policies. They stressed that in view of the difficult global policy challenges ahead, improved co-operation with developing countries had assumed even greater importance.

27. Ministers discussed the results of UNCTAD V. They felt that, although the overall results of the Conference had been limited, valuable progress had been made in specific areas. It is now essential to continue constructive cooperation with developing countries in the appropriate fora and in the preparations for the new International Development Strategy. In this connection, Ministers noted the importance of the participation of all countries, including the industrialised countries outside OECD, in the international development effort.

28. Ministers welcomed the convening of the United Nations Conference on Science and Technology for Development to be held in August in Vienna as a major opportunity to promote effective international scientific and technological cooperation, especially for the benefit of developing countries, and pledged to work towards its successful conclusion.

29. Ministers noted the value of pragmatic forms of consultation and co-operation with developing countries in areas of significant mutual interest. The contribution that the Organization can make in this regard should be actively examined.

Trade and adjustment

30. An expansion of world production and trade and further changes in their structures are essential means to raising living standards and promoting economic and social progress in developed and developing countries alike.

31. Ministers acknowledged the desire of developing countries to industrialise further and to contribute a larger share of world trade in accordance with their comparative advantage. They stand ready to assist in this process in such areas as trade, investment and technical co-operation.

32. Ministers stressed the importance to trade relations with developing countries of the general measures to maintain and further improve the open international trade system now being taken. In particular they:

(i) Underlined the significance of the new special two-year programme of the Organisation on positive adjustment policies to facilitate mutually beneficial structural change in production and trade.

(ii) Emphasized the significance of the renewed Trade Pledge for their trade with developing countries.

(iii) Declared their determination to implement the results of the Multilateral Trade Negotiations and to build on these results taking into account the particular concerns of developing countries.

33. While OECD countries bear a particular responsibility in the maintenance of an open international economic system, they believe that developing countries, in particular those which have reached a relatively advanced stage of industrialisation and have shown their capacity to compete effectively on international markets, should gradually take a larger part in this effort: by liberalising trade both among themselves and globally, complying more fully with international rules in this field, and more generally adopting politics contributing to satisfactory trade and payments relations.

ENERGY CO-OPERATION

34. Ministers reaffirmed their willingness to contribute to international energy co-operation among developed and developing countries and to discuss energy questions of mutual interest with oil-exporting and oil-importing developing countries. They welcomed the adoption by the World Bank of an energy programme which should serve to strengthen the domestic energy production of oil-importing developing countries and noted related activities by other international and regional institutions. They stressed the urgency of examining with interested developing countries the scope for strengthened co-operation to identify and develop these countries' energy resources. They welcomed the report of the OECD Council Working Party established last year to develop a co-ordinated effort to help developing countries to bring into use technologies related to renewable energy, especially in the light of the forthcoming United Nations Conference on New and Renewable Energy Resources.

Commodities

35. Ministers noted with satisfaction the results of the negotiations on the Common Fund. They agreed to pursue, in a positive spirit, the establishment of this mechanism as well as the current discussions and negotiations on individual commodity agreements. They emphasized their interest in examinng the scope for further action to strengthen food and commodity production and processing in developing countries, bearing in mind their development needs and priorities.

Environment

36. Stemming and reversing environmental degradation through deforestation, desertification and soil and water erosion is a matter of global concern and required international co-operation. Ministers recognised that developing countries have limited resources for such purposes and need international support.

Aid and financial resource transfers

37. Ministers underlined the importance of substantially-increased and stable flows of aid, finance and investment. Recognising the essential role of aid. Ministers called for an expanded, qualitatively-improved, and equitably shared collective effort for official development assistance. Concessional transfers should, as far as possible, be concentrated of the least-developed and other developing countries most in need. They invited the Development Assistance Committee, bearing in mind the studies on this subject in other international fora, to conduct an in-depth review of the scope for improved financial co-operation with developing countries, at adequate levels and reflecting their specific development problems, including their debt problems with a view to

contributing positively to the new International Development Strategy.

III. INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES

38. The Ministers undertook the Review foreseen in the 1976 agreements on International Investment and Multinational Enterprises.* They noted with satisfaction that the three related instruments approved in 1976, dealing respectively with guidelines for multinational enterprises, national treatment for enterprises under foreign control and with incentives and disincentives for investment, have demonstrated their effectiveness as a framework for strengthened international co-operation in matters related to international investment and multinational enterprises not only for the Member governments but also for the business community and the labour organisations.

39. Ministers affirmed and continued commitment of their governments to the 1976 Declaration. They agreed to steps designed to further strengthen the effectiveness of their co-operation in future. In this connection, as regards the guidelines for multinational enterprises, where one addition is being introduced, the follow-up procedures at national and international levels are to be strengthened and developed further through additional arrangements for consultations with business and labour and for reporting. Ministers also approved new work to be undertaken on the use of investment incentives and disincentives and the international repercussions on other countries of such measures.

THE IMPACT OF THE NEWLY INDUSTRIALISING COUNTRIES (NIC's)

Increased competition from newly industrialising countries such as Korea, Mexico and Brazil has been a cause of concern in the developed countries. For the first time, the OECD Secretariat has produced a detailed analysis of the facts, to put this phenomenon into perspective. Imports from these countries have been concentrated on a few products which have added to adjustment problems in certain sectors. But the main message of this report, which is published under the responsibility of the Secretary-General, is that, if appropriate policies are followed on both sides, considerable mutual benefits will continue to be derived from increasing trade in manufactures in both directions with the newly industrialising countries. For the advance industrialised countries these benefits take the form of cheaper goods for consumers, a spur to increased productivity and reduced inflation at home, and new and prosperous export markets abroad. For the newly industrialising countries they include higher investment, productivity and real incomes and the foreign currency needed to help finance accelerated economic development.

THE FACTS

The analysis is based on a representative sample of ten countries—Brazil, Greece, Hong Kong, Korea, Mexico, Portugal, Singapore, Spain, Taiwan and Yugoslavia—which have significantly increased their share in world production and efforts of manufacturers since the early 1960s. This is a somewhat arbitrary selection since the borderline between old and newly industrialising countries and between the NIC's and other developing counties is imprecise and moving all the time (paras. 3–4, 78–94). The countries selected for study do not by any means constitute an homogeneous group.

The NICs included in the study have together increased their share in OECD imports of manufactures from 2.6 per cent in 1963 to 8.1 per cent in 1977 (see Chart A, and for individual OECD countries, on a fob basis, Table 10). The NICs in the Far East made the biggest gains.

Despite this impressive increase, only slightly more than 1 per cent of OECD consumption of manufactures came from the NICs in 1967–77, up from ¼ per cent in the early 1960s (paras. 99–100).

OECD exports of manufacturers to the NICs have risen more than imports from them (exports by $43.6 billion, from $5.0 billion to $48.6 billion; imports by $31.6 billion, from $1.2 billion to $32.8 billion) (paras. 111–117). Thus the large OECD trade surplus in manufactures with the NICs increased from $4 billion to $18 billion (Table 10 and paras. 118–131). This trade surplus in manufactures has tended to be increasingly concentrated on Japan, Germany and Italy, while the United States and Canada have moved into deficit (see Chart A).

The relative importance of trade in manufactures with the NICs varies considerably as between OECD countries. In 1977, the share of imports from the NICs ranged from 7 percent or less in the United Kingdom, France and Italy and most smaller countries, to 18.5 per cent in Japan and 20 per cent in the United States. Export shares showed a more narrow spread around a higher average. (For further country details, see Annex Tables III and IV).

In 1963 the share of the NICs in OECD imports exceeded 10 per cent only in clothing and manufacturers of wood. By 1977 this level was surpassed in all broad groups of finished consumer manufactures (see Chart C), as well as in electrical machinery, textiles and leather goods (paras. 101–110 and Table 5). Within these broad groups there has been a heavy concentration of individual products reflecting marketing strategies and specialisation in NICs. The very high and rapidly changing market penetration by specific products which characterises NICs' exports is perhaps the main reason why they have attracted so much attention in OECD countries.

THE ANALYSIS

Among the factors explaining the emergence of the NIC's, particular importance is attached to the rapid diffusion of technology. These have accelerated the "product cycle" which determines the relocation of production, also helped by the growing reliance on offshore processing and assembly by subsidiaries of transnational enterprises or under subcontracting arrangements (paras. 15–18. 131–161).

On balance, the trade policies of advanced industrial countries have been beneficial to the new exporters of manufactures, especially to those which have avoided excessive concentration of their exports in the traditional "sensitive" sectors. But, particularly since 1973, the increasing reliance on non-tariff measures, particularly in the traditional areas of textiles, clothing and footwear, has become a matter of great concern for the NICs (paras. 163–182).

The OECD Secretariat suggests that OECD exports of manufactures to the NICs create around ½ million more jobs than are lost to imports from them; however, the estimates widely differ according to the methods used (paras. 23–24, 183–203).

While the net employment effect—positive or negative, depending on the change in the trade balance—is quite small, there can be substantial gross employment losses in some sensitive industries, concentrated on certain regions and categories of workers (e.g. women and unskilled). The gains from expanding exports are much more diffuse and less visible (part of them accrue outside the manufacturing sector and in very different locations). In times of slow or negative overall employment growth, gross employment losses can create serious frictional adjustment problems. But most calculations show that in the longer run, the cost of adjustment tends to be smaller than the benefits of trade liberalisation, including lower rates of inflation and higher consumers' welfare (paras. 203–208).

Given the extreme diversity of their economic structures and conditions, the NICs have only in common, to varying degrees, the emphasis which they place on outward-looking growth policies. These include a liberal trade and payments regime; an exchange rate policy geared to increased competivity on foreign and domestic markets; fiscal incentives and direct assistance to production for exports; fairly tight domestic fiscal and monetary policies to enhance competitiveness, increase the pressure to sell abroad and reduce the import propensity of the household sector; and, finally, a major investment drive, in some but not all cases, coupled with encouragements to the inflow of direct foreign investment (paras. 209–237).

Rapidly rising productivity in the NICs has gone hand in hand with high investment ratios and strongly rising real incomes (Tables 23 and 24). The rise in unit labour costs, adjusted for changes in effective exchange rates, has generally been faster than for the advanced industrialised countries (Table 22). Imports have risen strongly, both of manufactures and of food and primary products from both developed and developing countries (paras. 238–246).

POLICY IMPLICATIONS

The prospects of present and potential NICs will depend crucially on policies pursued by them and on the policy stance adopted by the advanced industrial countries.

In the longer run, strong forces—some economic, others social and political—are pushing towards a balanced trading relationship between countries at different levels of economic development. Moreover, as long as exports of advance industrial countries rise pari passu with—and tend for at least some time to exceed—their imports from NICs, new market opportunities will open. The bulk of manufactured exports to NICs will, no doubt, continue to consist of investment goods, an area where rapid technological progress tends to produce continually improved, if not entirely new, products. This will go together with rapidly growing exports of managerial and entrepreneurial skills and organisational talent in production, marketing and finance (paras. 33–43).

There is every reason to believe that, over time, trade with the NICs will be both balanced and mutually beneficial. Over the shorter term, however, there is no guarantee that the necessary adjustments will come about smoothly and, even within a globally satisfactory adjustment process, individual industrial countries as well as NICs are likely to get out of line. Moreover, structural change is, by definition, highly differentiated and can create serious adjustment problems for individual industries, regions and segments of the labour force within each country.

In fact the painful adjustment problems which OECD countries have run into since 1973 owe far more to inflation, slow growth and disparities in competitive positions among them, than to competition from outside. Policies which lead to improved performance in these respects are badly needed; they will also help to ease the overall problems of adjustment and structural change which can be attributed to trade with the NICs (para. 46).

Competition from NICs can make an important contribution to industrial efficiency and to the fight against inflation in advanced industrial countries and thus improve the chances of achieving sustained non-inflationary growth and higher levels of employ-

*Except the Turkish Government, which had not participated in the 1976 Declaration and abstained from the Decision.

ment. Although in the short run putting up barriers to keep out imports from developing countries may save a few jobs, in the longer run it will mean more inflation, more restrictive policies and hence more unemployment (para. 47).

It is essential to improve the cost/price relationship in the OECD area as a whole and relative real wage levels in individual advanced industrial countries, through an appropriate combination of demand management, exchange rate and price and income policies. This would help to boost productive investment, the inadequacy of which aggravates the problems of structural adjustment (paras. 51–52).

Major efforts are needed to increase the adaptability and flexibility of the economy of advanced industrial countries. In this respect, a shift to more positive adjustment policies, as endorsed by the OECD Council at Ministerial level in 1978 is of crucial importance (paras 53–63).*

Despite the fast expansion of their productive potential, the NICs have in common with other poor countries a large pentup demand for private and public consumption and infrastructural investment. With expansionary monetary and fiscal policies, this can easily lead to "over-adjustment", with accelerating inflation, balance-of-payments crises, a drop in domestic savings and investment, and a progressive loss of industrial dynamism. But there is also a risk of "under-adjustment". An under-valued exchange rate, or other policies increasing the profitability of exports, if pushed too far, may result in the build-up of an excessively export-oriented industrial structure (paras. 65–68, 247–256).

The report stresses, therefore, the need for the NICs to progressively dismantle tariff and quota protection and other administrative obstacles to imports. More generally it also emphasizes the need for demand management, exchange rate and overall development policies which ensure that rising productivity is translated into higher real wages, and accompanied by an appreciating real exchange rate (paras. 70–74).

"It is impossible to say", the report concludes, "whether the current difficulties will prove to be only a temporary interlude in the progressive integration of the world economy, or whether they will lead to a major shift towards defensive policies in the advanced industrial countries, followed by retrenchment in the NICs." . . . But "a shift to defensive policies by OECD countries would progressively undermine the open multilateral trading system which has served them so well, just when the benefits of such a system are beginning to spread out to the developing world on a significant scale" (paras. 75–77).

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*See The Case for Positive Adjustment Policies, OECD, June 1979.

"The Impact of the Newly Industrialising Countries on Production and Trade In Manufactures". 96 pages, OECD, Paris, 1979. US $12.00; £5.90; F 48. ISBN 92–64–11943–4. Available from OECD Sales Agents—see attached list.

TABLE 10.—TRADE OF OECD COUNTRIES WITH NIC'S IN MANUFACTURES

	Imports (percent)						Exports (percent)						Trade balance[1] (billions)		
	1963		1973		1977		1963		1973		1977		1963	1973	1977
	A[2]	B[3]	A	B	A	B	A	B	A	B	A	B			
Canada	3.2	1.0	3.2	3.4	3.6	4.9	1.3	3.3	1.0	4.0	1.0	3.6	$0.03	−$0.20	−$0.63
United States	36.3	5.9	42.2	17.1	42.9	20.0	26.2	9.5	22.5	16.4	21.8	14.8	.92	.06	−2.62
Japan	2.2	1.8	10.1	17.1	7.1	18.5	12.6	13.1	22.3	18.9	26.1	16.7	.62	4.94	10.63
France	3.0	1.0	4.9	3.7	7.2	6.3	9.0	8.1	7.1	8.2	7.3	7.5	.43	1.32	1.35
Germany	11.7	2.8	12.8	7.3	14.4	8.9	16.5	6.6	17.8	8.8	15.8	7.6	.71	3.23	3.30
Italy	4.4	1.6	3.2	4.2	3.6	6.1	8.1	10.6	6.6	10.4	6.2	8.2	.36	1.42	1.96
United Kingdom	22.6	7.3	9.1	8.2	6.9	7.0	11.2	6.3	6.9	9.1	7.1	8.1	.32	.64	1.34
OECD NIC's	8.3	5.2	1.8	3.3	1.6	5.2	.6	6.5	1.5	8.3	1.3	6.9	−.06	.15	.10
Other OECD	8.3	.8	12.6	3.0	12.5	3.7	14.5	5.2	14.2	6.5	13.4	6.2	.64	2.48	2.73
OECD	100.0	2.8	100.0	7.2	100.0	8.2	100.0	7.6	100.0	10.6	100.0	9.6	3.97	14.04	18.16

[1] F.o.b.-f.o.b.
[2] Percentage share of country in OECD total.
[3] Percentage share of NIC in country total.

N.B.: Shares for imports are not identical to those shown in table 4 because of adjustment to f.o.b. for countries other than the United States and Canada.

TABLE 21.—STRUCTURAL CHARACTERISTICS OF THE NIC'S (1976)

	Population (millions)	Area (thousand square kilometers)	Inhabitants (per square kilometer)	GNP per capita (U.S. dollars)	Distribution of GDP (percent)			Merchandise trade (billions of U.S. dollars)		Foreign trade turnover as percent of GNP	Share of manufactures in exports (1975)
					Agriculture	Industry	Services	Exports	Imports		
Korea	36.0	99	363	670	27	34	39	7.7	8.8	68	82
Taiwan	16.3	36	452	1,070	12	45	43	8.1	1.6	90	85
Mexico	62.0	1,973	31	1,090	10	35	55	[1] 3.3	[1] 6.0	[1] 14	[1] 52
Brazil	110.0	8,512	12	1,140	8	39	53	10.1	13.6	19	27
Yugoslavia	21.5	256	83	1,680	15	43	42	4.9	7.4	34	72
Portugal	9.7	92	105	1,690	18	43	39	1.8	4.3	37	71
Hong Kong	4.5	1	4,500	2,110	2	34	64	[2] 8.5	[3] 8.9	[2] [3] 183	[3] 97
Greece	9.1	132	68	2,590	18	31	51	2.5	6.0	36	48
Singapore	2.3	1	2,300	2,700	2	35	63	[2] 6.6	[3] 9.1	[2] [3] 252	[3] 43
Spain	35.7	505	70	2,920	9	39	52	8.7	17.5	25	70

[1] Excluding trade of the free trade border zone.
[2] Including reexports.
[3] Including imports for reexports.

Source: World Development Indicators, World Bank.

TABLE 23.—REAL OUTPUT AND DEMAND IN NIC'S

[Percentage changes at average annual rates]

	Gross domestic product		Per capita gross domestic product		Per capita private consumption		Gross domestic fixed capital formation	
	1963–73	1973–76	1963–73	1973–76	1963–73	1973–76	1963–73	1973–76
Greece	7.7	2.7	7.2	1.8	6.3	3.5	10.8	−7.4
Portugal	7.1	1.0	7.2	−3.0	6.9	.5	8.3	1.3
Spain	6.8	2.7	5.5	1.5	4.9	2.2	8.8	.9
Yugoslavia [1]	5.9	5.4	4.9	4.4	5.0	4.9	5.3	7.5
Brazil	8.2	8.2	5.3	5.3	4.1	[2] 9.4	10.3	[2] 13.8
Mexico	7.1	4.0	3.5	.5	3.5	−1.0	9.7	3.5
Hong Kong	9.0	7.1	6.8	5.2	7.2	2.8	6.2	6.3
Korea	10.3	10.8	8.1	9.0	6.5	4.4	17.6	12.8
Singapore	10.5	5.1	8.3	3.7	5.5	3.1	18.8	5.4
Taiwan	10.4	5.0	7.4	3.2	5.9	2.9	16.7	9.6
Memorandum item: OECD total	4.9	1.6	3.8	.8	3.8	1.7	5.9	−2.7

[1] National definitions.
[2] 1973–75.

Mr. JAVITS. Mr. President, I urge a deeper and more involved interest by the Senate in the work of the OECD. I hope that our mission may have started this process of greater interest by other Members. Either of us—I know that Senator BRADLEY feels as I do—will assist diligently any Members who find an interest in this subject, and I believe a great many should. Members of the Finance Committee, the Joint Economic Committee, the Appropriations Committee, the Budget Committee, the Governmental Affairs Committee, and the Banking Committee should be very deeply involved in and knowledgeable about the OECD's work. I find it hard to think of any committee which would not profit from having a good look at what the OECD does and how the OECD's extensive economic research can be adapted for use by the committees of this body.

Mr. President, I yield to Senator BRADLEY.

Mr. BRADLEY. Mr. President, I thank my distinguished colleague from New York with whom I had the opportunity on July 2 and 3 to attend meetings at the OECD and exchange ideas with senior members of the U.S. mission and the senior staff of the OECD proper on matters pertaining to world economy. I found it a most rewarding and thought-provoking experience.

I was very impressed by the high quality of the OECD experts and I was left with the strong impression that they make a rich contribution to the international discussion of economic issues. I feel that they represent a unique resource for information and analysis and that the OECD as an institution is particularly suited to act as a mechanism for coordinating the economic decisionmaking of member countries. I was left with no doubt that this role is one that will be expanded and that the United States can make for greater use of the expertise at the OECD that we have made in the past.

This is particularly important, I believe, given the condition of interdependence that exists in our world economy today and the need for coordination of economic policies so as to assure ever-growing prosperity worldwide. The world economy is totally interdependent and we have common economic problems ranging from inflation, recession, unemployment, currency instability, energy dislocations to trade imbalances. In the OECD we have an institution through which we can address those problems in a common manner.

I think that perhaps this is the most important function that the OECD can provide. It offers a framework of cooperation and coordination which over time can act as a bulwark against the kinds of counterproductive beggar-thy-neighbor economic policies which have proved so disastrous to the world in previous years.

An aspect of our visit to the OECD that I found particularly edifying was our discussion with the International Energy Agency and its most able Executive Director, Dr. Lantzke. As most Members of the Senate know, the International Energy Agency is addressing the crucial task of coordinating energy policies in an effort to promote energy security. It lists among its accomplishments a program for energy sharing in emergency situations, and agreement among members to cooperate in setting oil import objectives, and a growing research and development program on energy development and alternatives. All of these are accomplishments of which the International Energy Agency should be proud.

However, I was somewhat disappointed to learn in the course of our discussions that the IEA staff has given, in my view, inadequate recognition to the potential role for conservation and solar energy in the long-term development of member countries' energy policies.

I believe, as do a number of Members of this body, that they are sound alternatives to the fossil fuel development into which we now find ourselves locked. Further, they complement the wide-ranging coordination of economic policies necessary to preserve the prosperity of the world economy. If we emphasize conservation and solar in a coordinated manner through the IEA, we will have the opportunity to take another step toward wrestling control of our lives away from the OPEC countries. Recapturing control requires that we have a capacity to generate our own energy sources. For this reason I was disappointed that Dr. Lantzke and his distinguished staff did not recognize that the opportunity for coordination in energy conservation and the development of solar systems is as promising an opportunity for OECD coordination as is the opportunity for OECD coordination of macroeconomic policies generally.

Nevertheless, overall, I found the trip extremely encouraging and valuable. I hope that Members of the Senate will read the report. It lays out very clearly what we discovered and what our hopes are for further cooperation among member governments, and for greater interaction between our Government, including Members of the Senate, and the OECD—a valuable resource indeed that should be frequently used in the years ahead.

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

Mr. BRADLEY. I yield.

Mr. JAVITS. I express my pleasure at the association which we had on our mission to the OECD. It was the first such mission that I undertook with the Senator from New Jersey, and I wish to congratulate and compliment him on the fine way in which he undertook his responsibilities as a member of the mission and for his contribution to the report that we are today submitting to the Senate.

Mr. BRADLEY. I thank the Senator very much and say on my own part it was an honor to travel in company with such an august and perceptive Member of this body.

RECOGNITION OF SENATOR HARRY F. BYRD, JR.

The ACTING PRESIDENT pro tempore. The Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized under the previous order for a period not to exceed 15 minutes.

(Mr. HEFLIN assumed the chair.)

RUSSIAN COMBAT TROOPS IN CUBA

Mr. HARRY F. BYRD, JR. Mr. President, the American public has reason, I feel, for great concern about recent developments in the field of foreign affairs and national defense.

To me it is astonishing that the Secretary of State would tell a committee of the Senate in July that there were no Russian combat troops in Cuba and then in August confirm that there is a combat brigade of Russian troops in Cuba. To make it even more astonishing, after having stated last week that this was a first ascertained development, yesterday the State Department indicated that those troops may have been in Cuba for several years.

In addition, the State Department last week expressed little concern, but now professes much concern.

None of this enhances the reputation of the State Department.

There is a difference of opinion, I suppose, as to how serious it is from the point of view of the United States to have a Russian combat unit on an island just off of our shores. There is a difference of opinion, I suppose, as to whether it is undesirable from the point of view of the United States to have Russian military aircraft on this island off of our shores.

I happen to feel that it is totally contrary to the Monroe Doctrine. I think it is highly undesirable from the point of view of the Western Hemisphere and the nations of Latin America. None of us know where this might lead.

No one, apparently, neither the State Department nor our intelligence agencies, know the purpose for which those troops have been put in Cuba. No one seems to know with any certainty whether the troops have been put there just recently or whether they have been there over a period of time.

To me that is probably the most significant aspect of this whole rather bizarre development of recent days.

I say sadly that it does not reflect well on our intelligence-gathering organizations. Also it brings to mind that it took months and months for our intelligence sources to learn of the tremendous build-up of North Korean forces. Yet, as we all know, the United States has many troops in South Korea and one would think that our intelligence activities in regard to North Korea would be of the best.

When you take what happened in North Korea, a tremendous buildup of troops there, and couple that with what has happened recently just off of our shores in Cuba, I think it is cause for much concern as to just how capable our intelligence operations are. My confidence has been much shaken.

The American public, I find, are greatly confused by all of this, and I certainly do not blame them for that. The American people collectively, although not as highly educated as many in Washington, have sound commonsense.

I have heard many individuals in the

last few days say, "Well, if our intelligence-gathering organizations and if all of our military potential were not able to discern the presence of 2,300 to 3,000 Russian combat troops on this small island off our coast, how in the world will we ever be able to determine the location and the number of Russian intercontinental missiles based in their own country of 3 million square miles?"

I think what has happened in Cuba has a very definite impact on the Strategic Arms Limitation Treaty. As one Senator, I think it would be undesirable for the Senate to begin debate on the Strategic Arms Limitation Treaty until the Russian combat troops and the Russian aircraft are removed from Cuba. I might emphasize, too, that removal of the troops and aircraft would not be grounds for supporting the treaty—but only a condition for even considering the document.

It appears to me that what has happened in Cuba makes a mockery of the assertion that the United States at all times can know exactly where the Russian missiles are in Russia and how many missiles there are. Frankly, I have little confidence in such assertions—and even less so now, after what has occurred in Cuba.

Mr. President, I have found it difficult to reach a conclusion that the pending treaty is advantageous to the United States. I feel even more so as a result of continued Russian involvement throughout the world, and now a serious Russian involvement in the island just off our shores.

The SALT agreement should not be considered alone—but must be considered in the context of Soviet activity worldwide.

Mr. MOYNIHAN. Mr. President, I would wish to resume the comments in the context of the remarks of the Senator from Virginia.

The PRESIDING OFFICER. I believe we are now ready to go into morning business, if the Senator will make his remarks under morning business.

Mr. MOYNIHAN. I will.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield for a parliamentary inquiry, how much time does the Senator from Virginia have remaining?

The PRESIDING OFFICER. He has 6 minutes.

Mr. HARRY F. BYRD, JR. I yield 6 minutes to the Senator from New York or would the Senator prefer to go into morning business?

Mr. MOYNIHAN. If we may, if we went into morning business, we would not be bound.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for a period of not to exceed 15 minutes, with statements limited to 5 minutes each.

Would the Senator want 5 minutes plus the 6 minutes?

Mr. MOYNIHAN. I would if the Chair would be so gracious as to——

The PRESIDING OFFICER. The graciousness comes from the Senator from Virginia.

Mr. MOYNIHAN. That is embarrassingly so.

RUSSIAN COMBAT TROOPS IN CUBA

Mr. MOYNIHAN. Mr. President, while the distinguished Senator from Virginia is on the floor, may I simply say that I have listened with great care to what he has said.

I came here this morning for the purpose of making three observations of my own. I speak as someone who is a friend of this treaty and is disposed to its purpose. But I have not been reassured by the statements attributed to our good friend, the distinguished chairman of the Committee on Foreign Relations, as quoted on the front page of today's Washington Post in which he said:

> There is no likelihood whatever that the Senate would approve SALT II as long as the Soviet combat troops remain in Cuba.

I would like to state that I hope there is no corollary that if the Soviet troops are withdrawn, if the Soviets withdraw their troops, then conditions have been sufficiently established to accept the SALT treaty.

I see the Senator rises.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, that is the position of the Senator from Virginia. The withdrawal of the Russian troops and the withdrawal of the Russian aircraft from Cuba would not change the position of the Senator from Virginia in regard to the SALT treaty.

My view is the Senate should not even consider the merits of the treaty until those two events take place. I think that is what the Senator from New York was indicating.

Mr. MOYNIHAN. I meant simply to say that it would be extraordinary if we were, in effect, to give the Soviets a military control over our policy decisions by rewarding them for not doing, for undoing, something they ought not to have done in the first place.

We used to talk about a "code of détente." Certainly combat troops in Cuba do not comport with that code. Having posed, as it were, this threat, we ask them if they will withdraw. It is not a very big threat, we are not exactly quaking. But we are asking what kind of people are we dealing with. We are not saying that if they withdraw the threat, then, "You can have your treaty."

May I refer to the ancient practice of our friends the Danes who used to show up along the coast of northern France, England, and Ireland every springtime and say, "Well, now, you have two choices. You can pay us to go away," a payment called the Danegeld, "or we will burn down your town."

There was a great line of G. K. Chesterton:

> If once you have paid him the Danegeld
> You never get rid of the Dane.

Are we to look forward to an annual excursion of the Russian military into the Caribbean such that in return for their leaving we will perhaps give them wheat instead of selling it to them?

Mr. HARRY F. BYRD, JR. The Senator from New York phrased it so well that I think the way the Senator from New York has put the question and has answered his own question is the attitude that I would hope the Senate and the American people would take.

The withdrawal of Russian troops from Cuba should not in any way be a means of rewarding the Russians for doing, as the Senator from New York just stated, something they should not have done in the first place.

Mr. MOYNIHAN. Right.

Mr. HARRY F. BYRD, JR. But until they do that, until they do take that step, until they do get their military aircraft and combat troops out of Cuba then, it seems to me, it would be unwise for the Senate to even consider the merits of the SALT Agreement.

I realize there are differences of viewpoints within the Senate as to whether the agreement now pending should be ratified or not ratified. But that is a different issue.

Mr. SCHMITT. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. SCHMITT. I must admit to having identically the same thought when I read this morning's headline and the first few paragraphs in the Washington Post.

I was afraid that we were being, in a sense, set up for the withdrawal of these troops, and that therefore everybody can agree that the SALT treaty is a good treaty.

The two events have no direct correlation with respect to the value of the treaty. The treaty is not only of value with respect to the words written on the page, but it has to be of value in the context of the total international and other defensive environment related to this country. I know the Senator from New York and the Senator from Virginia feel this way also.

This is an additional factor that has been introduced into the debate, but it in no way changes the need for the SALT Treaty to be evaluated in the context of everything else that will affect its implementation.

Mr. MOYNIHAN. Precisely. If the SALT treaty were to be adopted as a reward for the military adventurism of the Soviet Union, then the United States would be reduced to a condition not contemplated in our time.

We can think of a number of reasons why those troops may be there. I observe in this morning's New York Times a column by Mr. William Safire which speculates they might be there to protect Soviet telecommunications intercept facilities being built on the island.

I cannot imagine our Department of State will raise much objection to those facilities being in Cuba, as they do not object to the same practice in the city of Washington, much less my city of New York, where it began. If it is all right to intercept telephone conversations from Riverdale, I cannot see why they should feel that, coming from Cienfuegos or some place, it would be less appropriate.

A similar point I would like to make, and the last one, is not unconnected. We read in the Washington Post this

morning that a unique event took place in Cuba yesterday. President Aristides Royo of Panama said something not hostile to the United States. The Washington Post reports that this is the first time in 3 days that something not hostile to us has been said at the conference of nonalined nations.

These are the nations with which the administration, from the President and the Secretary of State on down, repeatedly tell us relations have never been been better. One begins to wonder. If our relations have never been better, while their pronouncements have never been more hostile, how does the Department of State and the administration define "better"?

I have read, during our recent recess, the 70-page draft of the final acts of the nonalined conference. I have agreed with the nonalined movement at times, and have been sympathetic with its purpose.

But, Mr. President, this draft is completely Sovietized. Two-thirds of the nations of the world are about to subscribe to it, and the administration says our relations with those two-thirds of the world's nations have never been better.

This is, I suppose, a variation on Senator Aiken's famous formula for getting out of Vietnam, which was simply to declare victory and leave. But it really does raise the question, how serious should—as the French say, serieux—how serious are the men who run our foreign policy?

I thank the Chair and my always gracious and distinguished friend from Virginia, and my uniquely scientifically capable friend, the Senator from New Mexico.

Mr. SCHMITT. Mr. President, before the Senator from New York departs the floor, I would just associate myself with his remarks. His perspective on the history, not only the modern but the ancient history of the world, is as unique in the Senate as any capability I may have in the scientific profession. Having been a modest student of history myself, it is a delight to me to hear this perspective added to our deliberations and consideration of policy as well as more detailed legislative matters.

The issue that the Senator raises is one of great moment. We do see an increasing drift, if not a stampede, of the so-called nonalined nations toward the Soviet orbit. I think the people of those countries will be the losers by such a drift, for these is nothing in modern history, or any history, to indicate that a drift, for there is nothing in modern hisbenefit the people of any country, certainly not in the long term, as history has shown.

This Nation and our allies offer, through technological development, through compassion, and through many other I think very fine attributes, a hope for the nonalined countries for their future light, even though the light at the end of the tunnel no longer has to be the light of an onrushing train. If the leaders of these nonalined nations do not realize that, they are ignorant. If they do realize it, then they are subverting the interests of their people to their personal interests for power and for influence with the Soviet Union.

Mr. MOYNIHAN. Will the Senator allow me a comment on what he has just said?

Mr. SCHMITT. Be happy to.

Mr. MOYNIHAN. I am sure the Senator has heard the argument advanced that one of the most important aspects of the SALT treaty is the sorting process; that the powers in the Soviet Government are divided between those who are for more weapons and those who are for less—although SALT provides for more in either case—in a sort of hawk-dove paradigm, and we must encourage the differences. Well, this may be so.

But may I say that in the nonalined nations with which I have had some experience, there is equally a continuum, and sometimes it is bimodal, between persons known to be pro-Western and persons known to be pro-Soviet. As long as the United States feels that the ascendancy of the pro-Soviet forces is an entirely agreeable condition so far as we are concerned, then they give no leverage whatever to the pro-Western forces.

No one in the pro-Western forces states, "You see, you have got them very upset, they don't like what you have just said about them, and there will be consequences here in our world, and so you should not take that Soviet line."

But while we are perfectly willing to encourage this kind of dichotomy in our adversaries, it seems never to occur to us, for example, that India is filled with persons of the greatest ability who are fundamentally democratic, pro-Western, and anti-Soviet. The United States will never support them; it only allows their adversaries to take the position, "Look we have a simple problem; the Soviets will mind, the Americans will not."

Will the Senator permit me to take one moment for a story?

Mr. SCHMITT. Yes.

Mr. MOYNIHAN. Up in the Tigris-Euphrates Valley, where you reach the Turkish border, there are a group of people who are despised by their Islamic neighbors because they are thought to be devil worshipers. This is not fair to them, and it is not just. They are not devil worshipers; they are a residuum of the old dualism or Middle East Manichaeism; they believe there are two principles, one good and one evil. They spend their time looking after the evil one. Bernard Lewis, the eminent scholar has called this a form of "theological nonalinement." They are like people who say, "If you are against the Soviet Union, that is a problem, but if you are against the United States, relations have never been better for their affinity with the Soviet Union."

Mr. SCHMITT. The Senator's story, once again, shows his perspective of world affairs, not only the current but the past.

The situation is clearly one where this country must, as he has indicated, provide an alternative articulation of good versus evil. It is that simple, but we must not just assume that everybody knows it. We have to give the basis for these more pro-Western or pro-human, I believe, nations to be able themselves to articulate their beliefs. At the same time, as we do that, we have to provide positive alternative relationships for these people.

We are entering into an era now of international conferences. The Law of the Sea Conference and the General World Administrative Radio Conference are becoming political forums. This country is still treating them as if they were still purely technical forums and they are not.

I must say, in due respect to Ambassador Richardson, he understands that. He understands the political nature of the Law of the Sea Conference, whereas, on the other hand, many other participants in things like WARC, World Administrative Radio Conference, do not, in my mind, fully understand how absolutely political those kinds of conferences become. We must go into those conferences and other international relationships not only with good solid technical alternatives for the developing world, for the Third and Fourth Worlds, but also good political alternatives for them, and we have not done that.

Mr. MOYNIHAN. Good point.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

TREASURY-POSTAL SERVICES APPROPRIATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4393, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 4393) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 399

The PRESIDING OFFICER. The pending question is on amendment No. 399 by the Senator from Michigan, on which there shall be 10 minutes, to be equally divided and controlled.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum. I yield time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, the purpose of this amendment is to allow for the distribution of mail between local school districts which are constituent parts of an intermediate school district. Michigan and, I believe, some other States have what are called intermediate school districts which have constituent parts, local school districts. The intermediate school district is allowed, under the regulations as they now exist, to distribute their materials directly to each constituent local disrict, but apparently, that same van is not allowed to pick up the

mail from one local school district on its own route and distribute it to that other constituent part. This seems to me to be very wasteful. The intermediate school district and the local school districts are governmental units. This is intergovernmental material which is being distributed or would be allowed to be distributed under this amendment during the course of delivery by vehicles which are on the route anyway. They are not going off their normal routes to deliver this material.

It seems wasteful, to me, not to allow this interschool district material to be distributed while the van is distributing materials from that intermediate higher level. This amendment, I believe, is acceptable to the managers of the bill, but I shall let them speak for themselves on this matter.

Mr. CHILES. Mr. President, we have looked at the amendment by the Senator from Michigan. I have a hard time, to tell the truth, understanding why the Post Office is concerned about this situation, with essentially interoffice mailing going from a school district and circulating around through that school district, just as we circulate interoffice mail between the House and the Senate. Our mail is hand-carried. We do not ever think about the fact that it should have to go by the postal system.

It seems we are dealing with the same thing. As I understand it, the intermediate school district is in charge of the overall operation. We are talking about circulating correspondence between that school district and the schools which are under the intermediate school district, and correspondence going from school to school within that.

So it just strikes me that it is so much like an interoffice mail situation.

I can see the concern, perhaps, of the post office when we start writing exceptions into the postal monopoly. I think they might well be concerned about seeing exceptions—it has been tested in court and generally upheld—and they are concerned about whether that is under attack.

I would hope that if we take the amendment, there would be a way for the Postal Service to work out the problem that the Senator from Michigan has so well portrayed here and that we could find a solution to this matter so that we would not have to actually argue this in conference.

But I cannot understand why the post office cannot work a solution. Let us take the amendment and see if there is some way of working out a solution to this.

Mr. SCHMITT. Mr. President, I would agree with the chairman on that procedure.

It does seem that this type of exception, in one way or another, already exists. I would hope the Postal Service would recognize that and work with the Senator from Michigan to make it possible for this, I think, limited addition to the exceptions that already exist to go forward.

Certainly, this should give him some leverage to discuss that with the Postal Service.

I, for one, think that if the Postal Service is not willing to work something out, some discussion in the conference will be warranted—and I suspect our colleagues in the other body may be sympathetic.

At any rate, I am certainly willing to accept the amendment and hope that the Postal Service recognizes our interest in this matter.

Mr. CHILES. Mr. President, I yield back any time we have.

Mr. LEVIN. Mr. President, I yield back the balance of my time.

I do thank my friends and colleagues from Florida and New Mexico for their cooperation and sensitivity.

Hopefully, something can be worked out so that there will be no need to press this at conference, if there is an objection in conference.

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

The amendment (No. 399) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

UP AMENDMENT NO. 524

(Purpose: To provide that no funds may be used to formulate or carry out any new rule or regulation which would cause the loss of tax exempt status of any private school)

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized to call up an amendment.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, I send to the desk an unprinted amendment on behalf of the Senator from North Carolina and the able Senator from South Carolina (Mr. THURMOND).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. THURMOND, proposes an unprinted amendment numbered 524.

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:

In the appropriate place in the Act add the following:

"SEC. . None of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978."

Mr. HELMS. Mr. President, I want to be as brief as possible in discussing this amendment because I feel we covered the subject thoroughly yesterday in debating the amendment by the distinguished Senator from New York (Mr. JAVITS).

Mr. President, the purpose of this amendment is quite simple: it places a 1-year moratorium on the ability of the Internal Revenue Service to establish new procedures—and I emphasize the word "new"—regarding the termination of the tax-exempt status of private schools. This prohibition is forward looking only. It is not retroactive. IRS would still be able to enforce all regulations which were in effect as of August 22 of last year.

Under my amendment, the IRS may still move to withdraw the tax exempt status of a school which has failed to meet the standards of Revenue Procedure 75–50.

Under Revenue Procedure 75–50, the racially nondiscriminatory policy of every private school must be stated in its governing instruments and governing body resolution, and in its brochures, catalogs, and similar publications. This policy must be publicized to all segments of the general community served by the school, either by notice in a newspaper or by use of broadcast media. All programs and facilities must be operated in a racially nondiscriminatory manner and all scholarships or comparable benefits must be offered on such a basis.

Mr. President, Revenue Procedure 75–50 states the information that every school filing an application for recognition of exempt status must provide. Also included are an assortment of recordkeeping requirements, mandating the retention for at least 3 years of records indicating the racial composition of the school's student body, faculty and administrative staff; records documenting the award of financial assistance, copies of all brochures, catalogs, and advertising dealing with student admissions, programs, and scholarships; and copies of all materials used by or on behalf of the school to solicit contributions. Failure to maintain or to produce the required reports and information creates a presumption that the school has failed to comply with the law and thus has a racially discriminatory policy as to students.

Under existing law, a private school must be able to affirmatively demonstrate, as in the case of an audit, that it has adopted a racially nondiscriminatory policy as to students and that this policy has been made known to the general public, and that since the adoption of that policy the school has operated in a good faith manner in accordance with it.

The existing law provides substantial procedures for the IRS to deny the tax exempt status of schools which discriminate.

In fact, IRS has denied the tax-exempt status of over 100 schools which it, or a court, has found to be discriminatory. My amendment today does not change the existing law contained in Revenue Procedure 75–50, and thus it preserves the ability of IRS to act against offending schools on a case-by-case basis.

My amendment is necessary to allow Congress the time to consider the numerous legislative proposals which have been introduced to deal with this problem.

For example, earlier this year I was joined by Senators FORD, SCHWEIKER, STEVENS, and ZORINSKY in introducing S. 995, the Private School Non-Discrimination and Due Process Act of 1979. This legislation would for the first time expressly authorize the IRS to move to terminate the tax-exempt status of private schools which discriminate. It also provides considered and balanced safeguards to protect the first amendment rights of the schools involved.

Congress should address this problem as the policymaking branch of the Federal Government. My amendment is necessary in order to preserve this opportunity and to allow the public debate on this issue to continue.

Mr. President, I am not going to consume the time of the Senate in reading in the RECORD all of the details of Revenue Procedure 75–50 and other existing regulations dealing with tax exempt schools which would not be affected by my amendment. Suffice it to say that this is a forwardlooking amendment. It simply provides that no new procedures regarding determination of the tax-exempt status of private schools will be funded under this legislation now pending before the Senate.

Mr. President, the testimony before the Oversight Subcommittee of the House Ways and Means Committee of Randolph W. Thrower, a former Commissioner of the Internal Revenue Service, eloquently answered a question raised yesterday by the distinguished Senator from New York and the distinguished Senator from Ohio (Mr. METZENBAUM) about the low number of black students that often is reflected in enrollment in a private school.

Mr. Thrower was attempting to explain the difficulties of private schools in this matter and he presented to the House committee a copy of an advertisement circulated by a black organization urging black students not to enroll in private schools.

I will read part of it. It says:

Our public school system is the best way to go. There are rumors that the I.R.S. (the Internal Revenue Service) is cracking down on all private schools that were established to escape from the public school system during the time of integration. It is also rumored that the private school needs 45 black students within a 60-day period to save the private school.

The Black Youth Coalition is asking black parents to please keep your children in the public schools. Don't be used up in private schools! Don't be a backlash on your roots!

Mr. President, this documentation by Mr. Thrower suggests that there was a deliberate effort on the part of at least one black organization to prevent the enrollment of black students in private schools.

I feel this advertisement should appear in the RECORD, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, the Senator from North Carolina is aware that the drawings in the advertisement cannot be reproduced in the RECORD—I wish it could be done—but that the text of this advertisement can be.

With that, I reserve the remainder of my time.

EXHIBIT 1

OUR PUBLIC SCHOOL SYSTEM IS THE BEST WAY TO GO

There are rumors that . . . . I.R.S. (the Internal Revenue Service) is cracking down on all private schools that were established to escape from the public school system during the time of integration.

It is also rumored that . . . . the private school needs 45 black students within a 60-day period in order to save the private school.

The Black Youth Coalition is asking black parents to please keep your children in the public schools.

Don't be used up in private schools!

Don't be a backlash on your roots!

Mr. CHILES. Mr. President, this amendment also was discussed in the committee.

Contrary to the Dornan amendment, which Senator JAVITS sought to strike yesterday, the committee felt that by adopting the Dornan amendment, we had basically covered the situation. That said that the IRS revenue procedure concerning themselves with the issue of private schools could not be issued. We felt that it was a little redundant to have Dornan and Ashbrook basically saying the same things.

Ashbrook is drawn considerably broader and did not address itself solely to the present controversy. It says "under no circumstances," could anything be done and members of the committee, including myself, thought that was a little broad. Was that to say that if private schools taught the overthrow of the U.S. Government by force, the IRS could not issue some rule or regulation to say that that was improper? To carry it to its ridiculous extreme, it would be that way.

Mr. HELMS. I do not think that will happen in a Christian school.

Mr. CHILES. As the Senator knows, this amendment is not drawn just as to a Christian school.

Mr. HELMS. But the IRS has taken aim at Christian schools. I think the Senator knows that. This amendment is designed to provide relief for Christian schools.

Mr. CHILES. The other regulations were aimed at Christian schools and they were dealt with in the Dornan amendment, which the Senate upheld.

Mr. HELMS. I will not haggle with the Senator. He is my friend and I am his.

Mr. CHILES. My feeling is that we covered it yesterday. However, considering the vote we had yesterday, considering the time, with Members in committees now, and considering the vote that took place on the floor of the House on this particular amendment, I am disposed to say that the Senate has sort of spoken on this question yesterday, and that we will just take the amendment, or have a voice vote on it.

Mr. HELMS. I thank the Senator. I want him to know that I deeply appreciate his willingness to voice vote this amendment so that we can move along.

Mr. SCHMITT. Mr. President, I concur generally with the remarks of the distinguished chairman of the subcommittee, the floor manager of the bill.

I supported retention of the Ashbrook amendment in committee, although I did have the same reservations about it being drawn technically more broadly than probably necessary to address the particular problem.

I, for one, think we all must be alert if the IRS runs into some inadvertent problem on another issue because of the language of this amendment. I am sure the Senator from North Carolina also will do that. We can imagine the ridiculous extremes, as the Senator from Florida has indicated, in which the IRS might use this as an excuse not to do something they should do.

Mr. HELMS. I assure the Senator that I will cooperate with and support any effort to prevent such activity in the unlikely event that an episode of that nature should occur.

Mr. SCHMITT. Of course, this would have effect only for the appropriations year, fiscal year 1980 and can be reviewed, if a problem developed over that period, during the next appropriation cycle.

So I concur with the Senator from Florida that we should accept the amendment. The House is strongly in favor of it, and I think we will have more important things to do in conference.

Mr. HELMS. I thank the Senator from New Mexico and the Senator from Florida, who have been most cooperative.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

Mr. HELMS. I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum. I believe the Senator from New York would like to have a chance to speak on this subject.

Mr. HELMS. Mr. President, in that case, I withdraw my offer to yield back my time, and I will reserve the remainder of my time.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum, on the committee's time.

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.

ORDER FOR ROLLCALL VOTE TO OCCUR AT 12:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, it is my understanding there will be a rollcall vote on the pending amendment. I ask unanimous consent that that rollcall vote occur at 12:30 p.m. today.

Mr. CHILES. To be immediately followed by the Metzenbaum amendment.

Mr. ROBERT C. BYRD. That is already in the order and that is the remainder of the order as entered yesterday.

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

Mr. SCHMITT. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SCHMITT. By the interaction of the two orders now that means that the vote on final passage, assuming we get through third reading here momentarily, will occur immediately after the vote on the Helms amendment.

Mr. ROBERT C. BYRD. Under the order that was previously entered Mr. METZENBAUM has the option of offering an amendment following the disposition of the amendment by Mr. HELMS. That was the order of yesterday.

Mr. SCHMITT. I ask the Senator from Ohio if he will offer an amendment?

Mr. METZENBAUM. I say at this moment I am not at all certain I will offer such an amendment. I do not wish to waive my rights. But I think it is fair to advise the Senator that there is good likelihood I will not offer such an amendment, but I wish to reserve my rights at this point.

Mr. ROBERT C. BYRD. In either case the bill will then advance to third reading, following Mr. METZENBAUM's amendment, or if he does not offer one, following disposition of the Helms amendment we will go to third reading immediately.

Did the order provide for any debate on third reading, may I ask the Chair?

The PRESIDING OFFICER. There is no further debate following the disposition of the amendments.

Mr. ROBERT C. BYRD. So final passage would then occur immediately.

Mr. SCHMITT. When will the Senator from Ohio know when he is going to offer his amendment? We are dragging this bill out. A lot of us have other things scheduled for the afternoon. We anticipated we would be through shortly this morning.

Mr. METZENBAUM. I say to my good friend from New Mexico I am trying to give him the best of my knowledge at this moment. I tried to say to him that I think it is doubtful that I will offer an amendment, but I do not wish at this moment to waive my right. I do wish to speak with my staff about the subject, but I think it is very doubtful that I will offer the amendment after the Helms amendment is disposed of.

Mr. SCHMITT. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, while I have the floor, if Mr. METZENBAUM intends to ask for the yeas and nays perhaps it could be done now on the amendment and then every Senator would know there will be a rollcall vote. Does the Senator intend to ask for the yeas and nays?

Mr. METZENBAUM. Yes; I am sorry, I did not hear the majority leader.

Mr. ROBERT C. BYRD. Will he ask for them now?

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the Helms amendment.

The PRESIDING OFFICER. Which amendment is the Senator talking about?

Mr. ROBERT C. BYRD. On the amendment by Mr. HELMS.

Mr. METZENBAUM. The pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered on the Helms amendment.

Mr. ROBERT C. BYRD. I thank the Chair, thank Mr. METZENBAUM and thank all Senators.

Mr. METZENBAUM. I thank the Senator.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays are ordered on final passage.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side on the amendment.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. 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. METZENBAUM. Mr. President, there is some feeling that the amendment that is before us today fits hand in glove with the amendment that was passed by this body yesterday.

I would like to make the point unequivocally clear that there is a broad, broad difference between the amendment of yesterday and the amendment that is before us today. The amendment yesterday had to do with the use of IRS funds which relate to the matter of schools having appropriate policies that conform with the Constitution. It had to do with the issues of integration, segregation, and civil rights.

This amendment goes far, far beyond that. As a matter of fact, the members of the Senate Committee on Finance received a report from the Tax Committee staff dated July 24, 1979, concerning this very amendment. The memorandum states:

> Although the intent of this amendment was to prevent the IRS from implementing its guideline as it related to discrimination in private schools, the amendment is far broader.

The staff went on to report:

> Critics would point out that this amendment would prevent the IRS from implementing any of its rules and regulations relating to tax-exempt schools regardless of the basis. For example, if a particular tax-exempt school was permitting part of its net earnings to inure to the benefit of a private shareholder, the IRS would not be able to enforce its regulations and revoke the tax-exempt status of the school.

This is an unbelievable amendment in many respects. It locks in perpetuity the tax-exempt status of private, religious or church-operated schools.

How can anyone possibly argue that that makes good sense? In fact, the Appropriations Committee, when it dealt with this issue, voted to remove the provision from the legislation before us.

Can anyone say that tax-exempt status ought to remain in perpetuity regardless of whether the institution conforms with all applicable laws? Can anyone say that a school should retain tax exempt status if its funds are used to line the pockets of one of the individuals connected with the school.

Obviously, that would be grossly inappropriate. There is not any Member of the Senate who would stand on the floor and say the tax-exempt status ought to remain in effect after such an occurrence.

Let me go even beyond that point. Let us assume for the moment that Mr. Jones contributes $1 million to a tax-exempt school, and that the school thereafter uses those funds for direct lobbying purposes. The school lobbies for or against any particular kind of legislation which has nothing at all to do with the school. Would anybody then suggest that that school ought to thereafter be entitled to continue its tax-exempt status?

We have lived a long time in this country and nobody has ever claimed that you can use tax-exempt funds for lobbying purposes no matter how worthy the cause may be. Yet that is exactly what it proposed under this particular amendment.

Mr. President, I think we have to separate the wheat from the chaff in this particular situation. There are many Members of this body who saw fit to vote in the affirmative yesterday on the subject having to do with the tax-exempt status of schools which are open to question by reason of the schools' policies concerning segregation.

That issue is behind us. The Senate has spoken its mind. That was adopted by, I think, a vote of something like 54 to 31. However, this is not the same issue. This amendment does not even relate to that issue. The Senate has already determined, over the objection of some of us, that IRS funds cannot be used to inquire into that subject. But does it follow that we ought to put into law a provision that will provide continued tax-exempt status in perpetuity for certain schools and institutions? I do not believe anybody can reasonably make that point.

Mr. President, I see the distinguished Senator from New York on his feet. I know he wishes to be heard on this subject. I do have some additional remarks, but I am very happy to yield to him at this point.

Mr. JAVITS. I thank my colleague very much.

Mr. President, the thing that brought me to my feet was the Senator's assertion of yesterday's vote. I thoroughly agree with him, and that is the tradition of this body. We debate a question, no matter how diligently and how passionately, and that is the end of that.

It was my very distinct feeling that many Members had in their minds

yesterday the fact that the IRS proposed to make certain rules and regulations which affected church-operated schools, and I think that was a major element in the thinking of many Members.

The thing that strikes me about Ashbrook is its commitment forever, and also its commitment to "private schools." The categorization is very specific: "private, religious, or church-operated schools."

It seems to me really most imprudent to give what the Senator describes properly as a permanent exemption to private schools. However we may desire to have great solicitude about separation of church and state and noninterference with the traditional school function of many religions, we certainly cannot apply that to private schools.

Yet this very complete, locked-in exemption would apply to private schools. As the Senator says, whatever they may do with the money which is contributed to them, the contributor would have tax exemption; indeed, a contributor for that kind of an institution could avoid many of the restrictions which the tax laws impose upon contributors to charitable and other educational activities if it were not a private school.

So I would like to express my complete concurrence with the Senator. The question is different; of course, the result in the Appropriations Committee was different; and I hope very much the result here on the floor will be different.

I must also suggest to the Senate that we should, without any question, have a vote on the record on this matter, which I now understand we have ordered, and I am very pleased that the Senator has asked for that. I hope very much that Senators will carefully examine this amendment, and see that the completeness of it and the application to this broad, broad category of private schools makes it extremely unwise, and we should really, as the Senator says, make no such exemption for any institution in this country forever, and that therefore this amendment will be defeated and the Appropriations Committee in this case sustained.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, this matter was debated on the floor of the House. At that time some very profound words were offered by the chairman of the Oversight Subcommittee of the House Ways and Means Committee. He described the potential dangers of the amendment pending before us. What he said at that time was the following:

> What the gentleman has done in his amendment is open a field day for those who watch this Internal Revenue Code like hawks. Every time there was any potential loophole there, there was nothing new to stop them from setting up something that is described as a religious institution or school or something, and conduct a private business out of it and pocket untold amounts of tax-free money. I think the gentleman just goes too far.

That, I believe, is what this amendment is all about. It just goes too far. I am concerned that many of those who may see fit to vote for this amendment today will do so unaware of its total consequences. Some of those who will vote in the affirmative today are the same ones from whom we hear regularly about conservatism in Government, about concern for the Federal treasury, and about the question of evading and avoiding tax responsibility. Yet that is what will be made possible if the Senate votes to lock in place, in perpetuity, the tax exempt status of a private, religious, or a church-operated school.

Frankly, I am a little less concerned about the church-operated school; somewhat concerned about the religious school, but very much concerned about the private school that has a tax-exempt status. Do we really want, and does the author of this amendment truly want, to provide a means of circumventing the law, of saying that in this Nation there is such a category of schools, private schools, that can do whatever they want, however they want to do it, regardless of what the issues are, and still remain their tax-exempt status?

I have great respect for the Senator from North Carolina. He is a strong advocate. He fights for what he believes in, and I know that he is a fair man. Yet I say to him, "Do you really want—I know your views expressed with respect to the subject yesterday, but do you really want to create a special group of private schools that can lobby or enhance the pockets of their promoters without ever having their tax status questioned?"

I have difficulty believing that that is the Senator's intent, and yet I believe that is what he will achieve if he is successful in this amendment. I have difficulty in understanding why he wants to go that far.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 44 minutes and 40 seconds remaining.

Mr. HELMS. I thank the Chair. I thought there was a 1-hour time limitation, to be equally divided.

The PRESIDING OFFICER. That was expanded.

Mr. HELMS. I see.

Mr. CHILES. Mr. President, the expansion was just for the rollcall vote, the time for the rollcall vote to occur. There was no time expansion on the limitation for either side. I do not think there was any expansion of time; we just said we would delay the rollcall.

Mr. SCHMITT. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair would note that the effect of extending the time for the vote is to extend the time on the amendment.

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. There is nothing to prevent the Senate from taking up time on another matter, is there?

Mr. CHILES. The intention of the leaders was that we were going to set the rollcall for 12:30, but we were going to finish the debate and take up another matter.

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

Mr. METZENBAUM. Mr. President, I object to that point.

Mr. CHILES. I do not think it is objectionable for me to suggest the absence of a quorum.

Mr. METZENBAUM. The Senator is right. I just wanted to support the Senator's position.

Mr. CHILES. I just wanted to suggest the absence of a quorum because I think we ought to confer with the majority leader. I withdraw it.

Mr. METZENBAUM. I just wanted to point out the fact that the Senator from Ohio still has time remaining—no, I guess that point would not be valid; my time would come after the rollcall vote, so that is not correct.

But I do agree to that, that it was not the understanding that we were expanding the time, and I for one have no particular desire to do so.

I do not have much more to say.

Mr. HELMS. Mr. President, I am sure that neither the Senator from Florida nor the Senator from North Carolina desires to spend that much time. In any case, I am sure the manager of the bill would afford the Senator from North Carolina such time as he needed.

Mr. President, the Senator from Ohio is my friend and has spoken very charitably of me, and I have the same regard for him.

However, I must confess a bit of puzzlement at the extent to which he has imagined a horrendous potential of this amendment. It is beyond my comprehension that the Senator could see the bogeyman that he says he sees.

At one point my friend from Ohio told the Senate that this amendment would lock in, in perpetuity, this provision. Not so. This is a 1-year bill, Mr. President.

As the Senator from Florida and the Senator from New Mexico and the Senator from North Carolina have agreed, if a problem does come up—which it will not—but if any problem does come up, the three of us and the Senator from Ohio, the Senator from New York, indeed the entire Senate will rise up and act quickly if such a horror story should present itself. The plain truth, Mr. President, is that we are talking simply about getting the Internal Revenue Service off the backs of well-intentioned, well-operated, private Christian religious schools in America.

I shed no tears over clipping the wings of the Internal Revenue Service. They have asked for it. By heavy-handedness, by arbitrariness, by harassment of Christian schools, the Internal Revenue Service has asked for precisely what Congress is doing. I say to my friend from Ohio, this Senator is not going to back up one inch, because this kind of arrogant tyranny has to stop.

That is my sole interest, I have watched these private schools. I know the people who are operating them in my State. I know what kind of citizens they are. I know what kind of character they have.

I say to the Senator from Ohio, he need

not worry about them. They are not going to engage in any un-American activities. They do not lobby. They simply operate schools conditioned upon precepts that this Senator feels made this country great.

No, sir. Have no fear about these private Christian schools. They have no ulterior motive. They simply want to offer education which, by their perception, is better and different from the kind of education available in some of the public schools of this country today.

I said yesterday that I visited one of these schools in northeastern North Carolina earlier this year, and I was taken on a tour of the facilities. I shall never forget a farmer who was proudly showing me one classroom. He stretched forth his calloused hands and said, "Senator HELMS, I laid every cinder block in this room myself, because I wanted my young'un to have a better education than I had."

This is the character, this is the dedication, this is the motive of the people who are supporting these private schools.

We hear so much obfuscation about alleged discrimination. Earlier today, I referred to a statement by the former IRS Commissioner, Randolph W. Thrower which criticized the actions by IRS at issue here. I placed in the RECORD an advertisement by the so-called Black Youth Coalition, urging—urging—black parents not to send their children to private schools so that the private schools could be destroyed by the Internal Revenue Service. That is what has been going on, Mr. President, and I do not think the Senate ought to yield to that kind of tactic.

This amendment was passed by the House of Representatives by a vote of 297 to 63. That is almost 5 to 1. Will anybody in the Senate now suggest that 297 Members of the House did not know what they were doing?

One final note on this subject of alleged discrimination. Mr. Jerome Kurtz, the IRS Commissioner, testified before the Senate Subcommittee on Taxation and Debt Management earlier this year. When he was asked about widespread discrimination in private schools, he said flatly that it is not happening.

So, Mr. President, if we do not adopt this amendment, those who favor this bill are going to shoot themselves in the foot, because this bill will surely be tied up in conference. I have no idea whatsoever that the House of Representatives will yield on this amendment and discard it. We should have gone ahead and passed it by a voice vote and get it behind us. There should have been none of these farfetched bogeyman stories. What we are talking about is the harassment, by the IRS, of good, honest citizens, who are doing the best they can to improve the quality of education for their children.

No, sir, they do not like the drug trafficking going on in public schools; they do not like the violence; and neither do the teachers who are being assaulted, and sometimes raped and killed in the public schools.

Yes, sir, they want prayer in their schools. And I think they are right on all counts. They have a right to be left alone, and that is what my amendment is all about.

I said yesterday that there were a lot of Americans who would be watching the vote on that amendment. And you can jolly well assume, Mr. President, that the same Americans are going to be watching the vote on this amendment today.

I reserve the remainder of my time.

Mr. CHILES. Mr. President, I remember when this appropriation bill would take about 20 minutes to present. I remember that I used to think that it would be good to be chairman of the Subcommittee on Treasury, Postal Service, because there was never any controversy about it. The only questions were just what to do about funding levels. What we had to do was consider funding the departments and the Post Office. After all, the Treasury Department through IRS collects the money so there cannot be anything much wrong with that.

I now find that we have become a sort of legislative committee to handle disputes from anything to do with how much oil is in tankers to Post Office matters—naming the postmasters; whether the Post Office department should be in telecommunications or not; private school matters; to all firearms legislation.

There is a Committee on Finance that is supposed to have jurisdiction over the Internal Revenue Service. There are post office and civil service committee and subcommittees that have legislative jurisdiction. There are many other committees that have legislative jurisdiction. But suddenly, we have been here 2 days now, and we have not been arguing numbers on this bill; we have not been arguing appropriations.

The chairman of the Committee on the Budget stood on the floor and thanked us for being within the budget allocation of the committee to date, questioned whether we could hold that. We assured him that that was certainly going to be our intent to do that. That deliberation took 2 or 3 minutes. But we have spent the rest of the hours on this bill, it seems, dealing with legislative subjects here that run far afield.

Our committee has held no hearings on these legislative matters. We have seen no witnesses. We have not had staff that visited the sites which we are talking about here. We are not set up to do that. That was not the purpose of our committee to start with. I do not know how we have gotten into this situation where legislation is continually attached to the appropriations bill.

But I can say one thing. It looks to me as if we can do away with the authorizing committees and just have everything come on the appropriations bills. We are going to be on the floor all the time on these appropriations matters, but maybe that is the way it should be.

With those remarks, Mr. President, I want to go back and say the way I, as chairman of the committee and, I think, the way the membership of the committee is approaching the Dornan and Ashbrook amendments. First, we have legislative amendments, and they are legislation, that came on in the House. We had a series of amendments. We had two Dornan amendments dealing with schools, then we had the Ashbrook amendment. We looked at those and saw, in the Dornan amendment, that it was addressing itself specifically to proposed Internal Revenue Service revenue procedures. Those proposed regulations dealt with some of our religious schools.

The first regulations they issued they withdrew after there was a firestorm of protest. But the first regulations that they came out with, in effect, shifted the burden of proof to the private schools, to the religious schools, and said for those schools that were organized after the Brown case, in effect had to make certain affirmative showings that they were not segregated.

That brought about a fire storm of protest from many schools, private and religious schools, that had not organized themselves for purposes of segregation. But they wondered, "Why are we changing the whole form of the law to say we are guilty and must prove ourselves innocent?"

Congress got into that. Many of us wrote the IRS. I, among others, complained about that. IRS withdrew those regulations and started holding hearings on other proposed regulations. They went so far as to issue—not final regulations—but another set of regulations for comment. The second set did not go as far as the first set, but many felt the second set of regulations went too far also. I did, and others did.

The IRS still had those in the comment period, and that is sort of where it was when the amendments were added in the House.

The Dornan amendment said that no funds under this bill, that being the way we have to legislate on the appropriations bill, should be used to implement the provisions. More specifically, they stated:

> None of the funds available under this Act may be used to carry out proposed revenue procedure 4830–01–M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, February 13, 1979, F.R. Document 79–4801), and proposed revenue procedure 4830–01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296 through 37298, August 22, 1978, F.R. Document 78–23515), or parts thereof.

We had a debate on this in the committee. We addressed specifically the actions that the IRS was contemplating. That is, that they had issued one set of regulations, then withdrawn them, and the second set of regulations that they had proposed and were in the comment period and the committee, by a preponderant vote, felt IRS was going too far, regardless of the fact that we realized we were not the right committee to consider this. We realized that at the time we voted to include the Dornan amendment, and we did that. The Senate backed the decision of the committee yesterday when it defeated the Javits amendment that would have struck the Dornan amendment.

We also then looked at the Ashbrook amendment. The Ashbrook amendment in section 103 of the bill said that—

None of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954.

It was the feeling of the committee in a close vote, 12 to 11, that the Ashbrook amendment went considerably further than was necessary. It was saying prospectively that they cannot issue any guideline, any rule, any regulation, any procedure, regarding the tax-exempt status of private and religious schools.

It did not say, "You can't shift the burden of proof." It did not say, "You can't do these things."

It, in effect, said that there is just nothing we can do to any school that is now tax exempt, no matter what action they take, no matter what they do, no matter what they teach, no matter whether they are operating and taking money and using that money for different purposes. Nothing there can be covered.

It seems to me that is awfully broad and inappropriate to say it in an appropriation bill.

I personally was opposed to what the IRS was attempting to do. In the initial regulations they issued, even in the second set, I think they went too far. But I can conceive, certainly, things private schools could do that I would result in them not being entitled to a tax-exempt status. I think my good friend from North Carolina could conceive of things that private schools could do that he would also feel would result in them not being entitled to tax-exempt status.

It is something of privilege to receive tax-exempt status. It is a foregoing of revenue.

So it would seem there certainly are items or actions they could take contrary to the national interest of the United States that we would want to say something about.

But here, under the Ashbrook amendment, we would be prohibited from doing that.

For that reason, I think the Ashbrook amendment is too broad, and I think we have covered the problem in the Dornan amendment which we have now by a substantial vote in this body kept within the bill. It is in the House bill, also.

So it appears to me that the IRS has to stop what they were doing with their regulations, at least until the next appropriation comes around.

I would still think this matter should be dealt with in the authorizing legislation and put into the tax code, because that is where it belongs. It does not belong here on the appropriations bill.

Mr. SCHMITT. Will the Senator yield?

Mr. CHILES. I am delighted to yield.

Mr. SCHMITT. Will the Senator yield for an additional comment on the two themes raised by the Senator from Florida?

Mr. HELMS. Certainly.

Mr. SCHMITT. Mr. President, first of all, as I said earlier, I agree. I think it is too broad. But I think at this point for a year, and I support the Senator from North Carolina this far, that we should tell the IRS they have gone too far in this and, hopefully, they will assume some other area in their exercise of legislative authority.

However, I am not sure how I will react to this next year, if it comes up again, because I agree completely with the Senator from Florida that we have gotten ourselves in this point in the history of this country in a very difficult situation with respect to the normal process of authorization and appropriation.

If I may discuss that for a moment, I think it is because the Congress through the years, and particularly the last couple of decades, has transferred so much legislative power to the agencies of Government that we are now searching for a way to oversee that legislative activity which, basically, is what the IRS has undertaken, and other agencies have, also, and the reason we see this proliferation of legislation on appropriations bills.

It is the only annual mechanism we have that is reasonably reliable, to say, "Agency, you shall not do that. You shall not legislate in that area, because Congress does not want you to legislate in that area."

But we have given them such broad authority to do so, this is the only way we have to try to get back some of that authority.

As the Senators know, I have been offering an alternative with my distinguished colleague in the other body, Representative LEVITAS offered that also. There is another way to do it. But I think until we are willing to give ourselves a legislative veto as another process, independent of appropriations, to oversee a regulatory; that is, the legislative activity of the bureaucracy, we will be faced with this kind of operation to legislate on appropriation bills, because we cannot do it any other way.

I am going to resist, and I am sure the Senator from Florida will, at every reasonable opportunity, legislating on appropriation. But I cannot say that there will not be circumstances in which inappropriate legislation by the bureaucracy will not have to be dealt with in this way.

So, once again, I support the Senator from North Carolina this year on this matter, but I do think the amendment to be there forever or to be renewed annually is too broad. It could cause considerable difficulties in areas beyond the specific issue of the regulation of the tax status of schools.

Mr. HELMS. Mr. President, I could not agree more with the Senator from New Mexico, and I do not really disagree with the Senator from Florida. I think that, deep down in his heart, Senator CHILES has no fear that the private schools of America will rise up and do monstrous things. He knows better. He was merely citing an extreme hypothetical possibility, which is not a possibility at all.

However, I do not have the distaste for what is called legislating on appropriations bills as some other Senators do, because the surest way this Senator knows to put an end to an arbitrary bureaucratic practice is to cut off the money to the bureaucrats. Money is what greases the wheels of these bureaucrats; and the more money they have, the more they spend and the more they heap their arrogance upon the taxpayers of this country. So I do not have any distaste for legislating on an appropriations bill, if it is essential to do so in order to get at a problem.

Mr. SCHMITT. Mr. President, will the Senator yield on that point?

Mr. HELMS. I yield.

Mr. SCHMITT. I am sympathetic to that, but I do think there is a better, more efficient way to do it, and that is through consideration of the regulation before it becomes law.

Mr. HELMS. The Senator knows that I agree with him wholeheartedly.

Mr. SCHMITT. Then we act as an appropriate legislative body, as elected representatives of the people, and say, in that period of time, "No, that shall not be a law," or, by acquiescence, "Yes, it shall." Then we do exactly what we were elected to do.

Mr. HELMS. Exactly.

Mr. SCHMITT. But we are not doing that today, and we have to go after those laws after they become law.

Mr. HELMS. Well, I say again, all this amendment will do is to give Congress this year to look at it, to deal with the problem.

I say to the Senator, as I said earlier, that if there is any reason whatsoever to remedy any improper activities, I will be right in there, in the frontline, with the Senator from New Mexico and the Senator from Florida and others. But again, I do not think it will happen.

Mr. SCHMITT. I think that, particularly because of the colloquy on this issue and the current concerns the three of us and others have expressed, the IRS would be very remiss in their understanding of the issue if they moved to do things beyond what we are directing then, in a way, to do; and if institutions that are aware of this debate move to take advantage of a loophole that may be created by this amendment, then they also should be on notice that the Senate will move swiftly, at least in the next appropriations bill, to make sure that those loopholes do not exist any longer.

Mr. HELMS. I agree with the Senator absolutely.

I think that perhaps the opposition to this amendment falls a little under the category of much ado about nothing; because, as I said earlier, under this amendment, the Internal Revenue Service still can move to withdraw the tax-exempt status of a school which has failed to meet the standards of Revenue Procedure 75–50. I urge Senators to look at the true intent of this amendment.

There is no reason to be apprehensive about the private Christian schools. These people are motivated by the highest principles.

It is time for Congress to make clear that the IRS must get off the backs of these schools. That is what this amendment is about. It may cause a little dis-

content at IRS. Good. It might clip the wings of some bureaucrats. Good. As the Prince of Denmark is said to have remarked:

That is a consummation devoutly to be wished.

It is time we clipped a lot of bureaucratic wings in Washington, D.C.

In conclusion, I go back to my earlier observation that I have no distaste for so-called legislation on an appropriation bill when it is essential. I think we should do whatever may be necessary to bring the entire Federal bureaucracy in line.

I recall that a Federal arts group used Federal funds some years ago to give about $2,900 of the taxpayers' money to some creative genius who came up with a one-word theme. It was one word—spelled wrong—L-I-G-H-G-H-T. They gave him $2,900 for that remarkable bit of creativity. Most Americans will be forgiven for regarding this as a foolish waste of the taxpayers' money.

Mr. President, I urge the Senate to approve my amendment, because it gives Congress 1 year to deal with the problem along the lines, it is hoped, suggested by the distinguished Senator from New Mexico. In the meantime, no harm will be done in this Nation by the good people who are operating the private Christian religious schools throughout America.

I reserve the remainder of my time.

Mr. CHILES. I yield back the remainder of my time.

Mr. HELMS. I yield back my time, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, the vote on the amendment by Mr. HELMS will occur at 12:30 p.m. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. And immediately following that vote, Mr. METZENBAUM has the option of calling up an amendment, if he so desires. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. If Mr. METZENBAUM does call up such an amendment, upon the disposition of that amendment, the bill will go to third reading. If Mr. METZENBAUM does not call up an amendment, then upon the disposition of the amendment by Mr. HELMS, the bill will go to third reading. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, if no Senators desire further time, I ask unanimous consent that the Senate stand in recess until 12:30 p.m., at which time the vote will begin.

There being no objection, the Senate, at 11:38 a.m., recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BRADLEY).

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

On this vote, the Senator from Utah (Mr. HATCH) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Utah would vote "yea" and the Senator from Oregon would vote "nay."

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

The result was announced—yeas 47, nays 43, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—47

Armstrong	Gravel	Roth
Baker	Heflin	Sasser
Bentsen	Helms	Schmitt
Boren	Hollings	Schweiker
Bumpers	Huddleston	Simpson
Byrd, Harry F., Jr.	Humphrey	Stennis
Byrd, Robert C.	Johnston	Stevens
Cochran	Kassebaum	Stewart
Cohen	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	McClure	Thurmond
Dole	Metzenbaum	Tower
Domenici	Morgan	Wallop
Ford	Nunn	Warner
Goldwater	Pryor	Young
	Randolph	Zorinsky

NAYS—43

Baucus	Exon	Muskie
Bayh	Glenn	Nelson
Bellmon	Hart	Packwood
Biden	Hayakawa	Percy
Boschwitz	Heinz	Proxmire
Bradley	Jackson	Ribicoff
Burdick	Javits	Riegle
Cannon	Kennedy	Sarbanes
Chafee	Leahy	Stafford
Chiles	Levin	Stevenson
Church	Mathias	Tsongas
Cranston	Matsunaga	Weicker
Durenberger	McGovern	Williams
Durkin	Melcher	
Eagleton	Moynihan	

NOT VOTING—10

Culver	Inouye	Pell
Garn	Jepsen	Pressler
Hatch	Laxalt	
Hatfield	Magnuson	

So the amendment (UP No. 524) was agreed to.

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

Mr. HELMS. I move to lay that motion on the table and ask for the yeas and nays.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment (UP No. 524) was agreed to.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE) and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

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

The PRESIDING OFFICER (Mr. BAUCUS). Are there any other Senators who wish to vote?

The result was announced—yeas 45, nays 45, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—45

Armstrong	Hayakawa	Schmitt
Baker	Heflin	Schweiker
Bentsen	Helms	Simpson
Boren	Hollings	Stennis
Bumpers	Huddleston	Stevens
Byrd, Harry F., Jr.	Humphrey	Stewart
Cochran	Johnston	Stone
Cohen	Kassebaum	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Domenici	Morgan	Warner
Ford	Nunn	Young
Goldwater	Pryor	Zorinsky
Gravel	Roth	
	Sasser	

NAYS—45

Baucus	Eagleton	Moynihan
Bayh	Exon	Muskie
Bellmon	Glenn	Nelson
Biden	Hart	Packwood
Boschwitz	Heinz	Percy
Bradley	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Kennedy	Ribicoff
Cannon	Leahy	Riegle
Chafee	Levin	Sarbanes
Chiles	Mathias	Stafford
Church	Matsunaga	Stevenson
Cranston	McGovern	Tsongas
Durenberger	Melcher	Weicker
Durkin	Metzenbaum	Williams

NOT VOTING—10

Culver	Inouye	Pell
Garn	Jepsen	Pressler
Hatch	Laxalt	
Hatfield	Magnuson	

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the motion to reconsider.

Mr. HELMS. The yeas and nays, Mr. President. We have been going along on this thing; let us go ahead. Vote all day.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and

the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

Mr. THURMOND. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—43

Baucus	Exon	Muskie
Bayh	Glenn	Nelson
Bellmon	Hart	Packwood
Biden	Heinz	Percy
Boschwitz	Jackson	Proxmire
Bradley	Javits	Randolph
Burdick	Kennedy	Ribicoff
Cannon	Leahy	Sarbanes
Chafee	Levin	Stafford
Chiles	Mathias	Stevenson
Church	Matsunaga	Tsongas
Cranston	McGovern	Weicker
Durenberger	Melcher	Williams
Durkin	Metzenbaum	
Eagleton	Moynihan	

NAYS—47

Armstrong	Gravel	Roth
Baker	Hayakawa	Sasser
Bentsen	Heflin	Schmitt
Boren	Helms	Schweiker
Bumpers	Hollings	Simpson
Byrd, Harry F., Jr.	Huddleston	Stennis
	Humphrey	Stevens
Byrd, Robert C.	Johnston	Stewart
Cochran	Kassebaum	Stone
Cohen	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	McClure	Tower
Dole	Morgan	Wallop
Domenici	Nunn	Warner
Ford	Pryor	Young
Goldwater	Riegle	Zorinsky

NOT VOTING—10

Culver	Inouye	Pell
Garn	Jepsen	Pressler
Hatch	Laxalt	
Hatfield	Magnuson	

So the motion to reconsider was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio (Mr. METZENBAUM) is recognized if he wishes to call up an amendment.

Mr. METZENBAUM. Mr. President, I do not wish to offer an amendment.

Mr. CHILES. Mr. President, third reading.

The PRESIDING OFFICER. Under the previous order, there will now be third reading of the bill.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

● Mr. ROTH. Mr. President I would like to commend the distinguished chairman and ranking minority member of the Treasury, Postal Service Subcommittee for the effort they have made to hold down spending in this bill. I fully support the committee's effort to reduce spending.

Last year, as leader of the bipartisan task force in the Senate, the Save-Our-Bucks—SOB's—I announced that not only would we suggest areas in which to reduce appropriations but would also applaud when serious efforts to hold spending were achieved. Mr. President, I believe that this is such an occasion.

If we compare this bill to last year's appropriation subtracting the amount of the one time payment made last year, we have a modest increase of 3.9 percent.

Mr. President, this is a time when the need for fiscal restraint requires us to take serious and responsible action. I believe this bill moves us in the direction of fiscal restraint.●

Mr. ROBERT C. BYRD. Mr. President, as the Senate gets underway after the August recess, it seems appropriate that the first order of business should be an appropriations bill—H.R. 4393, which makes appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1980. The 13 appropriations bills—6 of which have been passed by the Senate—are among the most important pieces of legislation which the Congress must pass each year.

I take this opportunity to commend the distinguished chairman of the Senate Appropriations Committee (Mr. MAGNUSON) the ranking minority member (Mr. YOUNG) and committee members for the considerable time and attention they give to each and every appropriations bill. Of course, I need not remind my colleagues of the importance of completing action on all these bills in a timely fashion.

The bill we are considering today, H.R. 4393, funds programs which are both numerous and varied. Upon review of the committee report, it becomes evident that the distinguished Senator from Florida (Mr. CHILES) chairman of the Appropriations Subcommittee on the Treasury and the Postal Service, and the committee members have given close attention to every program covered in this bill.

The committee has sought savings wherever possible. While the bill as reported by the Appropriations Committee is over that amount passed by the House, it is still below fiscal year 1979 appropriations and below fiscal year 1980 estimates. It should be noted that much of the funding contained in this bill is for agencies under permanent authority which are not considered by the Congress during the annual appropriations process. Among these are payment of interest on the public debt, interest on Internal Revenue Service refunds of income tax payments, payments in connection with the Civil Service Retirement and Disability Fund, and others. Given these uncontrollable expenditures, the committee was still able to find savings which reduced overall funding levels below last year's appropriations and this year's budget estimates.

Let me cite a few areas where the committee has taken steps to reduce costs. Under title I, which includes the functions of the Department of the Treasury, the committee has approved a reduction of eight permanent positions in personnel in the Office of the Secretary. While this reduction may not appear significant, it represents thousands of dollars in savings. For the Bureau of Alcohol, Tobacco and Firearms, which also comes under title I, the committee has again reduced the number of personnel.

The Appropriations Subcommittee on the Treasury and the Postal Service has jurisdiction over 11 independent agencies, whose activities range from those performed by the General Services Administration to those of the Committee for Purchase from the Blind and Other Severely Handicapped. Here, again, the committee has given close attention to each agency's needs, making reductions where possible and increases where necessary.

Overall, Mr. President, the Appropriations Committee has reported a bill which is balanced in its funding recommendations. Again, I commend Senator CHILES, chairman of the Appropriations Subcommittee on the Treasury, Postal Service and General Government, the ranking minority member, Mr. SCHMITT, and the members of the full Appropriations Committee for the time and hard work they have put into this bill.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SCHMITT. The Senator from New Mexico yields back his time.

Mr. CHILES. I yield back our time.

The PRESIDING OFFICER. All time is yielded back. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 88, nays 2, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—88

Armstrong	Bumpers	Cohen
Baker	Burdick	Cranston
Baucus	Byrd, Harry F., Jr.	Danforth
Bayh		DeConcini
Bellmon	Byrd, Robert C.	Dole
Bentsen	Cannon	Domenici
Biden	Chafee	Durenberger
Boren	Chiles	Durkin
Boschwitz	Church	Eagleton
Bradley	Cochran	Exon

Ford	Lugar	Sasser
Glenn	Mathias	Schmitt
Goldwater	Matsunaga	Schweiker
Gravel	McClure	Simpson
Hart	McGovern	Stafford
Hayakawa	Melcher	Stennis
Heflin	Metzenbaum	Stevens
Heinz	Morgan	Stevenson
Helms	Moynihan	Stewart
Hollings	Muskie	Stone
Huddleston	Nunn	Talmadge
Humphrey	Packwood	Thurmond
Jackson	Percy	Tower
Javits	Proxmire	Tsongas
Johnston	Pryor	Wallop
Kassebaum	Randolph	Warner
Kennedy	Ribicoff	Williams
Leahy	Riegle	Young
Levin	Roth	Zorinsky
Long	Sarbanes	

NAYS—2

Nelson	Weicker

NOT VOTING—10

Culver	Inouye	Pell
Garn	Jepsen	Pressler
Hatch	Laxalt	
Hatfield	Magnuson	

So the bill (H.R. 4393), as amended, was passed as follows:

Mr. CHILES. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate amendments to H.R. 4393.

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

Mr. CHILES. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. CHILES, Mr. BUMPERS, Mr. DECONCINI, Mr. MAGNUSON, Mr. EAGLETON, Mr. SCHMITT, Mr. LAXALT, Mr. YOUNG, and Mr. HATFIELD conferees on the part of the Senate.

JOHN F. KENNEDY CENTER AUTHORIZATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1142, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1142) authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1 hour, to be equally divided between and controlled by the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Rhode Island (Mr. CHAFEE), with 30 minutes on any amendment, except an amendment by the Senator from New Mexico (Mr. DOMENICI) relating to tickets, on which there shall be 1 hour, and with 20 minutes on any debatable motion, apeal, or point of order.

Who yields time?

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

Mr. BAKER. Mr. President, I ask unanimous consent that the time consumed by a quorum call not be charged against the bill.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. 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. 525

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment to S. 1142.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 525:

Strike out all ater the semicolon on line 4, page 2, and change the semicolon to a period.

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

The PRESIDING OFFICER. On whose time?

Mr. MOYNIHAN. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. 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. MOYNIHAN. Mr. President, I ask unanimous consent that during the consideration of and voting on S. 1142 the following members of the staff of the Committee on Environment and Public Works be granted the privilege of the floor: John Yago, Dick Harris, Robert Peck, Joe Bowman, Bailey Guard, Hal Braman, Steve Swain, and Nina McClain.

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that Miss Mimi Feller of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. MOYNIHAN. Mr. President, the amendment before the Senate is a technical one owing to a printer's error. Although I do not want to hold our estimable printers responsible, a final clause was included in the bill which extends it to fiscal year 1981. This was not the intention of the committee. The amendment, by striking those final words, confines this measure to fiscal year 1980. I believe this is the purpose of the committee.

Mr. CHAFEE. No objection.

Mr. MOYNIHAN. I move the amendment.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. MOYNIHAN. I yield back time on the amendment.

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

Mr. MOYNIHAN. I thank the Chair.

Mr. President, this measure, S. 1142, is a quiet one which we bring to the Senate as an interim proposal with respect to the management of the affairs of the John F. Kennedy Center for the Performing Arts. It has been clear for some time that the present arrangement for the financing of the Center is not satisfactory. A loan extended by the Treasury to the Center has not been repaid; the Center has not found it possible to maintain interest payments. The magic of compound interest, of which Lord Keynes spoke, is turning out to be a very unfavorable magic for the Center which now has accumulated debt of $37 million from the original $30 million.

Arrangements with the concessionaire for the parking services have not been satisfactory, and there are a number of other matters which concern the management and the record of the Center which need to be attended to. But I should like to note at this point that the Center, in general, has been ordinary. It has quite changed the city of Washington and given it something we are all proud of.

It has been the purpose of the Committee on Environment and Public Works to draw a major reorganization and present it to the Senate as a bill in the course of this session, and that we will do.

We have held hearings. We are in the process of drafting our proposals which were outlined by our distinguished colleague Senator DOMENICI and myself in statements on the floor on July 17, 1979.

But pending the adoption of such a measure, if indeed it is to be adopted, the existing arrangements need to go forward, and this measure will make that possible.

I understand there are a number of colleagues in the Chamber who wish to speak, and my distinguished friend from Rhode Island might wish to speak at this point also.

Mr. CHAFEE. I thank the Senator.

I pay tribute, Mr. President, to the leader of our subcommittee, the junior Senator from New York, for his fine leadership in this matter and his concern for the Kennedy Center.

As has been mentioned, we held hearings on the Center. We expect to come forward with legislation trying to solve those problems that exist. We do not think this is the proper measure to undertake the solution of those problems. But as has been mentioned we will come forward with additional legislation at an appropriate time.

Mr. President, I support the passage of S. 1142. This measure provides a monetary authorization for the National Park Service for the fiscal year of 1980, of $4,287,000 which is slightly up from the $4,200,000 for the current fiscal year.

Without these additional funds the Park Service cannot continue beyond the end of this month to carry out the responsibilities it is given by law which are to provide those services necessary to the nonperforming arts functions of

the Kennedy Center. As you know, and the Members of the Senate know, the John F. Kennedy Center for the Performing Arts is one of the great tourist attractions in the city of Washington. I understand it is the second most visited attraction in Washington. And millions of people come through the Center just to view the works of art that are there and the gifts made by numerous countries throughout the world.

Consequently, much of the expense of the Center is not associated with the performing arts part of the Center. The National Park Service provides for the cost of that portion attributable to it being a tourist center and a memorial to President John F. Kennedy.

Without the money that is authorized by this legislation, of course, there cannot be the maintenance and upkeep of the building and the grounds. I think we all wish to do a first-class job to perpetuate this legacy that is really a national cultural center and at the same time a national memorial.

As our chairman mentioned, we have had hearings on the Center. In July we heard testimony from Mr. Roger Stevens who is the Chairman of the Board of Trustees of the Center. We heard testimony from Mr. John Mazola, president of the Lincoln Center in New York City, from the distinguished senior Senator from Illinois, Senator PERCY, and others on the operation of the Kennedy Center.

But it is more appropriate to postpone action in those matters until we have had a chance to come up with our recommendations.

And I believe that under the legislation that has been introduced by Senator MOYNIHAN and Senator DOMENICI, namely S. 1532, that a revolving fund of some nature can be set up and that the indebtedness problem can be solved satisfactorily so that we can go forward on an even keel for the future and we will not be bogged down by this debt which was incurred sometime ago.

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

Mr. MOYNIHAN. Mr. President, I observe that the distinguished chairman of our committee, the incomparable senior Senator from West Virginia, is in the Chamber, and we would be honored if he who has been in so many ways the father of this great enterprise wishes to speak something of his promising offspring.

Mr. RANDOLPH. Mr. President, the Senator from New York (Mr. MOYNIHAN) is subject at times to exaggeration, but I am very grateful to be joined with the Senator who in company with the able Senator from Rhode Island manages this legislation.

The articulate and able Senator from New York recalls, as do others on our 14-member committee, that the legislation before us this afternoon was reported in May of this year. It authorizes $4.287 million to the National Park Service to carry forward in fiscal year 1980 those nonperforming arts functions to which the Federal Government has been contributing since the John F. Kennedy Center opened early in this decade.

These Government-funded activities include policing and information services, activities the Park Service routinely provides at our national memorials.

I stress, Mr. President, that the Kennedy Center is a unique national memorial, and that our committee is aware that the Center has unique obligations and responsibilities.

I think the Center is a very positive force here in the Nation's Capital across a broad range of cultural and entertainment activities.

The Center does have the problem of a debt to the U.S. Treasury in connection with the actual construction of the building. I have cosponsored the legislation, S. 1532, that was also sponsored by Senator MOYNIHAN and Senator DOMENICI. We are trying to provide a reasonable basis for settling that debt and increasing the Center's public service activities.

The committee held hearings on that bill on July 20, and we hope to report remedial legislation before this present year is concluded.

The Bible does not say to us, "Deliver us from problems." The Bible says, "Deliver us from evil." There is no evil that has been wrought, but there are problems that have arisen. We understand them and we are trying to be very positive in our approach to solving of these financial problems in connection with the Center. But we do want to recognize that the accomplishments are very substantial in connection with the founding and the efforts that have been made in the arts since that time.

There has been a stimulation wrought here in the Nation's Capital. The Nation's Capital is a catalyst, it is a focal point, and Americans everywhere, as well as nationals of other countries. They repair here, not especially to hear debate in this Chamber, although that has had, I hope, a salutary effect at times. But Washington is a vibrant Capital. It is a people's Capital. It is a Capital that, hopefully, brings out that which is best, recognizing always that there are difficulties that prevail as we push forward and upward toward our goals.

I think the Kennedy Center has not been just a place of entertainment. I think it has been a forum of great utility for both American and foreign artists.

I am a believer in the English language. I am sorry when I see it mutilated. I see that happening, and I am not appreciative of that deterioration of our language.

I often talked with my sister's son, who is no longer with us, about the dialects of India. He understood more than 20 of them, he taught them, he wrote them, and he was able to speak them. Although he was an American through and through, Senator MOYNIHAN, he, because of the understanding of languages, became a citizen of the world. There is nothing wrong with that type of citizenship. There are citizenships that can cross borders and are still very strong citizenships.

I remember I authored the legislation in earlier years to give an honorary citizenship to Winston Churchill in the United States of America, his mother being a citizen of the United States.

So, I wish to say there is a sensitivity which crosses boundaries; there is that sensitivity which comes from the understanding of one culture of another culture.

So if the Kennedy Center is distinctly American, and I commend it as such. It has remained that which would not be imitated but that which would be a cauldron, a catalyst, a center, as it were, for many, of these interests and commitments of the people to the arts and the humanities.

Having known, as Members of the Senate knew him, President John F. Kennedy, I use an illustration now which is a true one.

West Virginia was born as a State through the signature of President Lincoln in 1863. In 1963, John Kennedy was the President of the United States. He came on the 100th anniversary of our State to speak from the plaza of the State capitol.

It had rained all night on June 19, and into the morning hours of June 20, which was our official birthday. There were thousands of people who had been drenched with rain and who had continued to stand through the night and into the morning. As John Kennedy walked up to speak on our centennial, I remember well those persons who wanted to hold an umbrella over his head, and he pushed them aside, of course in the right way. The first words that he spoke as he looked over the throng were, "The Sun may not always shine in West Virginia, but the people always do."

Well, that may be just a phrase, yes, but it was an expression of something he felt. He felt it, and when I speak today, I feel that this John F. Kennedy Center is something very important. I feel it is very real, and I feel that here, on the banks of the historic Potomac, not only a building rose but there was a recognition that this was the time and this was the place to do what has been done.

We have to take action from time to time to carry out maintenance, or to consider the problems that occur with the structure of a building. It is not for me to argue those points here today, except to say that I hope that whatever the Senate does in this matter will be done with the full appreciation of the fact that we are not just thinking of another building. This is a center—a center for culture, a center for bringing out, hopefully, the best for humankind.

Mr. MOYNIHAN. Mr. President, our beloved chairman has graced this debate and added a dimension which none of us could have done. I would call attention to his remarks that he hoped the Center for the Performing Arts would not be imitative. I know there are here on the floor today other Senators who wish to speak on that point, if they will bear for a moment, and I might just introduce their remarks, if they will bear for a moment, by indicating that one of the lines, as I know the chairman will recall, that John F. Kennedy most enjoyed quoting on appropriate occasions, as in his address to the Legislature of the Commonwealth of Massachusetts just be-

fore his inauguration, was a line from Pericles, who said of the Athens of his day:

We do not copy our neighbors, but are an example to them.

I know that one of the great hopes for the Kennedy Center is that it will be such a place of creativity. On the walls of this Senate Chamber we find the motto of the United States—one of its many—"Novus Ordo Seclorum": We are a new order of the world. That has been the case, perhaps, with our Nation. It may be too soon to propose it for the Kennedy Center, but there needs must be a beginning.

I see on the floor the Senator from New Jersey (Mr. BRADLEY) who wishes to speak to this matter. I know the Senator from Wyoming does. We have had the courteous attention, as always, of the Senator from Illinois, who is a member of the Kennedy Center's board. I see the Senator from New Jersey is on his feet; I yield him such time as he may require.

Mr. BRADLEY. I thank the distinguished Senator from New York for yielding.

Mr. President, the Kennedy Center was designed and built with Government support as a showcase for the best in American theater. It saddens me, however, to note that it may well have become an exclusive artistic club which appears to have demonstrated a pattern of discrimination against plays which are not produced under its own aegis.

This exclusively appears also to have affected its management of the National Theater, where no subscription series has been permitted, apparently in an attempt to avoid competition with the highly successful series at the Eisenhower Theater.

In a quick glance at the last five seasons at the Eisenhower Theater in the Kennedy Center, it is disturbing to note that 81 percent, or 29 of the 35 subcription plays, were produced by the Kennedy Center itself. I was very much concerned to note that such notable American playwrights as Neil Simon or Sam Shepherd have consistently been refused the opportunity to produce their plays at the Eisenhower Theater.

It is implausible to me that in Washington there is no public interest in their productions. It is equally distressing to note that the subscription productions at the Eisenhower Theater have never included any minority productions, and again I seriously question whether that results from a lack of public interest. I believe a serious investigation of these matters is warranted.

While I do not want to take the time of my colleagues today to try to resolve this problem, I have noted with interest the John F. Kennedy Center Act Amendments of 1979, submitted by Senator MOYNIHAN. I know he shares my concern in this matter, as does the junior Senator from Wyoming (Mr. SIMPSON), and I do hope the opportunity will be found in the consideration of this legislation to analyze the problem I have described, and to propose possible remedies. I assure our good colleague the Senator from New York that I will do everything that I can to assist him in trying to rectify and clarify the situation that has now developed at the Eisenhower Theater.

Mr. MOYNIHAN. Mr. President, I would like to express my appreciation, and I think that of the Senator from Rhode Island (Mr. CHAFEE) as well, for the observations the Senator from New Jersey has made. They are timely, accurate, and important. They will be part of the legislative history of this interim measure, and they should be central to our concern in establishing a permanent arrangement for the Kennedy Center. It is a matter we shall take up with the Director and with the Board of Directors. The Senator has done the Center a service in what he has brought to the attention of the committee and of the Senate.

Mr. CHAFEE. Mr. President, I wonder if I might ask a question of the Senator from New Jersey.

Mr. MOYNIHAN. I yield for that purpose.

Mr. CHAFEE. I am not sure I completely understood his remarks about the Eisenhower Theater and the performances there, but as I understood him, he said that 21 out of 26 performances were given by the Kennedy Center performing group. Is that correct?

Mr. BRADLEY. No; 29 out of 35 subscription plays were produced by the Kennedy Center itself, which means that no independent producer could come into the Center and produce a play.

In the case of examples that I have given, 29 of 35 were by the Center itself.

Mr. CHAFEE. I see. I thank the Senator.

Mr. President, I should like to make one comment about the minority performances. In testimony before our committee, Mr. Stevens listed a series of activities that are taking place within the Kennedy Center outreach activities, if you want to call them that, in which they have a specially priced ticket program for students and handicapped and the elderly and enlisted personnel. He stated that nearly half a million people have attended free events there.

In addition, the Center and Office of Education cooperated in sponsoring a State network, the Alliance For Arts.

They underwrote an annual American College Theater Festival, which I have been familiar with. The Friends of the Kennedy Center has presented free weekly symposia.

Mr. STEVENS also pointed out that the National Advisory Commission has been working to expand black and other minority participation in the performing arts at the Center and across the country, both in terms of artists and audiences. More than half a million dollars in private funds has been expended and committed in a score of projects recommended by the Commission in the 3 years since its inception.

So the second point the Senator was making there is being tackled by the Center and by those associated with it.

Mr. BRADLEY. I respond to the Senator by say I am sensitive to and appreciative of the work being done by the Center to broaden theatrical opportunities for the broad range of people in our society. I think we have to look at specifics. I hope that, as a result of the work of the committee and its investigation and discussion, we shall have a much broader availability for producers to come into the Center from the outside and produce plays—in particular, plays that relate to problems of minorities in this country.

Mr. CHAFEE. I thank the Senator.

Mr. SIMPSON. Will the Senator yield for approximately 5 minutes?

Mr. MOYNIHAN. May I ask the Presiding Officer, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 2 seconds.

Mr. CHAFEE. Mr. President, I shall let the Senator from Wyoming speak on my time.

Mr. MOYNIHAN. I appreciate that.

Mr. SIMPSON. I thank the Senator.

Mr. President, let me say, after hearing my fellow members of the Environment and Public Works Committee speak, I commend and respect them. That is a spirited committee in every sense. I have enjoyed my participation thoroughly. The chairman is one of the most remarkable men I have come across in my time. He is a delightful person. He has been most kind to me.

Let me briefly touch on what Senator BRADLEY was speaking of. I appreciate the opportunity to discuss very briefly a serious issue concerning the John F. Kennedy Center for the Performing Arts, which I feel is appropriate at this time, during this debate on the fiscal year 1980 funding authorization bill.

The Kennedy Center has the very special distinction of being a most remarkable and active performing arts center, as well as serving as a living national memorial to the late President Kennedy. The unique character of the Center is further confirmed by the fact that the Federal Government, through the National Park Service, appropriates substantial funding, a proposed $4.3 million in fiscal year 1980, for the purpose of maintaining the "nonperforming arts" function of the Center.

The Kennedy Center has been an ongoing subject of a great deal of public and congressional attention and debate since its completion. The Center has received well-deserved national recognition for its outstanding contribution to raising the level of the performing arts in the Nation's Capital. I commend that. I think it is a remarkable mission, and it has been effective. However, there have been persistent problems, and the chairman spoke of them.

There are others. There are issues with regard to faulty construction, resulting in expensive repairs. There have been troublesome financial concerns—the parking bond question, criticism of the Center's management policy. We shall solve these.

It is this latter point I wish to develop just a moment more. That is, the management policy of the Center, which is of particular concern to me.

The Center's performing arts schedule is under the sole direction of Roger L. Stevens, chairman of the Center's board of trustees. Mr. Stevens also serves as president of the Kennedy Center Production, Inc., the organization which also

produces many of the plays performed at the Center. Under the current management policies, the selection of plays and other cultural activities for the Center is controlled by this one person, whose dual role as a producer must inevitably lead to serious conflicts of interest.

Increasingly, I think, concern has been expressed that the Kennedy Center's management policies are discriminatory and provincial. It appears that European playwrights are afforded unwarranted favoritism over American playwrights, whose works attract financial backing as well as produce profits: Neil Simon, the dean of the class, with his deeply human warmth and humor, as well as David Mamet, Sam Shepherd, David Rabe as other examples. It disturbs me greatly that a proportionately small number of American playwrights is selected for productions at the Kennedy Center.

The allegations concerning the management policies, or perhaps the mismanagement policies, merit our thorough consideration because of the fact that the Kennedy Center, itself, is really the crown jewel in this National Center for the Performing Arts. The director of the Center does not and must not indulge himself in the luxury of pettiness or the exercising of arbitrary decisions concerning the selection of playwrights and plays. If we are to embrace a limited selection process at this national center, then its theater should be appropriately maintained primarily by corporate and private interests and contributors and patrons and not by the Federal Treasury.

It is my understanding that the concept of a resident theatrical company was originally discussed with the founding of the Center and was found to be unworkable, financially and for many other reasons. But the notion still underlies this important public perception of the Center as being a very unique national showcase of American talent. I believe that this perception should be emphasized and nurtured and developed to the fullest extent possible in all aspects of the Center's management policies and programs. I truly believe that the issue at stake in this discussion is the fact that all of America's taxpayers are funding the Center with a substantial sum each year. As long as this Federal support is required and continued, it is my deep conviction that the Center should reflect commensurate commitments to American citizens, creatively involved in the performing arts.

I share the concerns regarding this matter voiced by my colleage (Mr. BRADLEY), a person I have come to admire and respect greatly. I am most pleased that Senator MOYNIHAN has indicated a cooperativeness and willingness to chair appropriate hearings in the Environment and Public Works Committee on this issue and other issues that we shall find related to the management of the Center.

My recommendations to the committee will include, among other things, the broadening of the selection process and perhaps increasing the number of persons who determine what is to be performed at the Center. That might be achieved through the establishment of a selected group of individuals. It might be that we shall find, then, a clearer emphasis on American playwrights and American artists.

There are many other possibilities to resolve the matter. Senator BRADLEY and I shall be pursuing them with our colleagues and with the chairman and the subcommittee chairman through the hearing process. I pledge my cooperation and support, but I think it is an issue that needs to be addressed and addressed carefully.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Wyoming for a remarkably clear, forceful, and large-minded statement. I know that he would share my concern that the artistic integrity of the Center and the autonomy of its direction be preserved.

Still, there are themes to enterprises such as this, and the Senator from Wyoming and the previous speaker from New Jersey have set forth such a theme.

If it is thought we ought to have hearings, we will have hearings. We can learn from them, and we should. As part of the general legislation, we look forward to seeing our way to the end of the session with the cooperation we always have from our chairman and the ranking member.

I thank the Senator from Wyoming for his remarks.

UP AMENDMENT NO. 526

(Purpose: Amendment to define the ability of the John F. Kennedy Center to provide free or reduced price tickets)

Mr. DOMENICI. 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 legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 526.

Mr. DOMENICI. 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 after line 5, insert the following:

SEC. 2. The John F. Kennedy Center Act (Public Law 85–874, as amended; 20 U.S.C. 761) is amended further by adding at the end thereof the following new section, to be numbered accordingly:

"SEC. . (a) No tickets for events for which a specific schedule of charges is provided to the public may be distributed without compensation in accordance with such schedule, except tickets may be distributed—

"(1) at reduced rates to persons aged sixty-five years or older;

"(2) at reduced rates to assure access to the performing arts for persons, including the handicapped, who otherwise could not afford to attend such events;

"(3) at reduced rates, or without compensation, when it is determined, no more than twenty-four hours before a particular performance, that those tickets to be distributed without compensation or at reduced rates could not reasonably be expected to be sold in accordance with the schedule of charges;

"(4) without compensation to accredited members of the press whose purpose is to review that performance; or

"(5) without compensation to the President of the United States and his family and their party when the President or members of his family attend a particular performance at the Center.

"(b) For the purpose of this section the term 'schedule of charges' shall mean any list of ticket prices contained in an advertisement or display for an event.

"(c) Any official of the Center violating this section shall be liable to a fine of no more than $100.".

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, it is my understanding that I have 1 hour on this amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I say to my colleagues who are present, and for the RECORD, that I had heretofore submitted a printed amendment, which would be known in the RECORD as printed amendment No. 331. I have sent to the desk an amended version of it, amended only in two ways.

On page 2, section (a)(2), I have added the words "including the handicapped" for those persons who cannot otherwise afford the performances.

Then, in (5) I have clarified my intention by adding "and his family and their" and "or members of his family attend."

To simplify that, what I am saying is that the thrust of the amendment is that the President, his immediate family and their guests will always be admitted free, and I wanted to expand it to include family members because in the previous amendment, strictly interpreted, it was just the President.

Mr. President, I do not intend to use the entire hour allotted to this amendment. I will proceed through as rapidly as possible.

This amendment, basically, seeks to assure that the Kennedy Center no longer gives away its product. Its only product that it has to sell is tickets, tickets that are presently being given away to staff of the White House and the Congress, to Members of the Congress, the Cabinet, and others here in Washington who can well afford such tickets, when, at the same time, the Center is coming to the taxpayers for special funds and for the underwriting of other costs to the Kennedy Center.

What I am trying to say is that in spite of all of the goodwill of the American people who have contributed, of a Board of Trustees that spends their time, of a manager that perhaps is as good as there is in the country, and a facility that has been underwritten to the tune of some $90 million, most of that $90 million is not today's dollars at all, but dollars of 8 or 10 years ago, probably in today's dollars that would be $200 or $300 million.

But, not only did we do that, and do it willingly, when we paid for it, not only

do we every year put something in their operation and maintenance, and we do that willingly, but now we have a situation where, if we assume that all of the theaters are in operation a reasonable number of times per year, that makes for about 350 performances. The number of free tickets that are given away, as I have just described, at today's rates, amounts to about $235,000 a year.

I know that does not sound like much money. For those who insist that it has a very important goodwill attribute, yes, it does. But I believe that now is the time in this country when the American people are having a difficult time. To take issues like this one, small, issues that the average American calls the freebees that float around Washington for Washington's elite, and to say "No" to most of those people who receive them either through the White House or through the man that runs the institution at the request of its trustees or for himself, when hundreds and hundreds of people get these, for whatever reason, it just appears to me that is inconsistent with coming here again and saying, "We need more money. We can't pay one cent of the parking bond debt of $37 million." Yet we have cars drive in and pay fees all the time, and not one cent of principal and interest has been retired on the parking debt.

As a matter of fact, most of that parking revenue goes into the operation of the theater and of the performances and of the other things we spend money for. I think most people thought that when that bond indebtedness was approved and then we started charging cars to park that, like most paid businesses we would apply that to the indebtedness we incurred, to partially pay for that parking facility that is there. That has not occurred.

I do not know who gets the tickets. I do not know who gets these free tickets from the White House and from the man who runs the institution, in his own name or on behalf of the trustees. I do not know. I asked him to submit them. I did not push the matter very hard. He refused to, and that is all right with me.

But I am certain that with as many tickets as they have to give away, because the President of the United States does not attend very frequently, his box accommodates, for the Opera House, 8 seats; for the concert hall, it is 12; for the Eisenhower Theater, it is 8; and then we have the 4 Stevens' seats at each performance.

When we add those up, they come to the figure I have just described. They are in the $15 to $16 range, and that is where the $235,000 comes from.

Let me say from the outset, I do not intend that the President of the United States be denied this privilege. Nor do I believe, as some would suggest, that for him to exercise this privilege judiciously and properly that we have to reserve them all year long. That has been one argument before the committee, we do not know when he is going to come and, if he decides to go, we cannot have sold the tickets. Well, they can find a way.

But, mind, my amendment provides that if they cannot, on the day of the performance they would give them away to four handicapped people who need them.

I just do not believe that is the way it has to work. I think most of the time Presidents know when they are going, or their family, and wife and children. But if they do not, obviously, patrons who have paid will be glad to accommodate and let the President have those seats and they can come another time, or find for those patrons seats that will let him attend.

Again, I want to make this point: $235,000, 8 very specially reserved seats, 12 very specially reserved seats, 10 very specially reserved seats—that is not very much. That is not a big issue. But when we come back here, year in and year out, and ask for more money of Congress, not less, and we place no restrictions on the White House or on Mr. Stevens in behalf of himself or the trustees, with respect to the use of these tickets, then it seems to me that today is an opportune time, while we are reauthorizing and providing additional resources, to say "No more of this. Provide for our President. As to the others, sell them, if you can. If you cannot, then, at the last minute, give them to people who really cannot afford to attend these kinds of performances."

We do some of that. Some deserving people who cannot afford it are provided admittance through other avenues and by other approaches. This will be an additional one, in the event the tickets could not be sold.

I repeat, most of them would be sold. I repeat, for a typical year, last year, this would yield more than $200,000, and I am convinced of that. I think it is time we ask the man who is running it, the Director, to find that additional $200,000, thus diminishing the amount the taxpayers have to pay.

I know that our trustees, some of whom are my best friends, work hard and work long hours for free. I do not think they really insist upon having these free tickets. In fact, I would be surprised if they used them very often themselves. I know they may very well, on occasion, need them for special patrons who might end up contributing.

In that regard, I do not believe we need to reserve the tickets year-round for that purpose, either. I think that can be accommodated without the kind of gratuity sitting there which ultimately, I am sure, is used by the management and by the individual trustees on a daily basis.

My amendment is very simple. It will continue to allow reduced priced seats to the handicapped. It will continue to allow press seats. It will continue to allow free seats to the President and his party when the President attends a performance at the Center. But, if adopted, my amendment will mean that 40 seats a night are no longer made available for free to the White House and the Center's Director, Roger Stevens.

The taxpayers should not be asked to underwrite such tickets when the Center dollars in the form of writing off its parking bonds and spending millions more to refurbish the threaters and for extra janitorial services.

At every performance in the Opera House, eight seats are now given free to the White House, and four more are available free in the Stevens box. For a ballet, as one example, each of those seats sells for something over $20. Box seats in the Eisenhower Theater, eight White House seats, and four Stevens seats at each performance—typically sell for $16 each. Box seats in the Concert Hall—12 White House seats and 4 Stevens seats per performance—sell in the $15 range.

Thus, assuming each theater offers 350 performances a year—probably a low number given the number of matinees that are also presented—the Stevens and White House "freebies" represent a yearly loss in revenue to the Center of about $235,000.

Granted, that is not very much cash. But it is about equal to the Center's share of the revenues from its parking garage. The Center has siphoned those parking revenues to subsidize its theater operations, not putting any funds toward its parking debts. Thus, if the Center had had revenue from the White House and Stevens seats in the past, it would have been able to begin to address the problem of its debt owed on the parking garage.

It may be argued that I do not know specifically who uses those freebie seats. That is right, I cannot give a list. I wrote Mr. Stevens last spring asking for a list of some of those persons who have used his box. He never answered that letter. And then Mr. Stevens refused to supply this information during our July hearing.

It may also be argued that the President would not be able to attend a performance at the last minute under my amendment. That is not true. I have no quarrel if the Center set aside a Presidential box, then sold the tickets to the box at the last minute, when it becomes clear that the President personally will not use them. I think such a sale would prove to be a marvelous fund raiser for the Center, as such choice seats would probably sell at well above the usual ticket price. Or I see no objection to setting aside such tickets for the use of the elderly and the poor. But I do not see why we should perpetuate this system of free tickets for a privileged few in Washington.

The issue is this: Should the taxpayers underwrite the Kennedy Center so Senators and Congressmen can attend free? Or should they underwrite it so that culture can be available to a greater number of persons who would not otherwise—for reasons of health or economic status—have an opportunity to attend? Clearly, I believe the latter is a preferable alternative.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the taxpayers' support of the Kennedy Center to date, together with my additional views, which were a part of the committee report.

I reserve the remainder of my time.

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

SPECIAL TAXPAYER SUPPORT OF THE KENNEDY CENTER

Direct Appropriation—$23,000,000.

Parking Bond Debt—$37,000,000 in princi-

pal and interest by the end of this year (not a dime repaid to date).

Roof Repairs—$4,500,000.

Theater Renovation—Center Request—$3,500,000.

Regular National Park Service spending at the Center—including S. 1142—about $25,000,000.

Increased Federal spending for operations—center request—?

Total: Over $90,000,000.

ADDITIONAL VIEWS OF MR. DOMENICI

I am pleased that the Committee on Environment and Public Works has agreed to address the many issues relating to the financing of the Kennedy Center for the Performing Arts before the Senate considers this legislation on the floor. Resolution of the parking-bonds debt and other aspects of the Center's finances must logically be considered before additional tax dollars are authorized for the Center.

Parking Bonds.—In addition to $23,000,000 in direct appropriations provided for the Center in the 1960's, the Congress authorized $20,400,000 in parking bonds for the Center. These bonds are due to be redeemed in the years 2017–2019. According to the General Accounting Office: "The bonds state that the interest and principal are to be paid from parking-revenues. However, the Center has not set aside any funds or made any provision to pay the interest or amortize the principal of the bonds."

By the original agreement with the Treasury Department, interest on the bonds was deferred until December 31, 1978. The Kennedy Center has since had that date extended to December 31, 1979. By the end of this year, the Center will owe the Treasury Department some $17 million in back interest (not counting principal). It disturbs me that the Center has been unwilling to set aside even a dime towards the bonds or the accumulated interest. It is rather like a homeowner who spends to the limit of his paycheck, then refuses to pay anything on the mortgage of his home. Citizens can't get away with this; apparently the managers of the Kennedy Center can.

The problem goes back to the period before the Center was completed. The Center was running out of cash for construction work. So, rather than go to private contributors or to the Congress, it borrowed $3.5 million from the company that obtained the concession on the parking garage. The money was used to complete construction on the theaters. To obtain the loan, the Center pledged the use of its parking revenues, those same revenues that were to go to pay the parking bonds. Says GAO: "The (parking) company's proposal to provide this advance . . . was an important factor in its selection to manage the Kennedy Center's parking facility."

Currently, the Center charges $2.50 for every car that uses the three-level, 1,408-car parking garage in the evening, plus hourly charges during the day. This brings in some $1.5 million yearly. Of these revenues, 5 percent off the top goes to the parking company as a "management fee." Next, the parking company is paid for all its operating and maintenance costs. Next, a payment of about $400,000 is made yearly to the parking company toward the principal and interest on the $3.5 million, 15-year loan. Then, and only then, does the Kennedy Center receive any revenues from the garage—50 percent of the residue. (The split becomes 70 percent Kennedy Center, 30 percent to the parking company once the loan is paid off, with an 80–20 split on revenues exceeding $1.5 million.)

From 1972 through 1978, the parking garage received total revenues of $8,716,426. Of that sum, the concessionnaire received $7,253,939, while the Center received $1,462,487. And those parking revenues received by the Center were used for theater operations, according to the General Accounting Office.

As early as 1975, the Committee on Environment and Public Works made the following observation:

The Committee is greatly concerned over indications from the recent General Accounting Office report and hearings on this bill that the Center may be unable to meet its accumulated debt and to make necessary repairs, both outside the memorial aspects of the Center: This question will come into focus by 1978 when unpaid debts on the parking garage bonds fall due; the interest due in 1978 is estimated at $14.6 million.

The Committee urges that the Center and the Department of the Interior recognize what might be termed the precarious financial position of the Center and report, within one year, to the Congress on what efforts are and will be made by the Center to raise the funds needed to meet this debt, as well as to meet any costs of major repairs that may be necessary. Such a report should contain a detailed analysis of the Center's efforts to raise additional capital funds to cover such debts in order that the taxpayers will not be forced to assume the burden of such added and unnecessary costs.

A year later, the committee expanded on this view:

During the 1976 hearings before the Committee, representatives of the Kennedy Center alluded to Treasury Bonds issued to finance construction of the parking garage at the Center. Payment of interest on the $20.4 million in bonds may be deferred by the Center until December 31, 1978. At that time $14.6 million in accrued interest will be due. Officials of the Center stated that existing revenue sources, because of the manner the funds are committed, are unlikely to yield sufficient funds to pay the interest. While no specific request for Federal assistance was made, the testimony indicated that the Kennedy Center would be seeking relief from its obligations in the future.

Members of the Committee, during consideration of H.R. 14360 in the last Congress, expressed opposition to granting such relief. The Committee believes there is need for better information on the Center's overall financial needs and operations, and perhaps also to establish clearer lines of responsibility for the Center's disparate functions; the center for the performing arts, and the national monument and major tourist attraction. The Committee plans to review these matters, and may propose changes in the division of responsibilities between the Kennedy Center Board and the Federal Government. The interest of the Federal Government in the Center in this legislation is limited to providing effective oversight of the building's structural integrity in order to assure that adequate maintenance and rehabilitative measures needed to maintain its functional and aesthetic qualities are carried out.

It should be noted that the amended bill and the parking bonanza are not the only on-going Federal supports provided to the Center. Because of shabby construction work, the Congress has appropriated $4.5 million to repair leaks in the roof and in the driveway. And more work is needed inside. According to the Park Service, the Opera House needs $1,000,000 in work (carpet, wall coverings), the Concert Hall needs $300,000 (carpet, broken seats), the Eisenhower Theater needs $400,000 (carpet, ceiling fabric), and there is a need to spend $700,000 to reinsulate the garage. The total: $3.5 million, including contingencies.

And the list of taxpayer supporters goes on. While the National Endowment for the Arts gives no money directly to the Kennedy Center, the Center is still the beneficiary, both directly and indirectly, of large sums provided yearly by the Endowments. One of the Endowments' programs is its dance touring program, which provided $3,886,000 nationally in fiscal year 1978 to pick up about a third of the costs of touring dance companies. Of that sum, the Kennedy Center received $253,500 to finance a total of 9 weeks of performances by the American Ballet Theater and the New York City Ballet. The Endowment provides $3,000,000 yearly to the American Film Institute, money which indirectly enables the Institute to rent its theater in the Center.

The public has a right to know exactly how much the Center receives from the taxpayers in order to make a proper analysis of future requests, such as relief of the parking bonds.

Tickets.—An issue related to the millions of taxpayer dollars provided yearly to the Center involves free tickets. I have introduced legislation (S. 558) that would limit the Center's ability to hand out free tickets to those who can easily afford to pay, while the Center continues to come to the taxpayers for this smorgasbord of financial supports. The Center provides approximately $500 daily in free tickets (the most choice of seats) to the White House and to the Center's chairman, Roger Stevens. The White House tickets are normally used by the staff of the White House and the Congress, while the Stevens tickets are used by a variety of people, including persons being lobbied on wildlife protection issues.

The annual value of these tickets is some $175,000 yearly. While this sum certainly will not retire the Center's debt, the principle of giving freebies to those who can afford to pay, while begging for more tax dollars, is simply wrong.

I applaud the Committee for its decision to confront the various issues relating to the finances of the Center, and I agree that this must be done before this legislation is considered on the floor.

Mr. MOYNIHAN. Mr. President, I would like to respond briefly, because there are persons of authority in the Chamber who will want to speak to this matter from long experience and responsible involvement.

I do not think this amendment is necessary. The Senator from New Mexico knows of my fondness for him. He joined me in proposing a new regime for the Center, and I hope he will understand my feeling that this is a matter that could best be put off to a discussion with the management of the Center and made part of the legislative history, perhaps, of a new regime, and not included here. It is not the purpose of the proposed legislation to change the regime at the Center.

Second, we heard testimony, as my friend knows, from distinguished producers, great men of the theater, such as John Mazola, who runs the Lincoln Center, with its vast complexities; Joseph Papp, who brought Shakespeare to Central Park; Joseph Golden, whose Cultural Resources Council of Syracuse has done wonders in New York State. To a man, when asked, "Are there free tickets in your enterprise," they answered, "Of course, there are."

The two oldest traditions of the theater, I suppose, are that actors may not be buried in consecrated ground and managers always have some free tickets. [Laughter.]

They do not sell these tickets. They use them to promote their enterprise.

We heard John Mazola—with whom I had the honor to graduate from high school in East Harlem many years ago—say how he gets people to perform at the Metropolitan Opera, at the Beaumont Theater—the great actresses and actors. He brings them in and shows them—"Look what we can do with La Traviata. We can do it with you." He brings in promoters. He brings in contributors. They do not make money. They raise money, and they raise money by entertainment.

The theater is an earthy place. I refer to a remark made not long ago by the chairman of the Committee on Finance, who said, "Entertainment is to business what manure is to farming." This is the way they grow audiences, grow patrons—by entertaining. Entertaining to what? To the performances they give.

I have been surprised at the Kennedy Center, at how meager the contributions from the board appear to be—not in sum indeed, but still a rather small proportion of the trustees actually make contributions. One would hope a nominal contribution would come from most. It need not be much—just a gesture.

It may be that the Center has not used its opportunities as it should, but it should have the opportunity to do so. That is my view.

I see the Senator from Illinois in the Chamber, and I wonder whether he wishes to speak to this matter, bringing the authority and concern that he so singularly has.

Mr. PERCY. I would be very happy to respond.

Mr. President, this is now the 13th year I have served on the Board of Trustees of the Kennedy Center, and the last 4 or 5 years I have served as Vice Chairman of the Board.

I express deep gratitude to all members of the Committee on Environment and Public Works for the outstanding job they have done in working with the Kennedy Center trustees and its management.

I attended a trustees' executive committee meeting at noon today, and once again I marveled as I picked up the papers in front of us. I think I mentioned to the distinguished Senator from New York at the committee's July 20 hearing that 13 years ago, Senator Dirksen called me into his office and asked me if I would mind if he sent my name to the President of the Senate to be nominated as a minority member on the Board of Trustees of the Kennedy Center.

I had presumed that it was because Everett Dirksen was aware that I had worked for years with the Lyric Opera in Chicago. I had followed closely the Chicago Symphony all those years and my mother is a concert violinist. I thought he was asking me to serve on the Board because of my knowledge of choreography. I am happy to report—or unhappy to report—that I have been buried in balance sheets ever since; that I never have been asked an artistic question since I have been on the Board.

As I went to the meeting of the trustees today, the executive meeting, the first papers presented to me, in which I was buried until I came here for a vote, were balance sheets and profit and loss statements. I am happy to report to my distinguished colleagues that we do not have the red ink that every other cultural center in the world has, there is not another national cultural center that does not present to a legislative body a big operating deficit and ask the legislators to appropriate money to operate the cultural center.

Once again, under the genius of our Chairman of the Board, Roger Stevens, who serves without even a dollar a year compensation, the budget was not only met but exceeded as well. We did not have a deficit; we had a surplus. Once again, the trustees can come to the Congress of the United State and say there is no request for operating funds. We are operating in the black.

What we did not take into account, of course, is the tremendous influx of people. I could hardly walk through the corridors at noon today since so many tourists were going through that building. We never anticipated that our performances would run to 85 percent of capacity, year in and year out. We never anticipated that this Center would be so popular, probably the second most important tourist attraction in the city of Washington.

We never anticipated the outflow that we would have from every embassy that is located in Washington—the way they have identified and associated themselves with the Kennedy Center.

The Japanese have given $3 million to the Center to finance the Terrace Theater, so that now we have a small theater where we can put on attractions that do not require the kind of production that the Eisenhower Theater and the Opera House would have.

For that reason I now turn to my distinguished colleague, Senator DOMENICI, and his amendment.

The first reaction I have is always we should not, really as a matter of principle, try to legislate on the floor the operation of the Center. We always have a tendency, and I know it is a tendency for someone who served as a chief executive officer to get into the executive branch of Government, to start running things, to have a veto for every regulation that can be issued and to get into every kind of an issue that is dealt with in the executive branch of Government.

But speaking on behalf of my fellow trustees, Senator WILLIAMS who is in the Chamber, Senator KENNEDY, who has been a devouted trustee, Members of the House of Representatives, and the other trustees of the Kennedy Center, I can assure my distinguished colleague that the very issue that he has talked about in the Chamber is an issue that does preoccupy the trustees time: What the function of the Kennedy Center should be and how it should relate to the elderly. My distinguished colleague, Senator DOMENICI, serves as ranking minority member of the Special Committee on Aging. I serve on that committee with him and selected it as my optional committee because of our joint devotion to the aging.

But, I can assure my distinguished colleague that for the 13 years that the Senator from Illinois has been on the board and all the years that the Kennedy Center has been open, the trustees have had that same sense of compassion. I do not know of a person 65 or over who has simply shown his social security card at the box office, unless it is an absolutely sold out performance, who does not get a reduced fare ticket right today under the present rules of the Kennedy Center. We have anticipated these matters, and the trustees I think have very wisely opened up the Kennedy Center to the disabled, to the handicapped, to children, to students, and to others. Through the years, hundreds of thousands of reduced price tickets have been made available.

Speaking on behalf of the trustees, I hope that the Senate and the House of Representatives will not get into running the details of the Center. This responsibility should be left to the distinguished board of trustees of 45 members approved and appointed by the President from the Senate or the House of Representatives and public members, all of whom are devoted to the same principles my distinguished colleague has.

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

Mr. PERCY. I am happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to my good friend from Illinois and to the Senate he is absolutely correct when he refers to the poor and the handicapped. I have just codified in my amendment the policy of the board of trustees with reference to those groups of people. I was not saying that my amendment would be for the first time a policy change to help those who cannot afford it or who are handicapped.

Quite to the contrary. I am merely codifying what we have done and then added that the President also has this permission with his family. I wish to clarify that for my good friend.

Mr. PERCY. Mr. President, I appreciate that clarification, and I simply say to my colleagues that it is really redundant then to codify, to put into law, to make rigid something the board of trustees has already done and has fully taken into account. In fact, we go way beyond what has been done free for the public, the citizens of this Nation and this Nation's Capital and visitors here. We have gone way beyond what has been provided for in the pending amendment.

But I wish to clarify—yes?

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

Mr. PERCY. I yield.

Mr. CHAFEE. Pursuing that point, I noticed that the amendment presented in the Chamber says reduced ticket rates may be given to those who could not already afford to attend such events, including the handicapped. That is in the amendment of the Senator from New Mexico. But I also know that currently the Center provides reduced rates for students. It provides reduced rates for enlisted men in the military service. And under this amendment of the Senator from New Mexico that would no longer be permitted unless they otherwise could not afford. I do not know whether the in-

tent of the amendment is to require means test for enlisted men and students before they get the present half-rate structure.

I wonder if the Senator from New Mexico could help us on that.

Mr. DOMENICI. I say to my good friend, that this language is language that we obtained from the Center that covers their reduced admissions policy, and we certainly did not intend that students were not covered. If it has to be clarified we assumed it was in paragraph 2, reduced rates for those persons who otherwise could not afford. We think that is how they are covered now, I say to my good friend, Senator CHAFEE.

Mr. CHAFEE. I point out that Roger Stevens gave us testimony in which he set forth some of the things that they did, and in his testimony he said:

> Fifteen percent of the tickets to regular performances are made available at half price to students, the handicapped, persons over 65, low income groups, and enlisted military personnel.

The amendment that has been presented here—the way I read it—certainly does not provide that.

Mr. DOMENICI. I say to my good friend, Senator CHAFEE, that if he wants to offer an amendment I will accept it. If he wishes to make it legislative history, it is my understanding that that which Mr. Stevens said was the case today shall continue other than as it pertains to the White House seats and the 12 Stevens seats. Other than those it is the exact same policy that we have now.

Mr. PERCY. I think that the very argument that has been made by the distinguished Senator from Rhode Island shows the weakness of trying to legislate these matters. We are going to have all kinds of interpretations on it. Does that then require the Board of Trustees to put a means test to people?

Last year under the specially priced ticket program, which has operated successfully since the doors of the Kennedy Center opened, up to 15 percent of all tickets were made available for these various groups that have been mentioned. In fiscal year 1978, 130,000 tickets were dispensed through this program, resulting in a total price reduction of $770,000, three-quarters of a million dollars.

Here is a successful program that has worked extraordinarily well. Already we are beginning to see the problems and the trouble that this action will create if we put this program into law. There has been no trouble up to now. There has been not a word of complaint ever issued that the Kennedy Center was unfair in any respect with this program.

Does it really then mean if it is in law that a person has to demonstrate need, or something like that? I mean it just gets terribly complicated.

I also wish to point out that in 1977 more than 400,000 people attended nearly 600 free events at the Center. There is no law that requires us to provide these events. The Board of Trustees has simply said anything that we can do for the public and use that Center as a national monument to enrich the quality of life of our citizens we should do. We have done that by offering 600 free events at the Center, including special performances, symposia, lecturers, and exhibitions. These numbers were only reduced by repair work last year, but they are expected to be similar next year.

The Center and HEW cooperates in an alliance for arts education program which supports exemplary arts education programs in the States, and produces a model children's program at the Center. In fiscal year 1978, 105,603 children attended free performances of music, theater, dance, poetry, and puppetry put on by groups from around the country.

Mr. President, I wish to point out factually one problem that we have with the figures presented by Senator DOMENICI. Senator DOMENICI assumed that all of the tickets that were offered were made available free and that the value of those tickets was roughly $200,000.

The Senator from Illinois knows that that is not true because from practical experience many times tickets are not requested and they are, of course, sold. We try to maximize boxoffice receipts as much as we can. In contrast with the $200,000 figure given, the actual figures for the past full year of the Center's share of additional net revenues for the President's box is $23,051.70; for the trustees box, approximately $12,000; total of $35,051.70.

Now that really then represents the facts that you have to take into account, first of all, those seats are not always used; second, the full revenue from those seats does not go to the Kennedy Center. You must share that revenue with the producer of the production. The Kennedy Center nets out only a portion of the revenues for the seats sold. The letter which I saw go out on this amendment showed a much larger figure for the annual value of these seats. I have detailed figures showing how much the seats were for every major performance in the Kennedy Center during this past year.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I would be happy to yield.

Mr. MOYNIHAN. Is the Senator aware that there are many occasions when persons are turned away from the Kennedy Center because there are no seats left? There are indeed rare performances where they are totally sold out.

Mr. PERCY. Absolutely.

Mr. MOYNIHAN. But many times you have empty seats when you state otherwise. You just say there are no seats left; and then there are those seats that the management body has which otherwise would be so.

Mr. PERCY. That is right. The theater is run as closely as we can do so in accordance with the standards established in the commercial world other than the discount seats that are offered.

Obviously, the trustees' seats—and I can say this because I have used them in 13 years so rarely for one very practical reason, that being that my hearing impairment makes it extraordinarily difficult for me to hear in the trustee's box, I buy seats down in the third, fourth, or fifth row. I do this because if I want to enjoy a performance, I want to be able to hear it, and I much prefer sitting down there. But on occasion I have taken the trustees' box in order to take distinguished people whom I am trying to interest in contributing to the Kennedy Center and, for the most part, trustees do that.

One other thing we should take into account is although the cost to the Kennedy Center was $12,000 for the trustees' box, I hope Senator DOMENICI will appreciate the fact that the trustees, who are not compensated for their efforts, are expected to contribute substantially to the Kennedy Center. Of 45 trustees, 43 of them contribute $1,000 a year just for the maintenance of the little lounge that is outside the Opera House. That is $43,000 against the $12,000. So already the Kennedy Center has received a very large return on its investment.

But this is minuscule compared to what the trustees really contribute to the Kennedy Center. The trustees in the last 3 years have contributed about $200,000. Since the Kennedy Center was founded the 45 trustees have contributed several million dollars.

If they want to go to a performance—and take guests who, they hope, will be interested in becoming members of the corporate fund and contributing and working on behalf of the Kennedy Center—I think that it is little enough that can be offered to have those seats available so that the trustees can have that extra added benefit from their services. Certainly they pay for it many, many times over.

So I hope that my distinguished colleagues will feel that this amendment is unnecessary. It is redundant. But, on the other hand, it does simply give us an opportunity to talk about what the Kennedy Center has done, and from that standpoint I am very grateful to my distinguished colleague from New Mexico.

Again I pay tribute to the distinguished members of the prevailing committee on the floor today in the way they have worked intimately and well with us and how they will continue to work with us to solve this nagging, difficult problem that the Senator from Illinois has raised at virtually every trustees' meeting since he has been on the board: What are we going to do about this tremendous burden we have of accrued interest that we owe and the principal amount that is owing on it? The trustees are prepared to face the principal. The problem is the interest, the accrued interest that has mounted up and mounted up. Not only is the Kennedy Center supposed to perform its functions as a national monument but also it is supposed to turn a profit and pay a profit on the money borrowed, and I just think that is stretching it too far.

I think at an appropriate time in the future the committee will grapple with this particular issue. I pledge to work in any way I can on this matter, along with Senator WILLIAMS and Senator KENNEDY, who are trustees with me on the Kennedy Center Board.

Mr. MOYNIHAN. Mr. President, when the late and beloved Everett Dirksen appointed the Senator from Illinois he may not have thought of his esthetic depth, but he did know he had been running the

Bell & Howell Co. at a considerable advantage to his stockholders and, thank goodness, he has been where he is.

Mr. President, another distinguished member of the Board of the Kennedy Center is with us on the floor today, and has been throughout the debate, and I see he has risen, our neighbor and counsel, the senior Senator from New Jersey (Mr. WILLIAMS).

The PRESIDING OFFICER (Mr. EXON). The Senator from New Jersey.

Mr. WILLIAMS. I thank the Senator from New York.

Mr. President, the John F. Kennedy Center for the Performing Arts is truly the cultural center of our Nation. To the 30 million people who have visited the Kennedy Center, it is a showcase for the finest expressions of our Nation's cultural achievements. At the same time, it is a living memorial to our great President John F. Kennedy, who did so much to advance the cultural health of our Nation through his vigorous patronage of the arts.

Under the enlightened leadership of Chairman Roger L. Stevens, the Kennedy Center has brought the best in the performing arts to our Nation's Capital. In addition, it has initiated a number of public service programs designed to educate the public and to encourage new works, new artists, and new audiences throughout the Nation. For example, the Center offers performing arts programs for school children and workshops for teachers. It commissions new works for young audiences through an annual national children's festival.

The center encourages participation in the performing arts by minorities and other disadvantaged groups through such programs as the national black music colloquiums and competition. It offers free concerts and other events at Christmas and Easter, which attract people of all ages and incomes.

As a member of the board of trustees of the Kennedy Center, I have been able to see the benefits of these public service programs and the great progress the Center has made in filling its role as a national cultural center.

The bill before us today deals only with the nonperforming arts functions of the Kennedy Center, which come under the jurisdiction of the Secretary of the Interior, through the National Park Service. The bill provides needed funds for the National Park Service to carry out its responsibility to provide maintenance, security, and other services related to the Center's nonperforming arts functions.

Mr. President, I do not believe that the amendment offered by the distinguished Senator from New Mexico is relevant to this legislation. It is a frivolous amendment, which I hope my colleagues will oppose.

The amendment would have the Federal Government usurp the Kennedy Center management's authority to issue free or reduced fare tickets. It would put the Federal Government into a management role which I feel would be extremely unwise and inappropriate.

The Kennedy Center currently reserves a Presidential box and a trustees' box in each of its three main theatres. These seats are provided free, with access to the Presidential box controlled by the White House, and access to the trustees' box controlled by the chairman of the Center. Free seats are also provided to members of the press who are reviewing a particular performance. In addition, the Center provides reduced fare tickets to the elderly, poor, handicapped, students, and enlisted military personnel.

This amendment would eliminate the Presidential box and trustees' box, allowing free tickets to be given only to the President and his entourage when the President himself attends, and to the working press. Reduced rates would be available only to the elderly, and to those who cannot afford to pay the full price.

By eliminating the 40 free seats in the Presidential and trustees' boxes, Senator DOMENICI claims that the Center could save $175,000 to $200,000. However, these figures are totally unrealistic, since they apparently assume that every seat in every box would be sold at every performance. Based on actual ticket sales, the Kennedy Center has estimated that the elimination of the Presidential box would bring additional revenues of $41,000 and the elimination of the trustees' box would bring $20,000 to $24,000. Only about $35,000 of this total would actually go to the Center, with the remainder going to presenters of attractions as their share of ticket sales. Thus, actual savings would be $35,000 rather than the projected $175,000 to $200,000. This amount would certainly not have a significant impact on the Center's financial picture.

Beyond the financial considerations, there are a number of reasons why the amendment is unsound.

First, I believe it is totally appropriate for our national cultural center to reserve a special place for the President and visiting dignitaries. This symbolizes the importance which we place on the arts in our national life, and it is consistent with the practice of other major nations.

For security reasons, it is essential that the President's box be separate and reserved. The President often does not decide to attend a performance until the last moment. If the seats were sold in advance to others, the President would lose this option.

The trustees' box is similar to the seats reserved for the management of virtually every other theater in this or any other nation. It helps to encourage the active involvement and participation of the trustees in Center activities. It is a small price to pay for the considerable time, money and expertise which many trustees devote to the Center. The trustees box may also be used to invite patrons of the arts, who are a major source of private funding for the Center's programs. In addition, it is used by producers, technical advisers, and other professionals who have a role in the development of a performance.

Besides eliminating the free box seats, the amendment as originally proposed would also have eliminated the Center's reduced fare program for the handicapped, for students, and for enlisted military personnel. Without this program many people who now benefit from it would be unable to attend Kennedy Center performances. I believe the small savings to be realized by eliminating reduced student, handicapped, and military fares would be more than offset by the loss of these special audiences. I understand that the amendment has now been revised to correct this and allow the reduced fares to continue for these groups. Nevertheless, the basic flaws in the amendment remain.

Mr. President, artistic institutions by their very nature are involved in the promotion of intangible objectives. The benefits derived from the arts clearly cannot be measured in dollars and cents. By the same token, the use of free and reduced fare tickets at the Kennedy Center provides such intangible benefits as the good will of patrons, greater visibility for performances attended by high government officials, and the enhancement of the abilities of technical personnel.

The Federal Government is in no position to assess the importance of these benefits, or to decide how the Kennedy Center management should spend such a miniscule portion of its operating budget. We are in no position to determine which individual factors and policies contribute to the Kennedy Center's great achievements. The worldwide acclaim for these achievements speaks for itself. Let us not be so petty as to tamper selectively with manifest success.

While this bill before us today deals only with the nonperforming arts functions of the Kennedy Center, which come under the jurisdiction of the Secretary of the Interior, the whole debate has been, I think, very worthwhile because it has gone to the meaning of the Kennedy Center. It has addressed itself to the contributions which the Center has made to the cultural life here in the Nation's Capital and to all the people of this country. I commend the Senator from New York, the Senator from West Virginia, who is the chairman of the Committee on Environment and Public Works, and the Senator from Illinois, for their remarks which have dealt with the true meaning of the Kennedy Center. While it is basically still in its infancy, the Center has become a great resource that has had a remarkable impact on our Nation's Capital.

Those of us who were in Washington in the fifties and early sixties, before there was a Kennedy Center for the Performing Arts, can recall so clearly that we lived then in a cultural desert.

Well, that is not the case now, thanks to this great institution.

Part of the debate, and a worthwhile part, has consisted of some reservations about the Kennedy Center, its artistic management and artistic judgment. This debate opens avenues, I am sure, for the committee to consider. The feeling has been expressed that perhaps the Center has followed exclusionary policies and that minorities and other groups have not been encouraged to perform there. Those of us who work on the board know that this is not true. There have, in fact, been many all-black productions at the Kennedy Center, including "The Wiz," "Timbuktu," "The Mighty Gents," and

the Alvin Ailey Dance Theater, to name a few. Individual black performers—Richard Pryor and Sarah Vaughn, for example—have also contributed their talents to the Center. In addition, the Kennedy Center has formed a National Black Commission to increase the involvement of the black community in the Center's activities and to sponsor programs that give greater visibility to black artists. The Commission, headed by Dr. Archie L. Buffkins, released a report on its activities last March. I believe many of my colleagues would be interested in this report, and I ask unanimous consent that a summary of it be inserted at this point in the RECORD.

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

SUMMARY OF COMMISSION'S ROLE AND PROJECTS INITIATED

The primary concern of the Commission has been to systematically identify and analyze the various means by which the Kennedy Center can at once maintain its quality programming and increase significantly its involvement with the Black community. Roger L. Stevens obtained private funding, due to his strong personal commitment to the Commission's purpose, with which activities exemplifying the Commission's findings could be promoted and sponsored.

The Kennedy Center, by aggressively initiating progress in this vital area, has performed a great service for the Black community and for the nation as a whole, a service whose impact is already being felt in many areas. For how many major centers—performing arts or others—have purposefully and methodically set out to realize, within the parameters of their overall role and function, the goals of cultural diversity with specific emphasis on the Black community? Clearly, the Kennedy Center's initiative will cause other organizations to consider undertaking similar positive actions. However, in order for a program of this nature to be successful, its sponsor must recognize an important human need which its regular operations do not satisfy and be prepared to try a wide variety of new approaches to rectify the situation.

By establishing the Commission, the Kennedy Center recognized the existence of such a need and demonstrated its fundamental "caring commitment" toward the Black community. It is this undercurrent of concern which has served to inspire our work and, therefore, we have felt it to be of particular importance to fully inform the Black community of the Kennedy Center's commitment. The Commission has, by doing so, provided that community a measure of hope and reassurance that major institutions of the establishment, in general and, the Kennedy Center, in particular, care about the developing and culturally diverse peoples of the nation.

Ultimately, the number of Commission than the realization by the Black community that the Kennedy Center *cares about it* and has made a commitment to it and that that commitment will endure over the long term. Indeed, our final recommendations reflect the firm belief of the Commission that this realization is not ill-founded, for they suggest a variety of steps the Kennedy Center may take so as to continue the work of the Commission.

The Commission has felt from the outset of our work that the Kennedy Center commitment must be made clear to the Black community, if Black people are to fully appreciate the significance of it. Therefore, the Commission has considered it to be of the utmost importance to inform Black people throughout the nation of the existence of the Commission. To accomplish this the Commission met with a broad range of groups and individuals. Performing artists—professionals, students, amateurs, administrators and educators—were, of course, contacted. The Commission, furthermore, conferred with Black political, religious, educational, fraternal, social and business leaders to apprise them of the Kennedy Center's concerns. Also, through visits, telephone conversations and correspondence, the Commission communicated its function to a great many members of the Black general public.

Our involvement with the Black community, however, was not limited to making it aware of the Kennedy Center's commitment and of our work. Both elements necessarily involve determining that which the Black community feels the Kennedy Center should undertake in order to further its involvement with Blacks. The Commission, therefore, inquired of the Black community what it felt ought to be done and, in doing so, made apparent to that community the fact that its input is of great importance to the Kennedy Center.

In order to obtain this input, a variety of methods were employed. Direct meetings and conferences were held with Black leaders, media persons, performing artists and members of the general public. Questionnaires specifically requesting input were sent to Black performing arts educators, performing artists, Kennedy Center employees, predominantly Black higher educational institutions and the state arts councils. In addition, many Commissioners represented the Commission at various functions involving the Black performing arts. The President of the Commission was asked to and did on numerous occasions represent the Commission at performances as well as community and high-level national meetings to convey the existence, work and purpose of the Commission to the Black community. Such personal encounters facilitated the flow of deeply desired community input to the Commission. On the basis of all the input—informal and formal—received, the final recommendations, actions taken and suggestions of the Commission, discussed in detail herein, were formulated. More generally, the Commission was able to better understand the needs and desires of the Black community vis-à-vis the Kennedy Center.

THE COMMISSION INTRODUCED MANY BLACKS PERFORMING ARTS GROUPS AND ARTISTS

The community outreach activities of the Commission caused its role to expand in direct response to the aspirations and expectations expressed by those whom we contacted. Indeed, the Commission developed into a sort of "clearinghouse" for the Black performing arts. As such, the delivery of services to the Black community became a very important function of its operations. For with increasing frequency, Blacks were contacting the Commission with regard to information about and opportunities in the local and national performing arts scene. To meet their needs, Commissioners often met with and advised groups and individuals on such technical matters as the preparation of funding requests, resumes and proposals. Also, in many cases the Commission assisted Black performing artists and persons interested in arts administration and related areas to locate employment opportunities at the Kennedy Center and elsewhere. Essentially, every effort was made by the Kennedy Center to increase minority employment and particularly Black employment. Clearly, Black employment has increased significantly throughout the Kennedy Center since the Commission began its work.

The Commission also received numerous proposals from groups and individuals desirous of Commission sponsorship for their work. From the outset of our work, we recognized that the nature of the Kennedy Center could and should allow only certain kinds of expansion in its activity. For the Kennedy Center is not and certainly should not become a performing arts supermarket. Therefore, those proposals received which went beyond the parameters of the Kennedy Center's role were directed to alternate sponsors. As a result, the Commission introduced many Black performing arts groups and artists to the various federal agencies, private foundations, educational institutions, state arts councils and businesses interested in the development of such work. It also directed a number of groups and individuals to the National Endowments for the Arts and Humanities.

We emphasize here that such referrals were not a passive activity of the Commission. Rather, we met with a broad selection of administrators, staffs and beneficiaries of the organizations mentioned above, discussed our work with them and that of those we referred to them. As a result, active cooperation and communication was developed between the Commission, the organizations involved and the Black performing arts community. The majority of those who contacted us in this regard found our referral service to be most valuable as their proposals were eventually undertaken and funded. In this manner, the Commission served as a catalyst for positive change and growth in a manner that has had national ramifications. The Commission has become the lively nucleus of a national clearinghouse on Black performing arts and has well served those who involved themselves with our work. Special mention should be made here of the fact that this activity has included supplying the chairmen of the National Endowments for the Arts and Humanities with position papers and other important information as well as providing assistance in this area to the legislators and sponsors of the White House Conference on the Arts.

Many of the proposals received were in consonance with Kennedy Center activities and were given direct consideration. Action on many of them is complete or underway.

For example, the Commission underwrote "Soul of the Classics," a Washington radio program devoted to Black classical music, and also developed and implemented a Black theatre/playwright project through which six Black theatre companies and playwrights across the nation were awarded substantial funding with which to produce new Black dramatic productions.

Other projects include an upcoming jazz recital by Nathan Davis dedicated to the memory of Dr. Martin Luther King, Jr., a recently-published national directory of Black theatres, and funds for a new production by the Harlem Children's Theater.

The Commission has already carried out sponsorship of a full concert at the Kennedy Center by the Urban Philharmonic, an orchestra composed mainly of minority musicians. This concert featured works from both the classical orchestral repertoire and major Black composers.

Also of importance was the "First Graders and the Wonders of the Kennedy Center" project. The Commission brought groups of Black school children—augmenting thousands already attending regular children's programs sponsored by the Kennedy Center's Education Department—to the Center for tours, a catered luncheon, and a sneak preview of the Stuttgart Ballet's production, "The Sleeping Beauty." This particular project demonstrated the Commission's concern for involving Black youngsters in the mainstream of Kennedy Center activity in the same way as other projects were designed to involve mature members of the Black community.

A major project now underway involves

identifying the nation's finest young Black string instrumentalists and pianists through a program designed to reach all 50 states. Finalists will attend special symposia at the Kennedy Center and give recitals both in their respective regions and at the Center with particular emphasis on the works of Black composers

In addition to the above projects, we expanded Kennedy Center linkages with the Black media and invited many Blacks—individually and in groups—to Center social functions and events.

Thus, by introducing the Black community to the Commission, making it aware of our function and the Kennedy Center's commitment; extending our work to the delivery of necessary services, thereby becoming a Black performing arts clearinghouse; assisting those with projects to gain sponsorship within the Kennedy Center or elsewhere; sponsoring large and small "demonstration" projects at a cost of several hundred thousand dollars to both increase Black participation and identify Black performing arts talent; providing Blacks with the opportunity to utilize the Kennedy Center as consumers of the performing arts; performers; creators; administrators; and technicians; and by extending the Kennedy Center's welcome in tangible ways, the Commission acted to make cultural diversity a reality and significantly expanded Black participation at the Kennedy Center.

RECOMMENDATIONS

The following recommendations represent a broadly based, all encompassing approach to the short- and long-range goals and involvements of the Kennedy Center. After considerable, serious deliberation, we chose not to list the more than fifty recommendations we had originally formulated. Rather, we thought, a few major recommendations—whose effects and ramifications would be manifold—would best serve the overall purpose of the Commission. We believe these recommendations will allow the Kennedy Center to fulfill the visions and aspirations of the Commission. At the same time, we trust the recommendations will serve to strengthen and enhance the professional performing arts stature of the Kennedy Center as a national institution.

In light of the above, the Commission recommends that the Kennedy Center:

(a) continue to provide strong and aggressive national leadership in the professional performing arts with reference to bringing visibility and respectability to the concept of "cultural diversity;"

(b) establish a small, permanent committee (Committee on Cultural Diversity in the Performing Arts) to monitor development of Commission projects already funded; to advise and assist the Chairman of the Board of Trustees on present and future matters relating to cultural diversity within the context of public policy, programs, personnel, projects and practices;

(c) continue and, where appropriate, institutionalize selected activities and projects activated under the auspices of the Commission;

(d) develop and vigorously implement the most diplomatic, effective and communicative method possible to convey to the White House the importance of appointing minorities in general and Blacks specifically to the Kennedy Center Board of Trustees as vacancies occur;

(e) establish an award—"Excellence in the Performing Arts"—for outstanding contributions in the performing arts with emphasis on cultural diversity;

(f) utilize the national organizational structures of the "Friends of the Kennedy Center" and the "Alliance for Arts Education" to establish a nationwide arts-oriented network within minority communities in order to maintain and facilitate communication between the Kennedy Center and these communities;

(g) inaugurate a highly sophisticated "Executive Internship Program in Arts Administration" that would expose one extremely talented and knowledgeable person each year to the full complexities involved in the operation of a major professional performing arts institution such as the Kennedy Center;

(h) sponsor, on a yearly basis, an "International Festival on Cultural Diversity in the Performing Arts," comprised of seminars and performances, emphasizing the best the world is able to produce in this overall area;

(i) continue to use funds from the "Corporate Fund for the Performing Arts at the Kennedy Center" to sponsor and promote demonstration projects that will foster the concept of "cultural diversity and quality" in the performing arts;

(j) explore the idea of establishing an "Office of Education and Community Affairs" in order to consolidate and coordinate the present and future activities and programs of these two areas which will reinforce the publicly-announced new thrust of the Kennedy Center; and

(k) continue—in a comprehensive manner—the well thought-out affirmative action practices and understandings now in operation at the Kennedy Center.

Mr. WILLIAMS. As far as this amendment is concerned, all that I have mentioned in my statement has already been said in one way or another, with the exception of one thing. That is the regret I would feel if the President of the United States wanted to attend a performance and all the seats in the Presidential box had been sold out. When President Carter has gone to the Kennedy Center, it has generally been without announcement, at the last minute, because he had a couple of free hours to see a performance. I would hate to have the President show up and not be able to get a seat. It just does not seem quite right, all for a net return to the Kennedy Center of about $23,000 a year.

The Senator from New Mexico has made profound contributions to this body in debate after debate. However, this amendment appears to me to be frivolous, because of its de minimis nature. I certainly hope the amendment will be defeated.

Mr. MOYNIHAN. Mr. President, the Senator from New Jersey makes a serious argument ably and effectively, but he has left out the one argument that ought to concern all of us in this matter—it would be characteristic of him to have left it out—which is that when HARRISON A. WILLIAMS stands on the floor of the U.S. Senate and asks his colleagues not to do something concerning a matter in which he has been intimately involved, that resolves the question in our minds, or in mine, and I hope it will that of the Senator from Rhode Island.

Mr. DOMENICI. In that case, I withdraw my amendment.

Mr. MOYNIHAN. Third reading.

Mr. CHAFEE. Just a moment. Mr. President, the arguments have been well presented against this amendment. The amendment presents great difficulty on its face, and I think the only reason we gave it consideration was the distinction of the gentleman who has presented it.

He has argued so valiantly and effectively on this floor in behalf of innumerable important causes that when we saw it was his amendment, we gave it extra special importance.

As the Senator from Illinois has said, there is not a cultural center in the world, whether it is La Scala in Milan, the Guthrie Theater in Minneapolis, or the Trinity Square Theater in Providence, that carries its operating costs, to say nothing of its capital costs. So to have this Kennedy Center operating in the black is a remarkable achievement.

Obviously every seat cannot be sold out for every performance. The Presidential and trustee boxes do involve a small amount of cost in the neighborhood of $35,000, perhaps, but to me that is a very good investment.

Let me just note that last year funds were raised as follows: Corporate giving raised about $1.5 million for the Kennedy Center. About 200 individuals donated $1,000 or more, entitling them to membership in the "Golden Circle." In addition, small donations from 50 cents to $1,000 totaled about $100,000. Finally, foundation gifts and benefits raised significant amounts. In aggregate, the Center raised about $2.5 million to support its operations.

Let me add that we have to be awfully careful with an amendment like this. For example, let me ask whether the Senator from New Mexico meant to do this: The Vice President shows up. He has to pay for a ticket at the box office under this amendment.

If the President is away and the Vice President goes to the Center, does he have the privilege to sit in the President's box? No, no; $8.50, please, Mr. Vice President, because that is what the amendment says. And if he does not pay the $8.50, or the $12, or whatever it is——

Mr. DOMENICI. $16.

Mr. CHAFEE. If he does not pay, the manager of the Center is fined $100.

I do not think that is the kind of country we want to be running. The Vice President stands in line at the box office, and if his wife is present, he gets her a ticket, too.

So, Mr. President, despite the distinction of the man who proposed this amendment, I certainly hope it will be rejected.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator has 17 minutes and 47 seconds.

Mr. DOMENICI. And how much time does the Senator from New York have?

The PRESIDING OFFICER. Fifty-five seconds.

Mr. DOMENICI. I was going to say I would cut mine in half if he would cut his, but he does not have any time left. I yield myself 4 minutes.

Let me first say I appreciate the kind words of the Senator from Rhode Island. If we were to include the Vice President, I wonder if he would support the amendment.

Mr. CHAFEE. That is the problem. I brought up point after point. Each time he said, "Let us include them." How about the Secretary of State? The Sec-

retary of State comes in with the Foreign Minister of France or of England. Do they pay at the door?

Mr. DOMENICI. No, no, not pay at the door.

Mr. CHAFEE. $14?

Mr. DOMENICI. No, not pay at the door at all, but buy tickets like everybody else. The State Department has plenty of money, and the Secretary makes more than we make as Senators.

Let me tell you the issue. The issue is this: My arithmetic reveals—and I am going to use 350 performing days; I am going to use 28 White House seats in all the theaters per night, and 12 for Mr. Stevens acting on behalf of the board of trustees. My arithmetic says what is at stake is 14,000 free tickets per year. That is what it is, whether he gives them away or whether, for the most part, the White House gives them away to various and sundry people as sort of the ongoing way to distribute favors around Capitol Hill and in Washington.

If we want to do that in the name of making sure our President has a White House seat when he wants to attend one of those theaters, then keep it that way. I honestly believe this amendment is being attacked as being picayune and redundant. I say it is picayune to say you are going to shut the President out of his box seat if this Domenici amendment prevails. That is insane and incredulous. And contrariwise, to assume that in order to assure him of that seat, you have to have 14,000 free tickets per year is absolute insanity.

It might be small potatoes; it might not amount to much, but that is the issue. The issue is not shall poor people continue to have gratis tickets or shall students, or shall trustees continue to have some very discreet privilege they are entitled to. They are distinguished Americans and wonderful Senators, the three that serve here. Give them certain discreet privileges; but do we have to have 14,000 availabilities for Mr. Stevens in their behalf and his behalf to distribute, and the White House in its behalf, in order to discreetly take care of our President, Vice President, his beautiful family, and our trustees when they need some special privilege? I think not.

I do not care if all the seats are not filled all the time, or if, instead of 235,000, it is only 150,000. I do not care if it is only 90,000. The issue is the issue as presented here: Shall we continue to have that many seats available to be given out, at $16 or $20 each?

I close by saying this: It is good that the wonderful aspects of this Center have been debated here today. I hope no one misconstrues my motives in that regard. It is, indeed, a cultural wonderland, an oasis in what would have been a desert, without a doubt. But it is taxpayers' money, for the most part, paying for it, regardless of all the wonderful charity being described.

The Lincoln Center, someone says here they are not so petty about who gets free tickets; they are promoting the Center. But that Center is not owned by the people of America, and it is not paid for by taxpayers' dollars. That is a significant difference.

A significant difference. And today, it is more different than ever. The American people are tired of those who can afford it getting things free here and they not knowing about it. When they find out about it, they do not like it very much, especially with taxes what they are, inflation what it is. You cannot plan anything for your family. You make money and you go backward instead of forward. They do not like this. I kind of think they are right, and that is the issue. I am sorry I have to raise it.

I thank the Senators for their kindness. I think it is a serious issue, as serious as parking privileges, as serious as other issues that many of you who argue against this raise on your own when it comes to the subject of gratuity for Federal servants who are otherwise assumed to be paid adequately.

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

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

Mr. MOYNIHAN. I am afraid I have only 55 seconds. I am happy to yield it to the Senator from Illinois.

Mr. PERCY. Will the Senator from New Mexico yield me 2 minutes?

Mr. DOMENICI. I am pleased to yield 2 minutes to the Senator if I have it.

Mr. PERCY. Mr. President, I would like to make one correction. In contrasting $12,000 of free tickets with the contributions of the trustees, I said the trustees had contributed $200,000, I think, over the past 3 years. It is $300,000 over the last 2 years.

Mr. President, the trustees or management box is common to every major theater in America, such as the Lincoln Center, the Milwaukee Center, and the Los Angeles Music Center. Although there are 45 trustees who can use this box, the seats are also used by producers, investers and consultants in cultural activities. They have an opportunity to view performances in order for them to potentially participate in the development of the production.

The Kennedy Center is a unique institution, it is a national cultural center which is located in the Nation's Capital. In capitals around the world, heads of states have royal or state boxes reserved for their use in attending state theaters. This is a normal, proper, and traditional procedure. The Presidential box at the Kennedy Center is also used by Cabinet members, visiting dignitaries and other major figures from around the world. To eliminate or restrict the President's use of this box would say something about our National Cultural Center. In fact, it would really detract from what the Nation had in mind in establishing it in the first instance.

As I said at the beginning, I think it would be a mistake for the Senate of the United States to try to codify or run the Kennedy Center from here rather than leave it as the responsibility that has been delegated to the board of trustees. The board of trustees is extraordinarily sensitive whenever anything is brought to their attention that can be improved. Certainly, Senator Domenici's statement here, the strong feelings he has expressed, will cause the trustees to take another look at this to make certain that we do not have any privileges offered that do not really inure to the full benefit of the Kennedy Center and the people of the United States of America.

With that, Mr. President, I trust the pending amendment will be defeated and that the responsibility for fulfilling and carrying out the charter of the Congress of the United States will be left to the board of trustees of the Kennedy Center.

The Kennedy Center for the Performing Arts is undoubtedly the centerpiece of Washington's cultural scene. Some people had termed Washington as "little more than a cultural sahara" before the opening of the Kennedy Center. However, since the Center opened in 1971, Washington's prominence as a cultural center has blossomed. With its Opera House, Eisenhower Theatre, Concert Hall, American Film Institute, and Terrace Theatre the Center has provided an ever-increasing number of people an opportunity to be exposed to and to participate in the performing arts.

The Kennedy Center's reputation and influence, however, extend well beyond the banks of the Potomac. David Merrick has called the Kennedy Center the "most successful cultural facility in the world." I quite agree with that comment. I suggest that for those who visit the Opera House, they will find the acoustics to be virtually the finest in the world. The Kennedy Center is far more than a facility, a structure or a building. It is a memorial to a loved president and a Nation's investment in the arts.

Millions of patrons have attended performances at the Center since its opening. This has led to an outstanding 85 percent attendance record for the Center which is testimony to the growing awareness and support of the public in the visual and the performing arts. The Kennedy Center has provided a broad range of programs of superb quality to audiences of all ages. Hundreds of thousands of half-priced tickets have been purchased by the elderly, the handicapped, students, military and people on low-fixed incomes. In addition, the Center has sponsored thousands of free events, such as children's theater, concerts in the Grand Foyer, symposia films and exhibitions. Thus, the Center has played a dynamic role in providing cultural activities for all who are interested.

In 1977, a dedicated group of business executives organized for the express purpose of raising $1 million from the corporate sector for the Kennedy Center's ongoing activities. They raised a million dollars and are continuing to work to raise another million and a half dollars for this year, so that the trustees do not have to come to the Congress of the United States, as every other national culture center in the world does to other legislative bodies and say, "Look, this is what our deficit is this year." I believe this is a sound venture. All of the funds contributed will be used to encourage the development of new theatrical and musical talents and to make available outstanding performing arts presentations.

I pay tribute to the distinguished chairman of the board of Mobil Corps, Mr. Rawleigh Warner, Jr., who serves as chairman of the board of governors, ably supported by the following board members of the Corporate Fund:

VICE CHAIRMEN

Thornton F. Bradshaw, President, Atlantic Richfield Company.

C. L. Brown, Chairman of the Board, American Telephone and Telegraph Company.

Frank T. Cary, Chairman of the Board, International Business Machines Corporation.

James L. Ferguson, Chairman & Chief Executive, General Foods Corporation.

W. H. Krome George, Chairman and Chief Executive Officer, Aluminum Company of America.

Andrew Heiskell, Chairman of the Board, Time Inc.

D. S. MacNaughton, Chairman and Chief Executive Officer, Hospital Corporation of America.

C. Peter McColough, Chairman of the Board and Chief Executive Officer, Xerox Corporation.

Thomas A. Murphy, Chairman of the Board, General Motors Corporation.

William S. Paley, Chairman of the Board, CBS Inc.

David M. Roderick, President, United States Steel Corporation.

J. Paul Sticht, President and Chief Executive Officer, R. J. Reynolds Industries, Inc.

W. Reid Thompson, Chairman of the Board and President, Potomac Electric Power Company.

SECRETARY

Harold Burson, Chairman of the Board, Burson-Marsteller.

The role of the Kennedy Center can not be discussed on only the local or national level. It has brought internationally acclaimed performers to the United States. Mikhail Baryshnikov, perhaps the world's most highly acclaimed dancer has said that "the Kennedy Center has given ballet new life." It is extremely important for the United States to have an outstanding cultural facility. Not only does the Kennedy Center provide American audiences with an opportunity to be exposed to international artists, but more importantly, it provides the stage on which America's cultural heritage can be explored and expanded.

Mr. DOMENICI. Mr. President, at this time, I yield myself 1 minute and, in advance, yield back the remainder of my time. I do want to vote and I know everybody here wants to.

I want to make this point, that Senator WILLIAMS and Senator PERCY are both trustees. They have both been on the floor here today. I do not truly think I have to say this, because I think they know of the great esteem in which I hold both of them.

I do want to say it has been my privilege to work on the floor with Senator WILLIAMS on a number of matters. It has been truly a joy to do that. We have had some successes, some failures, and I can say the same of Senator PERCY. It is in no way a reflection on the commitment to their responsibilities of the trustees that I brought this up. They are tremendous people. It is merely to try to establish a point that we must begin to minimize this kind of available gratuity at the national level if we intend to retain the confidence of the American people in what we are trying to do on their behalf across the board, far beyond just cutural centers and such facilities as this one.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I yield myself 1 minute on the bill.

I should like to take this opportunity to reciprocate the generous remarks of my colleague from New Mexico. He knows of our respect for him in this matter. He knows that he and I are together in proposing the legislation that will come later in the year with respect to the general management of the center. He knows that he has been heard.

I think he may also know that he may not prevail today, but he has been heard. This is indeed one quality he has, and it is certainly not in bit the least unattractive.

Mr. President, I believe all time has been yielded back.

The PRESIDING OFFICER. All time has been either used or yielded back. The question then is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 23, nays 66, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—23

Armstrong	Helms	Schmitt
Bellmon	Humphrey	Simpson
Burdick	Kassebaum	Stevens
Danforth	Leahy	Stone
Domenici	Packwood	Thurmond
Exon	Proxmire	Tower
Hart	Riegle	Wallop
Heflin	Roth	

NAYS—66

Baker	Ford	Muskie
Baucus	Glenn	Nelson
Bentsen	Goldwater	Nunn
Biden	Gravel	Percy
Boren	Hayakawa	Pryor
Boschwitz	Heinz	Randolph
Bradley	Hollings	Ribicoff
Bumpers	Huddleston	Sarbanes
Byrd, Harry F., Jr.	Jackson	Sasser
	Javits	Schweiker
Byrd, Robert C.	Johnston	Stafford
Cannon	Kennedy	Stennis
Chafee	Levin	Stevenson
Chiles	Long	Stewart
Church	Lugar	Talmadge
Cochran	Mathias	Tsongas
Cohen	Matsunaga	Warner
Cranston	McClure	Weicker
DeConcini	McGovern	Williams
Dole	Melcher	Young
Durenberger	Metzenbaum	Zorinsky
Durkin	Morgan	
Eagleton	Moynihan	

NOT VOTING—11

Bayh	Hatfield	Magnuson
Culver	Inouye	Pell
Garn	Jepsen	Pressler
Hatch	Laxalt	

So Mr. DOMENICI's amendment (UP 526) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order, so that we can continue with the business of the Senate. The Chair asks that the well be cleared. The Chair will recognize the Senator from New York as soon as the Senate is in order. Members will please take their seat. Will Senators please clear the well?

Are there further amendments?

Mr. MOYNIHAN. Mr. President, I move the third reading of the bill.

The PRESIDING OFFICER. Do the managers yield back their time?

Mr. MOYNIHAN. I yield back my time.

Mr. CHAFEE. I yield back my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 6 of the John F. Kennedy Center Act (Public Law 95-874, as amended; 20 U.S.C. 761) is amended by adding at the end thereof the following: "There is authorized to be appropriated to carry out this subsection not to exceed $4,287,000 for the fiscal year ending September 30, 1980."

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

REFUGEE ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 643, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 643) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, at the beginning of line 5, insert "SEC. 101. (a)";

On page 2, at the beginning of line 18, insert "(b)";

On page 3, line 13, after "opinion" insert a comma and the following: or (B) any person who has been displaced by military or

civil disturbances or uprooted because of arbitrary detention or the threat of persecution, and who is unable to return to his usual place of abode.

On page 3, beginning with line 21, strike through and including page 5, line 3, and insert in lieu thereof the following:

"SEC. 207. (a)(1) The number of refugee admissions granted in any fiscal year shall not exceed fifty thousand, unless the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of fifty thousand is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special concern to the United States who will be in need of resettlement. These refugee admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President, and there shall be periodic consultations between designated representatives of the President and members of the Committees on the Judiciary regarding the progress of refugee admissions and the possible need for adjustments in the allocation of admissions among groups or classes of refugees. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the worldwide refugee situation and the anticipated allocation of refugee admissions during the fiscal year.

"(2) The term 'consultation' with respect to the admission of refugees under this section or section 208 means personal contact by designated representatives of the President with members of the Committees on the Judiciary to review the refugee situation or emergency refugee situation, to project the extent of possible United States participation therein, to discuss the reasons for believing that the proposed admission of refugees is in the national interest, and to provide such members with information that may include—

"(A) a description of the nature of the refugee situation:

"(B) a description of the refugees who may be admitted, including the proposed plans for their resettlement, the estimated cost of their resettlement, an analysis of conditions within the countries from which they originated;

"(C) an analysis of the anticipated social, economic, and demographic impact of their admission to the United States;

"(D) a description of the extent to which other countries will admit and assist in the resettlement of such refugees;

"(E) an analysis of the impact of the United States participation in the resettlement of such refugees on the United States foreign policy interests; and

"(F) such additional information as may be appropriate or requested by such members.

On page 7, line 7, strike "Or (2),";

On page 7, line 7, insert a comma after "General" and strike "may, in his discretion and";

On page 7, line 15, after the period, insert the following:

The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

On page 7, beginning with line 20, strike through and including page 9, line 5, and insert in lieu thereof the following:

"(b)(1) The Attorney General shall establish a uniform procedure for an alien physically present in the United States, irrespective of his status, to apply for asylum, and the alien shall be granted asylum if he is a refugee within the meaning of section 101(a)(42)(A) and his deportation or return would be prohibited under section 243(h) of this Act.

"(2) The Attorney General shall conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien granted asylum under paragraph (1). Such admission may be terminated if the Attorney General, pursuant to such regulations as he may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or the country in which he last habitually resided, as the case may be.

"(3) A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of any alien who qualifies for conditional admission under paragraph (2) shall, if not otherwise entitled under such paragraph, be entitled to conditional admission if accompanying, or following to join, such alien.

"(4)(A) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to lawful permanent resident the status of any alien conditionally admitted under this subsection not less than two years before the date of adjustment who—

"(i) makes application for such adjustment;

"(ii) continues to be a refugee within the meaning of section 101(a)(42)(A);

"(iii) is not firmly resettled in any foreign country; and

"(iv) is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraph (14), (15), (20), (21), (25), or (32) or section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

(B) Upon approval of an application pursuant to this paragraph, the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date two years prior to the date of approval.

"(5) The provision of section 245(c) of this Act shall not apply to refugee applicants who are physically present within the United States and have accepted unauthorized employment prior to the submission of their asylum application.

On page 12, line 19, after the period, strike through and including line 24;

On page 12, line 6, strike "conditionally admit into the United States," and insert "admit into the United States conditionally or for lawful permanent residence, in his discretion and";

On page 12, line 16, strike "207" and insert "207(a)";

On page 13, line 2, after the period, insert the following:

The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

On page 14, line 7, after the period, insert the following:

The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, and when it is otherwise in the public interest.

On page 14, line 13, strike "the words";

On page 15, line 19, strike "per centum" and insert "percent";

On page 16, line 6, strike "per centum" and insert "percent";

On page 17, line 4, strike "is authorized to withhold the deportation" and insert "shall not deport,";

On page 17, line 5, strike "of";

On page 17, line 6, strike "subject to such terms and conditions as he may prescribe,";

On page 17, line 10, after "opinion" insert a comma and the following: unless deportation or return would be permitted under the terms of the United Nations Protocol Relating to the Status of Refugees

On page 17, line 20, after "207" insert "of that Act";

On page 17, beginning with line 21, strike through and including page 18, line 10;

On page 18, line 21, after the semicolon, insert the following: for contributions to the Intergovernmental Committee for European Migration; the International Committee of the Red Cross; and to other relevant international organizations;

On page 20, line 6, after "(G)" insert "f. " interim support assistance during the period of initial adjustment, and";

On page 20, line 9, strike "is eligible for" and insert "receives";

On page 20, at the beginning of line 18, insert "(2)";

On page 20, line 18, strike "paragraph" and insert "subparagraph";

On page 20, line 19, strike ", (D), (E),";

On page 20, line 19, after "(G)" insert "of paragraph (1)";

On page 20, line 23, strike "other than a Cuban refugee who entered the United States before October 1, 1978";

On page 21, beginning with line 1, insert the following:

"(3) For special projects and programs authorized in subparagraph (D) of paragraph (1), there are authorized to be appropriated each fiscal year $40,000,000, to remain available until expended, to be administered primarily by private, nonprofit agencies participating in refugee resettlement programs, or by State or local public agencies, to assist refugees in resettling and becoming self-reliant.

On page 21, line 8, strike "(2)" and insert "(4)";

On page 21, line 14, strike ", as amended";

On page 21, beginning with line 20, insert the following:

SEC. 303. (a) The Comptroller General of the United States shall evaluate Federal and federally assisted programs to refugees resettling within the United States to determine their effectiveness and efficiency.

(b) The Secretary of Health, Education, and Welfare shall conduct research or provide assistance for the conducting of research into the resettlement of refugees and their adaptation to life in the United States. Such research shall include all aspects of the resettlement and adaptation process, and shall examine the status of resettled refugees to assess programs in securing and retaining employment, housing, and facility in the English language, and other factors as the Secretary finds relevant.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Act of 1979".

TITLE I—PURPOSE

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and

processing, admission to this country of refugees of special concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objective of this Act is to provide a permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for temporary and transitional assistance to those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means (A) any person who is outside any country of his nationality or, in the case of a person having no nationality, is outside any country in which he last habitually resided, and who is unable or unwilling to return to, and is unable to or unwilling to avail himself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion, or (B) any person who has been displaced by military or civil disturbances or uprooted because of arbitrary detention or the threat of persecution, and who is unable to return to his usual place of abode.".

(b) Chapter I of title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES

"Sec. 207. (a)(1) The number of refugee admissions granted in any fiscal year shall not exceed fifty thousand, unless the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of fifty thousand is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special concern to the United States who will be in need of resettlement. These refugee admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President, and there shall be periodic consultations between designated representatives of the President and members of the Committees on the Judiciary regarding the progress of refugee admissions and the possible need for adjustments in the allocation of admissions among groups or classes of refugees. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the worldwide refugee situation and the anticipated allocation of refugee admissions during the fiscal year.

"(2) The term 'consultation' with respect to the admission of refugees under this section or section 208 means personal contact by designated representatives of the President with members of the Committees on the Judiciary to review the refugee situation or emergency refugee situation, to project the extent of possible United States participation therein, to discuss the reasons for believing that the proposed admission of refugees is in the national interest, and to provide such members with information that may include—

"(A) a description of the nature of the refugee situation;

"(B) a description of the refugees who may be admitted, including the proposed plans for their resettlement, the estimated cost of their resettlement an analysis of conditions within the countries from which they originated;

"(C) an analysis of the anticipated social, economic, and demographic impact of their admission to the United States;

"(D) a description of the extent to which other countries will admit and assist in the resettlement of such refugees;

"(E) an analysis of the impact of the United States participation in the resettlement of such refugees on the United States foreign policy interests; and

"(F) such additional information as may be appropriate or requested by such members.

"(3) Subject to the numerical limitation established pursuant to paragraph (1) the Attorney General, pursuant to such regulations as he may prescribe, shall admit for lawful permanent residence any refugee who is not firmly resettled in any foreign country, is within a group or class of refugees determined to be of special concern to the United States, and is admissible as an immigrant under this Act, except for the fact that he does not meet the requirements of paragraph (14), (15), (20), (21), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(b)(1) The Attorney General shall establish a uniform procedure for an alien physically present in the United States, irrespective of his status, to apply for asylum, and the alien shall be granted asylum if he is a refugee within the meaning of section 101(a)(42)(A) and his deportation or return would be prohibited under section 243(h) of this Act.

"(2) The Attorney General shall conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien granted asylum under paragraph (1). Such admission may be terminated if the Attorney General, pursuant to such regulations as he may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or the country in which he last habitually resided, as the case may be.

"(3) A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of any alien who qualifies for conditional admission under paragraph (2) shall, if not otherwise entitled under such paragraph, be entitled to conditional admission if accompanying, or following to join, such alien.

"(4)(A) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to lawful permanent resident the status of any alien conditionally admitted under this subsection not less than two years before the date of adjustment who—

"(i) makes application for such adjustment;

"(ii) continues to be a refugee within the meaning of section 101(a)(42)(A);

"(iii) is not firmly resettled in any foreign country; and

"(iv) is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraph (14), (15), (20), (21), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

(B) Upon approval of an application pursuant to this paragraph, the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date two years prior to the date of approval.

"(5) The provision of section 245(c) of this Act shall not apply to refugee applicants who are physically present within the United States and have accepted unauthorized employment prior to the submission of their asylum application.

"ADMISSION OF EMERGENCY SITUATION REFUGEES

"Sec. 208. (a) If the President determines, after consultation by the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that (1) an unforeseen emergency refugee situation exists; (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest; and (3) that the admission into the United States of these refugees cannot be accomplished under section 207, the President may fix a number of refugees to be admitted into the United States in response to the emergency refugee situation.

"(b) The admissions authorized by subsection (a) shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President.

"(c) Subject to the numerical limitation established pursuant to subsection (a), the Attorney General may admit into the United States conditionally or for lawful permanent residence, in his discretion and pursuant to such regulations as he may prescribe, any alien who is a refugee within a group or class designated pursuant to subsection (b) and who is not firmly resettled in any foreign country.

"SPOUSES AND CHILDREN OF REFUGEES

"Sec. 209. A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of any alien who qualifies for admission under section 207(a) or 208 shall, if not otherwise entitled to admission under such section, be entitled to the same admission status as such alien if accompanying, or following to join, such alien, and upon the spouse's or child's admission into the United States, such admission shall be charged against the numerical limitation established in accordance with the section under which the alien qualifies for admission. A spouse or child who is admitted for lawful permanent residence in accordance with this section shall be required to establish admissibility to the United States as an immigrant except for the requirements of paragraph (14), (15), (20), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES

"Sec. 210. (a) Notwithstanding any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209—

"(1) whose admission has not been terminated by the Attorney General pursuant to such regulations as he may prescribe;

"(2) who has not acquired permanent resident status; and

"(3) who has been physically present in the United States for at least two years,

shall, at the end of such two years, return or

be returned to the custody of the Service for inspection and examination for admission into the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer or after a hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination, except for the fact that the alien does not meet the requirements of paragraph (14), 15), (20), (21), (25), or (32) of section 212(a), shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival. The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, and when it is otherwise in the public interest.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(a) by inserting in subsection (a) after "Except as provided in subsection (b)" the following: "and subsection (c)"; and

(b) by adding a new subsection (c) at the end thereof to read as follows:

"(c) The provisions of subsection (a) shall not apply to an alien when the Attorney General admits to the United States for lawful permanent residence under section 207.".

SEC. 203. (a) Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151 (a)) is amended to read as follows:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who come within the provisions of sections 207, 208, and 209, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise aquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal years exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 percent";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 percent";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8);

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254 (d) are amended by striking out "section 203 (a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended to read as follows:

"(h) The Attorney General shall not deport, or return any alien (other than an alien described in section 241(a)(19)), to any country where such alien's life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion, unless deportation or return would be permitted under the terms of the United Nations Protocol Relating to the Status of Refugees.".

(f) Section 5 of the Act of October 5, 1978 (Public Law 95-412) is amended by striking out "September 30, 1980" and inserting in lieu thereof "the effective date of the Refugee Act of 1979".

(g) Any reference in any law to section 203 (a)(7) of the Immigration and Nationality Act shall be deemed a reference to section 207 of that Act.

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

SEC. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices; for contributions to the Intergovernmental Committee for European Migration; the International Committee of the Red Cross; and to other relevant international organizations;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to State and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and

"(G) for interim support assistance during the period of initial adjustment, and for income maintenance and medical assistance, except that if a refugee receives aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

"(2) No payment shall be made under subparagraph (C) or (G) of paragraph (1) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services.

"(3) For special projects and programs authorized in subparagraph (D) of paragraph (1), there are authorized to be appropriated each fiscal year $40,000,000, to remain available until expended, to be administered primarily by private, nonprofit agencies participating in refugee resettlement programs, or by State or local public agencies, to assist refugees in resettling and becoming self-reliant.

"(4) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)).".

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15 (a)(1)(A) of the Act of August 1, 1956 (22 U.S.C. 2680(a)(1)(A)).

SEC. 302. Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is further amended by striking out "$25,000,000" in paragraph (2) and inserting in lieu thereof "$50,000,000".

SEC. 303. (a) The Comptroller General of the United States shall evaluate Federal and federally assisted programs to refugees resettling within the United States to determine their effectiveness and efficiency.

(b) The Secretary of Health, Education, and Welfare shall conduct research or provide assistance for the conducting of research into the resettlement of refugees and their adaptation to life in the United States. Such research shall include all aspects of the resettlement and adaptation process, and shall examine the status of resettled refugees to assess programs in securing and retaining employment, housing, and facility in the English language, and other factors as the Secretary finds relevant.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE IV—EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b), this Act shall become effective on October 1, 1979.

(b) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this Act, shall not apply with respect to any individual who before the effective date of this Act was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202 (e)(7) of the Immigration and Nationality Act, if applicable), as in effect immediately before such date, nor shall it apply to any alien paroled into the United States before the effective date of this Act who is eligible for the benefits of section 5 of the Act of October 5, 1978 (Public Law 95-412).

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 214, which is the budget waiver in connection with the pending business, and this has been cleared on both sides.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 214) waiving the Congressional Budget Act.

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

There being no objection, the Senate proceeded to consider the resolution (S. Res. 214) waiving the Congressional Budget Act with respect to the consideration of S. 643.

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

The resolution was agreed to as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 643. Such waiver is necessary due to unforeseen refugee emergencies and factors that developed subsequent to the introduction of this legislation, requiring slightly revised authorizations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent while we are waiting on certain Senators that there be a brief period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

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

The Chair recognizes the Senator from Kansas.

SENATE RESOLUTION 228—SUBMISSION OF A RESOLUTION ON SOVIET TROOPS IN CUBA

Mr. DOLE. Mr. President, I am deeply concerned about the presence of Soviet troops in Cuba. In the past few days the stationing of some 3,000 combat troops, 40 tanks, and 100 troop carriers 90 miles off our shores have come to light.

At a time when this Chamber is deliberating on the SALT II treaty as a possible advancement of détente, we are confronted with another test of U.S. determination to enhance stability in the Carribean.

I believe the Senate must take a firm stance on repeated Russian intransigence and doubledealing, and I am, for that reason, introducing a sense of the Senate resolution to implement such a firm stance. I feel so strongly, since increased Russian military presence in Cuba raises questions of whether we ought to continue considering a treaty touted as a step toward better superpower relations while the other side is deviously digging in deeper against our interests.

Mr. President, the idea of arms control, such as attempted in SALT II, rests upon a foundation of mutual conciliation and consideration for each other's security. Recent Soviet actions in Cuba again raise the question of whether such a foundation exists.

INTELLIGENCE MISMANAGEMENT

For the past few years, I have expressed doubts as to the competence of U.S. foreign policymaking. Why is it? I cannot help but wonder why the American national security apparatus is so consistently caught by surprise. Competent national security management is not supposed to be surprised so often. Most recently, the discovery of Soviet combat troops in Cuba was a surprise in part because of our own measures.

Based on these feelings, I am this afternoon introducing a resolution calling for the Senate to withhold deliberation of the SALT treaty on the Senate floor until final resolution of this incident—until we are better able to gage what the Russians are up to by such dangerous maneuverings, and whether the necessary foundation exists for any arms limitation agreement at all.

The latest Cuban incident raises a host of other concerns troubling the Senator from Kansas. Early in 1977, President Carter halted the flights of Blackbird reconnaissance planes over Cuba in an act of accommodation to what I do not know, given the presence of 40,000 Cuban troops in Africa. The Russians immediately snatched this opportunity to build up troop strength in the Western Hemisphere without detection.

How many times do we have to be surprised before we recognize that our enemies will move in wherever and whenever U.S. resolve or strength falters, or U.S. policy managers make bad decisions?

In January, we were surprised to learn that North Korea had accomplished a phenomenal military buildup over the years, to the point where the North Koreans now have the fifth largest ground army in the world.

Again in January we were surprised by the crumbling of the government of our close allies in Iran.

Mr. President, we have been continually surprised over the pace and magnitude of Soviet strategic buildup, now known to be far in excess of President Carter's forecast just 1 year ago. We have been surprised over the Warsaw Pact modernization program, again in excess of what President Carter anticipated 1 year ago.

These events must lead us to question the competence of U.S. national security management. National security management and intelligence operations are not supposed to be surprised by events, rather they are supposed to anticipate events and attempt to reduce their impact.

Many other officials, including the Senator from Kansas, I am pleased to say, have not been so surprised. I was concerned over possible Soviet-Cuban shenanigans throughout the continent when the Senate was debating the Panama Canal treaties.

Others expressed a view opposite that of the Senator from Kansas, as is reported in the CONGRESSIONAL RECORD of March 20, 1978.

DÉTENTE IN NAME ONLY

Détente has long been presented as a panacea for United States-Soviet relations. Thus the misconception has been spread that relaxation of tensions would include a significant slowdown of Soviet interference in other countries. On May 29, 1972, the United States and Russia signed, in the spirit of détente and at the time of SALT I, the document "Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics." In that document both parties pledged to help prevent the development of situations capable of causing a dangerous exacerbation of their relations, to do their utmost to avoid military confrontations, to promote conditions in which all countries will live in peace and security and will not be subject to outside interference in their internal affairs.

Mr. President, let us hold the Soviets at their word. The resolution presented here, to halt further consideration of the SALT II treaty, would be a first step.

I only say, in conclusion, that I, of course, cannot proceed to call up this resolution at this time, but I suggest that at the earliest possible time the Senator from Kansas will offer the resolution as an amendment to the appropriate vehicle. I think it is an amendment that can be supported by nearly everyone in the Senate. The Senator from Kansas resolution would simply direct the President to notify the Senate of one or two things with regard to Cuban-based Soviet troops:

First, that Soviet combat troops have been removed from Cuba or, second, any Soviet troops remaining in Cuba pose no threat to the security or to the foreign policy interests of the United States or our treaty allies throughout Latin America.

Mr. President, I ask unanimous consent that following my statement the resolution be printed in the RECORD in full.

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

S. RES. 228

Whereas the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, has as its primary purpose the reduction of the risk of an outbreak of war between the two Parties to the Treaty;

Whereas the proliferation of nuclear weapons is only one of the paths which could lead to armed confrontation between such Parties:

Whereas any international arms control agreement depends for its enforcement on the good faith and peaceful intentions of the Parties to such agreement;

Whereas the introduction by the Soviet Union of combat troops and their support units into Cuba raises grave doubts as to the willingness of the Soviet Union to reduce the risk of armed conflict with the United States;

Whereas there exists the implied threat that such troops and support units may be used to intervene in the internal affairs of countries in the Western Hemisphere or otherwise to threaten freedom and democracy in the Western Hemisphere; and

Whereas the primary duty of the Senate in considering whether to advise and consent to the ratification of treaties is to protect the interests of the United States: Now, therefore, be it

Resolved, That it shall not be in order in the Senate to consider the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, or the resolution of ratification with respect thereto, until the President of the United States reports to the Senate in writing that—

(1) all Soviet combat troops have been removed from Cuba, or

(2) any Soviet troops remaining in Cuba pose no threat to the security or foreign policy interests of the United States or of our treaty allies throughout Latin America.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the fact that the distinguished Senator from Kansas has indicated that it is his intention to call up an amendment at some point that is designed to put the Senate on record as opposing the calling up of the SALT II Treaty until certain things in connection with the presence of 2,800 Soviet combat personnel in Cuba are certified to by the President.

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

The PRESIDING OFFICER. Will the Senate please be in order?

The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the Senator has put the Senate on notice that he intends to call this matter up as an amendment.

I must state that I will oppose that amendment when it is called up. It does not make any difference who calls it up. I will oppose it.

I am concerned about the presence of Soviet combat personnel in Cuba, but I think that we have to give diplomacy some opportunity to work. The administration has some responsibilities in this regard, and I think the administration should have an opportunity to exercise its best efforts through diplomatic channels.

I think we should go slowly in the Senate in regard to laying down any ultimatum or before taking a hardened position on this matter.

There is plenty of time. I said months ago that there is plenty of time to say "no" on the treaty. And there is plenty of time to say "yes" on it. I have not said "yes" or "no" up to this point. I do not know what the resolution to this Cuban matter will be, and I am not attempting to state what it should be. But I do feel the administration should have time to bring about a resolution of this matter before the treaty is called up.

The Senate should be fully aware of what it is doing should it specify that a treaty will not be called up until thus and so happens.

The majority leader would hope to have the confidence of his colleagues that he will do what is best, after assessing all the facts, after discussing the matter with Senators who have to manage measures and with the policy committee. The majority leader should have some flexibility as to when to bring a measure up.

So I do not want the Senate to scuttle the treaty by acting, in essence, in a way that lays down some kind of ultimatum or deadline or threshold which would make it impossible for proper diplomacy to effectively work its way. The Senate is not in the business, nor does it have the responsibility under the Constitution, of conducting the diplomatic work of this country.

Certainly we can and should influence foreign policy. But let us keep a cool head. Let us keep a steady hand.

Six weeks from now we may want to say that we will not take up the treaty until thus and so happens, if we so desire. We do not have to say it today, we do not have to say it tomorrow, we do not have to say it Monday.

But at this time I would oppose to the utmost of my strength and ability any amendment tying the timing of Senate consideration of the SALT II treaty to specific action on this issue. I will oppose any such amendment offered by any Member of the Senate on either side of the aisle.

(Mr. TSONGAS assumed the chair.)

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

Mr. ROBERT C. BYRD. Just a moment and I will yield, and the Senator is entitled to have me yield.

I have a lot of respect for the Senator from Kansas. I do not think the Senator from Kansas has made up his mind on the treaty. That is the impression I get. For those who have made up their minds, that is their right; that is their business. But I have the impression that the Senator from Kansas is still studying the matter and giving it thorough consideration.

The treaty is still in committee. The committees have not completed their hearings on the treaty yet, so why all the rush? Committees will complete their hearings in due time, and after they complete their hearings and the treaty is reported, I will discuss this matter with the policy committee, the Republican leadership, with the chairmen and ranking members of the committees which have jurisdiction, and the decision as to when to call it up will be made.

I have said from the beginning that this Senator does not intend to make up his mind on this treaty on the basis of some peripheral issue, no matter how important. The central issue is whether the treaty itself is in the best security interests of this country now and for years to come and it conceivably may be.

I am not saying it is. I am not saying it is not. We are not discussing the treaty or the merits of it today, but the Senate will decide that issue when it comes up, and, hopefully, on the merits of the issue.

I believe there is time enough to resolve these other matters. I am not rushing to bring up the treaty the day it is reported out or 3 days after. I said earlier that I would like to bring it up around the first of October. This does not mean that it might not be the middle of October, the first of November, or later.

Mr. President, I ask that I may be permitted to proceed for an additional 5 minutes.

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

Mr. ROBERT C. BYRD. I hope the Senator from Kansas will not take what I have said in a personal way. I know that there was some thought today on my side of the aisle of offering such an amendment. My remarks are not meant to be personal toward the Senator from Kansas.

I have talked with Senators on my side of the aisle, and I have urged that no such amendment be offered. Certainly, a Senator may offer a resolution, which will be referred to a committee. Let it take its proper course. But I do hope that no Senator will call up any amendment to any measure that will instruct the leadership not to proceed with the treaty until some certain guidelines or criteria that have been conceived by a Senator are met.

Let us give the administration some time. Let us allow diplomacy to have an opportunity to work, this matter may be resolved satisfactorily. I hope that it will.

But to put the Senate on record that it will not consider the treaty until thus and so happens is one way of keeping thus and so from happening. So I urge Senators to let those who have the responsibility of making diplomacy work have an opportunity to make it work. Efforts are being made, discussions are going on. Let us not rush to put diplomacy in a straitjacket. There will be plenty of time down the road.

I assure the Senator from Kansas that there is going to be adequate time. I could have waited to speak until he called his amendment up. But I want to call the attention of the Senate to the dangers of proceeding in this way. I am urging Senators to let diplomacy have a chance to work. We can always say "No." There is plenty of time to cut the chicken's head off when the water is boiling.

The day the Senate takes such a position, I think the Senate will be overreaching. The straitjacketing will be not so much of the Senate leadership, as it will of diplomacy and of the Nation's ability to bring about an adequate resolution of a problem.

Now I yield, and I thank the Senator from Kansas for his patience.

Mr. DOLE. The Senator is correct in almost every instance. Certainly my effort is not directed at the majority leader. I think the key word, which you have mentioned many times, is the word "time." That is why the Senator from Kansas introduced the resolution today, to put the Senate on notice that at some time soon I will be offering this resolution as an amendment to the appropriate legislative vehicle.

I also might add, in response to the distinguished majority leader, that the resolution provides for one of two things. First, whether or not the troops have been removed, or second, the President reports that if any Soviet troops remain in Cuba they are not a threat to our security or foreign policy interests. I am not certain of the final notice, but I agree we must let diplomacy work, and that is why the resolution was so worded.

Mr. ROBERT C. BYRD. I respect him for that, as I have stated.

Mr. DOLE. As the Senator from West Virginia knows, he was kind enough to carry a letter from me to Mr. Brezhnev several weeks ago, raising some questions concerning the treaty. As for those of us who voted for SALT I and might like to vote for SALT II, the Cuban troops pose a problem.

The PRESIDING OFFICER. The Chair would advise the Senator his time is expired.

Mr. ROBERT C. BYRD. Mr. President, I hesitate to impose further on the time and patience and the good nature of the Senator from Massachusetts and the Senator from North Carolina——

Mr. THURMOND. South Carolina.

Mr. ROBERT C. BYRD. From South Carolina. I hope the Senator will accept my apology. I was born in North Carolina.

Mr. THURMOND. The apology is accepted. They are both wonderful States.

Mr. ROBERT C. BYRD. I ask that the Senator from Kansas have 5 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator from Kansas is recognized.

Mr. DOLE. So the Senator from Kansas would state to the majority leader that this is a new dimension which we must consider. The Senator understands very well the timing. I was not suggesting calling up the resolution now. It might be on the floor this week or next week, or I assume maybe next month. But it would seem to me, as one who has said very honestly he is uncommitted, as one who has said he would like to vote for SALT II, to indicate very strongly my dissatisfaction and puzzlement at the discovery, of Soviet combat troops in Cuba. It certainly makes it much more difficult for those of us in the undecided column.

For those who are against it, it is a plus, a bonus. For those who are undecided, it is a negative or a minus, and for those who have been for the treaty, it may be moving them into a different, undecided position.

Hopefully, the resolution presented by the Senator from Kansas would do two things. First of all, it would say to the President of the United States, "Certainly I do not want to interfere with your diplomacy, if it can be resolved."

If the President of the United States makes a finding that whatever troops may be remaining pose no threat, and presents that finding to the Senate, that would satisfy my questions.

I understand the scheduling, and who determines what may be called up and the order in which it is called up, and I have never in my 11 years in the Senate tried to frustrate the efforts of the leadership to call up a matter. I hope the majority leader understands my intent. It was not to frustrate the powers of the majority and minority leadership. I understand that, and I think I have always abided by it.

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

Mr. DOLE. Yes.

Mr. BAKER. Mr. President, I thank the Senator from Kansas, and would like to commend him on expressing his intention with respect to this resolution. As I understand the situation at this time, it has not been offered as a resolution for immediate consideration, and has not been offered as an amendment, but rather for referral, as a statement of the Senator from Kansas' point of view for consideration at some future time.

I would hope that by this action, by statements many of us have made, including me, in the last 24 hours, that we are withholding judgment on what ought to happen to SALT vis-a-vis the report of combat troops in Cuba, we will be of assistance to the President, that it will underscore the importance of this, and give leverage to the administration in trying to negotiate a removal of the troops from Cuba or otherwise a satisfactory resolution of the matter.

On yesterday I indicated, as did Secretary Vance in his statement, that this administration will not accept the status quo. I do not know what that means, but I assume it means they are going to have to do something about those troops. I also hope, for my part, it means that the Russians will accept some understanding of the fact that the Senate is going to give its advice before it gives its consent to this treaty, and I hope it does.

In any event, I think the Senator from Kansas has made his point clear. I think it is entirely appropriate for him to express it in this way. I hope it turns into something of value to the administration in their negotiations with the Soviet Union, and not something destructive. I do not believe, as the Senator from Kansas has expressed, that it is any effort to thwart the legitimate efforts of the majority leader in trying to arrange the schedule and activities of the Senate.

Mr. DOLE. I appreciate the minority leader's remarks. I might suggest that it could mean calling up the treaty and having it recommitted until the troops are removed. I would hope this might be avoided by expressions of the Senator from Kansas and other similar expressions by others on both sides of the aisle.

Mr. ROBERT C. BYRD. Mr. President, the thrust of what I had to say was not that anyone was directing an action against the majority leader or the majority. That is secondary and would certainly be unintentional in any event.

The main thrust of my argument is that the Senate ought to make haste slowly in venturing into the diplomatic field. In any case the Senate will not take this treaty up for a while. In the meantime, the administration should be allowed to proceed with its diplomatic efforts.

I realize that a majority of the Senate can recommit a treaty. I certainly would not want to call up the treaty if a majority here opposed considering it.

After all, it takes two-thirds to approve the ratification of a treaty. The distinguished minority leader has stated how he feels about the treaty, the distinguished Senator from Kansas has stated how he feels, and I stated to the President 2 days ago how I feel. I told the President I have not made up my mind on the treaty.

In the meantime, I urged that every action that can be taken is taken to defuse the issue of Soviet combat troops in Cuba. Regardless of whatever decision I might reach on the treaty, I do not want the treaty brought up in an atmosphere in which peripheral matters, or emotions, may discolor the judgment of the Senate and cause it to reach anything other than a considered judgment on such an important treaty.

The PRESIDING OFFICER. The Chair advises the majority leader that his time has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent to proceed for 2 minutes.

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

Mr. ROBERT C. BYRD. When I talked with the President 2 days ago, I indicated that it is very important that this matter of Soviet combat troops in Cuba be resolved.

I do not know how this matter might be resolved, as of now. I do not know how long the troops have been there. I understand they may have been there for 17 years. As of now, I do not know what their mission is. But these are matters we need to pursue.

I hope the Senate will not take a step it may regret, such as laying down criteria which have to be met before that treaty can be called up.

I have said that I am not going to rush to call up the treaty. It will be called up in due time, if it is called up. I would not consider calling up this treaty without discussing it with Senator BAKER, the minority leader; Senator JAVITS, ranking member on Foreign Relations; Senator GOLDWATER, ranking member on the Intelligence Committee; and Senator TOWER, the ranking member on the Armed Services Committee.

Let us not act in haste to put the Senate on record and lay down specific criteria. I do not know what criteria should be laid down. I do not know what the results would be. There might be other alternatives that will be equally satisfactory to the Senator from Kansas and that would relieve his concern, other than just the two he has set forth.

One of them, I think, may be reasonable—that the President certify certain matters to the Senate but that can be achieved without laying down that kind of stricture by the Senate, because such a constraint could make it difficult for diplomacy to achieve its end.

Again, I apologize to the Senators who have patiently waited. What I have said I have said in the best spirit with the utmost respect for the Senator from Kansas.

SENATE RESOLUTION 229—SUBMISSION OF A RESOLUTION ON SOVIET TROOPS IN CUBA

Mr. DECONCINI submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 229

Whereas intelligence sources of the United States have revealed the presence of Soviet combat troops and their support units in Cuba;

Whereas the presence of such troops and support units poses a provocation to the United States and other countries in the Western Hemisphere; and

Whereas the President has submitted to the Senate for its advice and consent to ratification the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979: Now, therefore, be it

Resolved, That it shall not be in order in the Senate to consider the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, or the resolution of ratification with respect thereto, until the President notifies the Senate that the Government of the Union of Soviet Socialist Republics has removed all its combat troops and their support units from Cuba.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DECONCINI. Mr. President, I am offering a sense of the Senate resolution on the question of SALT II and the existence of Soviet combat troops in Cuba.

The administration has now confirmed a force of approximately 2,300 to 3,000 combat troops in Cuba. While the presence of these troops does not, per se, appear to violate any specific agreement between the United States and the Soviet Union, it is nonetheless a provocative act. In my view, Mr. President, the Soviet leadership has been engaged for some time in a process of testing American resolve and commitment. In almost every instance, the American response to these challenges has been retreat—retreat justified by countless excuses, but retreat nonetheless.

The presence of Soviet combat troops in Cuba is serious. There is every indication that the Carter administration, speaking through Secretary of State Vance, agrees that it is serious. There has been a welcome and unambivalent expression of a similar nature from the distinguished chairman of the Senate Foreign Relations Committee. All agree, however, that the seriousness of the situation is appreciably different from that which characterized the Cuban missile crisis.

Rather than being presented with an actual and immediate threat to American security—as the presence of Soviet missiles did—we are being presented with a generalized threat to the American position in the Western hemisphere and a threat to the general tranquility of the area. The Monroe Doctrine has been the most enduring and historically important principle of American foreign policy. If the United States fails to respond in a manner sufficiently commensurate with the threat, the Soviet leadership will have made a mockery of that policy. But more is at stake even than the continued viability of the Monroe Doctrine. For if the United States does not respond adequately, it will widely be interpreted that we lack the courage to stand behind our principles and our commitments. Furthermore, Soviet combat troops 90 miles from our shores must be seen as the beginning of a policy that, if left unchecked, will continue to grow. Three thousand troops can quickly become 30,000. It is the nose of the camel in the tent.

American success in the world is, ultimately, based upon American credibility. Having power—even vast power—is useless without the will to use it. And, ironically, that will to use power—and thus be credible to others—is precisely what allows a Nation to pursue its objectives peacefully. By failing to respond we might be telling the world that we have lost our nerve, lost our national will. This can only encourage our adversaries to press even further, treading over more dangerous ground. And such a course of action by them will inevitably confront us with a true crisis, a crisis that might lead to war.

By failing to respond, the United States may well send a message to allies, potential allies, and members of the uncommitted bloc who look to us for guidance and protection. They may see danger to themselves in our failure to act. If they have counted upon us to shield them from the Soviets and we fail to effectively deal with such a clear provocation, prudence might lead them to accommodate Soviet interests. And, Mr. President, what would the effect of such a message be on the turbulent politics of the Middle East?

The American people have been told repeatedly that the Soviet Union is genuinely committed to peace. Détente, we are told, which is a policy of mutual accommodation, now characterizes our relationship. The SALT process itself is often cited as proof of this view. I hope—no, I pray—they are right. But if the Soviets are truly committed to peace, let them prove it. If they are truly committed to détente, let them prove it. Let them withdraw their combat troops from Cuba.

Mr. President, the resolution I propose is simple. It expresses the sense of the Senate that the debate on SALT II should be forestalled until the President of the United States can certify to the Senate that Soviet combat troops have been withdrawn from Cuba. I believe, Mr. President, that this resolution reflects the views of a majority of my colleagues; but, more importantly, I believe it expresses the deep feelings of the majority of the American people. For the sake of America's long-term national and security interests, I urge my colleagues to support this effort, and I urge the members of the Foreign Relations Committee to give quick and favorable consideration to this proposal.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator's time has expired.

Morning business is closed.

REFUGEE ACT OF 1979

The PRESIDING OFFICER. The Senate will now resume consideration of S. 643. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Massachusetts and the Senator from South Carolina, with 30 minutes on any amendment and 20 minutes on any debatable motion, appeal, or point of order, if such is submitted.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself such time as I may need.

Before explaining the essential features of the bill, Mr. President, I want first of all to pay tribute to the Senators, some 14 Senators, who have cosponsored this legislation, and the members of the Committee on the Judiciary, who worked closely together in reporting this legislation out unanimously.

I especially thank those Senators who have expressed an interest in supporting efforts to reform the laws on how we help resettle refugees—especially Senator BOSCHWITZ, who has been particularly active and who, though not a member of the committee, has taken a great interest, along with other Members of the Senate, in this matter; also, I want to thank Senator CHURCH and Senator JAVITS of the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that Jerry Tinker, Antonia Hernandez, and Ben Dixon of Senator BAYH's staff be granted the privilege of the floor during debate and any votes on this matter.

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

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Roger LeMaster of my staff may be granted the privilege of the floor during debate and voting on the pending bill.

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

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Dusenbury, Mr. Hultman, and Miss Rogers of the Committee on the Judiciary be granted the privilege of the floor during consideration of this legislation today and tomorrow.

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

Mr. KENNEDY. Mr. President, the bill we are considering today—S. 643, the Refugee Act of 1979—deals with one of the oldest and most important themes in our Nation's history: Welcoming homeless refugees to our shores. It also will

give statutory meaning to our national commitment to human rights and humanitarian concerns, which are not now reflected in our immigration laws.

They relate to our country's ability to respond to the needs of refugees and homeless people around the world—which touch at the heart of America's foreign policy.

Refugees have become a worldwide phenomenon of our time—the tragedy of countless men, women, and children forced to leave their homes and lands for as many reasons as there are for the violence and conflict among people and nations.

Almost daily, we see their tired, sad, weary images on our televisions and in our newspapers. Whether they be the "boat people" fleeing the upheavals in Indochina, refugees in Southern Africa fleeing racism or guerrilla war, or Soviet Jews and Eastern Europeans seeking the promise of the Helsinki Accords, their plight is known to us.

And America has responded.

We have a proud record of accomplishment in offering a helping hand to refugees, and I believe our national policy of welcome to the homeless has served our country and our traditions well.

Today we are considering legislation that will help us to do this job better—to resettle refugees more humanely, with greater planning, and at reduced costs.

For too long, our Nation's policy toward refugee assistance and resettlement has been AD HOC with refugees being admitted in fits and starts, and after long delays and great human suffering—because our existing immigration law is inadequate, discriminatory, and totally out of touch with today's needs.

The legislation before us will update our law governing the admission and resettlement of refugees. It will help insure greater equity in our treatment of refugees. It will rationalize and put in the statute how we treat all refugees, and make our law conform to the United Nations Convention and protocol relating to the status of refugees, which we signed in 1969.

Briefly, the bill accomplishes five basic objectives:

First, it repeals the current immigration law's discriminatory treatment of refugees by providing a new definition of a refugee that recognizes the plight of homeless people all over the world, and by according refugee admissions the same immigration status given all other immigrants.

Second, it raises the annual limitation on regular refugee admissions from 17,400 to 50,000. This is accomplished without—and let me emphasize this—without really increasing overall annual immigration to the United States in recent years, since the parole authority has been used repeatedly to exceed the current 17,400 limit on refugee admissions.

Third, the bill provides an orderly but flexible procedure for meeting emergency refugee situations and any other situations of special concern to the United States, if the resettlement needs of the homeless people involved cannot be met within the regular 50,000 ceiling.

Fourth, it provides for the first time the statutory requirement that Congress be consulted before refugees are admitted, and defines and exerts congressional control over the process.

Fifth, it provides for Federal support of the refugee resettlement process and extends coverage to all refugees entering the United States for 2 years for cash and medical benefits, and for a longer period for other programs that help the refugees normalize their lives in their adopted communities.

MAJOR PROVISIONS OF THE BILL

Mr. President, for the record, let me review in more detail the major provisions of the bill and the action the Judiciary Committee took before unanimously reporting it to the Senate.

NEW REFUGEE DEFINITION

First, the bill provides a new statutory definition of a refugee which basically conforms to that used under the United Nations Convention and protocol relating to the status of refugees, which we signed in 1969. It eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203(a)(7) of the Immigration and Nationality Act.

The new definition was amended by the committee to include "displaced persons" who are not technically covered by the United Nations Convention, to insure maximum flexibility in responding to the needs of the homeless who are of special concern to the United States. This flexibility is needed, for example, to handle such situations as the evacuation of Saigon. The Vietnamese refugees we evacuated in 1975 were "displaced persons" and "evacuees," and would not be covered by the U.N. definition originally in the bill.

The committee also believes that the addition of the phrase referring to a "displaced person" as a person "uprooted because of arbitrary detention" and "unable to return to his usual place of abode" will accommodate political prisoners and detainees who need resettlement opportunities outside their country.

Mr. President, we have heard some people say that this new definition of a refugee encompasses the world, and that it will open the floodgates. Let me state now, in no uncertain terms, that this change in the legal definition of a refugee will not mean that an unlimited number of refugees can or will be admitted to the United States.

What is "unlimited" is not the pending bill, but current law. Under the use of the parole authority in section 212(d)(5) of the Immigration and Nationality Act, both the numbers as well as the procedures involved in bringing groups of refugees to the United States are totally unlimited by law.

The pending bill limits the admissions of refugees, not only by establishing a "normal flow" ceiling of 50,000, but more importantly by exerting congressional control over the entire process—including emergency situations. The bill writes into law what is now governed merely by custom and ad hoc practice. It establishes specific procedures and requirements the President must follow prior to a decision to admit refugees beyond the 50,000 ceiling—not after the fact.

The definition in the bill reflects our treaty obligations to refugees under the U.N. convention and protocol. But in terms of large group admissions of refugees, it adds the important caveat that they must be "of special concern to the United States." In practice, this has been the informal rule governing our current admission policies. Under the existing definition—which reflects the 1952 view of refugees as coming only "from communism or certain areas of the Middle East"—more than a million Palestinian refugees were technically eligible for resettlement in the United States. Obviously, such numbers were not admitted—not because of the definition in the law, but because we made a policy determination that our best humanitarian response to the needs of Palestinian refugees was to assist them where they were locally settled and that resettlement in the United States was not necessary.

In short, Mr. President, simply because a group of refugees meets the refugee definition in our law does not mean automatic resettlement in the United States. That is a public policy question that must be made in each case by the American people through their elected representatives and the President. The phrase in S. 643—"of special concern"—establishes this requirement in law, rather than leaving it to vague custom or practice.

PROVISIONS FOR ADMITTING REFUGEES

In fact, Mr. President, the central feature of this bill is the establishment of a statutory framework governing the admission of refugees during "normal flow" periods as well as during emergency situations.

Sections 207 through 210 of the bill write into the Immigration and Nationality Act the role of Congress in the admission process, ending the years of ad hoc use of the parole authority. The bill provides for a normal flow of refugees, not to exceed 50,000 each year, except as provided to meet emergency situations that can be foreseen before the beginning of the fiscal year, and for which prior planning can be undertaken. Again, as I noted earlier, the admission numbers will be allocated to groups of refugees "of special concern to the United States." The President may admit more than the annual normal flow of refugees if, after consultation with the Committees on the Judiciary, he believes it is justified by urgent humanitarian concerns or is otherwise in the national interest.

For example, if the bill were law today, the President would have determined some months ago, as he has, that the national interest calls for the admission of more than 50,000 refugees of special concern to the United States in fiscal year 1980. But he would have first submitted his proposal to, and "consulted" with, the Judiciary Committees.

As the Senate knows, Mr. President, under current authorities, the President has decided to resettle some 200,000 refugees next year. Both the authorization and appropriations bills needed to implement this decision are well on their way toward enactment. And, without

this bill, parole authority would be used to respond to the emergency situation that exists today among Soviet Jewish refugees and Indochinese refugees.

What is missing, however, from the current decisionmaking process is the overall framework and efficiency the pending bill would have brought to the process if it were law.

Over the past several years, millions of dollars could have been saved through the more effective planning this bill calls for. Although it is hard to place an exact dollar figure on the savings that might have been made, some examples are readily at hand.

For instance, just this past March, a backlog of some 10,000 Soviet Jewish refugees developed at the processing center in Rome simply because immigrant numbers were temporarily oversubscribed under the 7th preference, and no parole numbers were available. The result was that, over a 3- to 4-month period, some $10 million were wasted on unnecessary care and maintenance costs for refugees clearly destined for the United States. The money should have been spent helping them resettle here, rather than keeping them waiting over there.

A second example is the fits and starts that have characterized our Indochinese refugee program since 1976. There have been five different parole actions, and five different parole programs started. They ended only to have new ones start again some months later when refugee numbers mounted. This required five different ups-and-downs in the bureaucratic structure necessary to process the refugees; five different staffing requirements of the Department of State and Immigration Service; five different leasing of buildings, and support services—all for what was, in fact, a continuing program. But because of the limitations of current law and practice, it did not function as such. The estimated costs of this fruitless exercise cannot be fully tabulated, but they run into the millions.

Another example, referred to by the voluntary agencies in their testimony in support of the bill, is the savings that could be made if the agencies were better able to plan and prepare for refugee arrivals. They are plagued by the uncertain, ad hoc character of the current program. It makes it virtually impossible for them to efficiently plan for the resettlement of refugees.

Also, the States have rightly complained that they are unable to effectively coordinate State or community services if they have no idea before the beginning of the fiscal year—or even during the fiscal year—about the number of refugees expected to be resettled in ther States and communities.

In short, if the pending bill were law, the chaotic character of our current refugee resettlement effort would give way to a process of planning and advanced programing. Before final decisions were made in the executive branch, there would have been greater congressional control and involvement. The refugees would have been treated more equitably. The voluntary agencies and others assisting in the resettlement process would have been given advanced notice. And finally, considerable taxpayers' money could have been saved.

TOTAL IMMIGRATION

For the record, Mr. President, let me emphasize that the 50,000 annual refugee numbers authorized in the bill will not really increase our annual immigration flow, since by use of the parole authority over the past several decades the United States has accepted, on an average, 45,000 refugees each year. These statistics are outlined in tables I and II on page 6 of the committee report.

However, refugees admitted under the emergency provisions in the bill, would fall outside the annual immigration ceiling—as they have been in practice over the past 30 years.

CONSULTATION PROCESS

Mr. President, in considering the bill, the Judiciary Committee was concerned that the role of Congress should be explicitly stated in the decisionmaking process governing the admission of refugees. As amended by the committee, the bill specifically defines the "consultation process" and codifies what is currently an informal, customary process. The bill establishes what "consultation" with Congress means, thereby exerting congressional control over each group of refugees admitted to the United States.

Specifically, section 207(a)(2) provides that "consultation" means "personal contact"—not just a letter or communication—by designated representatives of the President with members of the Committees on the Judiciary to review the refugee situation or emergency refugee situation, to project the extent of possible U.S. participation—to discuss the reasons for believing that the proposed admission of refugees is in the national interest.

Also, as you can see on pages 6 and 7, the President must provide detailed information on:

First, description of the refugee situation;

Second, a description of the refugees who may be admitted, plans for their resettlement, estimated cost of their resettlement, analysis of their resettleability, and an analysis of conditions within the countries from which they originated;

Third, an analysis of the anticipated social, economic, and demographic impact to the United States;

Fourth, a description of the extent to which other countries will admit and assist in the resettlement of such refugees;

Fifth, an analysis of the impact of the United States participation in the resettlement of such refugees on U.S. foreign policy interests; and

Sixth, such additional information as may be appropriate.

ADMISSION PROCEDURES

Mr. President, the bill provides that "normal flow" refugees will be admitted as lawful permanent residents, rather than under the current 2-year conditional entry status. This is an important reform that ends the discriminatory practice of not granting to refugees what we grant to all other immigrants that we anticipate will come to the United States in any given year. This has all kinds of implications in terms of being able to find employment and being able to involve themselves in various community activity. All persons accepted for immigration purposes will be treated equally, and granted permanent resident status. Like other immigrants, refugees can be admitted with a visa or other immigrant document prescribed under regulations established by the attorney general.

This provision of the bill was strongly supported by the voluntary agencies who have carried the principal burden of helping refugees resettle in the United States over the past three decades.

ASYLUM PROVISION

Mr. President, another extremely important reform achieved by this bill is the establishment, for the first time, of a clearly stated asylum provision in our immigration law. Section 207(b) improves and clarifies the procedures for determining asylum claims filed by aliens who are physically present in the United States.

The bill requires the Attorney General to establish a uniform procedure for passing upon an asylum application. We believe such a uniform procedure should allow all asylum applicants an opportunity to have their claims considered outside a deportation and/or exclusion proceeding, provided the order to show cause has not been issued.

The bill provides that persons granted asylum shall be placed into a conditional admission status equivalent in most respects to that provided under current law to refugees admitted under present section 203(a)(7) or under this bill's proposed section 208. The bill also makes it clear that the Attorney General may terminate the conditional admission status if conditions change in the individual's home country so that he would no longer be subject to persecution upon return.

The bill allows the use of up to 5,000 numbers a year for adjustment of status of a refugee granted asylum to that of lawful permanent resident.

EMERGENCY ADMISSION PROCEDURES

Mr. President, an essential feature of the bill is the establishment, for the first time, of procedures governing the admission of refugees in unforeseen emergency situations. If the President determines, after consultations with the Judiciary Committees, that an emergency refugee situation exists—that the admission of refugees in response to such an emergency is justified by grave humanitarian concerns or is otherwise in the national interest—he may fix a number of refugees to be admitted. Allocation of those admissions will be in accordance with a presidential determination to be developed during his consultations with the Judiciary Committees.

Thereafter, the attorney general will admit to the U.S. emergency situation refugees who establish that they meet the refugee definition and that they are not firmly resettled in any foreign country. The attorney general may admit them as conditional entrants or as permanent resident aliens.

DOMESTIC RESETTLEMENT ASSISTANCE

Mr. President, a crucial part of this bill is title III, which authorizes Federal assistance in resettling refugees in the United States. Because the admission of refugees is the result of a national policy decision, and by Federal action, obviously the Federal Government has a responsibility to assist States and local communities in resettling the refugees—assisting them until they are self-supporting and contributing members of their adopted communities.

As the committee report notes, title III amends the Migration and Refugee Assistance Act of 1962, which has been the underlying source of authority for allover refugee programs. The bill expands these programs to cover all refugees admitted to the United States, and builds upon the experience and lessons learned from the Cuban and Indochinese programs.

Specifically, title III carries forward and expands upon the current domestic resettlement programs authorized under the Indochina refugee assistance program—which expires on September 30, 1979. This program primarily provides qualified refugees with cash assistance under a modified aid to families with dependent children program. Secondly, it provides medical assistance according to each State's medicaid program. And, finally, it provides social services of the title XX type of the Social Security Act according to the plan approved for each State by the Federal Government. These services vary from State to State and include such services as: Day care, hygiene, family planning, cultural counseling, home management, transportation, housing improvement, ethnic skills, protective service for adults, life skills, vocation services and training, English as a second language training, job referral, nutrition, driver's education.

These three types of Federal assistance are provided through a 100-percent reimbursement to the States for all refugees who do not qualify for the regular AFDC-medicaid programs. For those who do qualify for the regular programs, the funds cover the State's portion of payment for these services.

The specific assistance programs authorized in title III are outlined on pages 11 and 12 of the committee report.

Mr. President, in considering this section of the bill, the committee was mindful of the deep concern of many State and local agencies that Federal assistance authorized under these programs should be for a reasonable period of time—to assure that local communities will not be taxed for a program they did not initiate. The committee was also concerned that we must learn from the Cuban refugee program—which has continued on year after year—that we must establish some limits on Federal responsibility.

As the bill was originally submitted by the administration, there was a 2-year limitation on most programs authorized in title III. The committee felt that this 2-year, across the board limitation, was too restrictive, and was inadequate to meet the resettlement needs of refugees. Therefore, we amended the bill to place no time limitation upon assistance programs authorized by title III, except for the 100 percent reimbursement of cash and medical payments.

The bill was also amended to continue the "special project" funds currently authorized in the Indochina Migration and Refugee Assistance Act of 1975, to provide up to $40 million annually "for special projects and programs, administered primarily by private, nonprofit agencies participating in refugee resettlement programs, or by State or local public agencies, to assist refugees in resettling and in gaining skills and education necessary to become self-reliant."

In testimony before the committee, the voluntary agencies strongly felt these provisions were adequate, and that a 2-year funding of cash and medical assistance was adequate. The administration believes that the vast majority of the refugees are self-supporting and contributing members of their communities within 2 years.

Obviously, Mr. President, there will be residual needs among some refugees beyond 2 years, but the committee believes these needs can be met through the other programs authorized in the bill—such as social service programs—when the 2-year limit on Federal support of cash and medical payments end.

It is important to remember that refugees are really not a dependent population. Most were productive, contributing members of their home countries before circumstances forced them to flee as refugees. As a report, undertaken by the new Transcentury Foundation for HEW has recently concluded:

> Generally, refugees should be viewed, not as dependent populations, but rather as persons who are temporarily unemployed who need specialized types of support systems, such as language training, cultural orientation, and the ability to transfer skills from their former socioeconomic system to that of the United States.

That is precisely the kind of assistance authorized in the bill, and we believe for an adequate period of time, at reasonable cost to the Federal Government.

BUDGET SUMMARY

Mr. President, as the report of the committee notes, the purpose of S. 643 is to establish a permanent authority in the law to admit and to assist refugees resettling in the United States. It does not authorize specified sums, since funding requirements for refugees will depend upon the number of refugees admitted each year. Annual authorizations and appropriations will obviously be necessary, and budget requests will be submitted each fiscal year to the appropriate committees.

For fiscal year 1980, budget requests are already being considered by the appropriate committees and, as I noted earlier, final action is scheduled this week in the House and shortly thereafter in the Senate. According to the revised estimate of the Congressional Budget Office, the cost estimate for 1980 under the provisions of this bill is $245,000,000.

In addition to these domestic costs authorized under this bill, there are other refugee costs overseas, as authorized each year in the Department of State authorization bill. All together, we will be spending approximately $450 million in direct support of refugees—both overseas as well as in the United States.

OTHER QUESTIONS CONCERNING THE BILL

Finally, Mr. President, since the committee filed the report on the bill, some additional questions and concerns have been raised which I would like to clarify briefly, as well as provide a brief history of this legislation. First, why is this bill nedeed now; to respond to the "boat people"?

No, this reform legislation has been pending in various forms in Congress for some years. However, the current crisis of refugees in Indochina has underscored the need for the permanent structure and framework this legislation will bring to our refugee resettlement programs.

I first introduced a similar version of this bill 10 years ago, in 1969. Reform of our immigration laws governing the admission of refugees is one of the major unresolved issues left after the major reforms were enacted in 1965. As the committee notes in the report, last year, at my request, the administration, in consultation with the commitee, renewed efforts to draft a bill reflecting a consensus on what needed to be done to bring remedial reform to our refugee laws and programs. After several months of intensive activity—with close consultations with Members of Congress, with the volunteer agencies, with State and local agencies—the bill was introduced in both the House and Senate at the joint request of the Secretary of State, the Attorney General, and the Secretary of Health, Education, and Welfare.

Hearings were held on March 14 by the full Judiciary Committee and the record kept open for over a month, to solicit additional views from concerned citizens and groups.

Again, the current refugee crisis in Indochina—and the earlier backlog of Soviet Jews in Rome—only illustrates the need for remedial reform in this important area of public policy.

WHO SUPPORTS THIS LEGISLATION?

The bill, of course, has the strong support of the administration. But it also has the support of every major religious and church group in the United States. It has the support of all of the voluntary agencies, the AFL–CIO, and many other organizations who have written to the committee in the strongest possible terms.

For example, here is what the American Council of Voluntary Agencies has written just this week to every Senator:

> The voluntary agencies since World War II have resettled over a million and a half refugees from all walks of life, with various religious convictions from all parts of the world, demonstrating a true national commitment on the part of the American people to provide a haven for the homeless. In recent years, however, the very restrictive definition of refugee has encumbered their admission to the United States. It has been demonstrated time and time again that the limited numbers contained in the present law

are insufficient to meet the requirements for their admission to this country. The Congress and the administrative branches of our Government have struggled through one refugee situation after another to find a means of admitting the refugees so that we may live up to the humanitarian principles on which our Nation was founded. The solution, all too often as a last resort, has been the use of the parole authority by the Attorney General of the United States. This ad hoc approach results in problems of the funding which is required for the movement and resettlement of the refugees.

For the voluntary agencies it becomes extremely difficult to plan and carry out effective resettlement programs. It is impossible for us to determine how many refugees will be admitted in a given period of time, the rate of admission and the Government funding which will be available to assist in the resettlement process. Thus inhibited, it is not always possible to martial and utilize the vast resources of the private sector which ultimately will determine the success or failure of any resettlement program.

The Refugee Act is the result of many years of research, study and work and has been developed in consultation with the voluntary resettlement agencies. A well balanced approach has been developed and it is our hope that the formulas suggested will be maintained so that the objectives of the legislation can be achieved. We urge your support of this extremely vital legislation.

The AFL–CIO has submitted a strong statement in support of the bill at the time of the hearing, and renewed support for that in a letter to me today. The AFL–CIO states:

The American labor movement, which was forged by immigrants and political refugees, as were other movements and institutions throughout this country, has a deep and abiding commitment to aid refugees from oppression. Our work on behalf of Jews and trade unionists escaping from Hilter's holocaust, and our assistance to Hungarians, other East Europeans, Cubans, and most recently, Indochinese, testifies to this commitment.

While some in this country have wavered, our resolve to help the victims of totalitarianism has remained unchanged, unaffected by domestic or international political whims. This is because the nature of totalitarianism remains unchanged, while the number of despots controlling the lives of ordinary people has increased dramatically. We are also acutely aware that the response of the American people and their government to the plight of political refugees is a crucial factor in the response of other democratic nations.

The "refugee act of 1979" is long overdue.

In our view there are two principal concerns that opponents of this bill may articulate. One is that the effect of the legislation will be to open the country to unmanageable numbers of refugees. The other is that the cost of resettling the refugees permanently in the United States will be prohibitive. Both conclusions are unwarranted.

Concerned citizens, such as the distinguished black leader, Bayard Rustin, have expressed their strong support for the bill. In a personal statement read at the committee hearing, Bayard Rustin said:

The black community has a deep and continuing interest in the fate of political refugees, whether they be victims of South Africa's apartheid, Pol Pot's perverse paranoia, Idi Amin's atrocities, Soviet inhumanity, or Vietnamese retribution.

We live in constant struggle. We hunger for freedom. We understand what it means to be pushed aside and forgotten. Nearly 1 year ago, more than 90 black leaders from civil rights, labor, business, community and professional organizations signed a statement which appeared in the New York Times urging the admission of Indochinese refugees into the United States.

For black Americans to allow a linkage between our continuing struggle for economic and political freedom and the struggles of political refugees to be broken can surely diminish our own chances for success.

The most common objection to admitting additional political refugees into our country is that the unemployment situation is already intolerable. No group of people in the United States suffer more from unemployment than black Americans. Yet, the nine black leaders who signed the New York Times statement rejected such an argument as dehumanizing for black people and American ideals. As I am sure you are aware, so has the AFL-CIO Executive Council.

I offer my unqualified support of the Refugee Act of 1979 and am confident that my views are shared by many others in the black community.

Mr. President, the committee has received many other such statements, and most are printed in the appendix of the committee's hearing on the bill—beginning on page 148.

What are other countries doing to accept refugees?

Mr. President, we sometimes hear the complaint that the United States is accepting more refugees than anyone else—and why should we do more for refugees when other countries are not.

The plain fact is, Mr. President, that other countries are acting in support of refugees. And while the United States, as a large country accepts a large number of refugees, in per capita terms we accept less than several countries. For example, even in terms of Indochinese refugees—for whom we have a special concern—the United States has taken fewer "boat people" per capita than either Australia or France. And in total numbers, China has accepted more Indochinese refugees than we have.

More importantly, following the recent Geneva meeting on the Indochinese refugee crisis, almost every nation participating in the U.N. High Commissioner for Refugees' program redoubled their efforts to resettle more refugees—as this table shows, which I will insert in the RECORD. However, without the leadership of the United States—our expressed willingness to do more—few other countries would not have responded, and thousands of "boat people" would have been left to drown at sea.

Also, we must acknowledge the special refugee burdens some countries are carrying in helping refugees. For even as we stress that we accept thousands of refugees from Indochina and Eastern Europe, especially Soviet Jews, many countries are resettling or providing safehaven for large numbers of refugees as well—such as the 200,000 African refugees accepted in recent years by Tanzania, one of the 25 poorest countries in the world, which nonetheless has a remarkable record of hospitality toward refugees.

Countries such as Israel, Germany, and Britain also have responded to the resettlement needs of thousands of certain ethnic refugees for whom they feel a special responsibility. So the United States is one of many countries assisting refugees.

What about the vast costs involved in resettling refugees?

As I noted earlier, Mr. President, S. 643 does not authorize specific sums. It provides a permanent authorization for admitting and assisting refugees resettling in the United States. The future costs involved will depend upon the number of refugees admitted each year, and that will be governed by annual appropriations voted by Congress.

However, it is anticipated that some $450 to $500 million will be required to fund all aspects of our refugee resettlement program in fiscal year 1980. While this is a large sum, it must be seen in comparison to other Federal expenditures that may not affect the fate of thousands of human beings, and which reaches to the core of what America is all about.

Mr. President, it is hard to place a dollar figure on what the Statue of Liberty and our humanitarian traditions are worth. I do not believe $500 million is too high.

What about the work of the Select Commission on Immigration and Refugee Policy?

Mr. President, last year I helped expedite legislation that estalished a Select Commission on Immigration and Refugee Policy to undertake a 2-year study of our Nation's immigration laws—which are a generation out-of-date. We are still living with the 1952 statute, which was enacted over President Truman's veto. It was flawed from the beginning with discriminatory and anti-alien provisions. Some of the more blatant sections were repealed by the 1965 act. But not much else has changed.

The task of the Select Commission is to recodify our immigration law, and to recommend what our total immigration policy should be for the remainder of this century. The Commission has now begun its important assignment.

But, Mr. President, the existence of the Select Commission must not mean that Congress should stand idle on pressing immigration issues. It must not be an excuse for delaying consideration of urgent, remedial immigration reforms. The Judiciary Committees should not ignore legislative proposals in the immigration field, for which there is already a broad consensus on the need to act, pending the report of the Select Commission in 1981.

Action on refugee legislation clearly falls into this category—as the Chairman of the Select Commission, former Gov. Reubin Askew, has publicly acknowledged. Similarly, the existence of the Select Commission will not deter the Judiciary Committees from considering certain other immigration reforms. For example, both houses will soon consider an immigration "efficiency package," submitted by the Immigration and Naturalization Service, to repeal several unnecessary and archaic provisions of the Immigration and Nationality Act.

Elimination of these provisions will save the taxpayers some $1.5 million each year. Surely, no one would argue

that the Congress delay passage of such legislation until the final report of the Select Commission is issued in 2 years.

Why does the bill ignore the general question of immigration flow, including undocumented aliens?

Again, Mr. President, such broad questions are beyond the scope of the pending bill. S. 643 simply provides remedial reforms to a single section of the immigration law: refugee admissions. In reporting out such refugee reforms, the Judiciary Committee was not unconcerned about other aspects of immigration policy, or other issues of immigration law. The committee has before it, for example, a number of legislative proposals and studies on the undocumented alien question: Hearings, reports, and other actions will likely follow during this Congress.

But, more importantly, these broad questions are in the province of the Select Commission's mandate—to review overall aspects of our immigration law and migration patterns to our country. The Senate Judiciary Committee has already indicated its strong support for this task. In a report I had prepared on the committee's program for the first session of the 96th Congress, we noted that:

One of the primary concerns of the committee * * * will be to assure the effective functioning and successful work of this Select Commission. The resources of the committee, and the time of its members and staff, will be made available for this purpose.

In conclusion, Mr. President, for the RECORD, I would like to submit the text of a letter I received yesterday from the AFL–CIO reaffirming their strong support for the pending refugee bill.

I would also like to include for the RECORD the important statement issued in support of the bill today by the American Council of Voluntary Agencies.

I ask that both statements be printed at this point in the RECORD.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 5, 1979.

Hon. EDWARD M. KENNEDY,
Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate is scheduled this week to consider S. 643, the "Refugee Act of 1979." This bill is designed to improve the procedures for the admission of refugees into the United States. It has the strong support of the AFL–CIO.

The American labor movement has a deep and abiding commitment to aid refugees from discrimination and oppression. S. 643 is designed to provide such assistance and enactment of legislation along the lines provided for in this bill is long overdue.

We believe that the principal fears to which opponents of S. 643 may give voice—that it will open the country to unmanageable number of refugees and that the cost of their resettlement permanently in the United States will be prohibitive—are unwarranted.

The bill increases the number of refugees who could be admitted each year from 17,400 to 50,000, but this does not represent an actual increase in the number who have been admitted in recent years. And, the procedures outlined in the bill clearly include and define a role for the Congress in the decision-making process concerning the admission of additional refugees in emergency situations.

S. 643 is humanitarian legislation of great importance. It will do much to improve procedures for admission of refugees into the United States and provide sound implementation of our international commitments in this respect. The bill has the strong support of the AFL–CIO and we urge its passage by the Senate.

Sincerely,

KENNETH YOUNG,
Director, Department of Legislation.

STATEMENT BY THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

The AFL–CIO is pleased to submit its views on the "Refugee Act of 1979," a bill which, if passed, will do much to revise the procedures in the Immigration and Nationality Act for the admission of political refugees into the United States.

The American labor movement, which was forged by immigrants and political refugees, as were other movements and institutions throughout this country, has a deep and abiding commitment to aid refugees from oppression. Our work on behalf of Jews and trade unionists escaping from Hitler's holocaust, and our assistance to Hungarians, other East Europeans, Cubans, and most recently, Indochinese, testifies to this commitment.

While some in this country have wavered, our resolve to help the victims of totalitarianism has remained unchanged, unaffected by domestic or international political whims. This is because the nature of totalitarianism remains unchanged, while the number of despots controlling the lives of ordinary people has increased dramatically. We are also acutely aware that the response of the American people and their government to the plight of political refugees is a crucial factor in the response of other democratic nations.

The "Refugee Act of 1979" is long overdue. While the Immigration and Nationality Act of 1952 served its purposes well, the last few years have witnessed increasing tension between the Congress and the Executive branch over the process by which political refugees are admitted into the United States. It must be said that each branch of government bears its share of the blame for the lack of a consistent and coherent policy toward political refugees. This is why the process of consultation that apparently went into the drafting of this bill is so important. It demonstrates a new spirit of cooperation, an end to an unfortunate interlude which made every decision on paroling political refugees an unnecessary skirmish. President Carter, Senator Kennedy, Representatives Rodino and Holtzman, and others are to be commended for their efforts to rationalize the law. The result will greatly ease the suffering of people who have not as yet made the awesome decision to embark upon a life as a political refugee.

In our view there are two principal concerns that opponents of this bill may articulate. One is that the effect of the legislation will be to open the country to unmanageable numbers of refugees. The other is that the cost of resettling the refugees permanently in the United States will be prohibitive. Both conclusions are unwarranted.

While the Act does increase the number of political refugees who could be admitted each year from 17,400 to 50,000, this does not represent an actual increase in the number which have been admitted in recent years. And, the procedures outlined in the bill clearly include and define a role for the Congress in the decision-making process concerning the admission of additional refugees in emergency situations.

How is it that the AFL-CIO, some might ask, is willing to support the continued admission of refugees when unemployment is already intolerably high? The essential reason is our belief in the fundamental American values, values which place a premium on human life and freedom. No organization is more concerned about the problem of unemployment than the AFL-CIO. But that problem will be only marginally affected by the number of refugees the United States is likely to admit annually.

Many of those who voice concern about increasing the number of political refugees admitted into the country are the same people who are unwilling to support effective measures to stem the flow of illegal aliens across our borders. To fail to live up to our international responsibility to grant resettlement opportunities to political refugees because we have failed to prevent millions of illegals from entering is myopic at best, and perverse at worst.

The cost factor is also essentially a non-issue. The proposed legislation calls for the termination of federal assistance to refugees after they have been in the country for two years. Many will be off assistance long before that. In other words, the "Refugee Act of 1979" imposes a limit, albeit a reasonable one, where limits do not presently exist.

Certainly, resettling refugees will cost substantial tax dollars, but, in our view, this is an investment in America's future. The refugees quickly become taxpayers and consumers, thus creating jobs in the long run. Another important factor to keep in mind is that the cost of resettling refugees is not borne solely by the states and the federal government. Dozens of voluntary organizations match government funds dollar for dollar in the resettling process. Thousands of individual Americans contribute their time and money to assist the refugee and his family in making the transition into American life. We are, incidentally proud to point out that the AFL–CIO has collected thousands of dollars, from our international unions as well as our state and city labor centers, to aid in the resettlement of Indochina refugees.

There are other important aspects of the "Refugee Act of 1979" which should be addressed for the record.

The new definition of the term "refugee" in the bill is a change which is necessary if the United States is to maintain a credible human rights policy. The language conforms closely with that in the United Nations Convention and Protocol Relating to the Status of Refugees. Above all, it reflects international reality. While the Communist dictatorships continue to generate the greatest number of political refugees, it is clear that the ideologically bizarre dictatorships which abound in the world today are generating an increasing number. The Act's redefinition takes this into account.

As alluded to earlier, the provisions of the bill which clarify the use of the Attorney General's parole authority and provide a new procedure for admitting refugees in emergency situations are most welcome. It should mean better planning and smoother implementation of the law, while minimizing differences between the Legislative and Executive branches which have in the past, resulted in needless suffering by the refugees.

The United Nations High Commissioner for Refugees has pointed out that the bill lacks any provision for "granting asylum to individuals who are refugees in accordance with the definition set out in the Bill." While such a provision may not have been necessary in the past because of our relative geographic isolation, changes in modes of international

travel, make the UNHCR's suggestions on asylum procedures worthy of inclusion in the bill.

The AFL–CIO's continuing involvement in urging a more generous, open-ended U.S. policy of admitting Indochinese refugees is well-known. We believe that the "Refugee Act of 1979" provides an excellent legal and administrative mechanism for the realization of that goal. But as the attached AFL–CIO Executive Council statement on Indochinese refugees, passed last month, states: "In the final analysis, no single nation and surely no private organizations have the means of providing haven and sustenance for the growing number of refugees. Nor can this problem be met by scattered, ad hoc efforts. It requires the cooperation of many governments and the development of an overall plan for the rescue and resettlement of these refugees from totalitarianism. We call upon the U.S. Government to press other governments to join in such a coordinated effort. We also call upon the trade union movements of the free world to urge their governments to respond generously to the needs of refugees."

In concert with U.S. diplomatic initiative, passage of the "Refugee Act of 1979" will provide the international community with the leadership necessary to develop a comprehensive effort to rescue and resettle hundreds of thousands of desperate political refugees each year.

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON INDOCHINESE REFUGEES

During the past year the AFL–CIO has worked actively for the adoption of a more compassionate, open-minded policy for the admission of Indochinese refugees into the United States. While the administration, with congressional approval, has more than doubled the number of refugees admitted into the country, much remains to be done.

Thousands continue to flee from Vietnam, Laos and Cambodia. Many people, especially ethnic Chinese, are leaving Vietnam after paying substantial bribes to Communist officials. Repeated claims that these people are not bona fide political refugees have been made by governments in Southeast Asia. Such myopic reasoning defies international law and basic humanitarianism.

At an international consultation held in Geneva last December, under the auspices of the United Nations High Commissioner for Refugees, representatives of 35 free nations expressed sympathy for those making the dangerous exodus. Yet, no nation made firm commitments to accept a sufficient number of refugees for permanent resettlement.

In the final analysis, no single nation and surely no private organizations have the means of providing haven and sustenance for the growing numbers of refugees. Nor can this problem be met by scattered, ad hoc efforts. It requires the cooperation of many governments and the development of an overall plan for the rescue and resettlement of these refugees from totalitarianism. We call upon the U.S. government to press other governments to join in such a coordinated effort. We also call upon the trade union movements of the free world to urge their governments to respond generously to the needs of the refugees.

Meanwhile, the AFL–CIO Executive Council reaffirms its statement of February 1978. The AFL–CIO strongly urges that the administration further increase admissions of Indochinese refugees into the United States. To demonstrate our commitment, the AFL–CIO has established the Southeast Asian Refugee Fund to raise money for U.S. voluntary organizations which assist in the resettlement effort. All affiliated unions, state and local central bodies are urged to contribute generously to the fund.

AMERICAN COUNCIL OF VOLUNTARY AGENCIES FOR FOREIGN SERVICE, INC.,
New York, N.Y., August 31, 1979.

DEAR SENATOR:

As you are aware, the last major revision of the provisions of the U.S. Immigration and Nationality Act dealing with the selection and admission of refugees into the United States was made in 1965. Since that time the number of refugees has unfortunately increased not only in total number, but also in the area of geographical location. Our present laws cannot respond to the humanitarian needs of the refugees and the international concerns of our country.

Thus, we the voluntary resettlement agencies who are charged with reception and resettlement of refugees admitted to the United States are most gratified with the action taken by the Senate Judiciary Committee in unanimous reporting out S. 643, the Refugee Act of 1979. This measure will come to the floor of the Senate for consideration immediately after the August recess.

The voluntary agencies since World War II have resettled over a million and a half refugees from all walks of life, with various religious convictions from all parts of the world, demonstrating a true national commitment on the part of the American people to provide a haven for the homeless. In recent years, however, the very restrictive definition of refugee has encumbered their admission to the United States. It has been demonstrated time and time again that the limited numbers contained in the present law are insufficient to meet the requirements for their admission to this country. The Congress and the Administrative branches of our Government have struggled through one refugee situation after another to find a means of admitting the refugees so that we may live up to the humanitarian principles on which our nation was founded. The solution, all too often as a last resort, has been the use of the parole authority by the Attorney General of the United States. This ad hoc approach results in problems of the funding which is required for the movement and resettlement of the refugees.

For the voluntary agencies it becomes extremely difficult to plan and carry out effective resettlement programs. It is impossible for us to determine how many refugees will be admitted in a given period of time, the rate of admission and the government funding which will be available to assist in the resettlement process. Thus inhibited, it is not always possible to martial and utilize the vast resources of the private sector which ultimately will determine the sucecss or failure of any resettlement program.

S. 643 provides a meaningful definition of refugee, a reasonable number of visas available to accommodate the normal refugee flow and provides a mechanism whereby emergency situations can be addressed by the Administration after consultation with appropriate committees of the Congress. In addition, it provides the authorization for the funding necessary for the selection, movement and resettlement of all refugees and on an equal basis. We realize, of course, it is not possible to predict with a great degree of certitude the extent and therefore the needs of emergency situations. The procedures proposed in this legislation will obviate the necessity of invoking in the future the ad hoc approaches of the past.

The Refugee Act is the result of many years of research, study and work and has been developed in consultation with the voluntary resettlement agencies. A well balanced approach has been developed and it is our hope that the formulas suggested will be maintained so that the objectives of the legislation can be achieved. S. 643 will be considered by the full Senate immediately after the August recess. We urge your support of this extremely vital legislation.

MRS. INGRID WALTER,
Chairman, Committee on Migration and Refugee Affairs, American Council of Voluntary Agencies for Foreign Service.

Mr. KENNEDY. Mr. President, I would like to yield to my colleague and ranking member of the committee.

Mr. THURMOND. Mr. President, the Senate is considering today legislation that has been a subject of controversy in the past, yet is inherent in the fabric of American history. S. 643, the Refugee Act of 1979, establishes for the first time a comprehensive approach tc the resettlement and treatment of foreign refugees who come to our country.

Historically, our refugee policy has been one of compassion tempered with enlightened self-interest. In the past, this policy has served our Nation well. But the realities of recent times have changed substantially our atitudes toward a national refugee policy. This bill, by making certain changes in our current refugee laws, alters past practices.

First, it drops the current law distinctions of ideological and geographical difference and provides a new definition of "refugee" that recognizes such persons on the same status of other immigrants. It also adds flexibility to the administration of the refugee laws by including a new definition of "displaced persons."

Second, the bill raises the annual limitation on regular refugee admissions from 17,400 to 50,000, bringing the total annual level of immigrants to 320,000. Although this is a fairly large increase in numbers, it is not that large when compared to recent annual refugee levels which came about through the exercise of the parole authority by the Attorney General and not by the provisions of the current statute.

Third, there is created an orderly flow of refugees to meet the "emergency" conditions experienced recently with the Vietnamese "boat people." A more flexible procedure is established in the bill which allows for the resettlement needs of homeless people that cannot otherwise be met within the regular 50,000 ceiling.

The bill also provides a statutory requirement that Congress be consulted before additional refugees over the 50,000 level are admitted and more clearly defines the congressional controls over this process.

Finally, S. 643 provides for Federal assistance for a 2-year period for refugees once they have entered the country. These domestic assistance programs are provided mostly on a 100-percent reimbursement basis with the States.

Mr. President, I have not opposed this legislation in the Judiciary Committee, even though I have certain reservations

about the extent and size of America's commitment to the world's refugee problems. Although events of recent months have been encouraging to me, and I am sure to other Senators, the long-term commitments of the United States, both in this bill, S. 643, and other legislation, must be carefully weighed.

An international response to the world refugee problem has been underway under the auspices of the United Nations since December 1978. The conference officially met in Geneva, Switzerland, on July 20 and 21, 1979. The preliminary results of that meeting appeared to be a world-wide effort to deal with this problem:

Vietnam announced that it would cease its program of expelling certain people from its borders.

Five, first-site countries where refugees had been landing, indicated they would not repel further landing attempts.

Japan announced its intentions to pay for one-half the costs of relocating up to 300,000 refugees.

Canada said it would increase its refugee numbers from 8,000 a year to 50,000 a year.

The United States ordered the 7th Fleet to the South Pacific to aid in the recovery of boat people floating at sea. Only time will tell if these commitments will be fulfilled, of course, but it portends a good beginning to solving a recognized world problem.

As a result of the President's action of doubling the monthly influx of refugees to the United States, about 168,000 refugees will enter our borders this year. This creates problems of an immediate nature that are not really resolved or affected by the passage of S. 643. The immediacy of the current problem does, however, offer some insights into the long-range impact of the bill on our future refugee policy.

For example, a provision for conditional entry should be retained in our refugee laws. S. 643 does provide for a 2-year period of conditional status for those refugees beyond the yearly normal flow of 50,000. This period would allow Immigration and Naturalization Service authorities to properly identify such refugees, their backgrounds and their intentions within the United States. During the conditional period, refugees would be allowed to receive domestic assistance, such as welfare payments, health care and job training, but they would not yet receive immigration visas.

More important, however, the conditional entry period allows time for the Government to assess the impact of these excess numbers of refugees on American society. Are there regions of the country where certain refugees are more suited and can be best integrated into society? Do some refugee groups adjust to conditions in America better than others? Has the influx of refugees had an adverse impact on social services or local communities? Answers to these and other questions should be examined carefully during the 2-year conditional entry period.

Mr. President, although the number of changes in our immigration and refugee laws are few, they are significant. S. 643 makes an increased American commitment to future world refugee problems. It is almost coincidental that the refugee situation in Southeast Asia has escalated at the same time the Senate considers this legislation. For that reason, I believe it is important, as the ranking Republican member of the Judiciary Committee, to place on the record a complete background about current refugee policy and the effect of this legislation on our future policy.

According to the Congressional Research Service of the Library of Congress, in 1978 there were more than 13 million refugees worldwide. Some 37 countries are sources of refugees. This has come about primarily because of the growth in number of independent, Third World countries which are experiencing problems of governmental instability and economic unrest. The presence of unfriendly neighboring nations and political, religious, and ideological struggles internally encourage civil wars and consequently, refugees.

The sudden growth of refugee numbers in recent years has found the existing international organizations and agencies incapable of meeting the demands of resettlement and assistance. The United States supports international refugee relief efforts through contributions to the United Nations High Commissioner for Refugees (UNHCR) and the Intergovernmental Committee for European Migration (ICEM), as well as a number of other governmental and nongovernmental voluntary agencies. The financial assistance given by the United States is substantial.

Mr. President, for fiscal year 1980, the Department of State is asking for $179.9 million for refugee programs. The Department of Health, Education, and Welfare is asking for $224.5 million. Adding in other funding commitments of the United States, a total of $404.4 million will be expended in 1980 for refugee assistance. This is a major contribution by the U.S. Government in an effort to underwrite these international agencies which assist refugees worldwide. Some of these funds will be used for domestic assistance within the United States. I believe that a certain amount of financial support should be provided, but in the context of a shared effort on an international basis.

The United States should support efforts to help refugees around the world, especially those fleeing Communist-backed dictatorships of Vietnam and other Southeast Asian countries. But we should not bear this financial load alone. It must be a combined effort by all nations of the world which are committed to assisting these poor people who seek escape from tyranny and oppression.

Much good was accomplished at the United Nations Refugee Conference in Geneva, Switzerland, on July 20 and 21. The nations who are the fountainhead of the refugee problem in Southeast Asia were convicted in the court of world opinion of calculated and deliberate wrong-doing to certain ethnic groups of their population in order to force these groups to leave their homelands under conditions fraught with danger on the open seas and overland. I would hope that those nations will heed the warning given to them in no uncertain terms.

I would hope the verdict of history will tell those who come after us that we were true to our heritage as a people and a Nation and lastly, but above all, we cared.

Mr. President, as I have indicated earlier in my remarks, I have not opposed this legislation in the Judiciary Committee. I support its objectives and its reforms. But I also feel compelled to make sure the Senate has the opportunity to clearly consider S. 643 in the context of our overall refugee policy. If amendments are offered to the bill, I will consider them carefully and perhaps, if I believe they will improve the bill, I will support them.

In any event, the Senate should act on this legislation. Authorization is needed for the refugee programs to go forward and prompt action by the Senate will ensure that the United States can continue to meet its obligations in this matter.

Mr. CHURCH. Mr. President, first of all, I would like to congratulate my distinguished colleague from the State of Massachusetts for his leadership in bringing forth this bill dealing with refugee matters. He has for years demonstrated concern with the situation of the less fortunate, and S. 643, the Refugee Act of 1979, is another example of his leadership in these matters. This bill not only makes it possible for the United States to deal more effectively with the much-publicized plight of the refugees in Southeast Asia, but also to place the overall refugee policy of the United States on a sound basis.

I would like to call the attention of the distinguished Senator to the fact that title III of S. 643, entitled "Temporary and Transnational Assistance to Refugees," amends the Migration and Refugee Assistance Act of 1962, which was handled by the Committee on Foreign Relations. Similarly, the Indochina Migration and Refugee Assistance Act of 1975 and its subsequent amendments were sponsored by the Committee on Foreign Relations and the Committee on Human Resources. Since the Refugee Act of 1979 amends laws which were sponsored by the Committee on Foreign Relations and deals with matters affecting foreign policy as well as U.S. immigration policy, it falls within the jurisdiction of the Committee on Foreign Relations as well as the Judiciary Committee.

Mr. President, I know that my distinguished colleague, the ranking Republican member of the Foreign Relations Committee, would also like to comment in respect to this point.

Mr. JAVITS. I thank my colleague.

Mr. President, I would like to sustain Senator CHURCH in this matter. It is very important to consider the jurisdiction of both the Judiciary Committee and the Committee on Foreign Relations because it is very clear that this is a matter distinctly, very heavily, of foreign relations, as we are seeking the cooperation of the world, and many nations are seeking our cooperation.

We are actively engaged on the high seas right now in rescuing these refugees.

So I lay before the chairman of the Judiciary Committee, together with the chairman of the Foreign Relations Committee, my judgment supporting his position respecting the jurisdiction of the Committee on Foreign Relations, together with the Judiciary Committee.

The PRESIDING OFFICER. The Chair informs the Senator that the statements of the last two Senators have come out of the time of the Senator from Massachusetts.

Mr. KENNEDY. That is agreeable.

Mr. President, I want to make clear that we acknowledge the role and the interest and the jurisdiction of the Foreign Relations Committee in the whole area of refugees.

As the Senator from New York knows full well, the extension social service programs in the Indochina refugee assistance program were considered, I believe, 2 years ago, by the Committee on Labor and Human Resources.

Mr. JAVITS. That is correct.

Mr. KENNEDY. So far as I am concerned, we recognize the role and the jurisdiction of the Foreign Relations Committee in those areas in which they have been involved and active over a period of years. We have enjoyed working closely with the members of the Foreign Relations Committee as well as with the members of the Human Resources Committee. I believe we can look forward to acknowledging their jurisdiction in the areas which are touched by title III and to working with them in the future on these areas, as well as those that would be affected by the Human Resources Committee.

Mr. CHURCH. I say to the Senator that it is in that spirit of cooperation that I raise the point, because, as Senator JAVITS has said, we both recognize that there is a definite urgency for the Senate to act.

The Indochina Migration and Refugee Assistance Act of 1975 expires on September 30 of this year, and thus the compelling need for proceeding with this bill. In view of this need and of the heavy schedule of the Committee on Foreign Relations, involving the SALT II treaty and other matters, I am willing to waive the jurisdiction of the Committee on Foreign Relations on this particular occasion, and I do so without prejudice to the committee's jurisdictional rights.

I think the RECORD should make that point clear, so that we are not faced in the future with any precedent that might inhibit the committee's jurisdiction.

Mr. JAVITS. If the Senator will yield, that is satisfactory to me, and I hope Senator KENNEDY will expressly accept that in order to preserve our jurisdiction.

Mr. KENNEDY. I am glad to accept that interpretation.

I point out that the principal aspects of this legislation dealt with provisions of the Immigration and Nationality Act, which goes back to its passage in 1952, especially in connection with the power of the Attorney General to parole various refugees and others into this country; and it has been this instrument by which the President has used that authority of law to bring people into the United States. And that is a matter which is the sole jurisdiction of the Judiciary Committee.

I have been through enough of these jurisdictional issues myself, and I assure the chairman of the Foreign Relations Committee and the ranking minority member, as well as my other colleagues, that I believe we can work this out. I have been successful, with one exception, in being able to work out all matters of jurisdiction.

I acknowledge the title III representations which have been made by the chairman of the committee and the ranking minority member, and I look forward to working with them on any matters which affect the Foreign Relations Committee in the future.

Mr. JAVITS. I thank the Senator.

Mr. CHURCH. I thank the Senator very much.

I thank the Senator from South Carolina for his courtesy.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

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

Mr. KENNEDY. Mr. President, I think the Senator from Minnesota had just a general statement, and then if it is agreeable with the Senator from Kentucky, then we will begin with the Senator's amendment if that is agreeable.

Do I understand the situation correctly?

Mr. BOSCHWITZ. That is correct.

Mr. KENNEDY. I yield.

Mr. THURMOND. Mr. President, I am pleased to yield to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. Time is yielded to the Senator from Minnesota. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I wish to also add a word of commendation to the distinguished chairman of the Judiciary Committee, and the distinguished ranking minority member because, indeed, this is very important legislation that I think sets apart our country from other countries in the world.

When I was home in Minnesota during our recent recess, I spoke to a young man who is marrying a young lady from Finland. He recently went to Finland to meet his new family and during his visit had an opportunity to see the border between Russia and Finland. At the border, there was a very high tower in which a guard sat looking down over a minefield. Even at the most northern reaches of Finland and the Soviet Union there was a fence to separate these two countries. In the Soviet Union, which is perhaps our principal opponent in the world, they must build fences, they must lay minefields and build towers around their borders in order to keep their people in.

In the United States, on the other hand, the situation is entirely different. We have to adopt legislation that will limit the number of people who want to come to this great country. I think that is a great tribute to our country. Indeed, our problems will begin when that situation changes and we do not have people waiting in line who want an opportunity to live in our great country.

I would like for a moment to speak about my youth. When fleeing Europe, my family went from country to country because the United States did not have a well-defined procedure for accepting refugees. We went from country to country seeking means of admission to the United States. Finally, we found an American consul who would let us in.

My wife and her family had a similar experience. Her family went to Brazil where they met an American consul who luckily had been befriended in South Africa by my wife's uncle. So in that rather unsystematic way, my wife and her family were able to come to this country.

Certainly, a bill like S. 683, which systematizes and establishes a permanent procedure for refugees, is well in order. It really is in the best interest of the United States.

The United States is the only country that is a country of refugees. We are the only country in the world that is a genuine country of the refugees which has been energized and given substance by people who came to our country to start anew.

This act also provides for domestic assistance to refugees, assistance to help them make the necessary transition and to join the great family we call American.

When my family came to the United States there was no such assistance. This particular act limits the time period of that assistance, and I must say I approve of that. And, I imagine that the refugees who come to this country would approve of it as well. If history is any type of precedence, they will quickly adapt and become very constructive members in our society.

Mr. President, this bill provides for the immigration of about 50,000 refugees a year; 50,000 refugees would only be one-fiftieth of 1 percent of the population of the United States.

Even if you add this 50,000 to the 290,000 immigrants who are currently allowed to enter the United States each year under the immigration quota, (which makes 340,000) this is still only one-seventh of 1 percent of the population of our country. This is certainly not an influx, certainly not a horde that is going to jeopardize jobs for Americans; certainly not such a large group of people that we need to be concerned about the budgetary impact.

But, indeed, it is a group of people who are going to reenergize us once again. They are people who are going to exemplify the most noble aspects of this country. No other country on Earth has people standing in line waiting to enter their country. This sets our country apart. It makes this country something special, and that is why I am so anxious and so eager to lend my support to this bill.

Americans ought to be proud of our accomplishments—our willingness to offer a helping hand to the less fortunate of the world reflects well on Americans and serves as a noble example to other countries throughout the world.

However, we are here today to consider legislation, the Refugee Act of 1979,

that will help us to do an even better job in the future. Although our willingness to help the refugees has always been strong and sincere, our current policies are insufficient to meet today's demands.

We need a permanent and systematic procedure for the admission of refugees so as to insure all refugees that they will be treated equally and fairly. Our policy today lacks consistency and planning. We respond to crises on a case-by-case basis with no established policy or statute that guides our actions. Our response to each crisis is subject to the mood of the times rather than being guided by a set procedure that must be applied to all the refugees seeking admission to the United States.

The result is that we fail to give equal treatment to the different refugee groups and we waste valuable time and money while we decide how we should best respond. We want to avoid situations like we have faced in the last couple of months with the Indochinese boat people. When people are in need of help, we must be ready to respond quickly without long delays.

This legislation provides that organization and planning we so desperately need. It allows us to take into consideration the particular needs of the refugees as well as our own resources. It lays out an established process that the President and Congress must follow at the beginning and end of each year to determine how many refugees the United States can take that year and the resources necessary to resettle those refugees. And, for ongoing resettlement assistance, S. 643 expands these programs to cover all refugees so that the Cuban, Indochinese, Soviet Jews and all others receive equal assistance.

The domestic resettlement assistance provisions also provide moneys the States and local communities who have taken on the responsibility of resettling the refugees. A great emphasis has been placed on the important role of social service programs such as vocation services and training, home management, family planning, cultural counseling. All help speed the process of assimilation and assist the refugees in becoming self-supporting, productive members of their new communities.

It has been my experience that our Federal moneys are best spent at this early stage on these types of programs; they can be viewed as an investment for the future. In most cases, if refugees receive Federal assistance in the early years of the resettlement process, their needs for public assistance are usually limited and temporary in nature.

Another very important and central provision of this legislation is its new definition of refugees. It corrects the inadequacies of our current definition which have long been overlooked. The definition which we use today is very narrow in scope—it defines refugees as those people fleeing Communist countries and the Middle East. Human suffering is not limited to certain ideologies or geographical areas. If our commitment to help desperate, homeless people is sincere, we must be willing to help all in need of assistance despite their ideologies or countries or origin.

In closing, I think this legislation represents a great step forward for U.S. participation in the world refugee problem. The consideration of this type of legislation is a sign that the United States not only intends to continue our noble efforts, but that we are anxious to improve our ability to respond to those in need of help. The adoption of this national refugee policy will be symbolic of our age-old commitment to human rights and humanitarian concerns that has played such an important role in our Nation's history.

● Mr. HATFIELD. Mr. President, as a cosponsor of the Refugee Act of 1979, I urge my colleagues to approve this important reform of our somewhat archaic national refugee policies. Its enactment is essential to provide for the orderly admission to our country of those for whom we feel a special responsibility.

The history of modern civilization includes the certain ebb and flow of refugee migration—a phenomenon which knows no particular ideological or geographic boundary. It is incumbent upon the free nations of the world to assist in the resettlement effort according to their capabilities. To some countries, that means providing financial aid, to others, permanent homes while yet others may be able to offer only temporary domicile until permanent host countries can be found.

S. 643 contains necessary revisions in current law to insure more orderly processing of refugees by replacing the somewhat arbitrary parole authority of the Attorney General with a more uniform procedure to include both administration and congressional input. In addition, it raises the annual limitation on refugee admissions to 50,000 and redefines "refugee" to include a wider range of compelling reasons for admission.

Mr. President, the United States is recognized as the leading nation offering hope and aid to homeless refugees whether they come from Cuba, Indochina, the Soviet Union, or from any other corner of the world where they face personal danger and loss of liberty. As a result of our efforts and encouragement, other nations are following our example. At the recently held Geneva Conference on Refugees, nearly every nation in attendance pledged to increase aid and admit significantly larger numbers of refugees into their borders.

To most of the world populations, the United States continues to represent not only a nation built and enriched by immigrants, but a haven for deserving and oppressed peoples. Our laws and policies must continue to demonstrate our commitment to individual worth and provide opportunity for new beginnings.●

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield to the distinguished Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. KENNEDY. Mr. President, if the Senator will just yield for a unanimous-consent request——

Mr. HUDDLESTON. I yield.

Mr. KENNEDY. I ask unanimous consent that the committee amendments be considered and adopted en bloc.

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

(Mr. BOREN assumed the chair.)

Mr. HUDDLESTON. Mr. President, S. 643 is probably the most important piece of immigration legislation to come before the Congress since 1965. I want to commend the distinguished chairman of the Judiciary Committee and the ranking minority member for the interest they have demonstrated in this legislation and the consideration they have given to me, both the Senators and the staffs, with respect to concerns I have had about this issue and about this particular piece of legislation.

To the extent that the bill would streamline the current uncoordinated ad hoc refugee program I support it, and I hope my colleagues will do likewise. However, the bill goes far beyond this streamlining and, in addition, creates an open-ended admissions program with little congressional control. It also establishes the precedent of substantially increasing total immigration quotas without determining the domestic impact of such increases prior to making them.

S. 643 would make substantial and permanent increases in the U.S. immigration quota at a time when legal immigration to America stands at the highest level since 1924. And, if we include illegal aliens the immigration level may be the highest in our history. I am deeply concerned that at a time when immigration may be at unprecedented levels we are attempting to increase quotas without adequate knowledge of the consequences. This lack of information has been fully and conclusively documented. President Carter's Interagency Task Force on Immigration found in its March 1979 staff report that:

> Little attention has been given to the collection and analysis of data on legal immigration and, as a result, there is presently a lack of data with which to evaluate immigration policy.

If it is true that as late as March the staff experts on immigration law found that there were insufficient data with which to evaluate our present immigration policy, how can we decide a few months later that it is in the best interest of the country to increase the total immigration quota?

In fact there are no supporting data for this increase. The testimony on S. 643 all centered on the need to assist more refugees and the need for more money to pay for the program. However, the record contains no rationale for increasing the worldwide ceiling on immigration into the United States. The vast majority of the witnesses were from private organizations whose primary function was assisting refugees or public agencies which administered the assistance programs. There is no testimony given from the standpoint of a general economist, sociologist, or demographer to support the need and appropriateness of substantially in-

creasing the total immigration quota. The result is that not only do we not know if the increase is justified, we do not know at this time if the existing quota is excessive given present high levels of legal and illegal immigration.

IMPACT OF OUR POLICY ON REFUGEE POPULATION OF WORLD, MALAYSIA, HONG KONG, AND INDONESIA

At one time this administration recognized the extreme lack of information and pursued a policy of not advocating an increase, even for refugees, without a great deal more study. In 1977 the official position of both the U.S. Department of Justice and State Department was to require the deduction of any increases in refugee numbers from the total annual immigration quota. Mr. John DeWitt, Deputy Administrator for the Bureau of Security and Consular Affairs of the State Department, testified before the House Judiciary Subcommittee on Immigration in 1977. At that time he said:

The Department (of State) believes that the 20,000 limitation on "normal flow" refugees should be deducted from the overall hemispheric totals . . . in order to preserve the existing grand total of 290,000. While we recognize that this determination is one for the Congress to make, we favor leaving the total numerical limits unchanged until there is a more solid basis for determining the optimum rate of annual immigration for the United States.

At the time this statement was made the world refugee picture was not significantly better than it is today. Further, we knew from the Cuban experience that we would face unexpected situations when the United States would be expected to admit large numbers of refugees. Even though the administration was aware of these facts, its policy rightly reflected the need to know more about immigration in this country before making permanent and substantive changes.

Last year the Congress concurred in the determination that we need more information and a comprehensive review of immigration and refugee law. This concurrence was in the form of legislation creating the Select Commission on Immigration and Refugee Policy. The general mandate to the Commission was to "study and evaluate * * * existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make administrative and legislative recommendations to the President and to the Congress."

However, the Commission was "particularly" instructed to "assess the social, economic, political, and demographic impact of previous refugee programs and review the criteria for, and numerical limitations on the admission of refugees to the United States." In order to accomplish this goal the Commission has been given a budget of about $2.5 million.

Although the Commission will probably issue its final report by December of 1980, the Congress is being told that it should not wait before substantially increasing our immigration quota. I would be able to understand this if the decision not to increase the quota might jeopardize our efforts to offer assistance to refugees next year. However, a decision not to increase the worldwide ceiling would have no effect on that program. In fact, if S. 643 had no quota at all for refugees the United States could still have a refugee assistance program of the same size and magnitude as that presently contemplated by the administration under other provisions of S. 643.

Mr. President, in my judgment, the most significant failing of S. 643 is that it is a repeat of the same mistake we have made in regard to immigration policy before and which the Select Commission was supposed to rectify. S. 643 is a piecemeal approach to the immigration issue. It makes no attempt to integrate the refugee program into a total comprehensive immigration policy.

There are three major components of U.S. immigration which must be considered jointly if our immigration system is to have any overall purpose and direction. These components are legal immigration which is about 400,000 per year and is the highest in the world; a de facto policy which permits millions of illegal aliens to enter the United States virtually unchecked; and an open-ended refugee assistance program which has no outer perimeters as far as I can determine.

The underlying purpose of the Select Commission was to approach the problem in a comprehensive manner. Congressman EILBERG, who floor-managed the bill on the House side stated that:

Our immigration law has not been reviewed in over 25 years and that almost every aspect of the American community is affected by immigration. In my judgment, it is vital that every effort be made to reevaluate our immigration policy and that it be done in a comprehensive fashion.

Many have tried to obfuscate the issue by arguing that increasing the permanent yearly refugee quota to 50,000 could not possibly have any adverse impact upon the United States. If this were the only immigration number we were dealing with, their argument would be valid. However, it is not the only number and that is the vital point which must be understood. We are dealing with millions of illegal aliens, hundreds of thousands of legal immigrants and, as would be established by this bill, undetermined hundreds of thousands of refugees. I believe that we have passed the point where we can safely continue to consider these three components in an isolated manner. Other major immigrant-receiving nations also seem to have reached this conclusion. Some have recently completely revamped their immigration laws. The interagency task force found, in its comparative study of other nations:

All the major immigrant-receiving nations have conducted recent reevaluations of their immigration policy. All have moved away from racially and ethnically discriminatory laws in favor of more universalist policies which are tied to articulated national goals. Since 1976 both Canada and Australia have enacted new immigration statutes, each of which is tied to its nation's goals in the areas of population growth and economic development.

Since 50 percent of the population growth in the United States may be attributable to immigration, I sincerely believe that we should also enact comprehensive immigration legislation as soon as possible.

Many Americans have voluntarily made the decision to have fewer children in order that they and their children may enjoy more of the benefits this country has to offer. However, this personal decision is being undermined and overshadowed by our current uncontrolled immigration policy, which is being fed by the worldwide population explosion, high unemployment and political unrest.

All the reports in this regard say the same—the outlook for the next 20 years is ominous. The Population Reference Bureau warns that the millions of unemployed and underemployed will move into the already overcrowded cities of the Third World. Of the additional 2 billion people expected worldwide by the year 2000 the Third World countries will gain about 1.2 billion, or an increase of 162 percent. According to the Bureau:

These two aspects alone, a growing labor force and increased urbanization, pose the threat of mounting social and political tensions, massive unrest, and spreading conflicts.

The Library of Congress underscored this projection when its August 1979 report on the world refugee crisis found that:

The Crisis shows no sign of abating. On the contrary, the findings in this report indicate that the refugee flow around the world will continue and that the number of refugees will probably rise markedly over the next few years.

This increase will be in addition to the 14 million refugees who are in the world today. And, it is this growing pool of millions of people which will fit within the new expanded definition of refugee under S. 643.

Any immigration legislation which allows our national ceilings to be breached by unlimited numbers must contain appropriate safeguards to assure that that discretion is always exercised responsibly and with full knowledge of the implications. One of the major problems with our existing refugee program is that neither the Congress nor the public have had a complete disclosure of information prior to the decision to admit more people. Unfortunately, S. 643 does not correct this.

The cost factor, both direct and indirect, has been almost impossible to determine on the existing program. The cost of the program in dollars is slowly becoming available but it is still incomplete. However, we know that the costs are escalating rapidly. For example, the Cuban refugee program cost us $1.3 billion over a period of about 20 years. The Indochinese refugee assistance program cost us $1 billion over a period of 4 years (1975–79). However, after much digging it has become evident that the cost of our total refugee assistance effort in fiscal year 1980—that is, 1 year—will be about $1 billion.

However, indications are that the cost

to the States will be in the tens of millions of dollars.

The indirect costs are even more difficult to ascertain. The impact on unemployment should be one of our considerations. We are told by agencies which assist the refugees that they have a high rate of employment. However, we are not told quite so loudly that much of this employment is underemployment and that about one-third of the refugees from Indochina are still receiving some type of welfare assistance. Further, we are not told if the jobs taken by immigrants contribute to our already high unemployment figures. Indications are that they do.

Mr. President, it is difficult for me, and I think for many American citizens, to feel that the administration is serious about restraint of Federal spending and balancing budgets when we are willing to lay out a billion dollars per year for refugee assistance, for paying the cost of bringing new citizens into this country.

This is not a firm figure, and it could be much more. HEW assures me that they cannot compute the cost to the States which under S. 643 would have to begin picking up part of the welfare expenses for refugees who have been in this country for 2 years.

The Interagency Task Force on Immigration found that if immigration occurs near the bottom of a business cycle when many U.S. workers are unemployed, it is unlikely to produce any significant benefits and it clearly will exacerbate unemployment or lower the relative wages of low-skilled workers or both. Many economists are predicting a deep recession next year with unemployment possibly exceeding 8 million people. In other words, we will experience the "bottom" of a business cycle. Unfortunately our response to this unemployment is not to attack some of the causes directly but to go on grinding out Federal job creation programs which cost the taxpayers billions of dollars. In 1978 the Federal Government spent approximately $9 billion on these types of job creation programs.

There are also social costs attached to any immigration program. Every nation has limits on the number of individuals it can effectively assimilate without experiencing severe social disruption. With regard to the large scale refugee program we are seeing increasing signs of social stress, which is certain to escalate as the numbers increase. News reports are becoming more frequent in which minorities and Vietnam veterans say that refugees "are taking needed jobs, housing, educational programs, and Government assistance."

I do not believe that any of these costs require that we stop our refugee assistance program. However, I do believe that they require that we take a close look at our total immigration policy to assure that it is in the best interest of the citizens of this country. If we find that a particular part of our immigration program is costing too much we will have to make the decision to either cut it back or to offset it in some other way. The crucial point to bear in mind is that our immigration policy must be as fair to American citizens as it is to those who wish to immigrate. As elected officials we owe our first allegiance to our citizens and their future generations.

Many people respond to the argument that we must place reasonable limitations on total immigration with the statement that we are a nation of immigrants and that to do so would be a repudiation of the inscription on the Statue of Liberty.

We, are, in fact, a nation of immigrants, just as are most other nations in the world. The only difference is that the immigration to other countries took place much earlier than our own. However, this has not stopped other nations, including those with large land masses such as Canada and Australia, from imposing reasonable immigration controls which are tied to their domestic needs.

As to the assertion that reasonable restraint would be a repudiation of the inscription on the Statue of Liberty—which, incidentally, were the words of a French poet and not a reasoned policy developed by the Congress or the people of the United States—I believe that reason must be applied here also. The statue was erected in 1884, when the population in the United States was about 50 million and we, as a nation, had what was thought to be an unlimited supply of energy, resources, and land. Today, we have a population well over 200 million, which is growing rapidly. In addition, we have an energy crisis, excessive pollution, mounting congestion, dwindling resources, high unemployment and decreasing rural land.

To fail to recognize these problems and to integrate them properly into our immigration program would be a mistake.

Mr. President, I am not advocating an isolationist policy which attempts to close our doors to all immigration. We can and should have an active immigration policy in the United States. I firmly believe that it is healthy for our country to have an infusion of new blood on a regular basis and that we have a moral duty to assist the homeless of the world in every reasonable fashion.

I am not unaware or unappreciative of the tremendous contribution that foreign-born individuals in the United States have made to the development of this great country. Certainly, we could not have populated and developed the vast areas of the United States in the manner that we did without those who came to us from foreign shores. The image of the United States as the great melting pot of the world has contributed to the strength that we have enjoyed throughout the entire world.

However, we must have a total immigration policy which is as fair to American citizens as it is to immigrants. We will never accomplish this as long as we continue deciding immigration questions in a piecemeal fashion and without adequate information on the ultimate consequences.

It seems that all of these questions arise at a time of great emotional appeal, when dire circumstances exist at some point in the world and we do not have information, we do not have real understanding of the economic, social, political, or demographic impact of our present immigration levels.

I believe that it is time that we act responsibly on this issue by discovering the facts before we continue down a road with so many potential pitfalls. Once we have traveled this road, it will be impossible to retrace our steps.

It is vitally important that we have a comprehensive immigration policy for the United States. That policy should be made by the Congress of the United States with a clear understanding of what we are doing and, with the citizens of the United States being fully aware of the policy we are developing. Furthermore, it should be a policy devised in the light of conditions which exist today and which anticipates our needs and our interests in the future.

My suggestion is simply that the time has come for a total review and reassessment of the immigration policies of the United States, including the refugee problem. This will enable us to have a better understanding of the scope of the problem that exists now and a better hope of developing the kind of policy and procedures that will be in the best interests of the citizens of this country—and, indeed, in the best interests of those who desire to immigrate and become citizens of the United States.

Another thing that it seems to me, Mr. President, has not entered into the discussion and debate and consideration of the legislation that we are considering now is what the impact of U.S. policy is on the rest of the world relating to refugees. Are we really helping solve the refugee problem by having a generous, open-ended, virtually unlimited policy or are in fact, creating more refugees? Some officials in Malaysia, Hong Kong, Indonesia, who are there every day, wrestling with this flood of refugees, have been highly critical of U.S. policy. They say that by going onto these vast programs, by announcing them, we are signaling to all those who are dissatisfied for any reason that the doors of the United States will always be open, that we will pay for their passage; we will guarantee them a job, sustenance for all their life, as a matter of fact. They say that we are, perhaps, creating more refugees than we are eliminating. I have heard very little discussion of that problem in the development of this particular legislation.

Mr. President, at the appropriate time, I shall offer some amendments that I think will improve this legislation, will lead us toward a saner refugee and immigration policy in the United States.

I thank the distinguished Senator for yielding to me at this time.

UNANIMOUS-CONSENT AGREEMENT—S. 1477

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Massachusetts let me proceed for 1 minute?

Mr. KENNEDY. Yes, Mr. President.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I ask unanimous con-

sent that, upon the disposition of the pending business, the Senate proceed to the consideration of Calendar Order No. 324, S. 1477, to provide for improvements in the structure and administration of the Federal Courts, and for other purposes, and that there be a time agreement on that bill as follows: One hour equally divided on the bill, to be controlled by Mr. DECONCINI and Mr. DOLE; 30 minutes on any amendment, to be equally divided in accordance with the usual form; 4 hours equally divided on the amendment to be offered by Mr. BUMPERS on administrative procedures; 20 minutes on any debatable motion, appeal, or point of order, if such point of order is submitted to the Senate for discussion; and that the agreement be in the usual form; provided further that, following the amending process on S. 1477 and just prior to third reading, S. 1477 be set aside until the Senate has considered and passed the original bill by Subcommittee on Improvements in Judicial Machinery on judicial tenure and that, upon passage of that bill, the language of that bill be considered as having been added to S. 1477 and that S. 1477 be considered as having been read a third time and passed.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, Mr. President, would the Senator from West Virginia allow us to have a short quorum call? I do not ask him to withdraw.

Mr. ROBERT C. BYRD. Mr. President, let me make one correction: The time on the minority side will be under the control of Mr. THURMOND.

Mr. STEVENS. Right.

Reserving the right to object further, Mr. President, it is my understanding that the bill that is before the Senate now will continue over until tomorrow if it is not finished this evening?

Mr. ROBERT C. BYRD. Yes, that is correct, Mr. President.

Mr. STEVENS. And we will then bring up this bill for consideration tomorrow.

Mr. ROBERT C. BYRD. After the disposition of the pending business.

Mr. STEVENS. The refugee bill, yes.

The additional provision setting aside this bill until the Senate has passed the original bill of the Subcommittee on Improvements in Judicial Machinery on judicial tenure—what will be the impact of that as far as the time agreement is concerned? Will that mean that this bill will be set aside tomorrow until this other bill is then considered?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. STEVENS. That was my further question. That other bill is not out of committee yet?

Mr. ROBERT C. BYRD. That is correct, Mr. President.

Just prior to third reading, the bill, S. 1477, would be set aside until such time as the original bill by the Subcommittee on Improvements in Judicial Machinery on judicial tenure is called up and passed.

Mr. STEVENS. Just so there is an understanding of that, I have no objection. I thank the majority leader for making the change. It is my understanding that the time will be under the control of the Senator from South Carolina.

Mr. ROBERT C. BYRD. That is correct, Mr. President, or his designee.

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

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1477 (Order No. 324), a bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes, debate on any amendment (except an amendment on administrative procedures to be offered by the Senator from Arkansas (Mr. Bumpers), on which there shall be 4 hours; 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 further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Arizona (Mr. DeConcini) 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.

UNANIMOUS-CONSENT AGREEMENT—S. 1125

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 268, S. 1125, the Federal crop insurance bill, is called up and made the business of the Senate—and it will not be called up until Monday—it will be the pending business on Monday if the other two matters are disposed of that we have just referred to—there be a time agreement on that bill as follows: Two hours on the bill, to be equally divided between Mr. HUDDLESTON and Mr. HELMS; 1 hour on any amendment, equally divided; 30 minutes on any amendment in the second degree, equally divided; 20 minutes on any debatable motion, appeal, or point of order if the Chair entertains discussion by the Senate on a point of order; and that the agreement be in the usual form.

Mr. STEVENS. There is no objection, Mr. President. I understand that, in any event, it would not be called up until Monday.

Mr. ROBERT C. BYRD. Until Monday.

Mr. STEVENS. There is no objection.

Mr. ROBERT C. BYRD. It would be the intention of the leadership to have that up on Monday. Mr. HUDDLESTON will be the manager on this side of the aisle.

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

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1125 (Order No. 268), a bill to improve and expand the Federal crop insurance program, debate on any amendment in the first degree 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 further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from North Carolina (Mr. HELMS): *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. ROBERT C. BYRD. Mr. President, I thank Senator KENNEDY for his indulgence.

May I just simply say that there will be rollcall votes tomorrow.

REFUGEE ACT OF 1979

The Senate continued with the consideration of S. 643.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from Kentucky has made a very extensive statement with regard to the figures and the statistics on the numbers of people who are entering into the United States. However, we have compiled immigrations figures, in a request to the Library of Congress, with the help of the Bureau of Census as well as the Immigration and Naturalization Service, which dispute his figures.

I will, as part of the RECORD, insert a copy of their report.

So rather than taking the time and making the general response to the Senator, I will make the Library of Congress report available to the Members of the Senate, in order to expedite consideration of the bill.

Then we will welcome the opportunity to consider the amendments of the Senator from Kentucky.

I ask unanimous consent that the Library of Congress report, prepared at the Judiciary Committee's request, be printed at this point in the RECORD, with supporting documents.

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

To Senate Judiciary Committee, Attention: Jerry Tinker, Counsel for Immigration and Refugee Affairs.

From Joyce Vialet, Specialist in Social Legislation, Education and Public Welfare Division.

Subject Assessment of Environmental Fund's Estimates of U.S. Population Growth.

This is in response to your request for an assessment of the National Parks and Conservation Association's assertion that "The United States has the fastest-growing population among industrialized nations in the world," based on a study by the Environmental Fund. According to documentation supplied to you by the Environmental Fund, "The largest component of U.S. growth is illegal immigration."

As discussed with you, we asked the Immigration and Naturalization Service to examine and comment on the Environmental Fund's estimate of undocumented immigration and its contribution to United States population growth. The INS analysis is attached. Summarizing briefly, the INS analysis concludes that the Environmental Fund's estimates are based on speculative assumptions about the number of illegal aliens, overstate recent rates of legal immigration, and fail to take into consideration emigration (outmigration from the United States) which has a significant negative impact on overall population growth.

The Environmental Fund publishes two U.S. population growth rate estimates in its chart entitled "World Population Estimates, 1978". Based on the INS analysis, the Environmental Fund's second or "alternative" estimate of current U.S. population growth at 1.7 percent per year, which is adjusted to include the Environmental Fund's estimate of illegal immigration, appears to be based on inadequate data and unwarranted assumptions. It is this figure which is the basis for the statement that the United States has the fastest-growing population among industrialized nations.

We also consulted with our Foreign Affairs and National Defense Division, which indicated that the population growth estimates for industrialized nations cited by the Environmental Fund appeared to be generally accurate, although they questioned the omission of Canada and several other countries from this category.

Using the Environmental Fund's first estimate of current annual U.S. population growth rate (.9%), which is higher than the Census Bureau's estimate, the following nations identified by the Environmental Fund as "industrialized" have population growth rates equal to or higher than the United States, based again on Environmental Fund figures: Japan (1%), Poland (1%), Romania (1%), Yugoslavia (1%), U.S.S.R. (.9%), and Australia (1%). In addition, the following countries categorized by the United Nations as "more developed" but not included in the Environmental Fund's category of "industrialized nations" also have equal or higher population growth rates: Canada (1.3%), Iceland (.9%), Ireland (1.1%), Albania (2.3%) Greece (.9%), Spain (1%), Argentina (1.3%), and Chile (1.5%).

Please let us know if we can be of further assistance.

ANALYSIS BY THE IMMIGRATION AND NATURALIZATION SERVICE OF THE ENVIRONMENTAL FUND'S ESTIMATE OF UNDOCUMENTED IMMIGRATION AND ITS CONTRIBUTION TO UNITED STATES POPULATION GROWTH

Accurate data on the size and characteristics of the undocumented population residing in the United States do not exist; therefore our comments on the undocumented population are directed toward the "evidence" provided by the Environmental Fund. The relative contributions of fertility, immigration and emigration to U.S. population growth are discussed briefly.

The Environmental Fund's method of estimating the growth of the undocumented population is speculative at best. The difference between the Census Bureau's estimate of 12 million persons of Hispanic origin in 1978 and the 16 million figure mentioned by the President could be the result of differences in data sources, population coverage, date of the estimates or a number of other factors not mentioned by the Environmental Fund. The conclusion that "in 1977–78 probably 850,000 illegal Hispanics were added to our population, adding .38 percent to our growth rate" is based on unverifiable assumptions about the rate of growth of an unknown population. Furthermore, no mention is made of the findings of two investigators (Korns, 1977 and Heer, 1978) that undocumented immigration appears to have increased considerably during the late 1960's but that there might have been little increase between 1970 and 1976.

We were unable to verify the Environmental Fund's figures on legal immigrants admitted during 1978 because the I&NS computer tallies of the 1978 data are still in progress. Regardless of its origin, the figure of 606,000 immigrants in 1978 is not representative of the recent annual level of immigration to the United States. During the 1970–1976 period the average number of immigrants admitted for permanent residence was slightly less than 400,000 per year. Furthermore, the Environmental Fund failed to mention emigration, which is a significant component of U.S. population change. Recent estimates by I&NS and Census Bureau demographers indicate that emigration from the United States amounts to roughly 150,000 persons each year. Thus the level of net immigration used by the Environmental Fund is approximately double the recent level of net immigration.

Fertility rather than immigration is likely to continue to be the major determinant of U.S. population growth in the future. For example, the most recent population projections of the Census Bureau (Series P–25, No. 704) indicate that the net addition of 400,000 immigrants annually for the next 25 years would increase the U.S. population by 12.6 million persons (10 million immigrants and 2.6 million descendants). During the same 25 year period, the number of births is projected to be 95.0 million, or nearly 10 times the projected number of immigrants.

In summary, the size and rate of change of the undocumented population residing in the United States is unknown. The available evidence suggests that a few million undocumented aliens could be residing in the United States but the rate of growth, if any, is unknown.

THE ENVIRONMENTAL FUND,
Washington, D.C., June 7, 1979.

Mr. JERRY TINKER,
Staff Director, Select Committee on Refugees, U.S. Senate, Washington, D.C.

DEAR MR. TINKER: Ms. Gerda Bikales of the National Parks and Conservation Association has told me of your interest in her recent testimony on refugees before the Senate Judiciary Committee and of concerns you had with some of the points therein.

I am enclosing an analysis of the statement that "the U.S. has the fastest growing population in the industrialized world." I believe it to be completely accurate.

As for the source of our material, it is all from the U.S. Bureau of the Census. Boyce Rensberger of the New York Times has written of our data:

"Its estimates, based on a variety of sources . . . are considered highly reliable because they include revisions and corrections for errors that, for a variety of reasons, are not included in the official reports of governments or international agencies." (B. Rensberger, *NY Times News Service*, November 15, 1978).

I hope that the enclosed analysis is helpful to you. Should you have any questions, please do not hesitate to contact me.

Sincerely,

PETER R. HUESSY.

ANALYSIS

Statement: The United States has the fastest-growing population among industrialized nations in the world.

Evidence: Last year, the number of births in the United States stood at 1.53 percent, deaths at .87 percent. This produced a natural increase of .66 percent.

During FY 1978, the latest period for which figures are available, the United States admitted 460,000 immigrants. 110,000 other people were granted permanent resident status. In addition, 36,000 refugee-parolees were admitted. This total of 606,000 additional people increased our population an additional .27 percent.

Natural increase, plus legal immigration, increases our population by .93 percent annually, nearly 1 percent a year.

To what extent does illegal immigration increase our population growth?

No doubt to a considerable degree. In order to be as conservative as possible, we have relied upon a statement by President Carter to answer this question.

The President recently noted that there are 16 million people of Hispanic origin in this country. The Census Bureau, on the other hand, counted only 12 million (as of March 1978). There are thus at least four million illegal Hispanics in this country, added to our country since 1970.

Annual population growth in the United States is the combination of natural increase (.66 percent) legal immigration (.27 percent) and illegal immigration (at least .38 percent). This total growth rate of 1.31 percent annually is, in fact, higher than that of any other industrialized nation in the world. A chart is attached that contains the growth rates of every nation in the world. The figures speak for themselves.

This rate of .38 percent annually assumes that illegal immigration has maintained a constant flow since 1970. Obviously, since the apprehension figures have increased more than 300 percent in that time, this is an extremely conservative assumption. Accordingly, the rate is no doubt higher than .38, and the 1.31 percent growth rate figure is also too low. In that illegal immigrants of Hispanic origin are only part of the total flow of illegal immigrants, the population growth rate of the U.S. is higher than indicated here; very much higher, if estimates of the INS officials are believed.

We know that illegal immigration has been increasing since 1970. Taking this into account, and starting with a total of 225,000 illegal residents added between 1970 and 1971, we reach a total of 4 million illegal "Hispanics" by 1978 by increasing the annual rate by 75,000 each successive year after 1971. Thus, in 1977–78 probably 850,000 illegal Hispanics were added to our population, adding .38 percent to our growth rate.

If the percentage rates sound insignificant, it must be remembered that these percentages are drawn from an enormous base number. The United States adds three million people to its population each year—a number that is exceeded only by India and China.

UP AMENDMENT NO. 527

(Purpose: To require that the President provide certain information in the consultation process to the Judiciary Committees and each House of Congress, and to require that each Judiciary Committee hold a hearing and issue a report on the President's proposal)

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

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 527.

Mr. HUDDLESTON. 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 6, line 3, insert "(A)" immediately after "(2)".

On page 6, line 11, insert ", the Speaker of the House of Representatives, and the President pro tempore of the Senate," immediately after "such members".

On page 6, line 11, strike out "may" and insert in lieu thereof "shall".

On page 6, line 12, strike out "(A)" and insert in lieu thereof "(i)".

On page 6, line 14, strike out "(B)" and insert in lieu thereof "(ii)".

On page 6, line 19, strike out "(C)" and insert in lieu thereof "(iii)".

On page 6, line 22, strike out "(D)" and insert in lieu thereof "(iv)".

On page 7, line 1, strike out "(E)" and insert in lieu thereof "(v)".

On page 7, line 4, strike out "(F)" and insert in lieu thereof "(vi)".

On page 7, between lines 5 and 6, insert the following:

"(B) Upon receipt of the information specified in subparagraph (A), the Judiciary Committee of the Senate and the Judiciary of the House shall each hold a hearing on such information and shall submit, within 30 days of continuous session of the Congress beginning on the date the consultation process concludes, a report to their respective Houses of Congress. For purposes of this subparagraph, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded.".

Mr. HUDDLESTON. Mr. President, this is the first of three amendments which I think will correct some of the problems connected with S. 643 which I have outlined in my opening statement.

The amendments which I offer were arrived at after long and protracted discussions with the administration and the Senate Judiciary Committee. I am told that these amendments are acceptable to the Judiciary Committee on both the majority and minority side. Also, these amendments have been shown to the administration and it does not oppose them.

I believe that amendments will go a long way toward establishing an effective means of establishing reasonable refugee admissions into this country. They will strengthen the consultation requirement with Congress, provide a more effective screening device for admitting refugees above the normal flow level, and assure a timely congressional review of the new quotas.

I still believe that we have a long way to go before establishing a comprehensive and rational immigration policy but, I am convinced that this is a good beginning. This bill and the amendments have generated a great deal of discussion about our immigration policy and, in the final analysis, it will be this public attention which will be determinative. S. 643 still has to undergo close scrutiny in the House and I am certain that some of the discussions which began here in the Senate will be carried on there.

The first amendment would firmly establish that the whole Congress shall have input into a decision to increase the refugee admissions before that decision is finalized. The amendment would require the President to provide detailed information on:

First, description of the refugee situation;

Second, a description of the refugees who may be admitted, plans for their resettlement, estimated cost of their resettlement, analysis of their resettleability, and an analysis of conditions within the countries from which they originated:

Third, an analysis of the anticipated social, economic and demographic impact to the United States;

Fourth, a description of the extent to which other countries will admit and assist in the resettlement of such refugees;

Fifth, an analysis of the impact of the United States' participation in the resettlement of such refugees on U.S. foreign policy interests; and

Sixth, such additional information as may be appropriate.

Further, it would require the Judiciary Committee to hold public hearings on the proposal to admit more than the normal flow and to issue a report on the proposal within 30 days.

Members of Congress will have the opportunity to either agree or disagree with the proposal at the hearings. In the event that Members do not have a prior opinion on the proposal, they will have the benefit of receiving all the facts in the form of a committee report. This is a tremendous improvement over the present informal method of deciding to admit large numbers of refugees before the whole Congress is fully aware of the details. I believe that this amendment will firmly establish the principal that Congress, as a whole, will establish immigration policy for the country in an informed and open manner.

I believe the manager of the bill has indicated that this would be acceptable.

Mr. KENNEDY. Does this amendment, which, as I understand it, combines some of the other amendments that the Senator from Kentucky was going to offer, but does it include the sunset provisions, or not; is that included?

Mr. HUDDLESTON. The sunset provision is not in this.

Mr. KENNEDY. It is not in this amendment?

Mr HUDDLESTON. It is in a later amendment.

Mr. KENNEDY. Mr. President, the amendment that the Senator offers is entirely agreeable to me.

I would urge the Senate to accept it. It identifies the areas of special responsibility which we, as a country, would feel about those refugees.

It seems to me that makes commonsense. It has been our past tradition in terms of refugee circumstances—that is barring the other kinds of inhibitions which have existed in refugee policy.

The idea of a report and a hearing is completely acceptable, I hope the members of the committee would accept this amendment.

What we have attempted to do in the other provisions of the legislation is to require the administration to set out before the beginning of the fiscal year, what the expectation is going to be over the period of the year so that Congress would have some degree of understanding as to the numbers of refugees to be admitted. That does not exist at the present time.

Obviously, by the nature of the subject matter we are considering today, it is not always easy to do this because of the nature of the problem of refugees. Refugee movements do not rise and fall according to a Senate budget calendar or the appropriations process. But, to the best of their judgment the administration is trying to estimate the nature of future refugee needs so that the Members of the Senate will know those facts early in our budgetary process.

The Senator from Kentucky wants to insure that we have a hearing on these special requests. That seems to be entirely desirable, that the information be available to the Senate, that a report be made. I think that is advisable.

What has happened in the past is that one or two members of the Judiciary Committee would be notified one evening and arrive the next. Perhaps an appropriations subcommittee would be marking up something at a particular time, and these matters would move on through without, I think, full notice and awareness of the Senate.

We have been aware of that and we are trying to regularize the process.

I think the recommendation the Senator from Kentucky has made in these areas would be useful and helpful and carry on the spirit of the legislation.

So I would urge acceptance of them by the Senate.

Mr. HUDDLESTON. I thank the distinguished Senator.

Mr. KENNEDY. I am prepared, unless others want to speak to it, to just yield back the remainder of time on the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUDDLESTON. I will yield back my time on this amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 527) was agreed to.

UP AMENDMENT NO. 528

(Purpose: To amend the standard upon which the President admits refugees above the 50,000 quota under section 207(a)(1))

Mr. HUDDLESTON. Mr. President, I send to the desk another amendment.

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 528.

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

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

The amendment is as follows:

On page 5, beginning on line 13, strike out "special concern to the United States who will be in need of resettlement" and insert in lieu thereof "special responsibility to the United States."

Mr. HUDDLESTON. Mr. President, my second amendment would address the fact that the United States cannot respond to the needs of all 14 million refugees in the world today and the many millions who will be added in the future. The bill attempts to focus our resettlement assistance for refugees above the normal flow number on those refugees of special concern to the United States who will be in need of resettlement. Unfortunately, the concept "special concern" can have virtually any meaning and does not serve as an effective focusing device.

My amendment would require that the United States have a "special responsibility" for those refugees who are admitted above the normal flow level. It means that the United States must have a special relationship with that group of refugees. This could include a close social, economic, cultural, or political association that is not shared with other groups of refugees. Even though "special responsibility" has a narrower meaning than "special concern," it is still flexible enough to allow the President, in consultation with Congress, a great deal of latitude in providing reasonable assistance for refugees.

Since the United States is establishing a normal flow of 50,000 refugees per year, I believe that it is not unreasonable to require a "special responsibility" before exceeding it. Although this would be the first criteria to be met it would not automatically assure the admission of a particular group of refugees. The President would still be required to fully consult with Congress and provide ample justification for his decision to exceed the normal flow quota.

I believe this amendment is acceptable to the manager of the bill.

Mr. KENNEDY. It is entirely acceptable for the reasons I gave earlier.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back my time.

Mr. HUDDLESTON. I yield back my time.

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

The amendment was agreed to.

UP AMENDMENT NO. 529

(Purpose: To amend the purpose provisions of the Act, and to terminate the authority to admit fifty thousand refugees in any fiscal year without prior consultation with the Committees on the Judiciary)

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

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 529.

Mr. HUDDLESTON. 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 2, between lines 17 and 18, insert the following:

(b) The Congress finds that the new immigration quotas established by this Act should be subjected to a timely review and reevaluation taking into consideration recommendations which may be made by the Select Commission on Immigration and Refugee Policy.

On page 2, line 18, strike out "(b)" and insert in lieu thereof "(c)".

On page 5, line 4, insert "(A)" immediately after "(1)".

On page 6, between lines 2 and 3, insert the following:

"(B) At the end of the fiscal year ending September 30, 1982, the authority under subparagraph (A) to admit fifty thousand refugees in any fiscal year without prior consultation with the Committees on the Judiciary of the Senate and the House of Representatives under paragraph (2) of this section shall terminate. Thereafter, all refugee admissions under subparagraph (A) shall be granted in any fiscal year in accordance with a determination made by the President, prior to the beginning of the fiscal year and after consultation in accordance with paragraph (2) of this section by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special responsibility to the United States who will be in need of resettlement. Refugee admissions shall be allocated in accordance with the provisions of subparagraph (A).

Mr. HUDDLESTON. Mr. President, my third amendment would terminate the increased 50,000 per year refugee quota after 3 years leaving only the special admission procedures under the remainder of the bill.

There has been a great deal of discussion and controversy about the need and wisdom of increasing the total U.S. yearly immigration quota in this manner. I am one of those who believe that we do not have sufficient information to make this determination at this time. Further, I believe that it would undermine the responsibility of the Select Commission on Immigration and Refugee Policy in its effort to make constructive recommendations on refugee numerical limitations. However, there are others who hold strongly to the contrary view.

In an effort to deal constructively with this issue, I have decided to introduce this amendment. In essence, the amendment would "sunset" the 50,000 per year after 3 years. In effect this guarantees that Congress will come back to this issue in 3 years and reevaluate its actions at that time. In so doing we are assured that this controversial change will not be firmly implanted forever in statutory law. Also, it would assure that the select commission can carry out its mission of fully evaluating refugee policy with the knowledge that its recommendations will be seriously considered within 3 years.

The most important aspect of this "sunset" provision is that it dramatizes the fact that the increased quota is highly controversial and that both sides recognize that fact. Hopefully, this action will focus more public attention on this provision in the bill and bring about an eventual final settlement of the issue.

I believe this amendment, also, has been considered by the manager of the bill.

Mr. KENNEDY. Mr. President, the Senate has debated sunset provisions in the past. I think there are many more deserving aspects of law that are worthy of sunsetting than this particular provision. However, I have indicated to the Senator from Kentucky that the Select Commission on Immigration and Refugee Policy will be reporting to the Senate within 2 years. They will be making general recommendations in terms of immigration as well as refugee policy, and this perhaps gives some additional support and legitimacy to their efforts, at least so far as I am concerned. Although my own sense is that we really are not achieving a great deal by sunsetting just the 50,000 normal flow ceiling in the bill.

Actually, the other provisions that regularize the process will remain intact. The equal treatment of refugees from different parts of the world will remain intact. Those aspects are not being altered or changed by the amendment of the Senator from Kentucky. It is just the normal flow figure.

So I would be willing to take the amendment to conference and find out what our other colleagues feel as to that particular provision.

I feel that it probably is not necessary. I would rather leave the figure in and then adjust it, change it or abolish it, depending on the Select Commission's recommendations, rather than doing it the other way. I know the Senator from Kentucky feels strongly about it, and I am willing to recommend that we accept it and find out what the other Members feel about that provision.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor of the three amendments I have just offered.

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

Mr. THURMOND. Mr. President, I believe the amendment is meritorious. I have joined the distinguished Senator as a cosponsor of the amendment, and I am pleased to support it.

Mr. KENNEDY. I yield back the remainder of my time, Mr. President.

Mr. HUDDLESTON. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I understand that an amendment is to be offered by Senator CRANSTON and Senator HAYAKAWA. Also, an amendment proba-

bly will be offered by the Senator from Florida (Mr. CHILES), and another will be offered by the Senator from Utah (Mr. HATCH). Mr. SARBANES and Mr. DOLE wish to speak with respect to this measure.

I doubt we can conclude action on the measure this evening. The leader has given assurance that we will be able to bring up this matter at the earliest possible hour in the morning, and we hope to be able to conclude it at an early time in the morning.

Mr. President, I understand that Senator DOLE is on his way to the Chamber. I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. KENNEDY. How much time does the Senator from Kansas want?

Mr. DOLE. One minute, maybe two minutes.

Mr. KENNEDY. I yield to the Senator.

Mr. DOLE. Mr. President, in the last weeks the attention of the Senate, and indeed the world, has been repeatedly directed to the plight of Indochinese refugees. On June 25 I introduced a concurrent resolution along with the Representative from New York (Mr. SOLARZ). That same day, I incorporated the language of the resolution to an amendment to the appropriations bill introduced by my colleague (Senator BOSCHWITZ). That legislation called for increasing our assistance and resettlement of refugees and was passed by the Senate. Heeding to congressional initiative, the President came out in total support of our action by announcing at the Tokyo summit meetings that the number of refugees the United States would accept would be doubled, thus setting an example for other nations.

Other nations have also pledged to increase their efforts to deal with the problem. As a result of the U.N. Conference on Refugees held in Geneva on July 20 and 21, a total of 260,000 refugees have been promised asylum by the 65 nations participating in the conference. This was an increase from only 125,000 resettlement places available as of May of this year. In the recent public discussions of this problem much reference has been made to the 1938 conference held in Evian, Switzerland which produced no real assistance for the persecuted Jews of Nazi Germany and Austria. I am gratified that the international community has refused to repeat history, and is committed to taking concrete steps to aid those refugees.

Even so, Mr. President, there is no time to lose. Some 350,000 refugees are scattered around Southeast Asia. Secretary of State Vance, in testifying before the Judiciary Committee on July 26, made the rough guess that tens of thousands of boat people have died in the current exodus from Vietnam. Of course, it is impossible to quantify the outrages being inflicted on the refugees of Indochina. As Secretary Vance pointed out in his testimony, Vietnam has not indicated any intention to moderate its efforts to expel ethnic Chinese from within its borders.

The United States has by no means been negligent in its efforts to deal with the problem, having accepted the largest number of Indochinese refugees to date. Other nations, including France, the Philippines, Indonesia, Great Britain, Canada, and China have aided in the resettlement of refugees.

Now, with the bill that is before the Senate, the United States has the opportunity to step forward and provide once again the leadership in dealing with the problems of refugees on the long-term basis that is called for. Though the Judiciary Committee favorably reported out S. 643 by unanimous vote on July 17, this bill has been held from consideration by the Senate to allow the asylum nations of the world to deliberate at the U.N. conference and chart the course of further international humanitarian efforts. Indeed, the feeling was, and justly so, that the United States cannot and should not be expected to support all of the refugees without assistance from other countries.

I urge my colleagues to vote favorably on S. 643. This bill establishes a uniform and comprehensive policy toward refugees that would correct the injustices and simplify the complexity of the present maze of procedures. It creates an orderly mechanism for accepting changing numbers of refugees, all the while insuring congressional participation in refugee policy. Certainly this response to the refugee problem will not be cheap. The anticipated cost of this refugee assistance program for fiscal year 1980 is $404.4 million. Yet other nations are also investing their resources in this effort. For example, Japan has promised to underwrite up to half of the costs of the U.N. refugee program.

There are legitimate concerns about the possible impact of this bill. The United States should not shoulder the humanitarian burden of resettling refugees alone. The response of the international community at the Geneva conference suggests that other nations will meet their responsibilities in this regard, and we must encourage them to continue to do so.

In addition, Mr. President, we must never fail to remember that the whole reason for a refugee problem is that countries like Vietnam and Cambodia produce refugees. Though Vietnam has promised to regulate the flow of refugees, it has not promised to moderate its policy of expatriating ethnic Chinese. On the contrary, Vietnam has promised before that it would not adopt such discriminatory policies. In the Vietnam Peace Agreement signed in 1973, the South Vietnamese parties, including the Hanoi-backed Vietcong, promised in article 11 of the document, to ensure the liberties of all the people, including, and I quote, "Freedom of Residence." Such is the credibility of the governments which produce refugees.

We must also care that any refugee policy we embrace does not allow our humanitarian impulse to be twisted into the means by which other nations can expatriate their unwanted minorities with impunity. Such blatant violations of basic rights we cannot countenance.

I believe S. 643 allows us to offer reasonable resettlement opportunities to refugees while allowing us the flexibility to deal with the problems I have just mentioned. Furthermore, we as a people benefit from our reception of refugees. Throughout our history, repeated immigration to our land has fertilized us with the talents, hard work, and dedication of people from a variety of other lands.

Once again, I urge the Senate to support this measure.

I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. On anyone's time.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 391

(Purpose: To provide continued Federal reimbursement for public assistance to Indochina refugees for two years and thereafter to limit such assistance to Indochina refugees in the United States for less than thirty-six months)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. HAYAKAWA proposes amendment numbered 391.

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

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

The amendment is as follows:

On page 20, line 18, strike out "No payment" and insert in lieu thereof "Except as provided in paragraph (5), no payment".

On page 21, line 11, strike out the close quotation marks and the second period.

On page 21, between lines 11 and 12, insert the following:

"(5) Payment may be made under paragraph (G) with respect to aid or services, furnished directly or through a project or program, to any Indochina refugee who entered the United States prior to October 1, 1979, without regard to the limitation specified in paragraph (2) of subsection (b) for the fiscal years ending September 30, 1980, and September 30, 1981, and thereafter such payments may be made for aid and services furnished under paragraph (G) to any Indochina refugee who entered the United States less than thirty-six months prior to receiving such aid or assistance. For the purposes of this paragraph, the term 'Indochina ref-

ugee' means a refugee from Cambodia, Vietnam, or Laos.".

UP AMENDMENT NO. 530

(Purpose: To provide that the two-year limitation on payments under section 2(b)(2) of the Migration and Refugee Assistance Act of 1962 not apply during the period beginning on the date of enactment and ending on September 30, 1981)

Mr. CRANSTON. Mr. President, I send to the desk a substitute for the amendment.

The PRESIDING OFFICER. Has the time on the amendment been yielded back?

Mr. CRANSTON. On which amendment?

The PRESIDING OFFICER. Until the time on the amendment has been yielded back a substitute amendment will not be in order.

Mr. CRANSTON. All right. I yield back time on the original amendment.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. I yield back my time on the amendment.

The PRESIDING OFFICER. All time is yielded back.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself and Mr. HAYAKAWA proposes an unprinted amendment No. 530 to amendment No. 391.

Mr. CRANSTON. 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 1, beginning on line 2, strike out "Except as provided in paragraph (5), no payment" and insert in lieu thereof "(A) Subject to the provisions of subparagraph (B) of this paragraph, no payment".

On page 2, strike out lines 1 through 16 and insert in lieu thereof the following:

On page 20, after line 24, add the following:

"(B) The period beginning on the date of enactment of this Act and ending September 30, 1980, shall not be counted for purposes of computing the twenty-four month limitation period specified in subparagraph (A) of this paragraph.".

Mr. CRANSTON. Mr. President, the original amendment was offered by Senator HAYAKAWA and myself, and we have now offered the substitute amendment.

I want to thank the two Senators handling the bill on the floor, the chairman and the ranking member of the Judiciary Committee, Senator KENNEDY and Senator THURMOND, for their thoughtful cooperation in working out an acceptable form of this amendment that deals with the very, very difficult problem concerning the refugees in our country and the expenses that are entailed in their presence here until they are able to stand on their own feet.

The amendment provides continued Federal funding for full reimbursement of cash and medical assistance provided to Indochina refugees under the Indochina refugee assistance program (IRAP) for 1 year.

The effect of the bill will be to terminate at the end of this month full Federal reimbursement for cash and medical assistance provided to Indochina refugees who entered the country prior to September 30, 1977. This constitutes the great majority of the 213,000 or so refugees from Southeast Asia currently living in the United States.

Of this number, "officially" about 59,000 live in California. The remainder live in Texas, Pennsylvania, Louisiana, Virginia, Washington, Florida, Illinois, New York and Minnesota, in that order.

The fact is no one really knows where all the Indochina refugees actually live. No Federal agency has conducted a census of refugees.

There is reason to believe that as many as 100,000 live in California and not where HEW assumes they live.

The California Department of Social Services does know that 43,000 Indochina refugees presently receive cash assistance. If my State's "official" refugee population is accurate, over 67 percent of the refugees in California are on welfare. A shocking statistic. However, I have reason to believe that the refugee population in California is much higher than generally reported by official sources.

The majority of these refugees on assistance actually work. But they work at menial jobs at minimum wages with which they attempt to support families often numbering in excess of ten persons. It cannot be done. Therefore, they receive supplemental cash assistance.

Most of these 43,000 welfare refugees arrived before September 30, 1977, according to the State. The direct result of the committee bill will be to shift a substantial portion of their cash and medical assistance subsidy onto State and local taxpayers. It will still be paid. It will just be a shift as to who pays it.

The long-term consequences of this shift can be better appreciated when we look at data from Los Angeles County which show that the average refugee case has been on the welfare rolls for more than 30 months while the average domestic welfare case has been on the rolls for only 22 months. This implies that the refugees are not becoming economical self-sufficient as originally expected.

It also implies that as new refugees enter the country we can expect a substantial percentage to go immediately onto some form of welfare assistance.

The amendment I am offering with Senator HAYAKAWA is intended to give the States 1 year to increase and strengthen their social service programs to refugees. The committee bill generously provides an open authorization without a time limit for appropriations to fund social services provided by State and local governments to refugees. Clearly, this money needs to be utilized aggressively by the States to train and educate refugees to become self-sufficient.

The California legislature under the leadership of Speaker Leo McCarthy is accepting new responsibility for legislative oversight of State social service programs to refugees. Hearings by the Health Subcommittee, chaired by Assemblyman Art Torres, will be held in Los Angeles the week of September 17. I am confident these efforts will produce good results in California.

By relieving States and local governments of extra welfare costs, my amendment assures that earlier refugees will not be discriminated against in favor of the newcomers.

The costs of our amendment will be $110 million in 1980.

Unless job and language training programs are very successful, California and the Nation will have a substantial subclass of persons with increasing social problems.

Few in Government anywhere are fully aware of the dimensions of the social problems confronting us as we undertake the humanitarian response to persons fleeing certain death. I totally support the policy of S. 643. I know that my good friend, Senator KENNEDY, knows of my support. I know that he shares this grave concern.

The task ahead of us is indeed large and it will be an expensive undertaking. There is no way to mask that fact.

I have supported limitations on Federal reimbursement for refugee costs because I feel that the States, including my State of California, should be under some constraint to seek affirmatively ways of helping the refugees to become self-supporting. But the burden must not fall on a handful of States and counties exclusively. The Federal Government needs to do its share. One reason it should do its share is that it is national policy, not local governmental policies, that has led to the presence of the refugees in this country. My amendment helps to see to it that the Federal Government does indeed do its share.

The Department of HEW has not given the refugee problem the priority attention needed if we are to avoid some very serious social problems ahead. As a member of the Committee on Labor and Human Resources, I intend to pursue this matter vigorously with the Department.

I want to express my great appreciation to my fellow Californian, Senator HAYAKAWA, for his support of my amendment and for his unwavering commitment to the well-being of refugees. We have worked together consistently on the problems of Indochina refugees for the past 3 years. His collaboration has been most welcome, very effective, and I thank him for that.

I again thank Senator KENNEDY and Senator THURMOND, and I urge the Senate to support our proposal.

The PRESIDING OFFICER (Mr. PRYOR). Who yields time?

Mr. KENNEDY. I think the Senator from California has the time. However, I will be glad to yield the time.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. I thank the Senator.

This substitute amendment which I have introduced with Senator CRANSTON to the Refugee Assistance Act of 1979 would provide continued Federal reimbursement for 1 more year to all Indochinese refugees who are still in need of assistance. Refugees who enter the

United States after the bill is passed would be provided with 2 years' assistance by the Federal Government under this legislation.

These costs are currently covered for the Indochinese refugees under the Indochina Refugee Migration and Assistance Act which will expire September 30. This authorizing statute has paid for the assistance given to Indochinese refugees since their arrival in the United States in 1975.

S. 643, as it was amended by the Judiciary Committee, will continue with the "special project" funds currently authorized in the Indochina Migration and Refugee Assistance Act to provide $40 million annually for special projects and programs. However, the bill limits the 100-percent Federal support of medical, cash, and employment programs to the first 2 years after the refugee's entry into the United States. This would place an enormous burden on those States in which the refugees have settled. Despite the fact that these remarkable people have achieved an impressive record of assimilation into our society, many of the refugees require more than 2 years to become self-sufficient. A thoroughly adequate period of time is needed to properly complete the resettlement process.

The withdrawal of Federal funds at this point, when the refugees are still in need of this assistance, would place the financial burden of this task on private agencies and State and local governments. This would mean an especially heavy burden on those States in which the refugees tend to settle. In Los Angeles County, the data shows that 88 percent of the IRAP caseload are refugees who have been in the United States for 36 months or more, demonstrating that Federal aid should be continued for a period of time longer than the amount of time proposed by the legislation.

Terminating 100 percent Federal assistance for refuges already in the United States would cost State and local governments at least $110 million by 1981. California alone would have to bear more than $60 million of this cost. Approximately 27 percent of the refugees are now in California. In Los Angeles County alone, one-third of the 16,000 Indochinese welfare recipients migrated to the county from other States. States with high concentrations of Indochinese refugees—California, Texas, Pennsylvania, Louisiana, Washington, Virginia, Illinois, Florida, New York, and Minnesota—can expect to continue receiving large numbers of refugees, as new admissions favor those with relatives in the United States, and the remigration process within the United States is further concentrating refugees. This will present problems for local communities unless Federal funds can be continued for one more year to meet the resettlement needs of the refugees.

Mr. President, I am proud of the ways in which America has responded to the Indochinese refugee crisis. I get letters every day from constituents who express their concern for the refugees in Southeast Asia. They often offer to send assistance to needy refugees, or to help them into the society when they get to the United States. But some constituents express their concerns that the refugees will become an economic drain to their local communities. I believe that it is vitally important that the Federal Government alleviate the concerns of these citizens by bearing the burden of the cost of the Indochinese refugees for a reasonable period of time.

The conflict in Southeast Asia was a burden that was borne jointly by all the States. The refugee crisis that resulted from that conflict is also a burden to be borne corporately as a nation. President Carter has responded with concern and compassion to the plight of the refugees, and Vice President MONDALE, in addressing the U.N. Conference on Indochinese refugees in Geneva outlined the immediate steps needed to be taken to deal with the refugee crisis. Special delegations of congressional leaders have been sent to the refugee camps to view the conditions there. And now, as the refugees are accepted into the United States to begin to live new lives in this free country, it is imperative that the Federal support continue.

The disproportionate burdens to local property taxpayers should Federal support be prematurely cut off has moved the National Association of Counties to urge Congress to enact legislation that would extend the Indochinese Refugee Assistance Program at 100 percent Federal funding for income and medical assistance and social services.

The American people stand ready to help the needy people of the world, and this refugee legislation is a noble effort in that regard. However, we must be prepared to follow through with that effort, and provide for the needs of the refugees for a reasonable period of time once they have entered the country. It would be counterproductive to our aims to cause the financial burden of the refugees to be borne in a few local areas. We must be prepared, as a nation, to provide the financial assistance the Indochinese refugees need to become self-sufficient members of this society.

May I also at this point thank the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from South Carolina (Mr. THURMOND) for their assistance in working out a program plan which makes sense to all of us, to Senator CRANSTON and to me, as well as to both of them.

Mr. KENNEDY. Mr. President, I urge the Senate to accept the amendment of the Senators from California (Mr. CRANSTON and Mr. HAYAKAWA). The purpose of the legislation is to try to bring our various refugee programs into some orderly fashion and procedure, to give a clear signal to the States and local communities about what they might, and might not, expect over the period of the next several years.

I think many communities have done an absolutely extraordinary job in welcoming these refugees. I can remember very powerful testimony by Governor Ray of Iowa. When I was out in Iowa I had the opportunity of talking with some of those who were involved in the excellent refugee settlement program in that State. In fact, I want to note that my distinguished colleague on the Judiciary Committee, the Senator from Iowa, (Mr. CULVER) joins in supporting this amendment.

The States and local communities in many instances have done an absolutely superb job. On the one hand, we want to make sure that they do not assume unnecessary burdens in the resettlement of these refugees, and on the other hand we have some responsibility to insure that there is not going to be an unlimited, open-endedness to these Federal programs. California has a unique situation in that it has the largest number of refugees of any particular State, and, as the Senators have pointed out, there is a great deal of secondary movement among the refugees in this country, such as probably exists in the general population, moving to California in joining families and joining with other groups as they become more familiar both with the language and with the country.

We have had communications from California legislators, including the speaker of the California Assembly, Mr. Leo McCarthy, who has indicated that a very extensive study is now under way about the California situation, trying to make recommendations to their own legislature and to make information available to us, so that they can accept their responsibility within that State, and also so that they can get greater documentation for more responsible planning in the future.

It seems to me that this amendment provides some degree of transition. It also establishes very clearly, we hope, a degree of certainty as to what expenditures can be expected over the period of these next several years. I hope that the Senate will accept the amendment, and that there will be no objection to it. I am prepared to yield back the remainder of our time.

Mr. THURMOND. Mr. President, this is a matter which I have had considerable doubt about. We have reached a compromise on it that will allow one more year for these people to be trained and integrated into society. Then any new people coming in would have just 2 years.

I am sure the American people want to help refugees all they can. The people of our country are sympathetic, and no people have been more generous than the people of the United States. But I emphasize again that the people of the United States cannot support all the refugees in the world, and when refugees have been here for a period of 2 years, it is my opinion that by then they ought to be trained and be on their own. We just cannot carry these people on, year after year after year. We are doing more for them than we do for our own people, because they are receiving grants, handouts, welfare, and other forms of aid here when our own people do not get it.

We think probably in this particular case it is warranted to do this, but it will be my policy to take the position that after refugees have been here for 2 years, they have had time enough to be trained, and ought to go on their own.

In view of the situation as it exists

now, I will agree to go along with this amendment as it has been amended, and I am ready to yield back the remainder of my time.

Mr. CRANSTON. I thank the Senator very much. I think we are prepared to yield back the remainder of our time.

Mr. KENNEDY. We yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment in the second degree.

The amendment (UP No. 530) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the first degree amendment, as amended.

The amendment (No. 391, as amended) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 531

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) offers an unprinted amendment numbered 531:

On Page 7, between lines 5 and 6, insert the following:

The information provided in subparagraphs (A) through (E) of this paragraph shall also be provided to the Governors of each State, along with information regarding the number of refugees to be admitted, and a description of Federal programs available to assist in the resettlement of refugees.

Mr. HART. Mr. President, first I want to commend the distinguished Senator from Massachusetts for his leadership on the refugee problem, which I think is becoming more and more apparent to more and more Americans as a serious problem, not only for the world but for this country specifically as we attempt to shoulder a larger piece of the whole problem of the refugees, particularly from the Southeast Asian region.

One of the problems that have surfaced particularly in the State of Colorado is the fact that as more and more refugees have arrived, and a number of thousands of them have arrived from Southeast Asia in the Denver area, conflicts have arisen between those refugees and the people native to the area, many of whom are minority people. There is great conflict over housing accommodations, which are still a considerable problem in the Denver area, particular between Vietnamese refugees and the Chicano community.

There is a strong feeling, particularly on the part of the Governor of Colorado and I think many of his colleagues in other States, that it would be one measure of considerable help to the State governments in this country in planning to accommodate the increasing numbers of refugees if they had information available about the long-range plans of the Federal Government to take in refugees, the numbers, character, and size of families involved, and any other data that the State Department or any other agency of the Federal Government may have.

That information is made available to Congress. It is essentially the same information that this amendment would require be made available to the State Governors of this country, so that they can make planning arrangements and housing arrangements, working with the cities and the local communities, to accommodate the refugees that are arriving.

It is a commonsense amendment, which assures that the States will have the same information available to them that the Federal Government and Congress have. I am hopeful that the Senator from Massachusetts will accept this amendment and that it will become a part of this very important bill.

Mr. KENNEDY. Mr. President, I welcome the amendment of the Senator from Colorado. Clearly one of the important aspects of this bill is to get information out on the resettlement of refugees, both to Congress and to the American people. The Senator from Colorado has pointed out the importance of the Governors, who accept important leadership responsibilities in the development of these programs, with church groups and voluntary agencies.

Clearly, the information that comes to Congress ought to go to the Governors. I think it is a very constructive, helpful, and positive contribution to the legislation. I urge the Senate to accept it.

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

Mr. HART. I thank the Senator.

Mr. THURMOND. Mr. President, the amendment appears to be meritorious. I do not know of any objection to it. I am willing to accept it.

I yield back my time.

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

The PRESIDING OFFICER. All time has been yielded back.

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

The amendment was agreed to.

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

Mr. KENNEDY. 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, may I inquire of the Senator from Massachusetts as to whether or not there is going to be a rollcall vote on passage of the bill?

Mr. KENNEDY. I should like to, if we can get through tonight.

Mr. ROBERT C. BYRD. Mr. President, will there be a rollcall vote on passage?

Mr. KENNEDY. There will be.

Mr. ROBERT C. BYRD. May we order it now?

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

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, there is a possibility, as I understand it, that the bill may be finished today. That is not certain, because there is an amendment, I believe, that is under discussion at this time. It depends on how that is resolved. I suggest Senators may wish to stay around a little while yet so that the outcome may become more clear.

Mr. President, I suggest the absence of a quorum and I ask that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHILES. 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. 532

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

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Mr. STONE, proposes an unprinted amendment numbered 532.

Mr. CHILES. 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 20, line 23, insert the following: "Except that for Cuban refugees who entered the United States and received assistance prior to October 1, 1979, assistance will be reimbursed at the rate of 75 percent of non-federal costs in fiscal year 1980, 60 percent in fiscal year 1981, 45 percent in fiscal year 1982. No reimbursement will be provided for these costs after September 30, 1983, except for the costs associated with current recipients of supplemental security income, for which 100 percent funding will be provided for all years; no recipients who become eligible for supplemental security income after September 30, 1978, will receive this special treatment."

Mr. CHILES. Mr. President, this amendment brings the refugee assistance

authorization into conformity with the 6-year phaseout compromise which was adopted in the 1978 Labor-HEW appropriations bill. This compromise has passed the Senate in each of the last 3 years. Since 2 years of the phasedown have already passed, this amendment only deals with the 3 years of 1980 to 1982.

Cuban refugee assistance is currently funded on an open-ended basis under the Migration and Refugee Assistance Act of 1962. The bill reported by the Judiciary Committee provides 2 years of funding for refugees newly entering the country. Unfortunately, it would abruptly terminate the funding of the Cuban refugee program. Appropriations for the Cuban program have already been reduced from a peak of $145 million in 1973, down to $53 million in the 1980 conference report. The Appropriations Committee has worked out an orderly phase down, and I believe we ought to keep that compromise, which has been accepted by both the House and the administration. The administration bill provided a total exemption for current Cuban refugees from the 2-year limit. This amendment is therefore tighter than the administration proposal, and reduces the phase down by 1 year.

Mr. President, most people are not familiar with the important facts and figures about the Cuban refugee assistance program. Since 1959, approximately 700,000 Cubans have come to the United States. To give you an idea of what that means, that is more people than live in the city of Boston. Almost 500,000 of the Cubans have ended up in Dade County, Fla. That is a level of impact far beyond any other refugee group affected by this legislation. Most people are not aware that we airlifted Cubans to the United States as recently as 1974, when an additional 5,000 Cubans came to Florida.

While the Cuban community has been a major asset to Dade County, the large influx also has imposed many costs. Our schools must be truly bilingual for all students. A disproportionate number of the refugees were elderly and disabled, who were pushed out of Cuba. That is why we find that while only 25 percent of Dade County's population is Cuban, a full two-thirds of Dade County's SSI population is Cuban. To get SSI, you must be both poor and either elderly or disabled. It is only this most disadvantaged group which we have singled out for 100-percent funding. That will not be a permanent cost, since it only refers to the elderly and disabled currently in the rolls. They need a tremendous amount of medical and social services, and that is what we have agreed to provide in the appropriations compromise, and what I hope we will agree to in this amendment.

Mr. President, I have discussed this amendment with the chairman and the ranking minority member. I hope they will accept the amendment.

Mr. KENNEDY. Mr. President, the Senator from Florida has reviewed the long history of this program. It has been an extremely unique program. The actual scaling down of the figures would clearly indicate that the State and local communities are prepared to assume these responsibilities. I think it is a worthwhile amendment. I strongly recommend that the Senate be willing to accept it.

Mr. THURMOND. Mr. President, this has been a very tough question for me to act on, frankly. My opinion is that after people have been here 2 years, that is a long enough time to get them trained and to give them the assistance that is needed. I get deeply concerned when people feel they can stay here year after year at the taxpayers' expense. In an effort to try to work this matter out with the distinguished Senators from Florida, I have agreed to go along with it, provided that the last year there was eliminated.

I want to say now, and I want to put those on notice who are interested in these refugees, that it is fair, after a refugee has been here 2 years, to put him on his own; otherwise, we give special preference to refugees over American citizens.

I have gotten many complaints; I have had any number of Senators call me about this matter. They are tired of having to carry these people for so many years. I have gotten, I do not know how many, letters and communications on these questions. But, as I have said, in an effort to accommodate the Senators from Florida and in an effort to try to work this matter out without hardship, I have agreed to go along with this amendment as the same has been amended.

I yield back my time on the amendment.

Mr. KENNEDY. I yield back the remainder of our time.

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

The amendment was agreed to.

UP AMENDMENT NO. 533

(Purpose: To amend the definition of the term "refugee" to include economically oppressed emigrants from Haiti)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an unprinted amendment numbered 533.

Mr. STONE. 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, line 16, insert the following immediately after "abode": ", or (C) economically oppressed emigrants from Haiti".

Mr. STONE. Mr. President, this is an amendment to construe and define the economically oppressed immigrants from Haiti as refugees.

Mr. President, offshore of my State of Florida, Haitians are being pushed overboard by people trafficking in this misery when it looks like smuggling them in is about to be discovered. These Haitians, when they do arrive in Florida and on the east coast, are frequently incarcerated and they are treated so differently from the boat people in other oceans and from other immigrants of a status which is not clear that the black community in my State is under the impression that this borders on racism.

I have to say that the Haitians that are being squeezed out of the Bahamas and squeezed out of their own homes and are in fear of starvation as well as oppression, deserve better treatment than that. So, to clarify their status, I offer this amendment.

Mr. KENNEDY. Mr. President, this is a problem that I know faces the State of Florida as well as a number of other communities. But we cannot accept economic factors alone as causing someone to be defined as a refugee. We do have the Select Commission on Immigration and Refugee Policy, that is considering a wide variety of different immigration problems and also refugee problems. I am a member of that Commission, along with Senator DECONCINI and Senator SIMPSON and Senator MATHIAS from the Judiciary Committee. I would be glad to write the Chairman of the Commission and urge they give special consideration to this problem, urge that they have a hearing in Florida at the Senators' convenience, to really focus on this and to give us recommendations about ways that we might proceed. But economic motivations are not covered in the bill's definition of a refugee, or in the U.N. Convention and Protocol.

Mr. STONE. Mr. President, on that assurance, I shall withdraw this amendment at this time and join with the Senator from Massachusetts in making special efforts to take care of this situation.

Those people need help. They need direct attention. I hope and trust that the Special Commission can do that.

I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment was withdrawn.

● Mr. WARNER. Mr. President, on September 5, 1979, the State of Virginia made known its official position with respect to S. 643, the Refugee Act of 1979.

I ask that the official position of the State of Virginia be printed in the RECORD.

The statement follows:

REFUGEE ACT OF 1979 (S. 643): STATE OF VIRGINIA

The following constitutes the official position of the State of Virginia with respect to S. 643, as amended July 10 by the Senate Judiciary Committee. Virginia enthusiastically supports S. 643 as amended by the Senate Judiciary Committee, with the exception of the provision which limits full federal funding for cash and medical assistance, and child welfare services provided to refugees for the two-year period following entry into the United States. Two years of full federal funding is inadequate and will subject Virginia and its local political jurisdictions to an intolerable demand on limited resources to respond to an international calamity.

On August 3, Senators Cranston and Hayakawa introduced an amendment to S. 643 which, if modified, would make S. 643 totally acceptable to the State of Virginia. The Cranston/Hayakawa Amendment provides for two additional years of full federal funding for "Indochinese" refugees receiving "public assistance" as of September 30, 1979. Additionally the Cranston/Hayakawa Amendment provides for full federal funding for a period of 36 months for all new refugees from Indochina following the date of entry into the United States. An amendment to S. 643 should not limit itself to "Indochinese" refugees for a two-year transition period and 36 months thereafter while retaining a two-year limitation for all other refugees.

We would, therefore, suggest that the current refugee population be provided cash and medical assistance, and child welfare services for an additional two-year period of time and that all new refugees be provided cash and medical assistance, and child welfare services for a period of three years with full federal funding. S. 643 amended to incorporate these recommendations would be fully supported by the State of Virginia.●

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), the Senator from Nevada (Mr. LAXALT), the Senator from South Dakota (Mr. PRESSLER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. RIEGLE). Are there any Senators in the Chamber who wish to vote and have not done so?

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—85

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

NAYS—0

NOT VOTING—15

Baker	Hatfield	Magnuson
Bayh	Inouye	Muskie
Culver	Jepsen	Pell
Garn	Johnston	Pressler
Hatch	Laxalt	Young

So the bill (S. 643) was passed, as follows:

S. 643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Act of 1979".

TITLE I—PURPOSE

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The Congress finds that the new immigration quotas established by this Act should be subjected to a timely review and reevaluation taking into consideration recommendations which may be made by the Select Commission on Immigration and Refugee Policy.

(c) The objective of this Act is to provide a permanent and systematic procedure for the admission to this country of refugees of special concern to the United States, and to provide comprehensive and uniform provisions for temporary and transitional assistance to those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding after paragraph (41) the following new paragraph:

"(42) The term 'refugee' means (A) any person who is outside any country of his nationality or, in the case of a person having no nationality, is outside any country in which he last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion, or (B) any person who has been displaced by military or civil disturbances or uprooted because of arbitrary detention or the threat of persecution, and who is unable to return to his usual place of abode.".

(b) Chapter I of title II of the Immigration and Nationality Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES

"SEC. 207. (a)(1)(A) The number of refugee admissions granted in any fiscal year shall not exceed fifty thousand unless the President determines, prior to the beginning of the fiscal year and after consultation by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees in excess of fifty thousand is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special responsibility to the United States. These refugee admissions shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President, and there shall be periodic consultations between designated representatives of the President and members of the Committees on the Judiciary regarding the progress of refugee admissions and the possible need for adjustments in the allocation of admissions among groups or classes of refugees. Prior to the start of the fiscal year, the President shall report to the Committees on the Judiciary of the Senate and the House of Representatives regarding the worldwide refugee situation and the anticipated allocation of refugee admissions during the fiscal year.

"(B) At the end of the fiscal year ending September 30, 1982, the authority under subparagraph (A) to admit fifty thousand refugees in any fiscal year without prior consultation with the Committees on the Judiciary of the Senate and the House of Representatives under paragraph (2) of this section shall terminate. Thereafter, all refugee admissions under subparagraph (A) shall be granted in any fiscal year in accordance with a determination made by the President, prior to the beginning of the fiscal year and after consultation in accordance with paragraph (2) of this section by the designated representatives of the President with the Committees on the Judiciary of the Senate and the House of Representatives, that admission of a specific number of refugees is justified by humanitarian concerns or is otherwise in the national interest, based upon the foreseeable number of refugees of special responsibility to the United States who will be in need of resettlement. Refugee admissions shall be allocated in accordance with the provisions of subparagraph (A).

"(2)(A) The term 'consultation' with respect to the admission of refugees under this section or section 208 means personal contact by designated representatives of the President with members of the Committees on the Judiciary to review the refugee situation or emergency refugee situation, to project the extent of possible United States participation therein, to discuss the reasons for believing that the proposed admission of

refugees is in the national interest, and to provide such members, the Speaker of the House of Representatives, and the President pro tempore of the Senate, with information that shall include—

"(i) a description of the nature of the refugee situation;

"(ii) a description of the refugees who may be admitted, including the proposed plans for their resettlement, the estimated cost of their resettlement, an analysis of conditions within the countries from which they originated;

"(iii) an analysis of the anticipated social, economic, and demographic impact of their admission to the United States;

"(iv) a description of the extent to which other countries will admit and assist in the resettlement of such refugees;

"(v) an analysis of the impact of the United States participation in the resettlement of such refugees on the United States foreign policy interests; and

"(vi) such additional information as may be appropriate or requested by such members."

The information provided in subparagraphs (i) through (v) of this paragraph shall also be provided to the Governors of each State, along with information regarding the number of refugees to be admitted, and a description of Federal programs available to assist in the resettlement of refugees.

"(B) Upon receipt of the information specified in subparagraph (A), the Judiciary Committee of the Senate and the Judiciary of the House shall each hold a hearing on such information and shall submit, within thirty days of continuous session of the Congress beginning on the date the consultation process concludes, a report to their respective Houses of Congress. For purposes of this subparagraph, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded.

"(3) Subject to the numerical limitation established pursuant to paragraph (1) the Attorney General pursuant to such regulations as he may prescribe, shall admit for lawful permanent residence any refugee who is not firmly resettled in any foreign country, is within a group or class of refugees determined to be of special concern to the United States, and is admissible as an immigrant under this Act, except for the fact that he does not meet the requirements of paragraph (14), (15), (20), (21), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(b)(1) The Attorney General shall establish a uniform procedure for an alien physically present in the United States, irrespective of his status, to apply for asylum, and the alien shall be granted asylum if he is a refugee within the meaning of section 101(a)(42)(A) and his deportation or return would be prohibited under section 243(h) of this Act.

"(2) The Attorney General shall conditionally admit into the United States, pursuant to such regulations as he may prescribe, any alien granted asylum under paragraph (1). Such admission may be terminated if the Attorney General, pursuant to such regulations as he may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or the country in which he last habitually resided, as the case may be.

"(3) A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of any alien who qualifies for conditional admission under paragraph (2) shall, if not otherwise entitled under such paragraph, be entitled to conditional admission if accompanying, or following to join, such alien.

"(4)(A) Not more than five thousand of the refugee admissions authorized under subsection (a) in any fiscal year may be made available by the Attorney General, in his discretion and under such regulations as he may prescribe, to adjust to lawful permanent resident the status of any alien conditionally admitted under this subsection not less than two years before the date of adjustment who—

"(i) makes application for such adjustment;

"(ii) continues to be a refugee within the meaning of section 101(a)(42)(A);

"(iii) is not firmly resettled in any foreign country; and

"(iv) is admissible as an immigrant under this Act at the time of his examination under this paragraph, except for the requirements of paragraph (14), (15), (20), (21), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

(B) Upon approval of an application pursuant to this paragraph, the Attorney General shall record the alien's admission to the United States for lawful permanent residence as of the date two years prior to the date of approval.

"(5) The provision of section 245(c) of this Act shall not apply to refugee applicants who are physically present within the United States and have accepted unauthorized employment prior to the submission of their asylum application.

"ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 208. (a) If the President determines, after consultation by the President's designated representatives with the Committees on the Judiciary of the Senate and the House of Representatives, that (1) an unforseen emergency refugee situation exists; (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest; and (3) that the admission into the United States of these refugees cannot be accomplished under section 207, the President may fix a number of refugees to be admitted into the United States in response to the emergency refugee situation.

"(b) The admissions authorized by subsection (a) shall be allocated among groups or classes of refugees of special concern to the United States in accordance with a determination made by the President.

"(c) Subject to the numerical limitation established pursuant to subsection (a), the Attorney General may admit into the United States conditionally or for lawful permanent residence, in his discretion and pursuant to such regulations as he may prescribe, any alien who is a refugee within a group or class designated pursuant to subsection (b) and who is not firmly resettled in any foreign country.

"SPOUSES AND CHILDREN OF REFUGEES

"SEC. 209. A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of any alien who qualifies for admission under section 207(a) or 208 shall, if not otherwise entitled to admission under such section, be entitled to the same admission status as such alien if accompanying, or following to join, such alien, and upon the spouse's or child's admission into the United States, such admission shall be charged against the numerical limitation established in accordance with the section under which the alien qualifies for admission. A spouse or child who is admitted for lawful permanent residence in accordance with this section shall be required to establish admissibility to the United States as an immigrant except for the requirements of paragraph (14), (15), (20), (25), or (32) of section 212(a). The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, or to assure family unity, and when it is otherwise in the public interest.

"GRANTING OF IMMIGRANT STATUS TO EMERGENCY SITUATION REFUGEES

"SEC. 210. (a) Notwithstanding any numerical limitation specified in this Act, any alien who has been admitted into the United States conditionally under section 208 or 209—

"(1) whose admission has not been terminated by the Attorney General pursuant to such regulations as he may prescribe;

"(2) who has not acquired permanent-resident status; and

"(3) who has been physically present in the United States for at least two years.

shall, at the end of such two years, return or be returned to the custody of the Service for inspection and examination for admission into the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

"(b) Any alien who, pursuant to subsection (a), is found, upon inspection by an immigration officer or after a hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination, except for the fact that the alien does not meet the requirements of paragraph (14), (15), (20), (21), (25), or (32) of section 212(a), shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival. The remaining provisions of section 212(a) may be waived at the discretion of the Attorney General at any time for humanitarian purposes, to assure family unity, and when it is otherwise in the public interest.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(a) by inserting in subsection (a) after "Except as provided in subsection (b)" the following: "and subsection (c)"; and

(b) by adding a new subsection (c) at the end thereof to read as follows:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States for lawful permanent residence under section 207.".

SEC. 203. (a) Section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)) is amended to read as follows:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who come within the provisions of sections 207, 208,, and 209, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 percent";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 percent";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8) in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8);

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254(d)) are amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is amended to read as follows:

"(h) The Attorney General shall not deport, or return any alien (other than an alien described in section 241(a)(19)), to any country where such alien's life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion, unless deportation or return would be permitted under the terms of the United Nations Protocol Relating to the Status of Refugees.".

(f) Section 5 of the Act of October 5, 1978 (Public Law 95-412) is amended by striking out "September 30, 1980" and inserting in lieu thereof "the effective date of the Refugee Act of 1979".

(g) Any reference in any law to section 203(a)(7) of the Immigration and Nationality Act shall be deemed a reference to section 207 of that Act.

TITLE III—TEMPORARY AND TRANSITIONAL ASSISTANCE TO REFUGEES

SEC. 301. (a) Section 2(b) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(b)) is amended to read as follows:

"(b)(1) There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

"(A) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons in behalf of whom he is exercising his good offices; for contributions to the Intergovernmental Committee for European Migration; the International Committee of the Red Cross; and to other relevant international organizations;

"(B) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States;

"(C) for payments to appropriate public or nonprofit private agencies to aid in the placement, resettlement, and care of refugees;

"(D) for projects and programs to assist adult refugees in gaining skills and education necessary to become employed or otherwise self-reliant, including facility in English, vocational and technical training, professional refresher training and other recertification services, and social and employment services;

"(E) for payments to State and local agencies for projects to provide special educational services (including facility in English) to refugee children in elementary and secondary schools;

"(F) for child welfare services, including foster care maintenance payments and services and health care, furnished in any of the first twenty-four months during any part of which the refugee is in the United States or, in the case of a child who enters the United States unaccompanied by a parent or other close adult relative (as defined by the President), until the month after such child attains age eighteen (or such higher age as the State's child-welfare services plan prescribes for the availability of such services to any other child in that State), if later; and

"(G) for interim support assistance during the period of initial adjustment, and for income maintenance and medical assistance, except that if a refugee receives aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplementary security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments.

(A) Subject to the provisions of subparagraph (B) of this paragraph, no payment shall be made under subparagraph (C) or (G) of paragraph (1) with respect to aid or services, furnished directly or through a project or program, to a refugee who entered the United States more than twenty-four months prior to receiving such aid or services, except that for Cuban refugees who entered the United States and received assistance prior to October 1, 1979, assistance will be reimbursed at the rate of 75 percent of non-Federal costs in fiscal year 1980, 60 percent in fiscal year 1981, 45 percent in fiscal year 1982, no reimbursement will be provided for these costs after September 30, 1983, except for the costs associated with current recipients of supplemental security income, for which 100 percent funding will be provided for all years; no recipients who become eligible for supplemental security income after September 30, 1978, will receive this special treatment.

"(B) The period beginning on the date of enactment of this act and ending September 30, 1981, shall not be counted for purposes of computing the twenty-four month limitation period specified in subparagraph (A) of this paragraph.

"(3) For special projects and programs authorized in subparagraph (D) of paragraph (1), there are authorized to be appropriated each fiscal year $40,000,000, to remain available until expended, to be administered primarily by private, nonprofit agencies participating in refugee resettlement programs, or by State or local public agencies, to assist refugees in resettling and becoming self-reliant.

"(4) As used in this section, the term 'refugee' has the same meaning as that prescribed by paragraph (42) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)).".

(b) Subsection (a) of this section shall not be considered a law enacted on or after February 7, 1972, for purposes of section 15(a)(1)(A) of the Act of August 1, 1956 (22 U.S.C. 2680(a)(1)(A)).

SEC. 302. Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) is further amended by striking out "$25,000,000" in paragraph (2) and inserting in lieu thereof "$50,000,000".

SEC. 303. (a) The Comptroller General of the United States shall evaluate Federal and federally assisted programs to refugees resettling within the United States to determine their effectiveness and efficiency.

(b) The Secretary of Health, Education, and Welfare shall conduct research or provide assistance for the conducting of research into the resettlement of refugees and their adaptation to life in the United States. Such research shall include all aspects of the resettlement and adaptation process, and shall examine the status of resettled refugees to assess programs in securing and retaining employment, housing, and facility in the English language, and other factors as the Secretary finds relevant.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE IV—EFFECTIVE DATE

SEC. 401. (a) Except as provided in subsection (b), this Act shall become effective on October 1, 1979.

(b) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this Act, shall not apply with respect to any individual who before the effective date of this Act was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of the Immigration and Nationality Act, if applicable), as in effect immediately before such date, nor shall it apply to any alien paroled into the United States before the effective date of this Act who is eligible for the benefits of section 5 of the Act of October 5, 1978 (Public Law 95-412).

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I want to express my thanks to the distinguished Senator from South Carolina, the ranking minority member of the Judiciary Committee (Mr. THURMOND), for his contributions and support of this important reform legislation.

I also want to thank Jerry Tinker, counsel to the Committee for Immigration and Refugee Issues, for his long and important work in moving this legislative proposal to its final consideration tonight by the Senate.

And I would like to acknowledge with thanks the important contributions of several staff members of the committee, including Mr. Barney Dusenbury of Senator THURMOND's staff.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 643.

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

ROUTINE MORNING BUSINESS

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

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

SOVIET COMBAT TROOPS IN CUBA

Mr. THURMOND. Mr. President, the disclosure earlier this week of the presence in Cuba of Soviet combat battalions and support forces represents a direct challenge to President Carter, greatly complicates passage of the SALT II Treaty, and clearly violates the Monroe Doctrine.

In addition, it raises serious questions as to the capability of our own intelligence forces when troops of a brigade size can be placed within 90 miles of our borders without our knowledge. Obviously, these troops were secretly moved into Cuba in a piecemeal fashion over a period of months or years while at the very same time the Soviets have been negotiating with us on SALT and other matters.

The Senate might well consider what would have been the effect of this disclosure had it come when President Carter was in Vienna meeting with Secretary Brezhnev. The embarrassment to our President would have been great and he may have been forced to break up the conference as did Khrushchev when the U–2 plane was shot down prior to the meeting with President Eisenhower.

FOOLISH TO CONSIDER SALT II

My own reaction to this news is that the U.S. Senate would be foolish to even consider any agreement with the Soviet Union under such circumstances. World leaders must certainly wonder about the will and the strength of our Nation when we cannot control events in our own hemisphere.

I do not believe we would be facing such problems if we had moved rapidly to deploy the MX missile, build the B–1 bomber, modernize our Army, and increase the size and strength of our Navy. There is no dounbt in my mind this administration and its policies have been instrumental in placing us in the situation we find ourselves today. Further, the Congress itself must bear some of the blame for accepting these misguided defense policies.

The question now arises as to what is the proper U.S. response in a period of "essential equivalence." Further, what will be our response if a similar situation arises in the early 1980's when the Joint Chiefs of Staff say we will no longer enjoy "essential equivalence?"

STRONG ACTION NEEDED

In my opinion, we must take strong action or the lack of U.S. resolve will be seen as a signal throughout the Western Hemisphere that we are unable to deter Soviet expansionism through its proxy state, Cuba. World leaders would certainly admire us for defending our own turf. If we cannot do that, our ability to act in NATO and elsewhere comes into question. It is better to stand firm now because the longer we wait to act, the weaker our hand will become.

The Senate may recall that the Carter administration suspended the flights of the SR71 Blackbird spy plane over Cuba in 1977. This ill-advised action was taken despite the fact that our intelligence agencies were being seriously damaged by attacks from within the Congress and the administration itself.

In addition to these troops, the Soviets have introduced into Cuba the nuclear-capable Mig–23 aircraft. For a number of months the pilots of the Soviet Air Force have been flying these aircraft in the Caribbean area while Cuban pilots were on combat missions in Africa. Further, Soviet naval activities in Cuba have been expanding for years. Only last month a Soviet naval task force was headed for Cuba before being turned around at the last moment.

Taken all together, the Soviets are moving toward establishing a military outpost in Cuba either to protect Cuba or to strengthen Cuba's hand as it attempts to transfer communism into Latin America.

SOVIET EXPANSION THROUGH CUBA

Mr. President, there is little doubt that Cuba aided Panama during the successful promotion of the Panama Canal treaties. Furthermore, the hand of Cuba was heavily involved in the revolution in Nicaragua and in addition, Cuba sent "advisers" to Grenada to assist the revolutionary government there which recently took power in that island nation in the Caribbean.

The purpose of the Soviet troops may well be to provide security for Cuba as it steps up its activities to establish Communist governments throughout South and Central America as has been done in Africa. The timing for such a move may be triggered by the obvious weakening of U.S. defense forces as reflected in our smaller Navy, the lack of modernization of our Army and the approaching missile gap in our strategic forces.

Mr. President, regardless of the reasons for the location in Cuba of fully equipped combat units, the United States cannot turn its head as we have done in Africa. We must project a forceful policy to meet this challenge, and until such a policy is implemented, only then would the Senate be in a position to evaluate the worth of an agreement with the expansionistic leaders of the Soviet Union.

If we fail to rapidly promote such a policy, we will be inviting trouble throughout Central and South America. Our lack of response will be seen as weakness and an invitation for the Soviets to promote, through Cuba, Communist governments throughout Latin America.

SOVIET TROOPS IN CUBA: IT IS TIME TO DRAW THE LINE

Mr. WARNER. Mr. President, the matter of Soviet combat troops in Cuba has now become a national issue of great significance.

The past few days have seen repeated calls for removal of those troops and some Senators have now urged that consideration of the SALT II Treaty be suspended until such time as those troops are removed.

Clearly, it is time to respond to this latest Soviet provocation with actions, not words. Accordingly, we must take action to let the Soviets know that we are drawing the line—perhaps belatedly, but we are going to draw a line.

There seems to be a trend whereby the United States is failing to respond forcefully to the provocations of the Soviet Union and its proxy countries and, by so failing to respond, we have, in fact, encouraged further provocations.

Consider an event which took place less than a year ago. U.S. intelligence agencies detected the presence of new Soviet M16–23 jet aircraft in Cuba. For the first time the Soviet Union had placed highly capable high performance aircraft in Cuba which were capable of carrying nuclear weapons.

The United States protested the presence of these aircraft in Cuba but quickly accepted a Soviet assurance that the aircraft did not have all the equipment necessary to carry the nuclear weapons.

The nuclear capable aircraft are still in Cuba.

Now we learn that Soviet combat troops are in Cuba, and Secretary Vance is seeking Soviet assurances that those troops do not have a hostile intention or purpose.

I suggest that, if words are our only response this time, the Soviet troops, like the M16–23's, will remain in Cuba for a long time to come.

A strong response is certainly in order, but we must not act hastily and imprudently. Those who have argued that the SALT II Treaty should be held hostage until the Soviet troops are removed have put forth one alternative course of action. But this may or may not be a productive course to pursue, and its consideration must be made in the context of careful analysis of all alternatives.

This morning I requested that the chairman of the Armed Services Committee convene prompt hearings to develop facts and consider alternatives, and I am pleased that those hearings have now been set for Monday morning.

There are alternative courses of action, and I would like to suggest some of them to my colleagues for their consideration.

There are some actions that can be taken now which will send a clear message to Moscow. The United States could suspend indefinitely the granting of trade credits to the Soviet Union. Perhaps it is time that we halt the Soviets from buying tangible goods and advanced technologies with paper promises. Perhaps it is time to stop lending the Soviet Union money at rates cheaper than American home buyers can obtain.

Further, the United States might consider denying indefinitely most-favored-nation status to the Soviet Union—a status which would grant concessionary tariff rates and other advantages to the Soviet Union.

I believe that these and other potential responses should be considered carefully by the President. We can no longer afford to sit idly by and engage in polite diplomatic discourse while the Soviet Union continues to discredit the United States in the eyes of the world.

It is time for the United States to draw the line. Actions speak louder than words.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have addressed to the chairman of the Committee on Armed Services, Senator JOHN C. STENNIS, in connection with this matter.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 6, 1979.

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

DEAR MR. CHAIRMAN: In response to our conversation of this morning, I would like to formally request that immediate hearings be convened by the Senate Armed Services Committee on the critical issue of the newly-confirmed presence of Soviet combat troops in Cuba.

It is my judgment that this matter clearly falls within the jurisdiction of the Senate Armed Services Committee. I believe the Committee membership should immediately bring to bear its extensive expertise on military matters and provide the Senate and the Nation with our assessment of the current situation.

This is an extremely serious matter, not only from a military and geopolitical viewpoint, but also because it raises serious questions with regard to the adequacy and the integrity of our intelligence-gathering capabilities. I need not remind you that it was only a few short weeks ago that the Senate was assured by senior Administration officials that there was no evidence of any substantial increase in the Soviet military presence in Cuba over the past several years.

Of immediate importance, the Senate is now considering the SALT II Treaty and I, and many of my Senate colleagues, believe that the SALT II Treaty cannot be considered in isolation. Soviet military activities around the world are an important backdrop to our deliberations on the SALT Treaty. Further, there is some sentiment in the Senate that consideration of the SALT Treaty should be held up until the Soviet troops are removed from Cuba. Early hearings would provide a useful forum for considering the implications of such an alternative.

The Senate and the Nation urgently need to have a credible evaluation of the facts on this matter.

With best wishes, I am
Sincerely,

JOHN W. WARNER.

ANNIVERSARY OF NEW YORK STATE WORKMEN'S COMPENSATION LAW

Mr. MOYNIHAN. Mr. President, this year, New Yorkers can be proud as we celebrate the anniversary of a pioneering event in the history of social legislation—the enactment 65 years ago of our State workers' compensation law. At its meeting in New York City on May 15, 1979, the Workers' Compensation Board of the State of New York unanimously adopted a resolution, and I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

BOARD RESOLUTION

Whereas, Workers' Compensation in New York State is entering upon its 65th year of continuous operation, having been enacted by Laws of 1913, Chapter 816, effective January 1, 1914, and

Whereas, the 1910 recommendations of the Wainwright Commission to the State Legislature urging the enactment of a Workers' Compensation Law based on the principle of liability without regard to the question of fault heralded a new era of social legislation in this country, and

Whereas, the early legislative recognition of the then novel principle of Workers' Compensation by the largest industrial State in the Union broke down the barriers of opposition and led the way for other States to enact Workers' Compensation legislation, and

Whereas, notwithstanding the declared unconstitutionality of the 1910 Act and the consequent necessity of a State constitutional amendment to make workers' compensation effective, the victory for workers' compensation in the United States was first won in New York in 1910, and

Whereas, millions of workers in this State and elsewhere throughout the country have benefited through the years since 1910, and will continue to benefit from the broad social vision demonstrated by Labor, Management and Government in New York, and

Whereas, New York has set an inspiring example to the rest of the Nation by its enlightened Workers' Compensation program based on the injured worker's free choice of physician, an effective rehabilitation program and the acceleration of workers' compensation adjudications without sacrificing any of the rights of the parties, and

Whereas, New York will host the 65th Annual Convention of the International Association of Industrial Accident Boards and Commissions from September 9th to the 13th, 1979, therefore,

Be it resolved that the New York State Workers' Compensation Board on the occasion of this 65th anniversary dedicate itself anew to the alleviation of the job hazards of accident and occupational illness in our State by achieving the Law's lofty social purposes in the interests of the working men and women of the State, industry and the public alike, and

Be it further resolved that the New York State Workers' Compensation Board celebrate the 65th Anniversary by sponsoring suitable public events designed to re-acquaint the working men and women of our State, industry and the public with the momentous accomplishments of our State in the field of Workers' Compensation, and

Be it further resolved that the New York State Workers' Compensation Board record its recognition and appreciation to those in labor, management, insurance, public service and the medical and legal professions who have labored so faithfully to make Workers' Compensation in New York an effective program.

MAY 15, 1979.

U.S. ARMS SALES TO IRAN

Mr. PROXMIRE. Mr. President, plans to resume $5 billion in arms sales to Iran are foolhardy and shortsighted. Secretary Kissinger's blank check arms policy failed miserably in Iran and now the current administration is moving down the same path.

When President Nixon and Secretary Kissinger gave the Shah of Iran a blank check on which to order any U.S. weapons, U.S. policy in that region took an inexorable course toward self-destruction. The $8 million per day in weapons ordered by the shah drained his country of financial resources needed for internal development, education, health, and the building of democratic institutions. U.S. policy failed miserably.

Now the Carter administration is starting down the same path in Iran by considering the resumption of $5 billion in standing defense orders from that country.

When the shah was overthrown, Iran had pending orders of $12.6 billion with the United States. The list of weapons read like the most sophisticated lineup in the U.S. arsenal: Spruance class destroyers, F–16 aircraft, Harpoon missiles, Standard missiles, Phoenix missiles, the AWACS, TOLL missiles, and the improved Hawk system. Initially the new Iranian Government and the United States canceled $10.6 billion of the $12.6 billion. Now, however, consideration is being given by certain Iranian spokesmen and U.S. officials to a resumption of $5 billion of prior orders including helicopters, ammunition, artillery, spare parts, and maintenance materials.

Yes, indeed, Iran may sell us three-quarters of a million barrels of oil a day—4 to 5 percent of what we use.

Sure, we get more oil to run our cars, transport our goods, operate our factories, heat and cool our homes and offices. Yes, we might get less if we fail to sell those arms to Iran.

And that means we might have to make a sacrifice if we say no more arms to Iran.

So this is what the great principle of human rights means to us. We are for it if all we have to do is to speak out for it. We are for it if we do not have to give up anything to achieve it. But if we have to risk the loss of some oil to achieve it—then forget it.

What kind of people have we become if our own comfort and ease, our own convenience is more important than human life?

For what purpose are these weapons we give the Iranian dictator to be used. The U.S. State Department says, "to maintain stability in Iran."

The stability of a murdering regime, the government of the Avatollah that has maintained its power with executions and reprisals.

U.S. arms will be used to subjugate the Kurdish minorities in Iran fighting for autonomy. The United States once encouraged the Kurds to revolt against the Iraqis. Then we pulled the rug out from

underneath them. It would be the height of duplicity if we now armed the new Iranian regime so they could further repress minorities in Iran. Surely this would make a mockery of the President's intense concern over human rights.

Mr. President, I ask unanimous consent that a copy of my letter to President Carter on this issue be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., August 28, 1979.

JIMMY CARTER,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: I have noted that there is increasing speculation that the United States may be entertaining the resumption of significant arms sales to Iran. I personally oppose such sales as an instrument of U.S. policy on many grounds, but I want to bring to your attention just one factor that seems to be forcing the issue at this time.

The Iranian regime is seeking renewed arms sales in order to provide military equipment and supplies for the campaign against the Kurdish minorities in Western Iran. You may remember that the United States covertly supplied the Kurds with military assistance during the early 1970's in order to tie down Iraqi military forces in the Middle East. The Central Intelligence Agency was the vehicle for this aid. Our support was withdrawn precipitously, however, when Secretary Kissinger reached an agreement with the Shah to make the Iranian borders more secure. Thousands of Kurds were killed or displaced in the ensuing military debacle.

Now we are faced with a situation where our military assistance may be brought to bear once again against the Kurdish population—a people who for centuries have fought for independence or local autonomy. This is a clear cut case of repression against a minority population and the systematic violation of their human rights.

May I urge you to consider this factor when the arms sales proposals are brought to your attention. Arms sold to suppress people seeking their political and economic freedom do not well represent U.S. traditions.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

EXPORT-IMPORT BANK FINANCING PRENOTIFICATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed loan to assist the export of U.S. goods and services to be used for a gas liquefaction plant (LNG–3) in Algeria. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in an amount of $100 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a loan in the amount of $313,500,000 to Sonatrach, the state-owned oil and gas monoply of Algeria, to assist in the purchase from the United States of goods and services to be used in the construction and operation of the LNG–3 gas liquefaction plant at Arzew, Algeria for a total export value of $418 million. Eximbank has previously supported the export of U.S. goods and services for two other liquefaction plants (LNG–1 and LNG–2) and related gas field treatment facilities and a gas pipeline.

The credit proposed by Eximbank for the LNG–3 plant will cover 75 percent of the total cost of U.S. goods and services to be exported from the United States. The loan would bear interest at the rate of 8.5 percent per annum and be repayable in 20 semiannual installments beginning December 31, 1984. The loan will be guaranteed by the Banque Algeriene de Developpement, a government-owned development bank on behalf of the Democratic and Popular Republic of Algeria.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

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

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 2, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

Enclosure.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 2, 1979.

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

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Algeria.

A. DESCRIPTION OF TRANSACTION

1. Purpose.—

Eximbank is prepared to extend a direct credit in the amount of $313,500,000 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for the LNG–3 gas liquefaction plant at Arzew, Algeria (LNG–3 Plant).

The total cost of the LNG–3 Plant is estimated at $2,680,900,000, with non-Algerian costs amounting to $1,864,200,000, including U.S. costs of $418,000,000. There has been strong competition for the sale of exports for the LNG–3 Plant by other countries which are providing officially supported export financing totalling $800,000,000.

The LNG–3 Plant is the third large-scale liquefied natural gas plant to be built in the industrial zone at Arzew. The three LNG plants are supported by gas field treatment facilities at Hassi R'Mel in the Sahara desert and five 315-mile gas pipelines connecting the gas field facilities with the LNG plants.

Prior Eximbank financing has been extended to SONATRACH to support the sale and export of U.S. goods and services for the LNG–1 and LNG–2 plants, related gas field treatment facilities, a portion of the gas pipelines, and other related facilities.

2. Identity of the Parties.—

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical Industry charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Development is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. Nature and Use of Goods and Services. The principal goods and services to be exported from the United States for use in the construction and operation of the LNG–3 Plant include U.S. services for engineering, procurement, and construction supervision, and U.S. goods consisting of process vessels, heat exchangers, pumps, steam generators, bulk construction materials and equipment, and portable camp housing. The major U.S. supplier for the project is the Foster Wheeler Corporation, Livingston, New Jersey.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons. The proposed extension of a $313,500,000 credit by Eximbank will facilitate the export of $418,000,000 of U.S. goods and services. In addition to the engineering, design, and construction work that will result from this project for Foster Wheeler, many other firms throughout the United States will receive contracts to supply equipment. Export sales generated by the project will result in an estimated 16,700 man-years of employment in the United States.

There has been very active foreign competition offering official export credit support for this project from, among others, Belgium, Canada, France, Germany, Japan, the Netherlands, and the United Kingdom.

None of the goods to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

The LNG–3 Plant and related system are major elements of Algeria's long-range plan to develop its vast reserves of natural gas. They will generate substantial amounts of foreign exchange earnings for Algeria and will help to expand the world supply of energy. Algeria does not normally dedicate the output of each LNG plant to particular sales contracts; the LNG–1 Plant, which is supplying liquefied natural gas to the U.S. is an exception. However, all of the output of the LNG–3 Plant will be needed to meet the requirements of buyers in Western Europe and the United States under existing sales contracts.

Because of present and past sales of U.S. goods and services with the support of Eximbank financing for Algeria's program for the development of its natural resources, American firms will be in a better position to compete for further export sales under Algerian plans for other projects in such development.

2. The Financing Plan. The total cost of U.S. goods and services to be exported from

the United States for the LNG–3 Plant is estimated to be $418,000,000, which will be financed as follows:

Cash payment	$104,500,000	25%
Eximbank credit	313,500,000	75%
Total	418,000,000	100%

(a) Eximbank Charges. The Eximbank credit will bear interest at the rate of 8.5% per annum, payable semiannually. A commitment fee of ½ of 1% per annum will be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms. The Eximbank credit will be repaid by the Borrower in twenty equal semiannual installments beginning December 31, 1984.

Sincerely,

H. K. ALLEN.

EXIMBANK PRENOTIFICATION OF PROPOSED LINE OF CREDIT TO TUNISIA

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed $100 million line of credit to be extended in favor of the Government of Tunisia to finance U.S. export sales to Tunisia. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in the amount of $100 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the proposed line of credit would be utilized by means of a series of subloans to be approved jointly by Eximbank and the borrower on a case-by-case basis. The minimum value in each case would be approximately $3 million. The line of credit would cover 100 percent of the total cost of U.S. goods and services to be purchased by Tunisian entities. The first 50 percent of each subloan (tranche I) will bear interest at a blended rate of between 5 and 5.5 percent per annum and will be repayable over the term normally set by the Bank for the type of project or equipment being financed. The other 50 percent of each subloan (tranche II) will bear interest at the rate of 3.75 percent per annum and be repayable in 36 semiannual installments commencing after a 7-year grace period from the date of authorization by the Bank. The overall repayment term would be 25 years. Eximbank contends the extraordinary terms of the line of credit are necessary to meet competition from "mixed-credit" financing provided to Tunisia by the Governments of France, West Germany, and Japan. Mixed credits blended standard export credits and concessional aid credits to yield terms more concessionary than are customarily offered by export credit agencies.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

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

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., August 20, 1979.

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

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Tunisia.

A. DESCRIPTION OF TRANSACTION

1. *Purpose.*—Eximbank is prepared to authorize the establishment of a line of credit of $100,000,000 in favor of the Government of Tunisia (Borrower) to finance the sale of U.S. capital equipment and services (other than commercial jet aircraft) for the use of various Tunisian private or public entities as selected by the Ministry of Planning of the Government of Tunisia.

The purpose of the line of credit is to meet officially-supported mixed-credit financing which is being offered in Tunisia by the Governments of France, West Germany and Japan so as to provide U.S. suppliers equal access to the Tunisian market. The terms of the line of credit, as described below, are designed to match such financing as closely as possible.

Other official export credit agencies have developed the practice of offering "mixed credits" to support their exports. Mixed credits constitute a blending of standard export credits and concessional aid credits, with resulting terms which are much more concessionary than are customarily offered by export credit agencies. Eximbank is opposed to this practice and has attempted, with the assistance of other U.S. Government agencies, to reach agreement with the other major trading countries to refrain from extending mixed credits. Pursuant to Section 908 (a) of the Export-Import Bank Act Amendments of 1978 the Congress authorized and requested the President ". . . to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States". As reported in the President's letter to the Congress of March 16, 1979, little progress has been made in this regard. As a result, as stated in the President's letter "Eximbank will continue its recently adopted policy of matching mixed credits on a selective basis".

Tunisia is a market which is the recipient of several mixed credit lines. It appears to Eximbank that the only way U.S. exporters can participate in any significant way in sales to such market will be if the U.S. exporters are armed with financing which neutralizes the concessionary financing terms offered by their competitors.

B. EXPLANATION OF THE EXIMBANK FINANCING

1. *General Terms.*—The line of credit will be utilized by means of a series of subloans which will be approved by both Eximbank and the Borrower on a case by case basis. It is expected that each subloan will be used to finance projects in Tunisia having a minimum U.S. export value of approximately $3,000,000 although equipment and smaller transactions may be considered. Subloans under the line of credit may be approved during the period of one year from the date of the agreement establishing the line, unless the period is extended by Eximbank.

2. *The Financing Plan.*—The total cost of the U.S. goods and services to be purchased by Tunisian entities and financed under each subloan will be financed as follows:

	Percent of U.S. cost
Eximbank Credit—Tranche 1	50
Eximbank Credit—Tranche 2	50
Total	100

(a) *Eximbank Charges.* Tranche 1 of each subloan will bear interest at a rate which when blended with the overall cost of the financing for each subloan will result in a blended rate of between 5 and 5.5%. Tranche 2 of each subloan will bear interest at the rate of 3.75% per annum. The Borrower will also pay a commitment fee of 0.5% per annum on the undisbursed portion of each subloan, accruing from the date such subloan is approved by Eximbank.

(b) *Repayments.* Tranche 1 of each subloan will be repaid over a term which Eximbank would normally set for the type of project or equipment being financed under such subloan. Repayment under Tranche 1 will commence approximately six months after completion of the project or delivery of the products being financed by the subloan. Tranche 2 of each subloan will be repaid in 36 semiannual installments commencing after a seven-year grace period from the date of authorization by Eximbank of such subloan for an overall term of 25 years.

Sincerely,

JOHN L. MOORE, Jr.,
President and Chairman.

PRENOTIFICATION OF EXIMBANK LOAN TO TAIWAN

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $212,500,000 to assist the export of U.S. goods and services to be used in construction of the second stage of a steel mill in Taiwan. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in the amount of $100 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan to cover 85 percent of the $250 million in U.S. goods and services to be used in the steel mill project. This loan follows a 1974 Eximbank credit of $80 million and financial guarantee of $40 million for stage I of the steel mill and will enable the facility to double its output to 3 million metric tons per year. The Bank contends that the net employment impact on the U.S. economy will be positive. The Eximbank credit will bear interest at the rate of 7½ per cent per annum and will be repayable in 20 semiannual installments beginning December 30, 1982.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

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

WASHINGTON, D.C.
August 17, 1979.

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

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Taiwan.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to make a credit of $212,500,000 available to China Steel Corporation (CSC) to assist CSC in the purchase from United States suppliers of capital equipment, engineering services, related equipment and services for use in the construction of the second stage of an integrated steel mill located at Kaohsiung on the southern coast of Taiwan.

The total cost of the project is estimated to be $1,771,000,000, of which the total cost of U.S. procurement is presently estimated at $250,000,000. The latter figure may be increased to $300,000,000 at a later stage of construction. CSC will obtain export credits or guarantees from the official export credit agencies of Japan and Germany for financing Japanese and German goods and services for the project, estimated at $250,000,000 equivalent from each country, and will also obtain bank loans and make equity contributions to finance the local costs and working capital costs of the project.

In 1974 Eximbank authorized a direct credit of $80,000,000 and a guarantee of a $40,000,000 private loan to assist CSC in financing the U.S. procurement for Stage I of this steel mill. The proposed financing is for Stage II and is expected to increase production from 1,500,000 metric tons (MT) a year to 3,000,000 MT a year.

As of the date hereof $183,000,000 of the initial estimated U.S. costs have been contracted for with the balance to be contracted within the very near future. USS Engineers and Consultants, Inc. (UEC) of Pittsburgh, Pennsylvania, a division of U.S. Steel Corporation, prepared the feasibility study for the project and will perform the engineering, the writing of equipment specifications and the construction and management services. The contract cost for the UEC engineering services is estimated at $18,000,000. Dravo Corporation, also of Pittsburgh, has been awarded the sinter plant and material handling system contracts estimated at $32,800,000.

Combustion Engineering of Windsor, Connecticut has been awarded the steam boiler contract estimated at $5,500,000. Morgan Engineering of Alliance, Ohio and Cleveland Crane of Wickliffe, Ohio have been awarded the crane supply contracts estimated respectively at $18,500,000 and $5,100,000. Wean United of Pittsburgh, Pennsylvania has been awarded a contract having an estimated value of $83,300,000 for various types of equipment. General Electric Company of Salem, Virginia is biding on the drive systems equipment having an estimated value of $60,000,000.

2. Identity of the parties

CSC, organized in 1971 to construct and operate an integrated steel mill, is a corporation 94 percent owned by the governing authorities on Taiwan. The balance of its shares are owned by local private investors. CSC has maintained an excellent credit relationship with Eximbank. The Eximbank credit will be made through a U.S. commercial bank or, as permitted under the Taiwan Relations Act and Executive Order No. 12143, through the American Institute in Taiwan, to the Coordination Council for North American Affairs on behalf of CSC.

The Coordination Council for North American Affairs acting on behalf of the governing authorities on Taiwan will unconditionally guarantee payment of CSC's indebtedness under the direct credit.

3. Nature and use of goods and services

The goods to be exported from the United States are equipment for a sinter plant and material handling system, cranes, steam boilers, drive systems, and equipment for related ancillary facilities. The services to be exported are engineering, technical and procurement services connected with the construction and initial operation of the project, as well as ocean freight charges on U.S. flag vessels.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The Eximbank direct credit of $212,500,000 will facilitate the export of $250,000,000 of United States goods and services. In the event the U.S. export value is increased to $300,000,000, additional financial assistance may be provided at a later date.

The market in the United States for the equipment and services to be financed by the direct credit has been well below the United States productive capacity. Foreign orders, therefore, have become a vital portion of United States equipment manufacturers' and engineers' business and enable those firms to retain specialized engineering and technical staffs and production work forces. General Electric Company reports that its Drive Systems Division in Salem, Virginia, as an example in this instance, continues to operate at a depressed level of employment due to lack of domestic and international orders. Over 700 people have been dismissed at this facility as a result of the lack of orders during the last two years. GE is thus in a position to contribute significantly to the improvement of employment in this area as a direct result of orders secured for this project.

Set forth below is a table indicating the U.S. employment estimated as a result of this project (based on a procurement from the United States of $250,000,000):

States	Number of people employed	Number of man-years
Alabama	60	120
Illinois	112	224
Indiana	57	114
Iowa	26	52
Maryland	25	50
Michigan	83	166
Mississippi	55	110
New Jersey	60	120
New York	1,006	2,012
North Carolina	87	174
Ohio	1,077	2,154
Pennsylvania	2,050	4,100
Texas	663	1,326
Virginia	169	338
West Virginia	40	80
Wisconsin	125	250
Total	5,695	11,390

The details for the major suppliers are as follows (area unemployment rates as of March 1979):

(a) UEC supplying engineering and technical services—720 man-years from Pittsburgh, Pennsylvania (6.7 percent unemployment rate);

(b) Dravo Corporation supplying equipment for a sinter plant and material handling system—1,312 man-years principally from Pittsburgh, Pennsylvania (6.7 percent unemployment rate), Newark, New Jersey (6.6 percent unemployment rate), Philadelphia, Pennsylvania (8.0 percent unemployment rate) and Baltimore, Maryland (6.8 percent unemployment rate);

(c) Combustion Engineering supplying the steam boilers—220 man-years principally from Chattanooga, Tennessee (5.1 percent unemployment rate) and Chicago, Illinois (5.5 percent unemployment rate);

(d) Morgan Engineering supplying cranes—740 man-years principally from Alliance, Ohio (6.2 percent unemployment rate);

(e) Cleveland Crane supplying cranes—100 man-years from Wickliff, Ohio (4.5 percent unemployment rate);

(f) Wean United supplying various equipment—3,332 man-years principally from the Pittsburgh, Pennsylvania, Warren and Youngsown, Ohio area (unemployment rates between 6.1 per cent and 6.9 percent); and

(g) General Electric bidding to supply drive systems equipment principally from Salem, Virginia (6.6 percent unemployment rate).

In addition to the U.S. goods and services for this project CSC states that it will purchase in the United States coal and spares to operate the project and the existing mill in the aggregate amount of $20,000,000 to $30,000,000 a year for the foreseeable future.

It should be noted that because of fierce competition regarding price and financing terms from suppliers in Japan, Germany, the United Kingdom and France, supported by their respective official export credit agencies, Eximbank was required to offer the best possible financial package. Some of the proposals offered by suppliers in those countries were cheaper in price than the similar U.S. goods and initially all of the financing costs were lower than those proposed by Eximbank.

In view of the magnitude of the transaction, the necessary repayment term for the type of project and the officially supported foreign competition, Eximbank's credit is necessary to secure this sale for United States suppliers.

2. Impact of transaction on the U.S. economy

According to information supplied to Eximbank by CSC, a portion of the steel from this project is expected to be marketed in the United States. CSC forecasts exports to the U.S. of approximately 100,000 MT of steel plate during the years 1983–1989, an average of about 16,000 MT a year. This annual volume represents about 1.5 percent of U.S. steel plate imports in 1978 and less than one percent of U.S. production of steel plate. Eximbank estimates that if all these imports displaced U.S. production (considered unlikely), this transaction would affect adversely only 560 man-years of U.S. steelworker employment during the term of the Eximbank loan. CSC expects to discontinue its exports to the United States after 1989 because local demand then is expected to consume their entire production.

The project also forecasts exports of around 12,000 MT a year to other Asian markets for the years 1983–1989. If these were to displace U.S. exports to Asia ton for ton (extremely unlikely), the project would affect adversely an additional 420 man-years of U.S. steelworker employment. Hence the potential total negative impact on the U.S. economy would be a maximum of 980 man-years of U.S. steel-worker employment.

This potential adverse impact, however, must be compared with the favorable U.S. employment impact associated with the $250,000,000 in U.S. export sales for the project. These sales will support over 11,390 man-years of U.S. employment, including directly some 5,000 man-years in various steel equipment manufacturers throughout the United States. Thus the net positive economic impact in just the steel product area is over 4,000 man-years of U.S. labor. These employment figures become even more positive when the favorable impact from the related exports of U.S. coal and spares are added.

Finally, it should be noted that CSC intends to construct this project and export the products therefrom whether or not they

are able to source their procurement in the United States supported by Eximbank financing. Therefore, the possible negative effects from the project on the U.S. economy will be felt in any event. By providing financial support for U.S. exporters, Eximbank enables these negative factors to be offset by the much larger positive benefits resulting from the export of some $250,000,000 of U.S. goods and services.

3. The financing plan

The total cost of United States goods and services to be purchased by CSC will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$37,500,000	15.0
Eximbank credit	212,500,000	85.0
Total	250,000,000	100.0

(a) *Eximbank charges*

The Eximbank credit will bear interest at the rate of 7½% per annum, payable semiannually. A commitment fee of 0.5 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) *Repayment terms*

The Eximbank credit will be repaid by CSC in semiannual installments beginning December 30, 1982.

Sincerely,

JOHN L. MOORE, Jr.

THE GENOCIDE CONVENTION: A NEW COMMITMENT

Mr. PROXMIRE. Mr. President, history has taught us that there are times when a dynamic leader with a fresh approach can capture the imagination of a people and guide them in a new direction. Such a leader was John F. Kennedy.

In his stirring inaugural address, President Kennedy stated that his generation of Americans was "unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed."

Mr. President, I sincerely believe that J.F.K.'s view of our commitment to human rights still holds true in 1979. Yet there are times when the strength of that commitment is called into question. One reason is the Senate's failure to ratify the Genocide Convention.

We in the Senate have stood by while seven consecutive administrations have urged the treaty's ratification. Republican and Democratic administrations alike have urged the Senate to approve this treaty and thus bring the United States back into the mainstream of the human rights drive. And the Senate has consistently refused.

Mr. President, it is time to ask ourselves whether we are genuinely committed to furthering human rights. Were President Kennedy's eloquent words in 1961 a misperception of the values this Nation holds? I do not believe so.

I am confident that this body will not permit the "slow undoing" of human rights in any area of the world. In this light, I am also confident that the Senate will recognize the need for ratifying the Genocide Convention.

ILLINOIS BRICK LEGISLATION

Mr. PRYOR. Mr. President, in recent weeks I have given careful consideration to S. 300, the so-called Illinois Brick legislation, which would overrule the Supreme Court decision by that name. Based on a thorough evaluation of all sides of this important issue—consumers, business and legal—I have decided to oppose the enactment of S. 300 in its present form.

In the Illinois Brick case the Supreme Court held that only the first, or direct, purchaser has the right to sue a violator of the antitrust laws. Because they feel it is unfair to forbid suits by consumers and other indirect purchasers who end up bearing the cost of price-fixing violations, supporters of S. 300 would allow suits against alleged violators by everyone in the chain of distributions—direct and indirect purchasers alike. If an overcharge resulting from price-fixing is passed through the different levels of distribution, the recovery would be allocated among the people who had to pay it.

While this arrangement may sound ideal, the Supreme Court expressed grave concerns, which I share, that it asks the courts to do the impossible. In effect, courts would have to bring every potential claimant into a single lawsuit and then try to sort out who gets what. Faced with the prospect of imposing such unmanageable administrative burdens on the court system, the Supreme Court chose practicality over judicial chaos and thereby limited price-fixing suits to those brought by direct purchasers. In view of overwhelming burdens already confronting the courts, I feel that this was a wise decision.

I also think that the Court made the correct decision in Illinois Brick in terms of promoting the effective enforcement of the antitrust laws.

The main purpose of private antitrust suits for treble damages is to deter violators. Congress added the treble damage feature to induce private actions and complement Government enforcement efforts.

In Illinois Brick the Court found that the deterrent effect is greater when only direct purchasers can sue. This is because direct purchasers are in the best position to detect violations, their claims are usually large and their chances of winning significant awards is a powerful inducement to bring suit against a violator.

A study prepared for the Senate Judiciary Committee in 1978 by Francis Kirkham, examined the enforcement activity in two important antitrust districts where suits by indirect purchasers were clearly permitted. The findings sharply contradict one of the basic premises of S. 300: That direct purchasers do not sue their suppliers. The study shows that a large majority of price-fixing cases were brought by direct purchasers, while indirect purchasers brought suit in only a few instances and actually initiated the litigation in almost none. I am convinced that the treble damage feature is functioning as Congress intended it do, and price-fixing suits by direct purchasers are an effective deterrent against violators.

While the legislation which the Judiciary Committee ordered reported is somewhat different than the Illinois Brick that was originally introduced, in my view, it would still seriously undermine the effective enforcement of the antitrust laws and overburden the court system. Consumers, the intended beneficiaries, would be the ultimate losers, while lawyers would reap a bonanza. Therefore, Mr. President, I oppose S. 300 as presently drafted.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended under the same conditions for a period of not to exceed 10 minutes.

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

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 317, 318, 319, and 321.

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

BICENTENNIAL MEDALS

The bill (S. 1515) to authorize the striking of bicentennial medals, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") not more than fifty thousand medals each year with suitable designs, emblems, and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. Subject to the availability of the production facilities of the Bureau of the Mint, the medals shall be struck and delivered at such time as may be required by the Society in quantities not less than two thousands medals of each alloy authorized in this Act, but no medals shall be struck after December 31, 1989. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 50 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the cost of manufacture.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver, and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society.

SEC. 4. Any agreement or contract entered into by the Society and an individual or corporation for the marketing of the medals authorized by this Act shall provide that at

least 75 per centum of the net profit arising from the sale of the medals shall accrue to the Society.

SEC. 5. The Comptroller General of the United States shall have the right to examine all books, records, documents, and other data of the Society as may be related to the medals authorized by this Act, including all records and documents pertaining to the marketing of the medals.

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

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

The motion to lay on the table was agreed to.

COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The bill (S. 1454) to amend the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and section 850(1)(B) and section 8521(a)(1) of title 5, United States Code, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of August 10, 1956, as amended (70A Stat. 619) (33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new paragraph:

"(13) Section 716, Commissioned officers: transfers between armed forces.".

SEC. 2. Section 716 of title 10, United States Code, is amended—

(1) by inserting the words "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the term "armed force" wherever it appears in the first sentence;

(2) in the second sentence, by striking out the word "and" after the word "Defense" and inserting in place thereof a comma, and by inserting after the word "operating" the words ", and the Secretary of Commerce"; and

(3) inserting the following sentence at the end thereof: "An officer transferred under this section shall be credited for retirement and pay purposes with the same years of service with which he had been credited on the day before his transfer.".

SEC. 3. Section 1006 of title 37, United States Code, is amended by inserting the following sentence at the end of subsection (a): "For the purpose of this section the term 'armed force' includes the Commissioned Corps of the National Oceanic and Atmospheric Administration.".

SEC. 4. Title 5, United States Code, is amended as follows:

(1) Clause (1)(B) of section 8501 is amended to read "(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;" and

(2) Clause (a)(1) of section 8521 is amended by inserting the phrase "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the phrase "armed forces".

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

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

The motion to lay on the table was agreed to.

REVITALIZING THE UNITED STATES DOMESTIC CRUISE AND PASSENGER SERVICE

The Senate proceeded to consider the bill (S. 1281) to clarify that the steamship *United States* may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Oceanic Independence (official Coast Guard numbered 261147) and the vessel steamship Santa Rosa (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the Oceanic Independence—

(A) the vessel is in compliance with the usual requirements for vessels engaging in the coastwise trade,

(B) any rebuilding or repair work on the vessel shall be accomplished after documentation as a vessel of the United States, except that the vessel shall not lose its coastwise privileges if the work necessary to install a bow thruster in the vessel and to equip it with sewage holding tanks to comply with international standards is performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers and their accompanying baggage.

(2) in the case of the steamship Santa Rosa—

(A) prior to such documentation the owner of the steamship Santa Rosa repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers and their accompanying baggage.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following "in the domestic and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided,* That for hire carriage in the domestic commerce of the United States is limited to passengers and their accompanying baggage,".

The amendment was agreed to.

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

The title was amended so as to read:

A bill to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels steamship United States, steamship Oceanic Independence, and steamship Santa Rosa into the trade.

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

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

The motion to lay on the table was agreed to.

INTERNATIONAL BANKING ACT AMENDMENTS

The bill (S. 1646) to amend the International Banking Act of 1978 (Public Law 95-369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(b) of the International Banking Act of 1978 (Public Law 95-369) is amended by the addition of the following new paragraph:

"Notwithstanding the previous paragraph, a branch of a foreign bank in operation on the date of enactment of this Act which has applied for Federal deposit insurance pursuant to section 5 of the Federal Deposit Insurance Act by September 17, 1979, and has not had such application denied, may continue to accept domestic retail deposits until January 31, 1980.".

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

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

The motion to lay on the table was agreed to.

COMMUNICATIONS

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

EC-1937. A communication from the Assistant Secretary for Food and Consumer Services, Department of Agriculture, transmitting, pursuant to law, a report on "Food Consumption and Nutrition Evaluation, The National School Lunch Program; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1938. A communication from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, a violation of section 3679 of the Revised Statutes, as amended, for the appropriation: Emergencies in the Diplomatic and Consular Service, State, 1979, 1990522; to the Committee on Appropriations.

EC-1939. A communication from the Secretary of Defense, reporting, pursuant to law, three violations of the Anti-Deficiency Act (Section 3679, Revised Statutes), and of Department of Defense Directive 7200.1, "Administrative Control of Appropriations"; to the Committee on Appropriations.

EC-1940. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the intent to obligate $9.5 million in the Army Stock Fund and $16.1 million in the Navy Stock Fund for reserve stocks; to the Committee on Appropriations.

EC–1941. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter April 1, 1979 through June 30, 1979; to the Committee on Appropriations.

EC–1942. A communication from the Assistant Secretary of the Interior, reporting, pursuant to law, relating to certification as to adequacy of soil survey and land classification as required by the 1954 Appropriation Act—San Luis Water District—Central Valley Project, California; to the Committee on Appropriations.

EC–1943. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment and material for the second quarter of fiscal year 1979; to the Committee on Appropriations.

EC–1944. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Difficulties in Selected Army Recruiting Under the All-Volunteer Force," August 20, 1979; to the Committee on Armed Services.

EC–1945. A communication from the General Counsel, Department of the Air Force, transmitting, pursuant to law, a report of investigation re allegations made by Mr. Donnie G. Lee, an employee of the commissary of Scott Air Force Base, Illinois; to the Committee on Armed Services.

EC–1946. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Army Procurement of 10kw, 600Hz Gas Turbine Generators is Highly Questionable," August 9, 1979; to the Committee on Armed Services.

EC–1947. A communication from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting, pursuant to law, a report concerning the Selected Reserve recruiting and retention incentives authorized by those sections of public law; to the Committee on Armed Services.

EC–1948. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on real and personal property of the Department of Defense, as of 30 September 1978; to the Committee on Armed Services.

EC–1949. A communication from the Secretary of Defense, reporting, pursuant to law, on approvals under section 407(a) of the annual compensation of any office or employee of a Federal Contract Research Center (FCRC) in excess of $45,000 from federal funds; to the Committee on Armed Services.

EC–1950. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Act of August 29, 1974 (88 Stat. 795; 10 U.S.C. 8202 note), as amended (92 Stat. 719; 10 U.S.C. 8202 note), relating to the authorized numbers for the grades of lieutenant colonel and colonel in the Air Force and to provide continuing authority for certain existing personnel management procedures in the armed forces, and for other purposes; to the Committee on Armed Services.

EC–1951. A communication from the Secretary of the Army, reporting, pursuant to law, that the U.S. Army intends to initiate chemical agent/munitions disposal operations for the M55 rocket, GB filled, at the Chemical Agent Munitions Disposal System (CAMDS), Tooele Army Depot, Tooele, Utah on or about September 10, 1979; to the Committee on Armed Services.

EC–1952. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend Section 7227, title 10, United States Code, to provide for the furnishing of routine port services at no cost to visiting naval vessels of a friendly foreign country, when by agreement or custom such services are provided reciprocally to visiting naval vessels of the United States; to the Committee on Armed Services.

EC–1953. A secret communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, 52 Selected Acquisition Reports (SARs) and the SAR Summary Tables for the quarter ending June 30, 1979; to the Committee on Armed Services.

EC–1954. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Weaknesses in Servicing and Accounting for Home Mortgages Held by HUD," August 16, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–1955. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, a report on the Northeast Corridor Improvement Project, Fiscal Year 1978; to the Committee on Commerce, Science, and Transportation.

EC–1956. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36525, Sierra Railroad Company v. Southern Pacific Transportation Company, et al., within the specified time limits; to the Committee on Commerce, Science, and Transportation.

EC–1957. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, reports entitled (1) "Petroleum Market Shares: Report on Sales of Refined Petroleum Products—May 1979"; and (2) "Petroleum Market Shares: Report on Sales of Retail Gasoline—May 1979"; to the Committee on Energy and Natural Resources.

EC–1958. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the Presidential Oil Pollution Insurance Study; to the Committee on Energy and Natural Resources.

EC–1959. A communication from the Acting Secretary of Transportation, transmitting, pursuant to law, a revised estimate of the cost of completing the National System of Interstate and Defense Highways prepared for the purpose of determining apportionment factors for Interstate System funds authorized for the fiscal years ending September 30, 1981, and September 30, 1982; to the Committee on Environment and Public Works.

EC–1960. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Courthouse, 1010 Fifth Avenue, Seattle, Washington, in the amount of $3,989,000; to the Committee on Environment and Public Works.

EC–1961. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Federal Building-U.S. Courthouse, 4th and F Street, Anchorage, Alaska, in the amount of $6,968,000; to the Committee on Environment and Public Works.

EC–1962. A communication from the Acting Deputy Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied in the Universal North Building at 1875 Connecticut Avenue, N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC–1963. A communication from the Acting Deputy Administrator, General Services Administration, reporting, pursuant to law, that a prospectus submitted July 5, 1978, for the U.S. Post Office-Courthouse, Cincinnati, Ohio, in the amount of $3,784,000, presently before the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation, be removed from the list of prospectuses pending congressional approval and requesting it be returned to the General Services Administration (GSA); to the Committee on Environment and Public Works.

EC–1964. A communication from the Chairman, Task Force on Environmental Cancer and Heart and Lung Disease, transmitting, pursuant to law, the second annual report of the task force, August 7, 1979; to the Committee on Environment and Public Works.

EC–1965. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement on Yellowstone and Tongue Rivers, Miles City, Montana, project; to the Committee on Environment and Public Works.

EC–1966. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Noncontributory Social Security Wage Credits for Military Service Should be Eliminated," August 8, 1979; to the Committee on Finance.

EC–1967. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "IRS Can Improve its Process for Deciding Which Corporate Returns to Audit," August 3, 1979; to the Committee on Finance.

EC–1968. A communication from the Special Representative for Trade Negotiations, reporting, pursuant to law, on certain trade practices of foreign governments; to the Committee on Finance.

EC–1969. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report of the Social Security Administration; to the Committee on Finance.

EC–1970. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed FY 1979 program in Yemen; to the Committee on Foreign Relations.

EC–1971. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, justification of an increase in the funding level of the proposed FY 1979 program in Tanzania; to the Committee on Foreign Relations.

EC–1972. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (BRD), the Group of Controllers' evaluation reports by the Inter-American Development Bank (IDB), and post-evaluation reports by the Asian Development Bank (ADB); to the Committee on Foreign Relations.

EC–1973. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days atfer the execution thereof; to the Committee on Foreign Relations.

EC–1974. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Participation in International Organizations: An Update," August 10, 1979; to the Committee on Foreign Relations.

EC–1975. A communication from the As-

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

EC–1976. A communication from the Secretary of State, transmitting, pursuant to law, the twenty-sixth report on the extent and disposition of United States contributions to international organizations for the fiscal year 1977; to the Committee on Foreign Relations.

EC–1977. A communication from the Secretary of the Treasury as Chairman of the National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the annual report of the Council for fiscal year 1978; to the Committee on Foreign Relations.

EC–1978. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Civil Agencies Can Do a Better Job of Negotiating Noncompetitive Contracts Priced Over $100,000"; to the Committee on Governmental Affairs.

EC–1979. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records for the Department of Defense under the Privacy Act; to the Committee on Governmental Affairs.

EC–1980. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records for the Department of Defense under the Privacy Act; to the Committee on Governmental Affairs.

EC–1981. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend sec. 301, title 13, U.S.C. to protect confidentiality of export data required by the Bureau of the Census for statistical purposes; to the Committee on Governmental Affairs.

EC–1982. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, a report on a new system of records for the Department of Energy under the Privacy Act; to the Committee on Governmental Affairs.

EC–1983. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Information Management Policies Needed: A Study of Scientific and Technical Bibliographic Services"; to the Committee on Governmental Affairs.

EC–1984. A communication from the General Counsel of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, a report on a new system of records for the Executive Office of the President under the Privacy Act; to the Committee on Governmental Affairs.

EC–1985. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 17, 1979; to the Committee on Governmental Affairs.

EC–1986. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 17, 1979; to the Committee on Governmental Affairs.

EC–1987. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 3, 1979; to the Committee on Governmental Affairs.

EC–1988. A communication from the Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, the ninth quarterly report covering the activities of the Office of Inspector General for the period April 1 to June 30, 1979; to the Committee on Governmental Affairs.

EC–1989. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Analysis of the Effects of Indexing for Inflation on Federal Expenditures"; to the Committee on Governmental Affairs.

EC–1990. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for July 1979; to the Committee on Governmental Affairs.

EC–1991. A communication from the Acting Administrator of the Office of Federal Procurement Policy, Executive Office of the President, transmitting, pursuant to law, the first and second quarterly reports and selected special analyses as initial publications of the Federal Procurement Data System; to the Committee on Governmental Affairs.

EC–1992. A communication from the President of the United States, transmitting, pursuant to law, the fourth annual report of executive branch activities covered by the Privacy Act of 1974; to the Committee on Governmental Affairs.

EC–1993. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records for the Marine Corps under the Privacy Act; to the Committee on Governmental Affairs.

EC–1994. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 31, 1979; to the Committee on Governmental Affairs.

EC–1995. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 31, 1979; to the Committee on Governmental Affairs.

EC–1996. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 31, 1979; to the Committee on Governmental Affairs.

EC–1997. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on July 31, 1979; to the Committee on Governmental Affairs.

EC–1998. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Implementation of Major System Acquisition Process—A–109—Is Inconsistent Among Civil Agencies"; to the Committee on Governmental Affairs.

EC–1999. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Availability of Ground Water on Federal Land near the Ak-Chin Indian Reservation, Arizona—A Reconnaissance Study"; to the Select Committee on Indian Affairs.

EC–2000. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law the final report of the American Indian Religious Freedom Task Force; to the Select Committee on Indian Affairs.

EC–2001. A communication from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications; to the Committee on the Judiciary.

EC–2002. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 1,555 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–2003. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC–2004. A communication from the Chairman, Board of Directors, Future Farmers of America, transmitting, pursuant to law, a report of audit of the Future Farmers of America for the fiscal year ended June 30, 1979; to the Committee on the Judiciary.

EC–2005. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Juvenile Delinquency-Related Activities: Coordination and Information Dissemination Are Lacking," August 3, 1979; to the Committee on the Judiciary.

EC–2006. A communication from the Director of Management, Office of the Special Representative for Trade Negotiations, transmitting, pursuant to law, a report on requests for documents under the Freedom of Information Act (FOIA); to the Committee on the Judiciary.

EC–2007. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 844 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–2008. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 2,394 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–2009. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 1978 annual report on the National Health Service Corps; to the Committee on Labor and Human Resources.

EC–2010. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report for FY 1977 and 1978 on roles, resources, and responsibilities of Federal programs and activities relating to Emergency Medical Services; to the Committee on Labor and Human Resources.

EC–2011. A communication from the Chairman, National Commission for Employment Policy, transmitting, pursuant to law, a report entitled "The Impact of CETA Eligibility Criteria on Single Heads of Households," June 28, 1979; to the Committee on Labor and Human Resources.

EC–2012. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the present and future direction of the National Health Service Corps (NHSC); to the Committee on Labor and Human Resources.

EC–2013. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Rehabilitation Act of 1973, and for other purposes; to the Committee on Labor and Human Resources.

EC–2014. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Effect of the Department of Labor Re-

source Allocation Formula on Effort to Place Food Stamp Recipients in Jobs (A Supplement to Comptroller General's Report CED-78-60 April 24, 1978)," August 15, 1979; to the Committee on Labor and Human Resources.

EC-2015. A communication from the Under Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1978 to January 1979; to the Select Committee on Small Business.

EC-2016. A communication from the Under Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October-December 1978; to the Select Committee on Small Business.

EC-2017. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, August 1979; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Small Business, jointly, pursuant to the order of January 1, 1975.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-416. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION NO. 36

"Whereas, Section 301 of Title 37 of the United States Code has been amended to deny flight crew status, and thus incentive pay for flight duty, to Air Force nurses; and

"Whereas, Air Force Regulation 35-41 requires Air Force Reserve and Air Guard nurses to be actively employed in their field two days per week or pursuing a degree in nursing; and

"Whereas, Noncompliance with Air Force Regulation 35-41 results in nonactive, nonpay reserve status until the person dies or retires; and

"Whereas, No other profession in the reserves imposes such a requirement, nor do Army or Navy reserves impose such requirements; and

"Whereas, The result is a severe and disparate impact on females because a large majority of reserve nurses are female; and

"Whereas, This disparate treatment is unfair to these loyal reserve nurses who have served their country with compassion and devotion; and

"Whereas, The Air Force nurses have exhausted all available manners of redress at their disposal; and

"Whereas, The Air Force nurses are supported by the American Nurses' Association as well as the California Nurses' Association which has long espoused the rights of registered nurses to fair and equitable treatment in conditions of employment; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California memorializes the Congress of the United States to amend Section 301 of Title 37 of the United States Code and the Department of the Air Force to amend Air Force Regulation 35-41 so that they no longer produce a discriminatory impact on Air Force nurses; and be it further

"Resolved, That the Legislature of the State of California memorializes the Congress of the United States to establish a special investigatory committee to review other labor practices engaged in by the Air Force which might result in discrimination against Air Force nurses and to implement a program to avoid any such discriminatory practices in the future; and be it further

"Resolved, That the Secretary of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Defense, the Secretary of the Air Force, the Assistant Secretary of the Air Force, the Air Force Chief of Staff, the Speaker of the House of Representatives, the Chairman of the Senate Committee on Armed Services, the Chairman of the House of Representatives Committee on Armed Services, and to each Senator and Representative from California in the Congress of the United States."

POM-417. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 40

"Whereas, It is the policy of the State of California to encourage the preservation and improvement of rail passenger service as an important national resource and a necessary alternative to long-distance travel by private automobile during these times of scarcity and escalating costs of fuel; and

"Whereas, The Department of Transportation of the State of California (Caltrans) on May 14, 1979, filed a complaint in the United States District Court for the Eastern District of California to enjoin the severe reductions in rail passenger service proposed by the President and Congress for the National Railroad Passenger Corporation (Amtrak) not only within California but also across the nation; and

"Whereas, The proposed reduction in rail passenger service will, among other adverse impacts within California, eliminate approximately 300 route miles of service; terminate service to such important communities as Stockton, Riverbank, Merced, and Hanford; discourage prospective rail passengers between Los Angeles and Chicago by increasing the travel time 11½ hours; hinder the state program of underwriting certain Amtrak operating deficits instituted pursuant to Section 4 of Chapter 1130 of the Statutes of 1975; and cause increases in both air pollution and fuel consumption particularly within the San Joaquin Valley which is even presently not in compliance with federal air pollution standards; and

"Whereas, The proposed reductions in rail passenger service will, among other adverse impacts for the rest of the nation, eliminate access to intercity rail passenger service for approximately 41 million persons; displace approximately 5,800 Amtrak and operating railroad employees; terminate rail passenger service at approximately 213 stations with consequent environmental, cultural, economic, and historical impacts; result in an increase in energy consumption in 28 of the 42 states directly affected by the proposed reductions in service; cause increased air pollution in 41 of these 42 states; burden interstate trucking by causing increases in the number of cars and buses on interstate highways; and disrupt local transportation and community planning; and

"Whereas, These proposed cutbacks in Amtrak service are embodied in a controversial Final Report to Congress prepared by the United States Department of Transportation dated January 1979, and this report fails to include either a detailed environmental impact statement as required by the National Environmental Policy Act or the information required by the Amtrak Improvement Act of 1978; and

"Whereas, The proposed reductions in service will violate the Clean Air Act, the National Historic Preservation Act, and significant constitutional rights of the citizens of California, such as the right of travel and the due process guarantee of a full and fair hearing relating to the discontinuance of rail passenger service; and

"Whereas, The State of Texas has also filed a lawsuit in the United States District Court for the Southern District of Texas on May 22, 1979, to enjoin these rail passenger service reductions; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California expresses its support for the legal actions instituted by Caltrans to enjoin the proposed reductions in rail passenger service by Amtrak, respectfully memorializes the President and Congress to act swiftly to eliminate these ill-advised proposed cutbacks in Amtrak service, and urges all other states which would be adversely affected by restructured and reduced Amtrak service to institute legal actions similar to those instituted by California and Texas; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Transportation, and to the Governors of all the other States in the United States."

POM-418. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 33

"Whereas, An important function of government is to provide safe and efficient transportation facilities and services for the people of California and the United States including a safe air transportation system; and

"Whereas, Many major airports in the State of California serve both commercial air carriers and general aviation; and

"Whereas, The collision of a commercial passenger airliner with a small private airplane over San Diego on September 25, 1978, has focused attention on the concern for air travel safety in the congested airspace near major airports; and

"Whereas, Aviation professionals across the nation have expressed concern that actions proposed by the Federal Aviation Administration as a result of the San Diego midair collision may not significantly improve air travel safety in congested airspace near major airports; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Congress of the United States is respectfully memorialized to require an impartial agency not presently responsible for air safety matters at the earliest possible date to conduct a study of congested airspace problems and to consider appropriate measures to maximize air safety for the benefit of the traveling public, including the feasibility of allowing both general and commercial aviation traffic in the same airspace above major air carrier airports and the state of current technology on collision avoidance systems; and be it further.

"Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to the Speak-

er of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Transportation, and to the Administrator of the Federal Aviation Administration."

POM-419. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT RESOLUTION No. 43

'Whereas, rail transportation is critically important to agriculture and the entire economy of Montana, and agriculture and industry in Montana are vitally in need of adequate and efficient rail transportation; and

"Whereas, the current bankruptcy proceeding involving the Chicago, Milwaukee, St. Paul and Pacific Railroad, commonly known as the Milwaukee Road, is of great concern to Montana; and

"Whereas, the proposed abandonment of rail lines serving Montana will work a significant hardship on the citizens of the state; and

"Whereas, the Milwaukee Road employs about 750 persons in Montana, serves 23 counties, and contributes approximately $750,000 a year in property taxes; and

"Whereas, the Milwaukee Road is a major component of the state transportation system, serving over 150 stations and providing both direct service and connections with other lines; and

"Whereas, the Milwaukee Road serves 31 public warehouse and grain dealer facilities, and these facilities have a storage capacity of 4,332,000 bushels and would be without rail service in the event the Milwaukee line is abandoned; and

"Whereas, the maintenance of a balanced transportation system is desirable to foster competition; and

"Whereas, if abandonment occurs, Montana will lose jobs, shipping capacity, local tax revenues, and the advantages of competition; and

"Whereas, numerous state agencies and officers, including the Attorney General, the Department of Agriculture, the Department of Highways, and the Public Service Commission, are actively involved in the Milwaukee Road proceedings and in developing plans to revitalize and rehabilitate rail transportation.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the Legislature strongly supports those actions designed to minimize the reduction of the Milwaukee Road system and encourages private enterprise to develop and promote plans to revitalize the rail transportation system.

"Be it further resolved, that the Legislature urges the bankruptcy court in the Milwaukee Road case (Cause No. 77 B 8999, In the Matter of the Chicago, Milwaukee, St. Paul and Pacific Railroad) to direct Trustee Hillman to develop and work towards an alternative to abandonment which would allow viable and profitable operation of the Milwaukee Road.

"Be it further resolved, that the Legislature supports the expansion of markets for Montana products including but not limited to agricultural and forest products and coal resources and other minerals.

"Be it further resolved, that priority consideration for maintaining the Milwaukee Road is required to facilitate movement of such products and associated services.

Be it further resolved, that the Legislature commends and supports the efforts of private citizens and private groups such as SORE (Save Our Railroad Employment) to maintain the Milwuakee Road.

"Be it further resolved, that the Legislature urges the Congress of the United States to continue and expand federal programs and assistance designed to revitalize and rehabilitate the nation's rail transportation system.

"Be it further resolved, That copies of this resolution be sent by the Secretary of State to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of Montana's Congressional Delegation, the Secretary of the Department of Transportation, the bankruptcy court in the Milwaukee Road case, and to the trustee of the Chicago, Milwaukee, St. Paul and Pacific Railroad attesting the adoption of this joint resolution by the 46th Legislature of the State of Montana."

POM-420. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION No. 37

"Whereas, the Pacific Northwest has a unique electrical generating system which has in the past been dependent upon private and public hydroelectric facilities; and

"Whereas, implementation of a comprehensive energy conservation program combined with generation of expensive thermal electric power will both be required to insure adequate energy in the future; and

"Whereas, the region's power facilities are linked in a delivery system administered primarily by the Bonneville Power Administration, the United States Army Corps of Engineers, and the Bureau of Reclamation; and

"Whereas, Congress has considered and will consider several bills dealing with regional energy planning in the Pacific Northwest, including the Pacific Northwest Electric Power Planning and Conservation Act, which will be introduced in the current session of Congress; and

"Whereas, some of the proposals, including the Act, would grant significant powers to the Bonneville Power Administration in the areas of regional power planning and resource acquisition; and

"Whereas, because of Montana's abundant energy resources and its inclusion in the Bonneville Power Administration marketing area, Montana will be significantly affected by any regional energy plan which is implemented; and

"Whereas, Montana has enacted numerous statutes enabling its citizens through their legislature to control energy and resource development in this state, including the Montana Major Facilities Siting Act, the Montana Strip and Underground Mine Reclamation Act, and the Strip and Underground Mine Siting Act, among others; and

"Whereas, the legislature, the citizens, and the Congressional delegation of the state of Montana desire to insure that federal legislation relating to Pacific Northwest Regional Energy Planning will not preempt the Montana Major Facility Siting Act and environmental laws relating to electric utilities or the ratemaking power of the Montana Public Service Commission; and

"Whereas, Montana reaffirmed its commitment to control energy development when its citizens overwhelmingly approved a ballot initiative requiring public approval on the siting of nuclear facilities; and

"Whereas, the Administration and the Congressional delegation of the state of Montana, as reflected in the testimony of the Governor on the Pacific Northwest Electric Power Planning and Conservation Act, are concerned that some of the proposals for Pacific Northwest regional energy planning, including the Act, may preempt those statutes and the ratemaking power of the Montana Public Service Commission; and

Whereas, Montana state government representatives and Montana citizens in testimony on this legislation have reaffirmed Montana's commitment to energy conservation and have stated their concern that those ultimately responsible for regional energy are accountable to the public; and

"Whereas, similar programs for citizen control of development or resources, of energy conservation, and of ratemaking exist in the other Pacific Northwest states; and

"Whereas, the coordination of regional energy policy is a major concern of the Pacific Northwest states and the federal government, and will require that decisions about the region's energy policy be reached collectively; and

"Whereas, the proposed legislation should permit the unique use of Bonneville Power Administration power revenues to finance cost-effective investments in energy conservation and renewable energy sources and should establish a more open planning process.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the Legislature of the state of Montana call upon the United States Congress to consider the following if the Pacific Northwest Electric Power Planning and Conservation Act or any act regarding regional energy policy in the Pacific Northwest is considered or enacted:

"(1) the development of guidelines by the Bonneville Power Administration for forecasting regional needs and resources. Individual states should be allowed to determine their own needs and this will become an integral part of the regional forecast. However, should the states be incapable of providing such a forecast, the Bonneville Power Administration should offer this service.

"(2) provisions allowing states to keep their rights in power plant siting and retail ratemaking;

"(3) A reaffirmation of the priority of Montana in the allocation of power under the Hungry Horse authorization and preference act and the authorizations and appropriations for the Libby dam project;

"(4) a mechanism to allocate federal power within the Pacific Northwest that would clarify the intent of the preference clause of the Bonneville Project Act, 16 U.S.C. 832, to give preference to legitimate public utilities while minimizing the electrical price difference between consumers of the region.

"Be it further resolved, that Montana call upon the United States Congress to pass legislation regarding Pacific Northwest regional energy policy only if such proposed legislation has the support of the Governors and Congressional delegations of Montana, Washington, Oregon, and Idaho and the ad hoc committee that the Western Conference of the Council of State Governments has established.

"Be it further resolved, that the Secretary of State send copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Chairmen of the United States House and Senate Energy Committees, the Chairman of the United States House Interior and Insular Affairs Committee, the Secretary of Energy, the Congressional delegations of Washington, Idaho, Oregon, and Montana, and the legislative assemblies of Washington, Idaho, and Oregon."

POM-421. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 22

"Whereas, Pine Flat Dam on the Kings River, California, was authorized by the Flood Control Act of 1944 for construction by the U.S. Army Corps of Engineers pri-

marily as a flood control project with incidental conservation storage of water for irrigation; and

"Whereas, The Kings River water users owned 100 percent of the rights to use such Kings River water for more than 80 years before such flood control dam was built; and

"Whereas, The Kings River water users have paid or contracted to pay all the costs allocable to irrigation storage behind Pine Flat Dam; and

"Whereas, For many years, representatives of the United States repeatedly stated that this project would not come under reclamation law or the restrictions thereof; and

"Whereas, By virtue of building the dam, no 'new' water was created, no 'new' lands came into cultivation, no 'arid' lands were reclaimed, and no 'public' lands were opened for settlement; and

"Whereas, No distribution facilities were built by the United States; and

"Whereas, A substantial portion of the Kings River service area lies within the Tulare Lake Basin and is not susceptible to farming in small tracts due to periodic flooding and other factors; and

"Whereas, In spite of such aforementioned facts, the Ninth Circuit Court of Appeals has reversed a judgment of the trial court and decreed that the reclamation laws of the United States apply to all waters stored behind Pine Flat Dam; and

"Whereas, Such decree will cause the larger users to forego storage of their privately owned water and use it under natural flow conditions as was done before Pine Flat Dam was built; and

"Whereas, Such natural flow use will destroy most of the recreation benefits of the reservoir and harm the smaller users of Kings River water by substantially increasing their reliance on already overdrafted and costly groundwater supplies; and

"Whereas, As a matter of fairness and equity, such aforestated facts dictate that the beneficiaries of the Pine Flat Project should be exempt from the provisions of reclamation law; and

"Whereas, Legislation has been introduced in the House of Representatives specifically to exempt such Kings River service area from such laws; and

"Whereas, Legislation has also been introduced in the House of Representatives which would modernize such reclamation laws to recognize the changes that have taken place in agriculture, this state's number one industry, over the past 76 years; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to specifically exempt the Kings River service area from the provisions of reclamation law and also to modernize such reclamation laws to recognize the changes that have taken place in agriculture; and be it further.

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–422. A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Energy and Natural Resources:

"RESOLUTIONS

"Whereas, the United States is entering the forthcoming winter season with stockpiles of heating oil inadequate to assure that basic energy needs will be met; and

"Whereas, these circumstances threaten to create a severe shortage of heating oil this winter; and

"Whereas, such a shortage, in combination with anticipated substantial price increases in heating oil, will result in substantial disruptions to the economic well-being of the New England area, as well as to the public health and safety of the citizens of the Northeast; and

"Whereas, the continued lack of a comprehensive heating oil allocation program will result in long term and irretrievable economic catastrophe to the people of the Northeast in general and the people of the Commonwealth of Massachusetts in particular; therefore be it

"Resolved, that the Massachusetts House of Representatives hereby memorializes the Congress of the United States to adopt and implement a comprehensive system of heating oil allocation and price controls, and an emergency assistance program to minimize disruptions to the economic well-being, the public health and safety and the public welfare; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the presiding officer of each branch of Congress and to each Member thereof from this commonwealth."

POM–423. A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Energy and Natural Resources:

"RESOLUTIONS

"Whereas, out of friendship for the United States, the Republic of Cape Verde, a small undeveloped country, has purchased and is donating the Schooner Ernestina, the old wooden sailing vessel that has been called the 'Mayflower of the Cape Verdean People'; and

"Whereas, the Ernestina is historically significant because she is the only remaining class A Gloucester Schooner in the world, was the flagship of Admiral Robert Byrd's expedition to the North Pole earlier in this century and was used as a packet ship between the United States and the Cape Verde Islands when drought and starvation plagued the islands' people; and

"Whereas, a national organization dedicated to restoring the vessel and returning it to the United States from the Cape Verde Islands where she is now docked has submitted a detailed two hundred fifty thousand dollar proposal to facilitate said purposes to the United States Department of the Interior through a sponsoring agency, the National Trust in Washington, D.C.; therefore be it

"Resolved, That the Massachusetts House of Representatives hereby urges the Secretary of the Interior and the Congress of the United States to effect such action as may be necessary to provide for the restoration and return of the Schooner Ernestina to American shores; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the Secretary of the Interior, to the presiding officer of each branch of Congress, and to each Member thereof from this Commonwealth."

POM–424. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on Energy and Natural Resources:

"RESOLUTIONS

"Whereas, the people of Massachusetts are uniquely dependent on oil for home heating; and

"Whereas, they cannot develop adequate alternative fuels or energy sources in time for the coming winter; and

"Whereas, shortage of home heating oil will cause serious economic hardship and physical suffering; and

"Whereas, the poor and the elderly are particularly vulnerable to this suffering; and

"Whereas, all predictions are that a major shortage of heating oil will exist this winter; now therefore be it

"Resolved, that the Massachusetts Senate hereby urgently requests the President to recognize this situation as critical, to act immediately to guarantee that emergency assistance will be available according to genuine need, and to communicate his personal assurance to the people of Massachusetts; and be it further

"Resolved, That copies of these resolutions be forwarded by the clerk of the Senate to the President of the United States, the Secretary of the Department of Energy, the presiding officer of each branch of Congress, and to each member thereof from this Commonwealth."

POM–425. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 20

"Whereas, The United States has one of the lowest savings percentages among the democracies of the world; and

"Whereas, Almost every democracy in the world provides for the exemption of interest derived from savings accounts, to encourage savings; and

"Whereas, It is essential that savings be encouraged to provide funds for housing for the people of the United States; and

"Whereas, Savings accounts provide investment capital which is necessary for the advancement of the American economic system; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to exempt from federal income taxes a portion of the interest derived annually from savings accounts; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–426. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on Governmental Affairs:

"RESOLUTION

"Whereas, there are many mentally retarded citizens residing in the Commonwealth's State Schools for the Retarded, in private facilities, and in alternative settings created by the Department of Mental Health, that are being administered psychotropic drugs; and

"Whereas, these drugs are being administered as chemical restraints and for the purpose of control; and

"Whereas, one of the major drug groups still being administered is known as phenothiazine, all but two of which have never received FDA approval for administration to persons with uncomplicated mental retardation; and

"Whereas, in addition to this immoral misuse of human life through drug control, that many of these psychotropic drugs institute a potentially dangerous and harmful effect to the retarded due to the drugs' adverse physical and mental side effects; and

"Whereas, it is the intent of this legislative body to offer humane and safe treatment to its retarded population in a way that will benefit their growth and well-being as citizens of this Commonwealth; and

"Whereas, this potential for drug misuse falls in the area of programs receiving both State and Federal funding; and

"Whereas, the U.S. General Accounting Office has an established record of integrity in fact-finding in previous audits of both State and federally funded programs for the retarded within this Commonwealth; now, therefore be it

"*Resolved*, That the Massachusetts Senate respectfully requests the President of the United States and the Congress to initiate an audit and investigation of the use of psychotropic drugs in programs for the mentally retarded by the U.S. General Accounting Office; and be it further

"*Resolved*, That this investigation should include a comparison of facilities reducing drug misuse, so as to benefit not only programs within the Commonwealth, but to set a standard of excellence for the retarded across our Nation; and be it further

"*Resolved*, That the Massachusetts Senate respectfully requests the President of the United States and the Congress to then utilize this fact-finding to give those programs reducing drug misuse additional Federal assistance in order to create an environment of greater respect for the retarded citizen in which he may gain a purpose for living with dignity and self-respect; and be it further

"*Resolved*, That copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Presiding Officer of each branch of the Congress, and to the Members thereof from this Commonwealth."

POM–427. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION No. 6

"Whereas, additional acreage in the Western States is being considered for inclusion in the National Wilderness Preservation System; and

"Whereas, the designation of large areas of the Western States as federal wilderness restricts or eliminates access by the great majority of Americans; prohibits the harvesting of mature and overmature timber essential for the building of America's homes and businesses; prevents the development of needed mineral resources and makes difficult the improvement of rangeland by the reseeding of grasses and the eradication of undesirable vegetation; interferes with the control of forest fires, insect damage, and diseases and the development of water resources, thereby limiting the national food supply and timber harvest and decreasing the value of wildlife habitat; and

"Whereas, the federal government has advanced a wide variety of other programs which affect land, water, and other natural resource management decisions of the several states, including, in addition to wilderness, roadless and essentially roadless study areas, primitive, wild, and scenic rivers, and other administrative and statutory designations for areas managed in a highly restrictive manner resulting in de facto wilderness; and

"Whereas, each of these programs and others create an allocation of the natural resources within the states without regard to state policy decisions, state objectives, or economic well-being; and

"Whereas, these federal program decisions, in which input by state policymakers is limited, work to reduce the ability of the states and their citizens to govern themselves and work to reduce employment opportunities in the private sector; and

"Whereas, the Roadless Area Review Evaluation II Study (RARE II) apparently has, as its purpose, the expansion of the wilderness system by the inclusion of additional large tracts of western lands, which is to be accomplished without sufficient responsiveness to or consultation, communication, or involvement with the state and local governments affected; and

"Whereas, while federal lands belong to the entire citizenry of the nation and should be managed under multiple-use concepts consistent with the Multiple-Use Sustained-Yield Act of 1960 for the benefit of all, state interests should be of the highest priority, followed by regional and national interests, except in cases of national security."

POM—428. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Energy and Natural Resources:

"HOUSE JOINT RESOLUTION No. 14

"Whereas, Public Law 94–565 provides for payments to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality; and

"Whereas, the payments offset the loss in tax revenue to local governments resulting from the exempt status of such public lands; and

"Whereas, Public Law 94–565 does not provide for payments based on lands held by or for Indians; and

"Whereas, Indian land lies within the boundaries of units of local government but is exempt from the taxing power of such governments; and

"Whereas, H.R. 13961 has been introduced in the 95th Congress to amend Public Law 94–565 to provide for similar payments to local governments based on land held by or for Indians.

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the Congress of the United States is urged to amend Public Law 94–565 to include lands held by or for Indians as public lands for which a federal payment will be made.

"Be it further resolved, that copies of this resolution be sent to the Secretary of State, to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Montana Congressional Delegation."

POM–429. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 271

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, it has come to the attention of the people of Guam that the United States is proposing to locate a nuclear waste storage facility in the Western Pacific; and

"Whereas, it is the unanimous consensus of the members of the Guam Legislature and the people of Guam that location of such a facility within Guam's boundaries or in the vicinity of Guam would be hazardous to the health, safety, and well-being of the people of Guam and would also be detrimental to the flora and fauna as well as the marine resources of the territory of Guam; and

"Whereas, the people of Guam do not wish a recurrence of the Three Mile Island incident in Guam or elsewhere in Micronesia, especially in this much maligned Pacific; and

"Whereas, the people of Guam vehemently and totally oppose the selection of any island or area within one thousand miles of Guam for a nuclear waste storage facility; and

"Whereas, Pacific islanders have been abused long enough and will not tolerate continued misuse, the atomic testing in the Bikini Atoll is a perfect example of unconscionable action by the Federal Government; and

"Whereas, the members of the Guam Legislature deplore the fact that the Federal Government is making such a proposal without first consulting the Pacific island governments; and

"Whereas, the people of Guam have gone on record opposing the use of Guam as storage for nerve gas and other dangerous chemicals; now, therefore, be it

"Resolved, that the Fifteenth Guam Legislature, on behalf of the people of Guam, hereby expresses its unanimous opposition to any use of Guam or any nearby island or area as a site for a nuclear waste storage facility; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the Assistant Secretary of State for Asian and Pacific Affairs; to the Chairman of the House Committee on Interior and Insular Affairs; to the Chairman, Senate Committee on Energy and Natural Resources; to the Chairman, House Subcommittee on Pacific Affairs; to the President of the United States; to the Speaker of the House of Representatives; to the President of the Senate; to the Speaker of the Northern Marianas Legislature; to the Governor of the Northern Marianas; to the President of the Federated States of Micronesia; to the Prime Minister of the Marshall Islands; to the Speaker of the Palau District Legislature; to the Governor of Hawaii; to the Governor of American Samoa; to the President of Nauru; to the Executive Director, South Pacific Commission; and to the Governor of Guam."

POM–430. A resolution adopted by the House of Representatives of the State of Massachusetts; to the Committee on Labor and Human Resources:

"RESOLUTION

"*Whereas*, although benefits for working employees are currently a mandatory subject of bargaining by union and management, renegotiation of such pension benefits for already retired workers is merely a subject for permissive bargaining; and

"*Whereas*, though some employers bargain voluntarily on this subject, others have refused to include retirement benefits for already retired employees in talks with union negotiators; and

"*Whereas*, modification of the National Labor Relations Act is necessary to insure that our retirees, who have given long years of their working lives to their employers, are not squeezed between the spiraling costs of an inflation rate which fluctuates around the double-digit threshold and the limited income provided by pensions scaled to the living costs of the past; and

"*Whereas*, our responsibility and commitment to providing for those who have worked so hard for their retirement benefits is deep and abiding and the legal framework of our labor relations system should reflect this fact: The directive to bargain collectively on the issue of pension benefits for retired workers should be mandatory; therefore be it

"*Resolved*, that the Massachusetts House of Representatives hereby urges the Congress of the United States to enact legislation to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired emloyees; and be it further

"*Resolved*, that copies of these resolutions be transmitted forthwith by the Clerk of the House of Representatives to the President of the United States, the Presiding Officer of each branch of the Congress and to the Members thereof from this Commonwealth."

POM–431. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Veterans' Affairs:

"RESOLUTION No. 235

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, during World War II and subsequent years thereafter, hundreds of our people served as members of the Guam Combat Patrol and the Guam Civilian Scouts; and

"Whereas, these people risked their lives and the lives of their loved ones and families in pursuit of energy stragglers who are still at large in the jungles of Guam; and

"Whereas, some of our people lost their lives in pursuit of capturing enemies who would not surrender to the United States military forces after the end of World War II; and

"Whereas, some of our people who became members of the Guam Combat Patrol and the Guam Civilian Scouts were maimed in line of duty during and after the end of the Japanese occupation of the Island of Guam; and

"Whereas, members of the Guam Combat Patrol and the Guam Civilian Scouts did guard duty in military prisons for captured enemies; and

"Whereas, during and after the end of World War II, members of the Guam Combat Patrol were given certain military privileges; and

"Whereas, Senator Alan Cranston, Chairman of the Committee on Veterans' Affairs, United States Senate, in his letter to Senator Antonio R. Unpingco, dated May 1, 1979, indicated that the GI Improvement Act of 1977 included provisions to "authorize the Secretary of Defense to review the historical records and other available evidence about groups, like the Guam Combat Patrol and the Guam Civilian Scouts, whose service took place, and to determine whether that service should be recognized as military service; and

"Whereas, it is the expressed desire of the Fifteenth Guam Legislature to explore all avenues of assistance to our people who were members of the Guam Combat Patrol and the Guam Civilian Scouts so that any benefits entitled them may be forthcoming; and

"Whereas, the proposed public hearing will allow the opportunity for our people to express their involvement in the Guam Combat Patrol and the Guam Civilian Scouts as well as the extent of their involvement; and

"Whereas, pursuant to Section 1, Subsection e, Rule XV of the Standing Rules of the Fifteenth Guam Legislature, the Speaker may appoint a Special Committee to assist him in the performance of his official duties; now, therefore, be it

"Resolved, that the Special Committee conduct a public hearing to ascertain and allow those of our people the opportunity to testify before the Legislature relative to their involvement in the Guam Combat Patrol and the Guam Civilian Scouts in line with the provisions of the GI Improvement Act of 1977; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the Secretary of Defense; to the Secretary of the Navy; to the Secretary of the Air Force; to the Secretary of the Army; to the President of the United States; to the President of the Senate; to the Speaker of the House of Representatives; to Senator Alan Cranston, Chairman, Veterans' Affairs Committee, United States Senate; to Congressman Antonio B. Won Pat; to the Director of Public Safety; to the families and members of the Guam Combat Patrol and the Guam Civilian Scouts, both living and deceased; and to the Governor of Guam."

POM-432. A resolution adopted by the city commission of Kilgore, Tex., relating to the windfall profits tax bill; to the Committee on Finance.

POM-433. A resolution adopted by the Oak View Sanitary District, Oak View, Calif., regarding construction grant funding for water reclamation projects; to the Committee on Environment and Public Works.

POM-434. A petition from a private citizen, calling for an amendment to the Constitution of the United States that will cut, limit and control Federal spending and the amount of taxes which can be imposed on U.S. citizens now and in the future; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

EXTENSION AND REVISION OF NURSE TRAINING AND OTHER HEALTH PROGRAMS—CONFERENCE REPORT

Mr. KENNEDY submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 230) to amend title VII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes (Rept. No. 96-313).

ORDER FOR STAR PRINT OF S. 1329

Mr. MORGAN. Mr. President, I ask unanimous consent that S. 1329, a bill for the relief of Mrs. Elsie Belle Blackburn, be star printed.

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

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. LEAHY:

S. 1718. A bill to authorize and direct the Secretary of Agriculture to conduct a pilot program of loans providing for periodic disbursements to owners of nonindustrial private forest lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EAGLETON:

S. 1719. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for social security taxes paid in 1980 and 1981; to the Committee on Finance.

By Mr. KENNEDY:

S. 1720. A bill to assure provision of adequate comprehensive health-care services, including protection against catastrophic health-care expenses, to all residents of the United States at affordable prices through a system that provides for cost controls; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent jointly.

By Mr. MORGAN:

S. 1721. A bill for the relief of Erasmo Ramirez Cruz, Jr., M.D., and Emelito Riego de Bios Castor Cruz, M.D., husband and wife; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1718. A bill to authorize and direct the Secretary of Agriculture to conduct a pilot program of loans providing for periodic disbursements to owners of nonindustrial private forest lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WOODLOT MANAGEMENT FOR ENERGY OF 1979

Mr. LEAHY. Mr. President, it was timber from the forests that made possible America's independence and built this great Nation of ours. This forest resource heated our homes, built our cities, and was the rockbed of America's commerce.

Today, however, the picture is not so bright. America's independence is now threatened by the unholy alliance of oil companies and OPEC nations whose control of oil supplies looms ominously as a sword of Damocles across America's throat. And one of our most valuable resources, private nonindustrial forests, are underutilized and linger in a limbo of nonproductivity.

Mr. President, wood and other resources from our forests can be the saving grace to help return America to energy independence. With proper management and available credit, forest resources could once again form the foundation of America's economy.

The people of Vermont have recognized the dilemma that America's past policies of depending on oil while ignoring our forest resources has produced. Vermonters have done something about this dangerous situation by conserving fossil fuels while steadily increasing their reliance on renewable resources from our forests to meet their energy needs.

Vermont proudly boasts the first public utility in the Nation to depend on wood for the generation of electricity at a competitive cost. Also, Vermonters have always known a simple fact that many Washington bureaucrats only now begrudgingly admit. Wood burns, and in burning it gives off heat that can be used to warm homes and industries. This is just plain commonsense, although many people in Washington see it as some sort of revelation. In fact, over 63 percent of all Vermont homes depend on wood energy for their primary or secondary source of heat.

Mr. President, today I am introducing the Woodlot Management for Energy Act to foster a return to wood as a primary resource to meet America's energy needs. I realize that to rush into forest resource development to meet our energy needs is a dangerous prospect if the other valuable contributions of our forests' resources are not carefully considered and protected. In line with this, the Woodlot Management for Energy Act has been carefully tailored to insure that other nonenergy related values of our forests' resources like wilderness, construction materials, recreation areas, wildlife and water and soil resources are protected. The bill is a comprehensive approach to forest development, taking all these issues into consideration. Ironically, the demand for wood for energy purposes could be the unprecedented opportunity to enhance all the potential resources of our forests.

Mr. President, this legislation not only recognizes the wide range of assets contained in our forests, but also represents a comprehensive approach to their preservation, enhancement, and development.

One critical point to remember is that the bill is designed with flexibility so that

the needs and opportunities of each State's individual forest can be best met. Through reliance on individual State foresters to design forest management programs, the legislation guarantees that the unique needs of each State's forests will be studied, developed, and properly managed.

Mr. President, the Woodlot Management for Energy Act has three basic components. The first provides loans to private nonindustrial woodlot owners for forest management. This section is similar to H.R. 4718 as introduced in the House by Representative HUCKABY, Mr. HUCKABY is to be congratulated for developing this loan program. Its potential value to private foresters was sounded again and again at field hearings held by Mr. HUCKABY.

The second component provides grants to States to employ additional State foresters to aid in private woodlot management.

The third is designed to demonstrate and test the effectiveness of three bills which were signed into law last year but are as yet unfunded. These three acts are the Cooperative Forestry Assistance Act of 1978, the Forest and Rangeland Renewable Resources Research Act of 1978, and the Renewable Resources Extension Act of 1978.

Mr. President, this legislation would provide loans to private woodlot owners for forestry management. This loan program has been endorsed by both the Department of Agriculture and the Office of Management and Budget.

These loans will be coupled with a forest management plan to insure proper forest resource development. While a State forester must review and approve each plan, woodlot owners and State foresters are encouraged to use private foresters in the development of these management plans.

Mr. President, any legal entity owning nonindustrial private forest land can participate in this loan program, provided the ownership does not exceed 5,000 acres. Each loan has an annual ceiling of $50,000.

Our private forests are not being adequately used to meet America's timber needs. I think one major cause of this shortfall in production is the lack of financial incentives for small private, nonindustrial landowners to invest in production or reforestation. Timber investments require a substantial amount of working capital and management skills, and the return on investment is relatively long-term. With Federal loans for forestry management, these woodlot owners will have the necessary cash flow they need to make and keep their woodlots productive.

This loan program with periodic loan disbursements is a novel idea. In light of this, the legislation requires annual reports and is a pilot project sunsetted after 5 years. If it works, it is the intent of the legislation that eventually the program would move wholly to the private sector.

Mr. President, the legislation recognizes that this country must increase its forest production soon. The bill provides grants totaling $13 million in fiscal years 1980 and 1981 to States for employment of additional State foresters. Each State's forests will be assessed for their underutilization and productivity potential. Grants will be awarded to each State based upon this assessment.

Finally, the Woodlot Management for Energy Act includes a demonstration project to be carried out in 10 States to test the effectiveness of the Cooperative Forestry Assistance Act, the Forest and Rangeland Renewable Resources Research Act, and the Renewable Resources Extension Act. Ten States will be selected to participate in the demonstration program.

The demonstration will cover virtually all aspects of forestry development and management, from seed to harvest. It will aid research for seed development and multipurpose use of forests, and will fund competitive forestry research grants. Also, it will aid in timber stand management, provide technical assistance to private woodlot owners and develop 5-year management plans for the selected States' forests. Moreover, it will make effective a forestry extension program whose responsibilities and operations were authorized and outlined in the Renewable Resources Extension Act.

Mr. President, as you can see, this is truly omnibus legislation to approach forestry development in a comprehensive fashion so as to realize the full potential of our woodlands. Timber is our largest renewable resource. However, it is well documented that future timber demands will far exceed our current timber supplies. The Forest Service estimates that U.S. timber production on commercial forest lands must increase from 13.3 billion cubic feet in 1976 to 28.7 billion cubic feet in 2030 to meet the projected, rising demands. By the Federal Government's own figures, the projected increase in demand can best be met by increased production from our abundant private, nonindustrial forest lands which account for 59 percent of all commercial forests. Unfortunately, the present timber growth and production on our private forest lands fall far short of their projected potential, because public policy continues to draw solely on our national forests for supply. This policy is particularly alarming because, again by the Federal Government's own figures, the national forests are presently producing at full capacity and cannot meet projected demands.

I hope my Senate colleagues will recognize the potential our private forests represent for meeting our energy needs by supporting the Woodlot Management for Energy Act.

The experience in Vermont has been that renewable resources from our forests can replace our dangerous dependence on fossil fuels. This bill will allow and enhance the opportunities for this experience to be shared with the entire Nation.

Mr. President, I ask unanimous consent that the Woodlot Management for Energy Act be printed in the RECORD.

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

S. 1718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Woodlot Management for Energy Act of 1979".

FINDINGS AND POLICY

SEC. 2. The Congress finds and declares that—

(1) adequate supplies of timber and other forest resources are essential to the Nation's well-being;

(2) the Nation's publicly owned forests cannot alone supply needed timber and wood products;

(3) the Nation's capacity to produce timber and wood products is significantly dependent on nonindustrial private forest lands;

(4) substantial investment is often needed to increase the productivity of forest lands;

(5) long timber rotation periods and the lack of regular periodic returns from forestry investments may discourage owners of nonindustrial private forest lands from managing their timberlands at levels of high productivity;

(6) the availability and cost of capital can be a significant determining factor in a forest landowner's decision as to whether or not to undertake a forest management program;

(7) owners of nonindustrial private forest land frequently are unable to obtain credit at rates and terms sufficiently reasonable to enable them to undertake a forest management program;

(8) it is in the national interest for the Secretary of Agriculture to conduct a pilot program to determine whether loans providing periodic disbursements to owners of nonindustrial private forest land would result in increased productivity of such land; and

(9) it is the intent of Congress that, if such pilot program is feasible, it should ultimately be placed within the private sector.

ESTABLISHMENT OF PILOT PROGRAM

SEC. 3. (a) In order to encourage owners of nonindustrial private forest land to implement and maintain forest management programs, and thereby increase the production of crops of industrial wood, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") is authorized and directed to conduct a pilot program of financial assistance to such owners. Such program shall include but, may not be limited to—

(1) the insuring and guaranteeing of loans which will provide periodic loan disbursements to eligible landowners;

(2) consolidating for resale in private capital markets the loan obligations of individual landowners; and

(3) loaning funds to lawfully organized lending institutions for the purposes of making guaranteed loans under this Act.

(b) Such pilot program shall operate for five consecutive calendar years, beginning with the first full calendar year occurring after the date of enactment of this Act. No new loan may be insured or guaranteed under such program after the close of the fifth fiscal year during which such program has been in effect.

(c) The Secretary is authorized to defer the repayment of principal and interest under such conditions as the Secretary shall deem appropriate.

ELIGIBLE BORROWERS

SEC. 4. Any private individual, or any group, Indian tribe, or other native group, association, partnership, corporation, or other legal entity that owns forest land capable of producing crops of industrial wood shall be eligible to receive loans under this Act if the applicant certifies in writing, and the Secretary determines, that the applicant is unable to obtain sufficient credit elsewhere at rates and terms comparable to those provided under this Act.

TERMS AND CONDITIONS OF LOANS

SEC. 5. (a) The Secretary shall insure or guarantee no portion of any loan under this Act to any one landowner which involves a disbursement in excess of $50,000 annually.

(b) The total period of time permitted for a loan insured or guaranteed under this Act shall not exceed forty years.

(c) The Secretary may guarantee any Federal or State chartered bank, savings and loan association, cooperative lending agency, Federal land bank, or other lawfully organized lending institution against risk of nonpayment arising out of the financing of activities under this Act, except that not to exceed 90 per centum of that portion of the overall loan obligation which exceeds the market value of the assets securing the loan may be guaranteed.

(d) Loans provided under this Act shall be made upon the personal liability of the borrower and shall be secured by either (1) the land described in section 4, (2) the timber grown thereon, or (3) the land and such timber, and such other security as the lender may require. If such loans to landowners are secured under clause (2) of the preceding sentence, additional security may include insurance on the timber crop against natural hazards, if such insurance and performance bond insurance on the outstanding loan obligation are available.

(a) Loans guaranteed under this Act shall bear interest at rates to be agreed upon by the lender and landowner but not in excess of such rate as may be determined by the Secretary. Each loan insured under this Act shall bear interest at a rate determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the maturity of such loan, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum, as determined by the Secretary.

(f) The landowner shall prepare, keep current, and adhere to an individual forest management plan which shall be developed in cooperation with and be approved by the State forester or equivalent State official and which shall describe the activities needed to maintain or increase the productivity of the forest land of the landowner. Such management plan shall also include estimates of the volume of timber to be harvested during the term of the loan and the value thereof. The estimated value shall serve as the basis for determining the principal amount of the loan. The landowner may use the loan proceeds in any manner he deems appropriate, as long as the provisions of the management plan and loan agreement are observed. The Secretary shall encourage landowners and State foresters or equivalent State officials to use private consulting foresters, agencies, organizations, and firms to the extent possible for the preparation of individual forest management plans.

(g) The amount of the periodic loan disbursement shall be based upon the future expected market value of the timber securing the loan, but in no case shall the total principal and interest obligation exceed 80 per centum of the future expected market value of the timber as estimated in the management plan.

(h) Individual loan agreements and forest management plans may be periodically reviewed by the lender, landowner, and the preparer of the forest management plan. Following such review, the loan period, principal amount, interest rate, and amount and interval of the periodic disbursement may be adjusted as agreed by both landowner and lender.

(i) At the discretion of the lender, loans guaranteed under this Act may, upon the application of the landowner, be transferred to, and assumed by, a new landowner who agrees to the terms and conditions of the loan, assumes any outstanding liability and obligations thereunder and who otherwise qualifies under the provisions of this Act. Further, any individual loan guaranteed under this Act, in which timber alone secures the loan, may be, upon the approval of the landowner, sold to a private organization, which will assume the obligations of the lender and which will have a lien against the timber securing the loan.

(j) The borrower shall be entitled to prepay without penalty all or any part of the outstanding loan obligation insured or guaranteed pursuant to the provisions of this Act. Income from the sale of timber covered by the loan agreement shall be applied to the outstanding loan obligation. Periodic loan disbursements may continue over the full term of the loan even if payments applied to the loan obligation are made during the loan period.

(k) Except for guaranteed loans, the landowner shall agree that if at any time it shall appear to the Secretary that the landowner may be able to obtain a loan from any Federal or State chartered bank, savings and loan association, cooperative lending agency, Federal land bank, or other lawfully organized lending institution at rates and terms comparable to such rates and terms provided for in this Act for loans for similar purposes and periods of time, the landowner shall, upon request by the Secretary, apply for and accept such loans in sufficient amount to repay the Secretaray or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

PILOT PROGRAM DEVELOPMENT AND EVALUATION COMMITTEE

SEC. 6. To advise in the development of the pilot program authorized under section 3, and to aid in preparing recommendations regarding the continuance and expansion of such program, the Secretary shall appoint a committee of not less than five persons, including, but not limited to, representatives from public agencies, private lending institutions, private forestry concerns, and individual landowners. The Secretary shall also consult with the committee in the preparation of such reports as required in section 8. Individuals who serve on the committee and who are not employed by the Federal Government, shall be paid such compensation for their services as the Secretary shall determine but such compensation shall not exceed the daily rate prescribed for grade GS-18 under section 5332 of title 5, United States Code, for each day when actually employed, and actual necessary traveling and subsistence expenses or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently, when advising in the development of such pilot program away from their homes or regular places of business.

PILOT PROGRAM AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) The pilot program authorized by section 3 shall be funded using funds drawn from the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act and subject to the provisions governing such Fund. The Secretary is authorized to use such funds to carry out the activities described in paragraphs (1) through (3) of section 3(a).

(b) There are authorized to be appropriated such sums as may be necessary for administrative expenses incurred in carrying out sections 3 through 7, including reimbursement to State foresters or equivalent State officials, and reimbursement to the Rural Development Insurance Fund for funds withdrawn for the operation of the program. Such sums are authorized to remain available until expended.

ADDITIONAL STATE FORESTERS

SEC. 8. (a) The Secretary of Agriculture is authorized to make grants through the Forest Service to the States for the employment by the States of additional State foresters or equivalent State officials.

(b) In determining the amount of financial assistance to be provided to a State under subsection (a) the Secretary shall consider the underuse of forest growth in the State and the potential use in the State of wood as a fuel in place of oil.

(c) In addition to any sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Secretary to carry out subsection (a) the sum of $6,500,000 for the fiscal year 1980, and the sum of $6,500,000 for the fiscal year 1981.

DEMONSTRATION PROGRAMS

SEC. 9. (a)(1) The Secretary of Agriculture, through the Forest Service, is authorized by contract, grant, or other arrangement to conduct 10 State-wide demonstrations of cooperative forest programs involving the exercise of authorities conferred upon the Secretary of Agriculture by the Cooperative Forestry Assistance Act of 1978, the Forest and Rangeland Renewable Resources Act of 1978, and the Renewable Resources Extension Act of 1978.

(2) In carrying out paragraph (1), the Secretary of Agriculture shall assure that each such program provides a model for comprehensive forest resource planning and development at the State level and provides for additional resource assessment and public involvement.

(3) For each program conducted under this subsection, the Secretary of Agriculture shall cooperate with appropriate agencies of the United States, State officials and agencies, and political subdivisions of States.

(b) There are authorized to be appropriated to the Secretary of Agriculture to carry out this section for the fiscal year 1980, $5,000,000, of which amount not to exceed $750,000 may be made available for any demonstration project.

RULES AND REGULATIONS

SEC. 10. The Secretary shall, not later than 120 days after the date of the enactment of this Act, and in accordance with section 553 of title 5, United States Code, promulgate such final rules and regulations as the Secretary deems appropriate to implement the provisions of this Act. The Secretary may, in accordance with such section, promulgate rules and regulations modifying the rules and regulations promulgated under the preceding sentence.

REPORTS

SEC. 11. (a) The Secretary shall report annually to the Congress on the progress of the pilot program authorized by section 3 of this Act. The first such report shall be submitted upon completion of the first calendar year of operation of such program. The final report shall be submitted before completion of the fifth calendar year of operation of such program and shall include the recommendation of the Secretary on whether additional loans shall be insured or guaranteed.

(b) The Secretary shall prepare and transmit to the Congress not later than 32 days after the close of the fiscal year 1980, a report setting forth the progress made in implementing section 9 and, not later than 30 days after the close of the fiscal year 1981, a report setting forth the progress made in implementing section 8.

By Mr. EAGLETON:

S. 1719. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for social security taxes paid in 1980 and 1981; to the Committee on Finance.

SOCIAL SECURITY PAYROLL CREDIT ACT OF 1979

● Mr. EAGLETON. Mr. President, when American taxpayers examined their statements of earnings last January, they found both good and bad news. The good news was that most taxpayers enjoyed a reduction in their income tax. This, of course, was the result of the $18.7 billion tax cut passed by the 95th Congress. The bad news was that most taxpayers paid far more in social security taxes than ever before. In most instances, the social security tax hike was greater than the income tax reduction, resulting in a net tax increase.

The bad news will continue in 1980 and 1981, when both the social security tax rate and the wage base will rise even higher.

In 1980 the base wage will increase to $25,900—an increase of $3,000 over the 1979 level. In 1981 the base wage will be $29,700 and the tax rate will increase to 6.65 percent—up from the 6.13 percent which will be levied in 1979 and 1980. In 1979 it is projected that the Government will collect approximately $106 billion in social security taxes. This figure is projected to increase to $140 billion by 1981. That is a $34 billion increase in 2 years, an increase which will come directly out of the pockets of almost every working man and woman in the country.

This large tax increase, coupled with inflation and the recent OPEC oil price increase, has prompted many of our country's leading economists to suggest the possibility that another tax cut in 1980 and 1981 is needed in order to mitigate a recession.

In light of continuing high inflation and in light of our commitment to balance the Federal budget, I am not yet convinced that a tax cut is in order. However, should the Congress deem a cut to be necessary, I think it should be made fairly, and I think the fairest way to cut taxes would be, in effect, a payroll tax cut.

Prior to President Carter's tax cut proposal of 1978, I introduced legislation which would have authorized an income tax credit equivalent to 15 percent of what each taxpayer contributes to the Social Security Trust Fund. I suggested this approach because the President's income tax cut was proposed, in part, to offset higher payroll taxes. My proposal would have kept the income tax cut from turning into an unearned windfall for those who do not participate in the social security system. Unfortunately, my proposal was not accepted by the 95th Congress.

Today, Mr. President, I am reintroducing my bill to give a tax credit based on the amount of social security tax paid. My bill is identical to H.R. 4990, which was introduced in the House on July 23 by my colleague from Missouri, Congressman GEPHARDT. My legislation will provide employees, self-employed persons, and employers with a refundable credit against income taxes equal to 20 percent of payroll taxes paid for tax years beginning in 1980 and 1981.

My legislation provides for a refundable tax credit. This means that even if a taxpayer owed no income tax, he still would receive the credit in the form of a refund.

The credit also would be available and refundable for employers who, under the principle called "parity" now embedded in our social security system, also are subject to the payroll tax increases. However, because employers already receive an income tax deduction for payroll taxes paid, my bill would require that their deduction be reduced by the amount of the credit taken, so that, in essence, a double-deduction would not result.

According to the Joint Committee on Taxation, this legislation would decrease Federal revenues by approximately $16 billion in fiscal year 1980 and $26 billion in fiscal year 1981. I offer this proposal as an alternative for Congress to consider if economic conditions lead us to believe that a tax cut is necessary.

Government employees and others who do not pay social security will be quick to note that there is nothing for them in my proposal. Obviously I do not offer this plan as a total tax cut package; the 8 million Americans who do not participate in social security also are entitled to share in any tax cut scheme. However, inasmuch as workers who pay social security taxes have borne a significantly larger share of the burden of recent tax increases, I feel they should also get a larger portion of the tax relief.

I hope that my plan for a social security-based credit would constitute a major portion, although possibly not all, of a comprehensive tax cut plan.

This legislation is not a rollback of the payroll tax nor does it provide direct general revenue financing for social security. It does provide 2 years of financial relief for taxpayers and a quick boost for the economy at a time when such a boost might be needed. I must again emphasize that as of today there is no consensus on the need for a tax cut, and in fact, such a consensus may not materialize. If Congress does decide on a tax cut, however, I urge my colleagues to give this plan their careful consideration.

Mr. President, I ask unanimous consent that an article by Walter H. Heller that appeared in the August 2 edition of the Wall Street Journal be placed in the RECORD at the end of my statement. In addition, I ask unanimous consent that the text of my bill be placed in the RECORD at the end of my statement.

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

S. 1719

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 "Social Security Payroll Credit Act of 1979".

Sec. 2. CREDIT FOR SOCIAL SECURITY TAXES PAID IN 1980 AND 1981.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44C the following new section:

"Sec. 44D. CREDIT FOR SOCIAL SECURITY TAXES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for any taxable year beginning in the calendar year 1980 or in the calendar year 1981 an amount equal to 20 percent of the taxpayer's social security taxes for that calendar year.

"(b) SOCIAL SECURITY TAXES FOR 1980 OR 1981.—The taxpayer's social security taxes for the calendar year 1980 or the calendar year 1981 are—

"(1) the taxes imposed by section 3101 (relating to tax on employees under the Federal Insurance Contributions Act) which are paid by the taxpayer with respect to wages received by the taxpayer during that calendar year;

"(2) the taxes imposed by section 3111 (relating to tax on employers under the Federal Insurance Contributions Act) which are paid by the taxpayer with respect to having individuals in his employ during that calendar year; and

"(3) the taxes imposed by section 1401 (relating to tax on self-employment income under the Self-Employment Contributions Act of 1954) which are imposed on the self-employment income of the taxpayer for the taxpayer's taxable year beginning in that calendar year.

"(c) ONLY NET AMOUNT OF SOCIAL SECURITY TAXES INTO ACCOUNT.—The amount of the social security taxes of a taxpayer which may be taken into account for any taxable year for purposes of this section shall be the total amount of such taxes reduced by an amount equal to that portion of any refund or credit under subsection (b) or (c) of section 6413 which is attributable to such taxes.

"(d) DENIAL OF TRADE OR BUSINESS DEDUCTION.—No deduction shall be allowed a taxpayer under this chapter for that portion of the taxes imposed by section 3111 which is equal to the amount of the credit allowable under this section.

"(e) WAGES DEFENDED.—For purposes of this section, the term 'wages' has the meaning given to it by section 3121(a), except that such term also includes remuneration covered by an agreement made pursuant to section 218 of the Social Security Act.

"(f) SPECIAL RULES IN CASE OF SECTION 218 AGREEMENTS COVERING STATE AND LOCAL EMPLOYEES.—Under regulations prescribed by the Secretary, in the case of an agreement made pursuant to section 218 of the Social Security Act—

"(1) amounts deducted from the employee's remuneration as a result of the agreement (whether or not such amounts have been paid to the Secretary) shall be treated as taxes paid under section 3101, and

"(2) amounts paid by the employer as a result of the agreement which are equivalent to taxes imposed by section 3111 shall be treated as taxes imposed by such section.

"(g) PAYMENTS TO NON-TAXABLE ENTITIES.—In the case of—

"(1) a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under this subtitle for its taxable year),

no credit shall be allowable under this section for any taxable year, but (in lieu of such credit) the Secretary shall pay to such State subdivision, agency, instrumentality, or organization, without interest, an amount equal to the amount of the credit which would otherwise be determined under this section with respect to such State, subdivision, agency, instrumentality, or organization.".

(b) CREDIT TO BE REFUNDABLE.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "lubricating oil), and

43" and inserting in lieu thereof "lubricating oil), 43";

(2) by striking out "earned income credit)" and inserting in lieu thereof "earned income credit), and 44D (relating to credit for social security taxes)"; and

(3) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44D".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Credit for social security taxes."

Sec. 3. Effective date.

The amendments made by this Act shall apply only with respect to remuneration received or paid, and taxable years beginning, in the calendar years 1980 and 1981.

AN ANTI-INFLATIONARY TAX CUT

(By Walter W. Heller)

With an eye cocked on the dollar, the Federal Reserve recently tightened credit and President Carter appointed the internationally respected Paul Volcker to head the Federal Reserve System. These moves confirm the historic November 1 commitment to defend the dollar, even at some expense to the domestic economy. They confirm further that actions to keep the OPEC "oil tax" from dragging us into too deep and too long a recession will have to come primarily from the fiscal rather than the monetary side. And with the country, the Congress and Mr. Carter firmly determined to hold federal spending in check, it becomes ever clearer that tax cuts are the way to go.

But not any old tax cuts. They have to be carefully contoured to fit the shape of today's economy. The purchasing power lost to OPEC must be restored in ways that will reduce the cost and price bulges in today's economy and provide incentives to boost productivity in tomorrow's. Can it be done? Yes.

A tax cut to neutralize the $25 billion to $30 billion OPEC oil drag can be so structured that every dollar of tax relief will ease cost and price pressures and/or boost productive incentives. The centerpiece would be a $15 billion to $20 billion cut in Social Security payroll taxes on employers and employes.

Consider the advantages:

Every dollar lopped off the employers' net payroll tax would be a dollar cut in business costs. Given the prevalence of mark-up pricing, this should quickly pass through to consumer prices. It is widely agreed that through this process most of the employer-paid payroll tax eventually ends up on the backs of employes. The same process should work in reverse.

Every dollar lopped off the employes' payroll tax is an increase in take-home pay that government can offer workers as part of the price for accepting more restrained wage increases. In the face of what will be predominately a cost-push inflation in the period ahead, this potential easing of wage-push pressure has particular relevance.

Payroll tax cuts are an especially fitting response to OPEC price increases that have been pummeling lower income groups with skyrocketing gasoline and heating oil prices. The payroll tax, like the "OPEC tax," makes no concessions for small incomes or big families, a bane when the tax rises, but a boon when it drops.

INTEGRITY OF SOCIAL SECURITY

So payroll tax cuts are tailor-made to fit the needs of an economy badgered by both inflation and recession. But what of the integrity of the Social Security system? That integrity can be readily protected by shifting Medicare health insurance from payroll tax to general revenue financing. Unlike old age and survivors insurance and unemployment compensation, there is no particular link between wages and health benefits. The shift to general revenue financing would be good short-run fiscal policy, good long-run social policy, and good for the consumer price index.

What would it cost? A payroll tax cut of $21.5 billion (the projected 1980 tax revenues for the hospital insurance program) could be enacted at a net revenue cost of $17.7 billion to the overall federal budget. Because payroll taxes are a deductible business expense, the $10 billion-plus of employers' payroll tax savings would boost business income-tax liabilities by $3.7 billion.

If the health insurance transfer proves too controversial, there is an easy alternative: Simply grant a refundable credit against income taxes for a specified percentage of payroll taxes paid. Congressman Gephardt, for example, has introduced a bill pegging the cut at 20 percent for both employers and employes. This would do the trick, but since it operates through the income tax in a more roundabout way, it might blur the favorable impact of the tax cut on costs and prices.

A second, closely related component of the anti-inflationary tax cut would be a revised form of real wage insurance. This year's proposal wilted under the heat of price run-ups in oil, food and home building. In contrast, 1980 should be a year of receding inflation, a much more reassuring context in which to consider wage insurance.

Changes in the plan would have to be geared to any changes in the base line of the White House wage-price standards. Instead of calling for income-tax credits for complying wage earners if the consumer price index rises by more than 7 percent, as in this year's proposal, the benchwork might be raised to 8 percent.

At an inflation rate half a percent above the norm, the 1979 proposal would have cost $2.5 billion. If legislation for 1980 were to allow $5 billion for the wage-insurance plan, it would cover reasonable contingencies. To assure that it wouldn't bust the budget in case of a new inflationary breakout, one could apply the co-insurance principle and also put a cap on tax credits at three percentage points above the inflation base line. But such limits would correspondingly dilute the inducement to comply with the wage restraints.

Some observers consider wage insurance a first step toward income-tax indexing, a view that attracts some and repels others. But both sides are missing the point. Unlike indexing, which would try to accommodate inflation by indexing taxpayers against it, wage insurance would serve as an incentive to unions and workers to comply with the wage guidelines and thereby join the battle against inflation. The point is to fight inflation, not adjust to it.

One should note that most of the revenue impact of any wage insurance plan would be delayed until 1981. But with a scheduled payroll tax increase of $15 billion coming up in 1981, the White House and Congress need to take a two-year perspective on tax cuts in any event.

A third major piece of the anti-inflationary tax cut would be a significant easing of depreciation allowances. It is clear that the time has come for such action partly as a response to high inflation rates and partly as an incentive for the increases in business investment and productivity that can help curb inflation in the longer run.

Last year, Congress enacted a major cut in the capital gains tax, thereby improving the general atmosphere for investment. Next year, it should focus more directly on decisions to invest in plant, machinery and equipment by allowing more rapid write-offs that would cut the effective cost of every capital outlay by business. This measure could also add clout to the wage-price restraint program if, as Arthur Okun has suggested, companies would have to certify compliance with the wage-price guidelines in order to qualify for accelerated depreciation.

A first-year cut of about $5 billion in business tax liabilities would be an appropriate target for the easing of depreciation allowances. A careful appraisal of revenue impacts in future years will be essential.

Even as modest a tax cut as the one here proposed—only slightly more than 1 percent of next year's $2.5 trillion GNP—has to be tested for its impact not just on the cost and supply side of inflation but also on the demand side. In this connection, one should take into account that we are at a curious dual turning point on inflation, downward in the ovarall rate but upward in the underlying rate:

The overall rate should drop from its torrid 13.3 percent in the first six months of this year to less than 10 percent by year-end as the economy softens, beef and other food prices ease, the fuel price explosion slows down and mortgage interest rates taper off. In other words, there's a downturn in "demand-pull" and "external shock" inflation just ahead.

But at the same time, we are on the verge of an upturn in the underlying "cost-push" or "wage-push" inflation rate.

There is no reason to believe that the proposed tax cuts would reverse the easing of demand inflation. The tax cut is designed not to pump up the economy but to control the damage done by OPEC's rapacious price increases. True, tax cuts cannot restore the real income that the 1979 price explosion is leeching out of the consumers' pockets. But without tax cuts to offset the OPEC drag on purchasing power, recession will lengthen and deepen. To the insult of lost output, jobs, investment and productivity would be added the injury of lost real income. On inflation's demand side, then, an OPEC-offsetting tax cut poses no threat.

What of the cost and supply side? Thus far, thanks in large part to the much-maligned but not ineffective wage-price guidelines, zooming food, fuel and home building costs have not been built into wage increases. Contrary to widespread impressions, the rise in the average hourly earnings index actually tapered down during the 12 months ending in May and average pay increases from June 1978 to June 1979 were lower than in the preceding 12 months.

THE HONEYMOON IS OVER

But the honeymoon seems to be just about over. The game of wage catch-up is about to begin—catch-up with soaring food and fuel prices and non-union catch-up with unions. With little or no productivity gains to absorb the wage increases, the great bulk of wage boosts will pass through to price boosts. The present bedrock or basic inflation rate of around 7 percent could well be boosted to 8 percent or more, thus making the winding down of inflation vastly more difficult.

To forestall or at least minimize the imbedding of the food-fuel-home price bulge into the wage-price structure and into the hardcore inflation rate requires that the wage-price guidelines be revised, reaffirmed and revitalized. A carefully crafted tax cut could go a long way in putting new life and starch into the guidelines and slowing down the price-wage-price merry-go-round.

If the government could strike a wage-moderating bargain with labor by offering a meaningful menu of tax actions to boost take-home pay and provide real wage insurance, prospects for curbing cost-push inflation would brighten overnight. Even if a formal endorsement is out of reach, such tax actions will strengthen the appeal of the

wage-price restraint program to millions of workers and to the public in general.

While it is too early to push the panic button on a tax cut, it is none too early to push the planning button. Given the realities of the political process and in particular the budget process, Jan. 1, 1980, is probably the earliest practical effective date for a tax cut. Even that date will require prompt planning, firm proposals by fall and hearings late in the year as a prelude to rapid action after Congress convenes next January. But the earlier the tax cut is announced, the more support it can provide for the wage-price restraint program.

Recently, Vice President Mondale aptly noted that most of the tough economic problems we face involve "solutions that inevitably *front-load* pain and *back-load* pleasure." Surely, that is true of the energy problem and the use of economic slack and slowdown to cope with the inflation problem. But a tax cut, properly structured, can be *both* front-loaded and back-loaded with pleasure ●

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CRANSTON, Mr. JAVITS, Mr. METZENBAUM, Mr. PELL, Mr. RIEGLE, and Mr. WEICKER):

S. 1720. A bill to assure provision of adequate, comprehensive health-care services, including protection against catastrophic health-care expenses, to all residents of the United States at affordable prices through a system that provides for cost controls; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

HEALTH CARE FOR ALL AMERICANS ACT

Mr. KENNEDY. Mr. President, I am pleased to introduce "the Health Care for All Americans Act," a proposal for universal, comprehensive national health insurance with across-the-board cost controls, along with my distinguished colleagues, Senators WILLIAMS, CRANSTON, JAVITS, METZENBAUM, PELL, RIEGLE, and WEICKER. Congressman HENRY WAXMAN is introducing an identical proposal today in the House, cosponsored by 59 colleagues.

Mr. President, the details of this proposal were made public on May 14. Those details have now been drafted into legislative form. I have discussed the details of this proposal publicly on several occasions, including a preliminary appearance before the Senate Finance Committee. I will not repeat those details now, though I do ask unanimous consent to have the text of the bill, a section-by-section analysis, a cost estimate, and other summary materials printed in the RECORD immediately following my remarks.

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

(See exhibits 1, 2, 3, 4, and 5.)

Mr. KENNEDY. Mr. President, the Department of Health, Education, and Welfare has just released new data on U.S. health expenditures for 1978. They are no surprise to anyone who has followed the wild escalation of health care costs. This Nation spent a staggering $192 billion on health care in 1978, an increase of $22 billion in 1 year. We spent $863 for every man, woman and child in 1978, compared with $768 in 1977. Of the $22 billion 1-year increase, private expenditures accounted for $13 billion, public expenditures for $9 billion. We spent an unacceptable 9.1 percent of our GNP on health.

I ask my colleagues—when will it stop? When will we act? Who will assume the responsibility for allowing health care costs to bankrupt this Nation?

Mr. President, the only way to control health care costs is through a comprehensive health plan that enables across-the-board cost controls.

They will not be controlled through voluntary efforts. They will not be controlled through budgets on hospitals only. They will not be controlled if controls are placed only on the public sector. They will not be controlled without a national budget. We budget for everything else in this country—for defense, for education, for fighting crime. Families budget their expenses every week. Only health care has a blank check.

Budgeting is at the very heart of "the Health Care for All Americans Act."

Mr. President, yesterday the administration startled the Congress by acknowledging that because of the outrageous increase in home heating oil, citizens of this Nation—the wealthiest on Earth—would have to choose next year between heating oil and food. That may be new to some people. But the fact is that people in this Nation have been choosing between food and health care, between heating oil and health care, for years.

With the new increases in heating oil prices, that problem is only exacerbated. And it is intolerable. No other nation in the Western World except South Africa holds health care hostage to income.

Mr. President, the record should show that the members of the Committee for National Health Insurance, the coalition which developed this proposal, worked closely with the administration for many months in an effort to develop an accommodation on this issue. "The Health Care for All Americans Act" is itself a product of that effort. Unlike the "Health Security Act," it builds on the private sector, it minimizes on-budget expenditures and is administratively streamlined. These major compromises were an effort at accommodation. What was not compromised, and what cannot be compromised are the basic principles which must underlie any acceptable proposal: First, universal coverage; second, comprehensive benefits; third, across-the-board cost controls, including prospective budgeting; fourth, system reforms to promote HMO's, disease prevention, and so forth; and fifth, quality controls.

Any proposal meeting these principles would be worthy of enactment. Neither the President's proposal, nor the various catastrophic insurance proposals, meet these principles. Catastrophic health insurance is grossly inflationary, is devoid of cost controls, system reforms, quality controls and will accelerate the bankruptcy of this Nation. It is not a prudent first step in the right direction. It is a step away from a national health plan because it expands upon and solidifies the faults in the present system and thus makes needed reforms more difficult to obtain.

President Carter's proposal is also unacceptable. As I indicated last June, the American people will ask two questions about any national health plan:

(1) Does it control runaway costs and place a budget on health expenditures?

(2) Does it treat all Americans fairly? Do they all share equally in the benefits? Do they all bear a proportionate share of the costs? Is it a one-class system of care, regardless of age, income or any other factor?

The President's proposal, though well motivated, does not meet these two fundamental tests. By failing to set a national budget, by inadequately controlling hospital costs, by failing to control doctors' fees in the private sector, by creating two separate and unequal systems of care, the President's plan may well become the straw that breaks the back of the American health care system . . .

Mr. President, national health insurance has been talked about for many years. Now, at last, serious proposals have been introduced by Members in both Houses of Congress. Soon the President's proposal will be introduced. I hope that now the debate can begin in earnest. This can still be the national health insurance Congress. I look forward to working with the President, my colleagues in the Congress and the members of the coalition for national health insurance to achieve the goal of quality health care for all Americans at costs they can afford to pay.

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

EXHIBIT 1

S. 1720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Health Care for All Americans Act".

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Sec. 628. Changes in conditions of payment.
Sec. 629. Contracts for the administration of benefits.

Subpart V—Taxes, Trust Funds, and Premiums

Sec. 633. Hospital insurance tax and premiums for medicare-eligible individuals.

Subpart VI—Miscellaneous Medicare and Other Social Security Act Amendments

Sec. 635. Miscellaneous medicare amendments.
Sec. 636. Residual medicaid program.
Sec. 637. Part A of title XI.
Sec. 638. Treatment of certain premium payments under SSI and AFDC programs.

PART C—MISCELLANEOUS AMENDMENTS TO OTHER ACTS

Sec. 641. Amendments to Internal Revenue Code of 1954.
Sec. 642. Amendments to the Public Health Service Act.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that, in order to promote the general welfare and health of the people of the United States and the commerce among the States in a rational and equitable manner and to avoid the cumulative adverse impact on the nation, interstate commerce, and Federal expenditures of unmet health needs and inappropriate means of financing health care, it is necessary to establish a national health insurance system which—

(1) provides for universal participation;

(2) provides for coverage of health care providers and payers acting within States, as well as among States;

(3) is progressively and equitably financed primarily through mandatory private-sector premiums;

(4) is administered primarily through qualified participating insurers and health maintenance organizations, acting in accordance with standards established by a National Health Board; and

(5) provides for incentives to promote the appropriate competition, in interstate and intrastate commerce, in the offering and sale of health insurance plans.

(b) PURPOSES.—The purposes of this Act, and of the national health insurance system established by this Act, are—

(1) to make comprehensive, high quality health-care services available to all Americans, through the expertise of private health insurers and providers and the assistance of government;

(2) to provide health-care services of the same quality to all Americans, regardless of their economic condition and without discrimination on the grounds of race, religion, or national origin;

(3) to insure that the total cost of health care for the United States and its people does not increase at a rate faster than the annual rate of growth in the gross national product;

(4) to improve the organization and delivery of health-care services;

(5) to minimize the financial burden of health care on employers by providing for assistance to impacted employers and to minimize such burden on employees and other insured persons by setting a ceiling on their contributions;

(6) to distribute equitably the total cost of the health-care services provided in the United States;

(7) to enhance the quality of health-care services and the practical availability of such services in every area of the United States;

(8) to encourage the prevention and early detection of disease and disability;

(9) to provide reasonable compensation and incentives to the providers of health-care services who choose to participate in the national health insurance system; and

(10) to assure full public accountability of all aspects of the system and guarantee consumer participation in its development, administration, and improvement.

SEC. 3. STATEMENT OF RIGHTS OF ELIGIBLE INDIVIDUALS, PROVIDERS, AND INSURERS.

(a) RIGHTS OF ELIGIBLE INDIVIDUALS.—Each eligible individual has the right—

(1) to choose the participating provider who or which provides a covered health-care service under this Act unless, by enrolling

in qualified health plans offered by certain insurers or health maintenance organizations, the individual has agreed to limit the choice of providers;

(2) to have all decisions pursuant to this Act concerning the individual made promptly and accurately;

(3) to be heard on any grievance related to health care, insurance, or benefits provided pursuant to this Act;

(4) to expect that individually identifiable health and other information collected pursuant to this Act is treated as confidential and that its use is strictly limited to the treatment of the individual or to activities essential to the effective administration of this Act; and

(5) to make the individual's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the individual, and to have those views considered.

(b) RIGHTS OF PROVIDERS.—Each provider of health-care services has the right—

(1) to decide whether or not to participate in the national health insurance system established under this Act;

(2) if a participating provider entitled to receive payment for services under this Act, to receive prompt and accurate payment for such services;

(3) in the case of a physician provider, to choose the mode and place of the physician's practice; and

(4) to make the provider's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the provider, and to have those views considered.

(c) RIGHTS OF INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS.—Each insurer and health maintenance organization has the right—

(1) to decide whether or not to participate in the national health insurance system established under this Act;

(2) to carry on a health insurance business covering benefits for health care services supplemental to the benefits paid and payable under this Act; and

(3) to make the insurer's or organization's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the insurer or organization, and to have those views considered.

SEC. 4. DEFINITIONS.

(a) GENERAL TERMS.—As used in this Act:

(1) ANNUAL BUDGET.—The term "Annual Budget" means the budget prepared and adopted by the National Health Board under section 301.

(2) ANNUAL RATE OF INCREASE IN THE GROSS NATIONAL PRODUCT.—The term "annual rate of increase in the gross national product" means, for a year, the percentage by which the gross national product in current dollars (as published in February of the succeeding year by the Department of Commerce) for the last quarter of the year exceeds the gross national product (as published in February of the year by the Department of Commerce) for the last quarter of the previous year.

(3) ANNUAL STATE BUDGET.—The term "annual State budget" means the budget adopted by each State Health Board, pursuant to section 302, to implement applicable portions of the Annual Budget.

(4) EMPLOYEE, PAYROLL PERIOD, EMPLOYER, AND WAGES.—The terms "wages", "payroll period", "employee", and "employer" have the meanings given such terms in subsections (a) through (d), respectively, of section 3401 of the Internal Revenue Code of 1954, except that the term "employee" does not include (A) any Medicare-eligible individual or (B) any member of a uniformed service on active duty or any family member of such a member.

(5) GOVERNOR.—The term "Governor" means, with respect to a State, the chief executive officer of the State.

(6) FEDERAL INSTITUTION.—The term "Federal institution" means a residential institution owned and operated by the Federal Government (or any agency or instrumentality thereof) for any purpose other than education or health.

(7) FIRST EFFECTIVE YEAR.—The term "first effective year" means the third year after the year in which this Act is enacted.

(8) HEALTH RESOURCES DISTRIBUTION FUND.—The term "Health Resources Distribution Fund" means the Fund established by section 501(b).

(9) MEDICARE.—The term "Medicare" means the program of health insurance established under title XVIII of the Social Security Act.

(10) NATIONAL HEALTH INSURANCE SYSTEM.—The term "national health insurance system" means the system of health insurance established under this Act and Medicare for the financing of the provision of health-care services.

(11) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(12) STATE INSTITUTION.—The term "State institution" means a residential institution owned and operated by a State (or any political subdivision or instrumentality thereof) for any purpose other than education or health.

(13) UNITED STATES.—The term "United States", when the term is used in a geographical sense, means the area of all of the States.

(b) TERMS RELATING TO INDIVIDUALS.—As used in this Act:

(1) AFDC-ELIGIBLE INDIVIDUAL.—The term "AFDC-eligible individual" means an individual while the individual is receiving assistance under a State plan approved under title IV of the Social Security Act (relating to aid to families with dependent children).

(2) CONSUMER.—The term "consumer" means any enrollee who is not—

(A) a provider of health care, as described in section 1531(3) of the Public Health Service Act,

(B) a health-care provider, insurer, or health maintenance organization, or employee thereof, or

(C) an employee of the National Health Board, a State Health Board, or a Commission.

(3) DEPENDENT.—The term "dependent" means, "with respect to—

(A) who is a member of a uniformed service on active duty, a child of the individual described in subparagraph (E) of section 1072 of title 10, United States Code, or, if the individual is alive, a parent or parent-in-law (described in subparagraph (F) of such section) of the individual, or

(B) another individual, the son or daughter of the individual (or a descendant of either) or the stepson or stepdaughter of the individual, who is under the age of 22 and over half of whose support is being provided by the individual (as determined in accordance with standards established by the National Health Board).

(4) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who, under section 102, is eligible for health-care benefits under this Act.

(5) ENROLLEE.—The term "enrollee" means an eligible individual who is enrolled, or deemed to have been enrolled, in a qualified health plan, pursuant to part B of title I, or in Medicare.

(6) FAMILY, FAMILY UNIT.—The terms "family" and "family unit" mean, with respect to an eligible individual who is not a dependent of another individual—

(A) the individual,

(B) the individual's spouse (if any), if the spouse is an eligible individual, and

(C) the individual's dependents (if any), if the dependents are eligible individuals.

(7) FOREIGN VISITOR.—The term "foreign visitor" means an eligible individual described in section 101(a)(4).

(8) MEDICARE-ELIGIBLE INDIVIDUAL.—The term "Medicare-eligible individual" means an individual while the individual is entitled to health insurance benefits under Medicare.

(9) MEMBER OF A UNIFORMED SERVICE ON ACTIVE DUTY.—The term "member of a uniformed service on active duty" means a member of one of the uniformed services (as defined in section 1072(1) of title 10, United States Code) who is on active duty.

(10) SPOUSE.—The term "spouse" means, with respect to an individual, the person to whom the individual is married (as determined under section 143 of the Internal Revenue Code of 1954), except under such circumstances relating to sepaartion of married individuals as the National Health Board may provide.

(11) SSI-ELIGIBLE INDIVIDUALS.—The term "SSI-eligible individual" means an individual with respect to whom payments are being made under title XVI of the Social Security Act (relating to supplemental security income for the aged, blind, and disabled).

(c) TERMS RELATING TO ADMINISTERED BODIES.—As used in this Act:

(1) CONSORTIUM AND CONSORTIA.—

(A) CONSORTIUM AND CONSORTIA.—The term "consortium" means a clearinghouse with respect to the financing of covered health-care services that is certified pursuant to section 412, and the term "the consortia" means all the clearinghouses certified under such section.

(B) APPLICABLE CONSORTIUM.—The term "applicable consortium" means, with respect to a participating insurer or health maintenance organization or an enrollee in a qualified health plan offered by such an insurer or organization, the consortium of which the insurer or organization is a member.

(2) COMMISSION.—The term "Commission" means one of the advisory Commissions established by the National Health Board under this Act.

(3) HEALTH MAINTENANCE ORGANIZATION, PARTICIPATING HEALTH MAINTENANCE ORGANIZATION.—

(A) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" means an organization described in section 1301 of the Public Health Service Act.

(B) PARTICIPATING HEALTH MAINTENANCE ORGANIZATION.—The term "participating health maintenance organization" means a health maintenance organization which has entered into a participation agreement under section 411.

(4) HEALTH SYSTEMS AGENCY.—The term "health systems agency" means such an agency as designated under section 1515 of the Public Health Service Act.

(5) INSURER, APPLICABLE INSURER, PARTICIPATING INSURER, SELF-INSURER.—

(A) INSURER.—The term "insurer" means an entity licensed or otherwise authorized under State law to offer for sale enrollment in health plans, and includes a self-insurer (as defined in subparagraph (D)).

(B) APPLICABLE INSURER.—The term "applicable insurer" means, with respect to an eligible individual, the participating insurer which offers the qualified health plan in which the eligible individual is enrolled or deemed to be enrolled.

(C) PARTICIPATING INSURER.—The term "participating insurer" means—

(i) the National Health Board, with respect to Medicare-eligible individuals who are not enrolled in a qualified health plan offered by a participating health maintenance organization;

(ii) the Secretary of Defense, with respect

to health plans offered to members of a uniformed service on active duty (and members of their families);

(iii) the Secretary of State (or such entity designated by such Secretary), with respect to health-care services provided to foreign visitors under this Act; and

(iv) an insurer which has entered into a participation agreement under section 411, with respect to other indivduals.

(D) SELF-INSURER.—The term "self-insurer" means an entity (other than an insurer or health maintenance organization described in paragraph (1), (2), (3), or (4) of section 412(a)), including a fund, that provides for the offering, directly or indirectly, of basic covered health-care services to members of specific groups and individuals, and includes Taft-Hartley jointly managed labor-management funds and similar entities.

(6) PROFESSIONAL STANDARDS REVIEW ORGANIZATION.—The term "professional standards review organization" means such an organization as conditionally or otherwise designated under part B of title XI of the Social Security Act.

(7) STATE HEALTH BOARD.—The term "State Health Board" means the board of directors of a corporation chartered in a State in accordance with section 407.

(8) STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.—The term "State Health Planning and Development Agency" means such an agency as designated under section 1521 of the Public Health Service Act.

(d) TERMS RELATING TO HEALTH PLANS AND HEALTH CARE SERVICES.—

(1) BASIC COVERED HEALTH-CARE SERVICES.—The term "basic covered health-care services" means covered health-care services described in part A of title II.

(2) COVERED HEALTH-CARE SERVICES.—The term "covered health-care services" means, with respect to an individual, health-care services required to be provided or paid for under a qualified health plan for that individual.

(3) HEALTH PLAN.—The term "health plan" means an insurance or other plan which provides for payment with respect to the provision, or for the direct provision, or any combination thereof, of health-care services to an individual.

(4) QUALIFIED HEALTH PLAN.—The term "qualified health plan" means—

(A) with respect to a Medicare-eligible individual, either—

(i) the Medicare program, or

(ii) except for individuals eligible for Medicare benefits because of section 226A or section 1881(d) of the Social Security Act, a health plan offered by a participating health maintenance organization which provides for at least the benefits provided for under Medicare;

(B) with respect to a member of a uniformed service on active duty (and members of such member's family), a health plan provided pursuant to chapter 55 of title 10, United States Code;

(C) with respect to foreign visitors, such a health plan providing for basic covered health-care services to such visitors as the Secretary of State, in consultation with the National Health Board, decrees; and

(D) with respect to any other eligible individual, a health plan which provides for payments, on behalf of each enrollee, with respect to the provisions, or for the direct provision, or any combination thereof, subject to the provisions of this Act and without charge to the enrollee, of at least the basic covered health-care services (described in part A of title II) furnished to the individual during the period of the individual's enrollment.

(e) TERMS RELATING TO PROVIDERS.—As used in this Act, except as otherwise specifically provided:

(1) INSTITUTIONAL PROVIDER.—The term "institutional provider" means a hospital, skilled nursing facility, home health agency, community mental health center, health clinic, community health center and other organized health or mental health center, as determined by State Health Boards in accordance with regulations established by the National Health Board, and man include such another category provider, including health maintenance organization, as the National Health Board may provide.

(2) PARTICIPATING PROVIDER.—The term "participating provider" means a provider of health-care services who or which (A) qualifies, in accordance with this Act and Medicare, to provide basic covered health-care services and (B) has entered into a provider participation agreement under section 1866 of the Social Security Act.

(3) PROVIDER; PROVIDER OF HEALTH CARE.—The terms "provider" and "provider of health care" mean an individual or entity that furnishes health-care services.

TITLE I—ELIGIBILITY, ENTITLEMENT, AND ENROLLMENT

PART A—ELIGIBILITY AND ENROLLMENT

SEC. 101. ELIGIBILITY.

(a) IN GENERAL.—Each individual who is—

(1) a citizen of the United States;

(2) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act);

(3) an alien admitted to the United States as an officer or employee (or member of the immediate family of such officer or employee)—

(A) of a foreign government or an instrumenality of a foreign government, or

(B) of an international organization (as such term is defined in the International Organizations Immunities Act).

if the government or organization, respectively, has entered into an agreement described in subsection (b)(1) with the United States; or

(4) an alien admitted as a temporary visitor to or while traveling through the United States and who is a national or citizen of a nation which has entered into an agreement described in subsection (b)(2),

is eligible for health-care benefits under and in accordance with this Act.

(b) AGREEMENTS WITH FOREIGN GOVERNMENTS OF INTERNATIONAL ORGANIZATIONS.—

(1) RELATING TO EMPLOYEES OF FOREIGN GOVERNMENTS OR INTERNATIONAL ORGANIZATIONS.—The National Health Board, after consultation with the Secretary of State, shall recommend to the President that the President enter into an executive agreement with the government of a foreign nation or with an international organization under which officers and employees (and members of the immediate families of such officers and members) of the government or international organization who are employed and residing in the United States are made eligible for health care benefits under and in accordance with this Act in return for the payment, with respect to such individuals, of—

(A) the national community-rated premium, in the amount determined under section 331, and

(B) amounts, with respect to each such officer or employee, which the National Health Board estimates (after consultation with the Secretary of the Treasury) to be equivalent to the amounts which would be payable under sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such employment were employment for the purpose of those sections.

(2) FOREIGN VISITORS AGREEMENTS.—The National Health Board, after consultation with the Secretary of State, shall recommend to the President that the President enter into an executive agreement with the government of any foreign nation under which—

(A) the nationals or citizens of that nation who are foreign visitors in the United States would be enrolled in a qualified health plan in the United States, and

(B) citizens and permanent resident aliens (described in subsection (a)(2)) of the United States would receive comparable health care benefits while temporarily visiting in or traveling through that other nation,

but such recommendation shall only be made if the Board determines that such an agreement is in the national interest.

SEC. 102. ENTITLEMENT.

Each eligible individual is entitled—

(1) in accordance with part B, to enroll in a qualified health plan of the individual's choice offered by a participating insurer or health maintenance organization and to change such enrollment, during general open enrollment periods and at special enrollment periods, in accordance with such part;

(2) to have payment made on the individual's behalf and not to be charged any fee for the furnishing of basic covered health-care services (set forth in part A of title II) to the individual under the qualified health plan; and

(3) as an enrollee to be issued a health insurance enrollment card, in accordance with section 111(a)(2).

PART B—ENROLLMENT

SEC. 111. ENROLLMENT IN GENERAL.

(a) IN GENERAL.—

(1) RIGHT TO ENROLL.—Each eligible individual may enroll in any qualified health plan of a participating insurer or health maintenance organization in accordance with this part or be deemed enrolled in a qualified health plan offered by a participating insurer or health maintenance organization in accordance with this part.

(2) HEALTH INSURANCE ENROLLMENT CARDS.—Upon an eligible individual's enrollment, or change of enrollment, in a qualified health plan offered by a participating insurer or health maintenance organization, the insurer or organization shall issue to the individual (and to each other member of the individual's family covered under the plan with the individual) a health insurance enrollment card that identifies—

(A) the individual,

(B) the health plan in which the individual is enrolled, and

(C) the participating insurer or organization which offered the plan,

but does not otherwise identify (directly or indirectly) the category or basis for the individual's enrollment under this Act. In lieu of issuing such a card for foreign visits, the Secretary of State may provide for such other identification (in conjunction with the issuance of visas for entry or otherwise) of such foreign visits' entitlement to health-care services under this Act as such Secretary, after consultation with the National Health Board, determines to be appropriate and consistent with this Act.

(b) PROVISION OF ENROLLMENT INFORMATION.

(1) PREPARATION BY NATIONAL HEALTH BOARD.—The National Health Board shall provide for the preparation of information on enrollment and changes of enrollment under this section and for distribution of the information to, and by, employers, participating insurers and health maintenance organizations, particpating providers, the Commissioner of Social Security, State Health Boards, and others. Such information shall be prepared in a manner that is clear, accurate, and easy-to-read, and shall be available in a form which is understandable by

the visually-handicapped and shall be available in such other languages (other than English), as designated by the National Health Board, as may be commonly used by any significantly-sized group of eligible individuals.

(2) DISTRIBUTION OF INFORMATION.—Information on enrollment (and change in such enrollment) under this part shall be readily available and provided—

(A) by employers, to their employees;

(B) by or through the National Health Board, to Medicare-eligible individuals;

(C) by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare, to members of a uniformed service on active duty (and members of their families) under each jurisdiction;

(D) by the Commissioner of Social Security, through district offices of the Social Security Administration, to SSI-eligible individuals;

(E) by the managers of Federal and State institutions, to residents of such institutions;

(F) by single State agencies (established or designated under section 402(a)(3) of the Social Security Act) to AFDC-eligible individuals; and

(G) by or through State Health Boards, to other individuals (including individuals who are receiving general assistance) and eligible individuals generally.

(3) NOTICE TO UNENROLLED ELIGIBLE INDIVIDUALS BY STATE HEALTH BOARDS.—The National Health Board shall notify each State Health Board of the identity of eligible individuals who, in the filing of certain information returns with the Federal Government, have failed to indicate an enrollment in a qualified health plan under this part, and participating providers shall transmit to the State Health Board (for the State in which the provider is located) requests for payment for eligible individuals who did not indicate, at the time of receiving basic covered health-care services, an enrollment in a qualified health plan under this part and such identifying information on such individuals as the National Health Board may require. The State Health Board shall make special efforts to locate such individuals to notify them of their opportunity to enroll under this part and to provide for such enrollment.

(c) GENERAL ENROLLMENT PERIODS.—For purposes of this part:

(1) FIRST GENERAL ENROLLMENT PERIOD.—The term "first general open enrollment period" means the period beginning on June 1 and ending on November 30 of the year before the first effective year.

(2) GENERAL OPEN ENROLLMENT PERIODS.—The term "general open enrollment period" means the period beginning on September 1 and ending on November 30 of each year begining with the first effective year.

(d) SPECIAL ENROLLMENT PERIODS.—For purposes of this part, the term "special enrollment period" means, for an eligible individual and pursuant to regulations of the National Health Board, the time period (beginning in or after the first effective year) when—

(1) the individual first becomes an eligible individual (other than as a member of a family) or a Medicare-eligible individual; or

(2) the individual is no longer able to continue enrollment in the previous qualified health plan because of a change in the individual's (or a family member's) employment, marital status, family unit, area of principal residence, or other factor,

and such other time periods as the National Health Board may provide by regulation.

(e) EFFECTIVE DATES AND DURATION OF ENROLLMENT.—

(1) EFFECTIVE DATES OF ENROLLMENTS DURING GENERAL ENROLLMENT PERIODS.—Any enrollment made during the first general open enrollment period and any change of enrollment made (other than pursuant to a special enrollment period) during any general open enrollment period shall take effect with respect to health-care services furnished on or after January 1 of the year succeeding the year in which the period occurs.

(2) EFFECTIVE DATES OF ENROLLMENTS DURING SPECIAL ENROLLMENT PERIODS.—Any enrollment made during a special enrollment period because of—

(A) commencement of new employment, shall be effective for health-care services furnished on or after the date of the commencement of the employment;

(B) the individual's first becoming an eligible individual, shall be effective for health-care services furnished on or after the date with respect to which eligibility was first established;

(C) the individual's becoming a Medicare-eligible individual, shall be effective for health-care services furnished on or after the first day of the month for which such eligibility is established; or

(D) such other reasons, shall be effective for health-care services furnished on or after such date as the National Health Board shall provide.

Any eligible individual who has not enrolled or been enrolled under this part in a timely manner shall, for purposes of collection and payment of premiums and making of benefit-payments to providers under qualified health plans, be deemed to have enrolled in a timely manner in the qualified health plan in which the individual is subsequently enrolled.

(3) DURATION OF ENROLLMENT.—An enrollee in a qualified health plan remains enrolled in the plan until—

(A) the first date on which the individual is no longer an eligible individual,

(B) the date the individual (other than a Medicare-eligible individual or a member of a uniformed service or the family member of such a member) commences employment, if (i) the new employer does not offer the plan in which the individual has been enrolled, and (ii) no member of the individual's family is employed by an employer who offers the plan in which the individual has been enrolled,

(C) the date the individual's family changes its principal permanent residence, if (i) the family is enrolled in a qualified health plan offered by a participating health maintenance organization and (ii) the new residence is outside the area served by the organization, and

(D) the effective date of a change in the individual's enrollment under this part.

(f) TREATMENT OF FAMILY MEMBERS GENERALLY.—Except as otherwise provided by the National Health Board under this part, all members of a family (other than members who are Medicare-eligible individuals, SSI-eligible individuals, or residents of a Federal or State institution) are enrolled at any particular time in only one qualified health plan under this part.

SEC. 112. ENROLLMENT BY EMPLOYEES AND OFFERING OF QUALIFIED HEALTH PLANS BY EMPLOYERS.

(a) REQUIRED OFFERING OF PLANS.—Each employer shall—

(1) during the first general enrollment period (as defined in section 111(c)(1)) offer to each qualified employee (as defined in subsection (f)(1)),

(2) during each general open enrollment period, offer to each such employee, and

(3) during a special enrollment period with respect to a qualified employee, offer to such employee,

enrollment in a qualified health plan in accordance with this section.

(b) CHOICE AMONG PLANS.—In offering enrollment in a plan to a qualified employee under this section, the employer shall offer the employee the choice of enrollment under—

(1) at least one of the qualified health plans offered by a participating insurer belonging either—

(A) to the blue cross-blue shield consortium (described in section 412(a)(1)), or

(B) to the commercial insurance carrier consortium (described in section 412(a)(2)); and

(2) at least one of the qualified health plans offered by any participating health maintenance organization belonging to either of the consortia for health maintenance organizations (described in paragraph (3) or (4) of section 412(a)), if such a plan is available in the area in which qualified employees and their dependents obtain health-care services,

and may also offer (at the option of the employer) the employee the choice of enrollment in one or more qualified health plans offered by a self-insurer. If any qualified employees of the employer are represented by a collective bargaining representative or other employee representative designated or selected under law, the offer of enrollment of such employees in one or more qualified health plans from among the plans provided in paragraph (1) or (2) shall first be made to such representative and, if such offer is accepted by such representative, shall then be made to each such employee. If a qualified health plan otherwise offered under paragraph (1) or (2) does not have the capacity to enroll all qualified employees (and family members) who may desire to enroll, the employer shall provide for offers of enrollment with other qualified health plans under such paragraph.

(c) ELECTION BY EMPLOYEE; AUTOMATIC ENROLLMENT.—Each qualified employee shall, in accordance with procedures established by the National Health Board, elect the plan in which the employee (and each qualified dependent of the employee) will be enrolled. In the absence of such election, the employer shall, in accordance with such procedures as the National Health Board shall establish, enroll the employee (and each qualified dependent of the employee) in one of such plans.

(d) OFFERING OF PLANS WITH SUPPLEMENTAL BENEFITS.—If an employer offers, as part of or in conjunction with the offering of a qualified health plan under this subsection, a health plan that offers benefits for other than basic covered health-care services the employer shall provide to the employee written information (in a form meeting guidelines established by the National Health Board) regarding any additional cost to the employee of the employee's election to accept the plan.

(e) TREATMENT OF OTHER FAMILY MEMBERS.—

(1) COVERAGE OF DEPENDENTS.—Any qualified health plan or supplementary health plan offered pursuant to this section by an employer to a qualified employee shall provide for coverage of the employee and of each qualified dependent of the employee.

(2) OVERLAPPING COVERAGE.—If more than one member of a family is offered a choice of qualified health plans under this section (because more than one such member is a qualified employee), the members of that family may choose to enroll under only one health plan from all of the choices made available to members of the family.

(3) PERMITTING MULTIPLE MEMBERSHIP IN THE CASE OF DIVIDED FAMILIES.—In accordance with such regulations as the National Health Board may provide, the provisions of paragraphs (1) and (2) shall not apply to qualified dependents of an employee who do not share the same household with the qualified employee and under such other circum-

stances as the National Health Board may provide.

(f) DEFINITIONS.—For purposes of this section:

(1) QUALIFIED EMPLOYEE.—The term "qualified employee" means an employee who is an eligible individual and who is not—

(A) a Medicare-eligible individual,

(B) a member of a uniformed service on active duty or a member of such member's family, or

(C) an individual described in paragraph (3) or (4) of section 101(a) (relating to certain foreign employees and foreign visitors).

(2) QUALIFIED DEPENDENT.—The term "qualified dependent" means a member of a qualified employee's family, if the member is an eligible individual and is not—

(A) a Medicare-eligible individual or an SSI-eligible individual,

(B) a member of uniformed service on active duty or a dependent of such a member,

(C) an individual described in paragraph (3) or (4) of section 101(a) (relating to certain foreign employees and foreign visitors), or

(4) a resident of a Federal or State institution.

(g) ENFORCEMENT.—

(1) CIVIL PENALTY.—Any employer that knowingly does not comply with one or more of the requirements of this section shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the National Health Board and collected in a civil action brought by the United States in a United States district court.

(2) PROCEEDINGS.—In any proceeding by the National Health Board to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the National Health Board shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the National Health Board of a noncompliance.

SEC. 113. ENROLLMENT OF MEMBERS OF A UNIFORMED SERVICE ON ACTIVE DUTY, MEDICARE-ELIGIBLE INDIVIDUALS, AND FOREIGN EMPLOYEES AND VISITORS.

(a) ENROLLMENT OF MEMBERS OF A UNIFORMED SERVICE AND THEIR FAMILIES.—

(1) IN GENERAL.—Each eligible individual who is a member of a uniformed service on active duty shall choose to enroll (and may change such enrollment during general open enrollment periods) in a qualified health plan from among such health plans, offered by or through the Department of Defense, as the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare, the Secretary of Transportation, and the Secretary of Commerce, and with the National Health Board, finds consistent with chapter 55 of title 10, United States Code, and with the policy of requiring that the provision of basic and other covered health-care services to such members and members of their families be through facilities of the uniformed services.

(2) TREATMENT OF OTHER FAMILY MEMBERS.—

(A) COVERAGE OF DEPENDENTS.—Any health plan offered pursuant to this subsection to a member of a uniformed service on active duty shall provide for coverage of family members of such member who are eligible individuals but are not Medicare-eligible individuals.

(B) PERMITTING MULTIPLE MEMBERSHIP IN THE CASE OF DIVIDED FAMILIES.—In accordance with such regulation as the National Health Board may provide, subparagraph (A) shall not apply to such a spouse or dependents of a member of a uniformed service who do not share the same household with the member and under such other circumstances as the National Health Board may provide.

(b) ENROLLMENT OF MEDICARE-ELIGIBLE INDIVIDUALS.—Medicare-eligible individuals shall enroll, or be enrolled, with the National Health Board or with a participating health maintenance organization in accordance with the Medicare program.

(c) FOREIGN EMPLOYEES.—Eligible individuals described in section 101(a)(3), relating to employees of foreign governments and international organizations, are entitled to enroll (and change such enrollment) in a qualified health plan from among such qualified health plans as shall be provided under the provisions of the agreement described in section 101(b)(1).

(d) FOREIGN VISITORS.—Foreign visitors are entitled to enroll in such qualified health plan or plans as the Secretary of State provides, after consultation with the National Health Board.

SEC. 114. ENROLLMENT OF OTHER INDIVIDUALS.

(a) ENROLLMENT OF SSI-ELIGIBLE INDIVIDUALS AND RESIDENTS OF FEDERAL INSTITUTIONS.—Each individual who is an SSI-eligible individual or who is a resident of a Federal institution and who is not otherwise enrolled under section 112 or 113 may—

(1) during the first general enrollment period (as denned in section 111(c)(1)), enroll,

(2) during each general open enrollment period, change enrollment, and

(3) during each special enrollment period with respect to the individual, enroll or change enrollment, in any qualified health plan available to the individual.

(b) ENROLLMENT OF AFDC-ELIGIBLE INDIVIDUALS, RESIDENTS OF STATE INSTITUTIONS, AND OTHERS.—Each eligible individual who is an AFDC-eligible individual, resident of a State institution, or otherwise not enrolled, or eligible to enroll, under section 112 or 113 or subsection (a) of this section may—

(1) during the first general enrollment period (as defined in section 111(c)(1)), enroll,

(2) during each general open enrollment period, change enrollment, and

(3) during each special enrollment period with respect to the individual, enroll or change enrollment, in any qualified health plan available to the individual.

(c) MANDATORY ENROLLMENT—Pursuant to regulations established by the National Health Board and rules and procedures established by State Health Boards—

(A) in the case of any SSI-eligible individual described in subsection (a) who fails to enroll in a qualified health plan, the Commissioner of Social Security shall,

(B) in the case of any resident of a Federal or State institution described in subsection (a) or (b) who fails to enroll in a qualified health plan, the manager of the institution shall, and

(C) in the case of any AFDC-eligible individual or other individual (other than a resident of a State institution) described in subsection (b) who fails to enroll in a qualified health plan, the State Health Board shall,

notify the individual of the choices of enrollment available to the individual, and, in the subsequent absence of any such election and in accordance with such procedures as the National Health Board shall establish, enroll the individual in one of such plans.

(d) COVERAGE OF OTHER FAMILY MEMBERS.—Any qualified health plan offered pursuant to this section to an eligible individual (other than an SSI-eligible individual or a resident of a Federal or State institution) shall provide for coverage of the individual and of eligible individuals who are members of the individual's family (other than Medicare-eligiole individuals, SSI-eligible individuals, or residents of Federal or State institutions).

TITLE II—BENEFITS AND PROVIDERS

PART A—BASIC COVERED HEALTH-CARE SERVICES

SEC. 201. INPATIENT AND OUTPATIENT HOSPITAL SERVICES.

(a) IN GENERAL.—Inpatient hospital services and outpatient hospital services, including services of hospital-based physicians, are basic covered health-care services.

(b) LIMITATION.—Inpatient mental health services are basic covered health-care services only to the extent of—

(1) 150 consecutive days of Medicare-eligible individuals, or

(2) 45 consecutive days for other eligible individuals,

during certain periods of treatments, as determined under section 1812(c) of the Social Security Act.

SEC. 202. PHYSICIANS' SERVICES.

(a) IN GENERAL.—Physicians' services are basic covered health-care services.

(b) LIMITATION.—Physicians' services primarily for the diagnosis or treatment of mental illness and outpatient mental health services (described in section 208(b)) are basic covered health-care services only to the extent that expenses for such services in a calendar year do not exceed the fee-equivalent of 20 psychiatric visits per year (as determined under section 1833(c) of the Social Security Act).

SEC. 203. HOME HEALTH SERVICES.

Home health services are basic covered health-care services for up to 100 visits during a calendar year.

SEC. 204. POST-HOSPITAL SKILLED NURSING FACILITY SERVICES.

Post-hospital extended care services are basic covered health-care services for up to 100 days during any spell of illness.

SEC. 205. PREVENTIVE HEALTH SERVICES.

(a) INITIAL SERVICES.—Basic covered health-care services include, as defined by the National Health Board—

(1) basic immunizations,

(2) pre- and post-natal maternal care,

(3) well-child care (including periodic physical examinations, hearing and vision screening, and developmental screening and examinations) for individuals up to the age of 18 years, and

(4) such other health-care services as are designed to prevent, or to minimize the effect of, illness, disease, or medical condition as the National Health Board may add under subsection (b).

(b) ADDITIONAL SERVICES.—

(1) ADDITION.—In addition to the services listed in paragraphs (1), (2), and (3) of subsection (a), the National Health Board, after consultation with such experts as it deems appropriate, may add on a year-by-year basis as preventive health services, subject to paragraph (2), such health-care services (described in subsection (a)(4)), under such conditions or limitations as may be established by the Board, as the Board determines will provide for the cost-effective delivery of health-care services under this Act and Medicare.

(2) BUDGET LIMITATION.—For the provision of preventive health services described in subsection (a)(4) in any year under this Act and under Medicare, the anticipated expenditures contained in the Annual Budget (established under section 301) for the year for such services shall not exceed—

(A) if the year is the first effective year, $500,000,000, and

(B) if the year is a subsequent year, the amount determined under this paragraph for the previous year increased by the average annual rate of increase in the gross national product for the three-year period ending with the year before such previous year.

SEC. 206. MEDICAL AND OTHER HEALTH SERVICES.

Other medical and other health services, including—

(1) services and supplies incidental to the provision of physician's services;

(2) hospital services incidental to physicians' services rendered to outpatients;

(3) diagnostic services furnished to outpatients of hospitals;

(4) outpatient physical therapy services, outpatient speech pathology services, and outpatient occupational therapy services;

(5) health clinic services, including rural health clinic services;

(6) home dialysis supplies and equipment;

(7) diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests;

(8) X-ray (and related) therapy;

(9) durable medical equipment used in the patient's home;

(10) ambulance service, to the extent provided in regulation;

(11) prosthetic devices (other than dental) which replace all or part of an internal body organ (including lens after cataract surgery), including replacements of such devices; and

(12) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including necessary replacements, are basic covered health-care services.

SEC. 207. INSULIN AND OUTPATIENT PRESCRIPTION DRUGS FOR CHRONIC ILLNESS FOR MEDICARE-ELIGIBLE INDIVIDUALS.

Insulin and outpatient prescription drugs for treatment of chronic conditions are covered health-care services, but only for Medicare-eligible individuals, to the extent and under such restrictions as are provided under Medicare (as amended by this Act).

SEC. 208. MENTAL HEALTH SERVICES.

(a) MENTAL HEALTH DAY CARE SERVICES.—

(1) IN GENERAL.—Mental health day care services are basic covered health-care services.

(2) LIMITATION.—Mental health day care services are basic covered health-care services only to the extent of two days for each day of inpatient mental health services permitted under section 201(b).

(b) OUTPATIENT MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Outpatient mental health services are basic covered health-care services.

(2) LIMITATION ON MENTAL HEALTH SERVICES.—Outpatient mental health services and physicians' services primarily for the diagnosis or treatment of mental illness (described in section 202(b)) are basic covered health-care services only to the extent that expenses for such services do not exceed in a calendar year the fee-equivalent of 20 psychiatric visits per year (as determined under section 1833(c) of the Social Security Act).

(3) MENTAL HEALTH SERVICES DEFINED.—For purposes of this subsection and section 202(b), the term "mental health services" means treatment, diagnosis, evaluation, or crisis intervention of a mental illness or condition.

SEC. 209. AUDIOLOGICAL EXAMINATIONS AND HEARING AIDS.

(a) IN GENERAL.—Audiological examinations by a physician or qualified audiologist and the provision of hearing aids are basic covered health-care services.

(b) LIMITATION.—Audiological examinations are basic covered health-care services only to the extent of one examination per individual per year and hearing aids are basic covered health-care services only to the extent of provision of one hearing aid per individual for any three-year period.

SEC. 210. EXCLUSIONS.

(a) IN GENERAL.—Basic covered health-care services do not include items and services for which payment may not be made under Medicare, including expenses for items or services—

(1) other than preventive health services, not reasonable or necessary for the diagnosis or treatment of illness, injury, or condition, or to improve the functioning of a malformed body member;

(2) not provided within the United States;

(3) which constitute personal comfort items;

(4) other than preventive health services, for routine physical checkups, eye-glasses and eye examinations;

(5) for custodial care;

(6) for cosmetic surgery, except for prompt repair of accidental injury or for improvement of the functioning of malformed body member;

(7) where such expenses constitute charges imposed by immediate relatives of the individual or members of the individual's household;

(8) other than preventive health services, in connection with the care, treatment, filling removal, or replacement of teeth or structures directly supporting teeth, except for in patient hospital services in connection with treatment of underlying medical conditions; and

(9) for treatment of flat feet, subluxations of the foot, or routine foot care, unless required to prevent serious handicapping for patients with a diagnosed case of diabetes mellitus.

(b) ADDITIONAL EXCLUSIONS FOR NON-MEDICARE ELIGIBLE-INDIVIDUALS.—Basic covered health-care services do not include, for other than Medicare-eligible individuals, payment for—

(1) orthopedic shoes or other supportive devices for the feet,

(2) services of physicians described in section 1861(r)(5) of the Social Security Act, and

(3) certain inpatient hospital services furnished outside the United States (described in section 1814(f) of the Social Security Act).

(c) ADDITIONAL EXCLUSIONS.—The National Health Board, after consultation with the Commission on Health-Care Benefits and the Commission on Quality of Health Care, may provide, upon the basis of the cost and effectiveness of providing particular health-care items or services that, notwithstanding any other provision of this Act or title XVIII of the Social Security Act, payment may not be made, under a qualified health plan under this Act or under Medicare, for such an item or service.

PART B—PROVIDER STANDARDS AND CERTIFICATIONS

SEC. 211. STANDARDS FOR SERVICES, PROVIDERS, AND CERTIFICATION OF PROVIDERS.

(a) IN GENERAL.—The provisions of titles XI and XVIII of the Social Security Act with respect to—

(1) definitions of terms and descriptions of health-care services, providers of services, and other health-care providers (under section 1861 of such Act);

(2) conditions of participation for health care providers (under section 1866 of such Act) and use of State and other agencies in determining compliance with standards (under sections 1863 and 1864 of such Act);

(3) suspension and disqualification of providers (under sections 1862 and 1866 of such Act);

(4) limitations or exclusions from payment for items and services (under sections 1812, 1814, 1833, 1834, and 1862 of such Act);

(5) certifications (under sections 1814 and 1835 of such Act) with respect to the provision of items or services; and

(6) application of professional standards review (under part B of title XI of such Act) with respect to items and services furnished under Medicare,

shall apply to basic covered health-care services provided under qualified health plans to the same extent as they apply to items and services for which payment may be made under title XVIII of such Act.

(b) ADDITIONAL CONDITIONS FOR PROVISION OF CERTAIN SERVICES.—In order to encourage payment for items and services under such circumstances as are likely to improve health care, the National Health Board, after consultation with the Commission on Health-Care Benefits and the Commission on Quality of Health Care, may establish a list of high-risk, high-cost, elective, or overutilized items or services for which payment may be made under a qualified health plan under this Act or under Medicare only if one or more of the following conditions are met with respect to its provision by a provider:

(1) The provider is certified by an appropriate specialty board in the relevant medical specialty.

(2) The diagnosis and recommended provision of the service by the provider is supported by (A) a second opinion by a qualified physician which confirms the diagnosis and proposed treatment or (B) specific objective findings.

(3) The provider is an institution that is adequately equipped and staffed (in accordance with regulations of the National Health Board) to furnish the service.

(4) The provider is a specialist or an institution providing care to a patient who has been referred to that provider by a primary-care physician (as determined by the National Health Board).

(5) The provider has demonstrated, through statistical evidence, that it provides high-quality health-care services and that it properly uses appropriate methods and technologies.

(c) RESIDUAL MEDICAID PROGRAM.—For amendments to title XIX of the Social Security Act (popularly known as the Medicaid program) providing for—

(1) replacement of Federal grants-in-aid with a Federal guarantee of payments of certain additional payments for group-rated premiums of AFDC-eligible individuals in qualified health plans,

(2) establishment of maintenance of effort requirements, and

(3) requirements with respect to additional mandatory services,

see section 636.

TITLE III—FINANCING AND PLANNING

PART A—BUDGET AND PLANNING PROCESS

Subpart I—Budget Process

SEC. 300. BUDGET TIMETABLE.

The timetable with respect to the budget process for the national health insurance system for a year is as follows:

Action to be completed:

On or before January 15: Proposed annual State budgets submitted to National Health Board.

On or before March 1: Annual Budget submitted to Congress.

On or before July 1: Annual State budgets adopted.

On or before September 1–November 30: Open enrollment period.

On or before January 1 of following year: Budget year begins.

SEC. 301. ANNUAL BUDGET.

(a) PREPARATION.—

(1) SUBMITTAL OF PROPOSED ANNUAL STATE BUDGETS.—After taking into consideration the policies of the National Health Board, the Health Care Improvement Plan (most recently prepared under section 305), and recommendations of the Commissions, each State Health Board, not later than January 15 of each year, shall prepare and transmit to the National Health Board a proposed annual State budget (described in section 302) for that State for the succeeding year.

(2) FEDERAL EXPENDITURES ESTIMATE.—The National Health Board shall prepare and transmit to the President on a timely basis,

for inclusion without change in the Budget transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921, an estimate of the anticipated Federal expenditures related to the appropriate Annual Budgets.

(3) PREPARATION AND ADOPTION.—The National Health Board shall prepare and adopt, not later than March 1 of each year a comprehensive Annual Budget which establishes the level of expenditures authorized for covered health-care services and for administrative costs pursuant to this Act, and the revenues needed to finance such expenditures, for the succeeding year.

(4) PRESENTATION OF ANNUAL BUDGET.—Upon adoption of an Annual Budget, the National Health Board shall transmit a report on such budget to the President, the Congress, and to the Governor and the State Health Board of each State and shall make such budget available to the public.

(5) CONGRESSIONAL BUDGET OFFICE ANALYSIS OF BUDGET.—The Congressional Budget Office shall prepare and submit to the relevant committees of the Congress, as soon as practicable after receipt of an Annual Budget, an analysis of the impact of the Annual Budget on the Federal Budget.

(b) CONTENTS.—Each Annual Budget for a year shall set forth the following:

(1) ANTICIPATED EXPENDITURES.—The amount of anticipated expenditures, consistent with subsection (c), attributable to each of the following for the year for all States and for each State:

(A) ADMINISTRATIVE COSTS.—Costs of administration for (i) the National Health Board, (ii) State Health Boards, (iii) the consortia, and (iv) participating insurers (other than the Secretary of Defense) and participating health maintenance organizations.

(B) PROVISION OF COVERED HEALTH-CARE SERVICES.—Payments to participating providers for the provision of covered health-care services to enrollees, broken down by category of health-care service provided, category of provider, or both, as determined by the National Health Board.

(C) CAPITAL, EDUCATION, AND RESEARCH BUDGET.—Costs of capital investment, education of health care providers, and research for which funds are available under this Act.

(D) MEDICAL TRUST FUND EXPENDITURES.—Expenditures from the trust funds established under title XVIII of the Social Security Act.

(E) ADJUSTMENTS FOR PREVIOUS BUDGETS.—Increases in, or decreases from, the expenditures otherwise allowable in the year because of deficits or surpluses, respectively, in the budget of the national health insurance system for the preceding year.

(F) CONTINGENCY FUND.—Amounts which will be reserved to provide for unanticipated expenditures which cannot otherwise be budgeted.

(G) MEDICAID GUARANTEE AND RESIDUAL MEDICAID.—Payments made under State plans under title XIX of the Social Security Act (relating to the residual medicaid program) and payments made to States under section 1903(a)(1) of such Act and section 636(f) of this Act (relating to federal guarantee against additional State expenditures for AFDC-eligible individuals).

(H) MISCELLANEOUS EXPENDITURES.—Such other costs incurred under this Act as the National Health Board may specify.

For purposes of this subsection, the term "expenditures" does not include expenditures by the Department of Defense or the Veterans' Administration.

(2) ANTICIPATED REVENUES.—The amount of anticipated revenues attributable to each of the following for the year:

(A) WAGE-RELATED PREMIUMS.—Payments of premiums related to wages (described in section 341).

(B) NON-WAGE-RELATED INCOME PREMIUM.—Payments of premiums related to nonwage income (described in section 342).

(C) FEDERAL GROUP-RATED PREMIUMS.—Payments by the Federal Government of group-rated premiums on behalf of SSI-eligible individuals and for individuals who are residents of Federal institutions.

(D) STATE GROUP-RATED PREMIUMS.—Payments by State governments of group-rated premiums on behalf of AFDC-eligible individuals and for individuals who are residents of State institutions.

(E) PAYMENTS BY FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.—Payments of premiums paid by foreign governments and international organizations (under section 343) pursuant to executive agreements described in section 101(b).

(F) MEDICARE TAXES, PREMIUMS, AND INTEREST.—Tax revenues received, premiums paid, and interest earned on trust funds, with respect to medicare.

(G) RESIDUAL FEDERAL PAYMENTS.—Payments by the Federal Government (under section 346) to consortiums for defaults in the payment of required premiums and payments by the Federal Government by appropriations from general revenues of the Federal Government.

(H) MISCELLANEOUS REVENUES.—Such other revenues as the National Health Board may specify. For establishment of premium rates consistent with total anticipated revenues for a year equaling the total of anticipated expenditures for the year, see section 331.

(3) SEPARATE SCHEDULES.—

(A) MEDICARE PROGRAM.—The anticipated expenditures and revenues (broken down by source) under medicare with respect to covered health-care services furnished under medicare program.

(B) OTHER PUBLIC PROGRAMS.—The anticipated expenditures and revenues under this act with respect to (i) SSI-eligible individuals, (ii) AFDC-eligible individuals, (iii) residents of Federal institutions, and (iv) residents of State institutions.

(C) PRIVATE INSURANCE PLANS.—The anticipated expenditures and revenues under this act with respect to individuals (other than medicare-eligible individuals, foreign visitors, or individuals described in subparagraph (B)).

(D) INTRASTATE AND INTERSTATE AREAS.—Upon the request of a Governor of a State or the Governors of adjoining States, the National Health Board may provide for a separate schedule of anticipated expenditures for different areas within a State or for areas including parts of more than one State.

(F) HEALTH RESOURCES DISTRIBUTION FUND AND RELATED PROGRAMS.—The anticipated expenditures from, and appropriations to, the Health Resources Distribution Fund, including the amount to be requested from Congress for programs under such fund and for each other authorized program administered by the National Health Board.

(4) PREMIUM RATES.—The national community-rated and group-rated premium and national premium rate established (under part C) for the year.

(5) FIVE-YEAR PROJECTIONS.—A projection of the anticipated expenditures (described in paragraph (1)) and the anticipated revenues (described in paragraph (2)) for each of the succeeding five years, showing any effect on such expenditures or revenues of the expenditures from the Health Resources Distribution Fund or of cost-control efforts.

(c) LIMITATION ON EXPENDITURES.—

(1) LIMITATION ON RATE OF INCREASE IN EXPENDITURES IN RELATION TO GROWTH IN GROSS NATIONAL PRODUCT.—The total anticipated expenditures for a year in an Annual Budget may not exceed the amount of the estimated expenditures under such Budget in the previous year by more than the average annual rate of increase in the gross national product for the three-year period ending with the year before the year in which the Annual Budget is adopted.

(2) MAXIMUM EXPENDITURES IN A YEAR.—

(A) LIMIT ON SYSTEM-WIDE EXPENDITURES.—The amounts set forth in an Annual Budget as total anticipated expenditures for the United States and for any State for covered health-care services (including administrative costs of insurers, health maintenance organizations, and consortia, but excluding services and costs relating to members of a uniformed service on active duty and members of their families) for any year are the maximum amounts that may be expended for such services for all States and for the State, respectively, for that year.

(B) LIMIT ON STATE EXPENDITURES.—A State Health Board, in implementing its annual State budget and in negotiating agreements or schedules pursuant to this part, may not provide for total expenditures for items covered in the budget in excess of those contained in the Annual Budget with respect to the State.

(C) LIMIT ON EXPENDITURES BY PROVIDER OR TYPE OF SERVICE.—(i) NATIONAL LIMITS.—Within such percentage variations as the National Health Board may permit, the amounts set forth in subsection (b)(1)(B) in an Annual Budget as total anticipated expenditures for the United States and for any State for any year for the provision of basic covered health-care services within a category of services or of providers, or both, are the maximum amounts that may be expended for such basic covered health-care services pursuant to qualified health plans and for covered health-care services under Medicare for all States and for the State, respectively, for that year.

(3) ESTABLISHMENT OF STATE EXPENDITURE LIMITS.—The percentage increase in the anticipated expenditures per capital for covered health-care services in the Annual Budget for a State and in the State's annual State budget for a year over the actual expenditures for such services in the State for the previous year—

(A) shall, except as provided under subparagraph (B) or (C), inversely reflect the degree to which per capita expenditures for health-care services in the State (calculated, to the extent feasible, on a price-adjusted basis) for the previous year are less than such per capita expenditures in the United States for that year;

(B) may not be less than 80 percent or more than 120 percent of the percentage increase of such expenditures per capita in the Annual Budget for that year over such expenditures per capita for the previous year; and

(C) may provide, notwithstanding subparagraph (B), for a higher rate of increase for the State if the State has a severely medically-underserved population with respect to which a special development program has been approved in the Health Care Improvement Plan established under section 305 or to the extent to which the State has an Indian health program, migrant health program, community health center, or other health program providing services to medically underserved populations.

SEC. 302. ANNUAL STATE BUDGETS.

(a) IN GENERAL.—

(1) PROPOSED ANNUAL STATE BUDGET.—In order to assist in the preparation of the Annual Budget for each year, each State Health Board shall prepare and submit, not later than January 15 of the previous year, to the National Health Board, in accordance with regulations established by the National Health Board, a proposed annual State budget for the State for the year.

(2) ANNUAL STATE BUDGET.—In order to implement the applicable portions of each Annual Budget for a year adopted by the National Health Board with respect to expenditures for covered health-care services

to be furnished in the State, each State Health Board shall adopt, not later than July 1 of the previous year, and submit to the National Health Board an annual State budget. Each annual State budget adopted for a year shall take into consideration, within the constraints of the such budget, all pertinent conclusions, including recommended changes in resource availability, contained in the most recently revised health care improvement plan for the State, prepared under section 306.

(b) BASES FOR ANNUAL STATE BUDGETS.—Each annual State budget shall, to the extent not inconsistent with policies established by the National Health Board—

(1) be prepared after consultation with, and consideration of any comments submitted by, the State government (and political subdivisions), State advisory commissions (established by the State Health Board under section 407(b)(3)), representative of consortia, participating insurers and health maintenance organizations operating in the State, participating providers in the State, and consumers residing in the State;

(2) be based on agreements negotiated, and any schedules for maximum amounts of payments agreed to in negotiations, by the State Health Board with participating providers with respect to payments to such providers for covered health-care services; and

(3) be based on prospective budgets that have been submitted by participating institutional providers and approved by the State Health Board.

(c) CONTENTS.—Each annual State budget shall contain the information described in section 301(b), but only with respect to expenditures, premiums, and the premium rate in that State.

Subpart II—Planning Process

SEC. 305. NATIONAL HEALTH CARE IMPROVEMENT PLAN

(a) PREPARATION.—The National Health Board, in consultation with the President's Commission on the Health of Americans, shall prepare and annually revise, before the adoption of each Annual Budget, a National Health Care Improvement Plan which describes—

(1) the needs over the five-year period beginning on the date of the Plan is prepared or revised (whichever occurs later) in the United States relating to the accessibility of health care, the quality of health care, and the cost of health care,

(2) the effect to date and projected effect of the implementation of provisions of this Act in meeting such needs, and

(3) recommended additional actions that should be taken to meet such needs.

The description of needs in paragraph (1) and recommended actions in paragraph (3) shall take into account the statement of needs and recommended actions contained in the State Plans for Health Care Improvement prepared under section 306.

(b) USE IN PREPARING GUIDELINES AND STANDARDS.—The National Health Board, in establishing any guidelines or standards under this Act, shall describe how such guidelines and standards facilitate meeting the needs projected in the most recently revised Health Care Improvement Plan prepared under this section.

SEC. 306. STATE HEALTH CARE IMPROVEMENT PLANS.

The Governor of each State shall prepare and annually revise a State Health Care Improvement Plan (hereinafter in this section referred to as the "State Plan") which, in accordance with standards and guidelines promulgated by the National Health Board, describe—

(1) the needs over the five-year period beginning on the date the State Plan is prepared or revised (whichever occurs later) in the State relating to the accessibility of health care, the quality of health care, and the cost of health care; and

(2) the specific actions the State intends to take to meet those needs.

A State Plan shall take into account and, to the extent appropriate, include the objectives of the current State health plan in effect for the State under section 1524 of the Public Health Service Act, the State medical assistance plan in effect for the State under title XIX of the Social Security Act, and any current plan submitted on behalf of the State to receive financial assistance under the Public Health Service Act or the Community Mental Health Centers Act.

PART B—PAYMENTS TO PROVIDERS

Subpart I—Payments to Providers Generally

SEC. 311. WHO MAKES PAYMENTS TO PROVIDERS.

(a) PARTICIPATING INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS.—Each participating insurer and health maintenance organization shall provide for making payment, in accordance with this part, to a participating provider which furnishes covered health-care services to an enrollee enrolled in a qualified health plan offered by the insurer or organization.

(b) PAYMENT FOR SERVICES TO INDIVIDUALS DEEMED ENROLLED.—Whenever a participating provider furnishes covered health-care services to an eligible individual who is not an enrollee, the provider shall be paid for such services by the participating insurer or health maintenance organization which offers the qualified health plan in which the individual later enrolls or is enrolled.

(c) PAYMENTS FOR SERVICES TO MEDICARE-ELIGIBLE INDIVIDUALS.—With respect to covered health-care services furnished to a medicare-eligible individual by a participating provider, payment for such services shall be made, if the individual is—

(1) not enrolled in a qualified health plan offered by a participating health maintenance organization, by the National Health Board from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, in accordance with this part and medicare or

(2) enrolled in such a plan, by the organization, in accordance with this part and medicare.

(d) PAYMENTS FOR SERVICES TO MEMBERS OF UNIFORMED SERVICE ON ACTIVE DUTY.—With respect to covered health-care services furnished to a member of a uniformed service on active duty (or a member of that member's family), payment for such services shall be made by the Secretary of Defense in accordance with chapter 55 of title 10, United States Code.

SEC. 312. BASIS ON WHICH PAYMENTS MADE.

(a) ALLOCATION TO INSTITUTIONAL PROVIDERS BASED ON PROPORTIONATE SHARE OF BUDGET AND ADMINISTRATIVE SIMPLICITY.—

(1) GENERAL RULE.—Each participating insurer or health maintenance organization, which offers a qualified health plan whose enrollees receive covered health-care services from an institutional provider for which they are entitled to have payment made under this Act, shall provide for payments of such allocated portion of the approved prospective budget (established under section 321) of the provider as reflects, in accordance with regulations of the National Health Board (established in accordance with paragraph (2)), the proportion of the costs in the budget used to provide such services to such enrollees. Except as approved by the State Health Board, no payment may be made pursuant to this Act for expenditures by an institutional provider for covered health-care services it furnishes to the extent these expenditures are not included in its prospective budget approved under this section.

(2) ESTABLISHMENT OF METHODS OF APPORTIONMENT.—Such regulations of the National Health Board shall provide for such method or methods of apportionment of costs among insurers and health maintenance organizations as will allocate costs in a manner that is administratively simple and reasonable, will reflect the portion of costs for which the insurer or organization is responsible, and provide for payment to the provider of the revenues projected for the provider in its approved prospective budget with respect to covered health-care services provided to its enrollees. Such methods may include apportionment based on—

(A) the number of treatments of particular conditions or of particular diagnoses;

(B) the relative value of the health-care services furnished, as determined in accordance with indices of relative values to be established by the National Health Board;

(C) the number of admissions, number of patient days, number of diagnoses, or other such easily determinable factor that may fairly allocate costs; or

(D) any other method approved by the National Health Board.

In establishing the method or methods of apportionment of costs, the Board shall take into account the desirability of limiting billing and administrative costs by limiting the amount of data that the provider is required to furnish.

(3) SELECTION AMONG METHODS OF APPORTIONMENT.—If these regulations provide for more than one method of apportionment for any type of provider in a State, the State Health Board may select, and require the use of, one of such approved methods by that provider, and participating insurers and health maintenance organizations with respect to that provider, but only after the State Health Board has considered the relative merits of the methods approved by the National Health Board for that type of provider. The method of apportionment so selected with respect to a provider may be changed by a State Health Board at any time.

(4) EXPERIENCE REPORTS AND ADJUSTMENTS.—Each institutional provider in a State with an approved prospective budget shall transmit to the State Health Board, at the close of each year, data and a reconciliation showing differences between the actual expenditures of, and services provided by, the provider in a year with such expenditures and services allowed for in its approved prospective budget for the year. If expenditures of the provider were below those predicted because of actions taken that increased the efficiency of the provider, the State Health Board shall provide for the retention, by the provider, of one-half of the amount of such savings. The State Health Board shall provide, to the extent appropriate, for adjustments in the amounts of the payments made by different insurers and health maintenance organizations or in the prospective budget for the following year in order to properly correct unintended differences in the amount or source of payments to a provider.

(b) PAYMENTS TO INDIVIDUAL PROVIDERS BASED ON FEE SCHEDULE.—

(1) IN GENERAL.—For covered health-care services (other than drugs, hearing aids, durable medical equipment, or laboratory services) furnished by a participating provider (other than an institutional provider) the provider shall be paid for each such health-care service in accordance with the lowest of—

(A) the fee charged by the provider,

(B) the fee agreed upon between the provider and the participating insurer or health maintenance organization making payment for the service, or

(C) the applicable maximum fee schedule for the service (established under section 322).

The National Health Board may provide, upon the recommendation of a State Health

Board and on an individual-by-individual basis, for an increase in the amount of payment made for the provision of a covered health-care service service by a physician provider in order to recognize performance of unusual merit by the physician in providing the service.

(2) SALARY EQUIVALENT.—In lieu of payment under paragraph (1), payment may be made to a provider described in that paragraph, at the election of the provider, on a salary or fee-for-time basis if the total amount payable in a year to the provider by the use of such method is not greater than the total amount payable for the equivalent amount of services as computed (in accordance with regulations established by the National Health Board) on the basis of the applicable maximum fee schedule (established under section 322).

(c) PAYMENTS TO PROVIDERS FOR DURABLE MEDICAL EQUIPMENT, LABORATORY SERVICES, DRUGS, AND HEARING AIDS.—For the furnishing of covered durable medical equipment, laboratory services, drugs, and hearing aids, the provider shall be paid the sum of—

(1) lowest of—

(A) the charge for the equipment, laboratory service, drug, or hearing aid,

(B) the charge agreed upon between the provider and the participating insurer or health maintenance organization making payment for the equipment, laboratory service, drug, or hearing aid, or

(C) the maximum reasonable cost for the equipment, laboratory service, drug, or hearing aid (established under section 323); and

(2) in the case of drugs and hearings aids, the lowest of (A) the provider's fee charged for dispensing the drug or hearing aid, (B) the fee agreed upon between the provider and the participating insurer or health maintenance organization for such service, or (C) the highest fee permitted under the applicable maximum fee schedule (established under section 323).

(d) OTHER COVERED HEALTH-CARE SERVICES.—For the furnishing of other covered health-care services, the provider shall be paid the lowest of—

(1) the charge for the service,

(2) the charge for the service agreed upon between the provider and the participating insurer or health maintenance organization making payment for the service, or

(3) the maximum reasonable cost of the service, as established by the State Health Boards in accordance with guidelines and standards established by the National Health Board.

(e) EXPERIMENTS AND DEMONSTRATIONS.—Notwithstanding subsections (a) through (d), the National Health Board may permit payment to be made to institutional and other participating providers using an experimental or demonstration method of reimbursement if the Board finds that the demonstration of, or experimentation with such method will further the purposes of this Act.

(f) PERIODIC REVIEW.—Once every five years or at such more frequent intervals as the National Health Board may provide and upon the presentation of a petition signed by one-fourth of the participating providers within a category of provider, the National Health Board shall conduct a hearing concerning the methods of reimbursement (including any guidelines or standards related thereto) provided under this part for that category of provider. The Board shall invite to the hearing representatives of the providers involved. After such hearing, the Board may provide for such modifications of the guidelines and standards for reimbursement of that type of provider, and such recommendations to the Congress for changes in this Act, as it deems appropriate.

SEC. 313. APPLICATION OF BUDGET LIMITS.

(a) MONITORING, REPORTS, AND INVESTIGATIONS ON EXPENDITURES.—

(1) MONITORING.—The State Health Boards, the consortia, participating insurers and health maintenance organizations shall monitor payments made to participating providers in each year to assure that such expenditures do not exceed the applicable limits on such expenditures for the year under the annual State budget.

(2) REPORTS.—Each participating insurer and each consortium operating within a State shall report to the State Health Board whenever it determines that payments are being made with respect to a category of provider or services at rates which may result in the total of such payments being greater than the anticipated expenditures level provided for under the Annual Budget or annual State budget for that category of provider or those services.

(3) INVESTIGATION.—The State Health Board shall investigate the circumstances of payments described in paragraph (2), including utilization rates and any other pertinent factors, and shall, with the approval of the National Health Board and after consultation with consortia, participating insurers, health maintenance organizations, and providers involved, take appropriate corrective actions (described in subsection (b)) in accordance with this section.

(b) CORRECTIVE ACTION.—A State Health Board may take the following actions, after consultation with consortia, insurers, organizations, and providers involved, to correct for expenditures for health care services in excess of those provided for under the annual State budget:

(1) SHIFTING OF FUNDS AMONG CATEGORIES OF SERVICES OR PROVIDERS.—The State Health Board may transfer expenditures between categories of services or providers within percentage allowances established by the National Health Board.

(2) USE OF CONTINGENCY FUND.—To the extent such excess expenditures are determined to be due to unforeseen circumstances beyond the control of the insurers, organizations, and providers involved, the State Health Board may authorize the use of funds from contingency funds established by consortia in accordance with section 353(a)(1) or from the national contingency fund, but only in accordance with policies established by the National Health Board and only to the extent that amounts are available from such funds in the annual State budget.

(3) MODIFICATION OF REIMBURSEMENT METHODS.—With the approval of the National Health Board and after consideration of any comments submitted by organizations of providers involved, the State Health Board may provide for such modification of the methods of reimbursement of such providers by participating insurers and health maintenance organizations in the State, including pro-rated decreases in the amount of payments made to such providers, as it determines to be appropriate under the circumstances.

(4) ADDITIONAL CERTIFICATIONS.—To the extent permitted by the National Health Board, the State Health Board may provide that payment may be made with respect to the provision of particular covered health care services or covered health care services provided by particular providers only if such additional certification with respect to the need for the services or qualifications of the providers as it may establish are provided.

(5) REQUIRING RISK SHARING.—The State Health Board, in accordance with guidelines established by the National Health Board, may require that in a period participating insurers and health maintenance organizations make payments for covered health-care services in amounts in excess of the amounts of the premiums they are provided for that period under section 352 to the insurer's and organizations.

SEC. 314. TREATMENT OF PHILANTHROPIC CONTRIBUTIONS AND STATE AND LOCAL GOVERNMENT SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—Philanthropic contributions and supplementary payments by States and political subdivisions thereof may be made to finance the provision of health-care services in addition to those reimbursed under this Act.

(b) RELATION TO CAPITAL EXPENDITURES.—A State Health Board, in its review of prospective budgets and establishment of maximum fee schedules, shall not recognize expenses associated with capital expenditures which were assisted by contributions or payments described in subsection (a), unless such expenditures have been approved under the applicable planning process under this Act.

Subpart II—Methods of Reimbursement of Providers

SEC. 321. PAYMENTS TO INSTITUTIONAL PROVIDERS ON APPROVED PROSPECTIVE BUDGETS.

(a) SUBMITTAL AND CONTENTS OF PROSPECTIVE BUDGETS.—

(1) FORM AND CONTENTS.—Each participating institutional provider in a State shall submit, not later than the deadline established by the State Health Board and in such form and manner as the State Health Board and the National Health Board may require, to the State Health Board its proposed prospective budget for the subsequent year. Each such budget shall cover all the health care services (not merely covered health-care services) provided by the provider and shall include, as provided in guidelines of the National Health Board—

(A) anticipated costs, broken down by schedules for at least costs associated with (i) operations, (ii) capital items, (iii) inpatient services, (iv) outpatient services, and (v) nursing services by or under the supervision of a registered nurse;

(B) the proportion of the total anticipated costs associated (i) with the provision of covered health-care services to eligible individuals, and (ii) with provision of other health-care services; and

(C) anticipated revenues, broken down by source with respect to each class of items of anticipated costs.

Such guidelines shall be developed in consultation with institutional providers and representatives of such providers and after considering the views of the consortia and representatives of consumers and shall vary to reflect the circumstances of different categories of institutional providers.

(2) ACCOMPANYING DOCUMENTATION.—Each such budget submitted shall be accompanied by such documentation as the National Health Board may establish in order to provide for the review of the budget, including documentation relating to—

(A) changes in services or capital expenditures during the two-year and five-year periods following the year of the budget;

(B) previous budgets of the provider;

(C) the impact on costs of anticipated changes (including additions, modifications, and terminations) in the health care services provided, in the provider's productivity, or in utilization of the provider's health care services, and the reasons for such anticipated changes;

(D) volume of health-care services provided; and

(E) relevant characteristics of the provider's patient population.

(3) TREATMENT OF CERTAIN COSTS IN PROSPECTIVE BUDGETS.—With respect to proposed expenditures contained in a prospective budget submitted by an institutional provider:

(A) INCLUSION OF SERVICES OF CONTRACT PHYSICIANS.—There shall be included as costs the services of all physicians who are under contract with the provider, of all radiologists and pathologists providing health-care services with respect to inpatients of the provider, and, in the case of psychiatric hospitals, of all physicians furnishing health-care services with respect to inpatients of the hospital. The amount budgeted for payment for such services shall be reasonable in relation to the cost of obtaining such services of physicians on a salaried or other basis, whichever is less.

(B) INCLUSION OF WAGES AND FRINGE BENEFITS OF NONSUPERVISORY EMPLOYEES.—

(i) IN GENERAL.—There shall be included in costs, subject to this subparagraph, the total cost of wages and fringe-benefit payments for (or on behalf of) nonsupervisory employees of the provider.

(ii) MINIMUM WAGES.—The rate for wages reflected in any such prospective budget for nonsupervisory employees shall in no case be less than the minimum wage rate specified and applicable under section 6(a)(1) of the Fair Labor Standards Act of 1938.

(iii) COLLECTIVE BARGAINING AND OTHER NEGOTIATED AGREEMENTS.—If any nonsupervisory employees of a provider are covered by a collective-bargaining agreement or other negotiated agreement, the amount set forth for wages and fringe-benefit payments for these employees shall be in accordance with the rates (including any prospective changes in such rates) provided for in the agreement.

(iv) REVIEW BY SECRETARY OF LABOR.—If the Secretary of Labor finds, after a hearing in accordance with regulations of such Secretary, that the rates of wages or fringe-benefits proposed in a prospective budget, for nonsupervisory employees with respect to whom there is not a collective-bargaining agreement or other negotiated agreement described in clause (iii) in effect, are above the rates of wages or fringe-benefits, respectively, which prevail with respect to comparable employees of providers of the same type in the same locality (as determined by such Secretary), the rates of wages or fringe-benefits for such employees allowable as reimbursable in the prospective budget shall not exceed such prevailing rates.

(v) NONSUPERVISORY EMPLOYEE DEFINED.—As used in this subparagraph, the term "nonsupervisory employee" means any employee other than an employee who devotes a major portion of employed time exercising authority, in the interest of the provider, (I) to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove any other employee of that provider, or (II) to adjust a grievance (other than through a merely routine or clerical action) of any other such employee or to recommend such an adjustment.

(C) INCLUSION OF UNREIMBURSED SERVICES.—There shall be included in reimbursable costs the cost of basic covered health-care services furnished to individuals who are not eligible individuals if no reimbursement or other payment for such services is obtainable by such provider.

(D) TREATMENT OF DEPRECIATION AND RELATED CAPITAL ITEMS.—

(i) IN GENERAL.—Subject to clause (ii), there shall not be included in costs under the budget the costs of depreciation.

(ii) TREATMENT OF CERTAIN ITEMS.—There may be included as costs under the budget—

(I) the cost of paying the principal amount due on any debts incurred by the provider before the date of the enactment of this Act, unless such cost is not reimbursable under Medicare;

(II) the cost of acquiring minor capital items (as defined by the National Health Board);

(III) the cost of expenditures for major capital items, in the form of a lump sum or amortization payments for debt repayment, to the extent that the acquisition of such an item is approved in accordance with subsection (c); and

(IV) the cost associated with closing of a facility or reduction in services provided by or through a facility of the provider, including the reasonable cost of easing personnel dislocations arising from any such closing or reduction in services, if the closing or reduction is approved in accordance with the planning process provided under subsection (c).

(E) INCLUSION OF RETURN ON INVESTMENT FOR PROPRIETARY PROVIDERS.—

(i) HOSPITALS AND SKILLED NURSING FACILITIES.—There shall be included, in the case of a proprietary hospital or skilled nursing facility, provision for recognition of a reasonable rate of return on equity capital, whether reflected in working capital or capital invested in the provider's facilities and used in the furnishing of covered health care services, in lieu of other allowances to the extent that they reflect similar items.

(ii) OTHER INSTITUTIONAL PROVIDERS.—There shall be included, in the case of a proprietary institutional provider other than a hospital or skilled nursing facility, to the extent (in accordance with regulations established by the National Health Board) the State Health Board finds it feasible and appropriate, provision for recognition of a reasonable rate of return on equity capital, whether reflected in working capital or capital invested in the provider's facilities and used in the furnishing of covered health care services, in lieu of other allowances to the extent that they reflect similar items.

(iii) AMOUNT OF RETURN ON INVESTMENT.—The rate of return recognized under clause (i) or (ii) for a year shall not exceed one and one-half times the average of the rates of interest, for each of the months of the year, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

(4) WORKING CAPITAL AND RESERVES.—There shall be provided for in the budget reasonable amounts required for working capital and reserves for contingencies.

(5) TECHNICAL ASSISTANCE.—The National Health Board shall the provision of technical assistance to institutional providers which primarily provide primary ambulatory health care services in their preparation and submittal of budgets under this section.

(b) POLICIES AND PROCEDURES FOR REVIEW OF PROSPECTIVE BUDGETS.—

(1) NATIONAL HEALTH BOARD.—

(A) ESTABLISHMENT OF GENERAL POLICIES AND GUIDELINES.—The National Health Board, after consultation with institutional providers and representatives of such providers and after considering the views of the consortia and representatives of consumers, shall establish policies and guidelines, which shall vary to reflect the circumstances of different categories of institutional providers, respecting review and approval by State Health Boards of proposed prospective budgets of institutional providers.

(B) USE OF SCREENS AND RANDOM SAMPLING.—Such guidelines shall include the requirement that standards (commonly known as "screens"), which shall vary by category of institutional provider, be applied to each proposed prospective budget to determine which budgets (and which proved without the need for individual scrutiny and close examination and the requirement that a random sample of all such budgets be reviewed in detail to assure quality control and verify the validity of the screens. Such standards may include, with respect to providers of inpatient services, for review of at least the following:

(i) ANNUAL RATE OF INCREASE.—The rate of increase, from year to year, in the provider's total budget, average total cost per inpatient, and average per diem costs per inpatient.

(ii) AVERAGE COSTS.—The provider's costs, for each type of facility of the provider, by average total costs per inpatient, average per diem costs per inpatient, average cost per outpatient visit, and average educational cost per student (by type of student).

(iii) COST RATIOS.—The cost-ratios of the provider, including the ratio of administrative costs to total costs and the ratio of costs of particular services to total costs and to the costs of services daily, per admission, or on such other appropriate unit basis.

(C) UNIFORM REPORTING.—Such guidelines shall provide for the collection and reporting (and making available to the public), in such uniform manner as the National Health Board may provide, of data that is required for review and approval of prospective budgets.

(2) STATE HEALTH BOARDS.—

(A) DUTY OF REVIEW.—Each State Health Board shall, in accordance with the policies and guidelines established under paragraph (1), review each proposed prospective budget submitted to it under this section and shall make available to the public the results of its review. Each such review shall include—

(i) an assessment of the extent to which any description, contained in documentation described in subsection (a)(2)(A), of changes in services or capital expenditures during the two-year and five-year periods following the year of the budget conforms to the current approved plan of the health systems agency for the area in which the provider functions and to the most recent state health care improvement plan (established under section 306); and

(ii) a review of the quality, accessibility, and effectiveness of services furnished by the provider,

and in such review shall take into consideration any relevant findings of professional standards review organizations and of any national provider accreditation organization for that category of provider.

(B) NOTICE AND OPPORTUNITY TO COMMENT.—Before a State Health Board disapproves costs contained in a proposed prospective budget, the Board shall inform the provider of such pending disapproval and permit the provider an opportunity to comment thereon.

(C) CONSIDERATION OF CERTAIN RECOMMENDATIONS.—In performing such a review of a prospective budget proposed by a provider, the State Health Board shall take into consideration any timely recommendations submitted as a result of negotiations between groups of consumers, the provider, and representatives of any organizations representing the employees of the provider, or in the absence of such timely recommendations, such material as may be submitted by any such party. The State Health Board shall make available to such groups of consumers and organizations such technical assistance as may promote or assist in such negotiations.

(D) DELEGATION OF REVIEW FUNCTION.—A State Health Board may delegate to an appropriate independent entity, in accordance with regulations of the National Health Board, the function under this subsection of conducting reviews (but not approvals) of proposed prospective budgets submitted to it.

(c) REVIEW AND APPROVAL OF CAPITAL EXPENDITURES.—No amount may be provided for in a prospective budget of a provider for any capital acquisition or expenditure (other than minor expenditures, as determined by the National Health Board), for

any costs of operation resulting from such acquisitions and expenditures, and for costs associated with the closing or reduction of services, unless the provider participates in, or has established and maintains, a planning process in accordance with this subsection and regulations of the National Health Board, under which—

(1) the proposed budget is submitted on a timely basis to the State Health Planning and Development Agency for its review under title XV of the Public Health Service Act, and

(2) costs related to proposed acquisitions, expenditures, closings, or reductions may not be included in the approved budget unless such action is approved by such Agency.

(d) APPROVAL OF PROSPECTIVE BUDGETS.—

(1) STATE HEALTH BOARD.—Each State Health Board shall, after and in accordance with its review of each prospective budget submitted to it by a provider under this section, approve the budget, with or without any modification. In approving prospective budgets, each State Health Board shall take account of—

(A) total limits on anticipated expenditures established (or expected to be established) in the applicable Annual Budget and in the annual State budget;

(B) the plan of the health systems agency for the area in which the provider functions;

(C) pertinent demographic factors;

(D) the impact of any expected inflation during the year of the budget on the costs set forth in the budget;

(E) the effect of any approved capital expenditure or reduction and service modification plans;

(F) the effect of acceptable future wage increases granted to employees of the provider; and

(G) objectives for efficiency and cost-effectiveness for that provider established by the Board, which objectives are based upon comparison of the provider with similar providers and take into account differences in patient mix and such other factors as the Board determines to be appropriate.

Except as otherwise provided in this part, the amount approved in a prospective budget of a provider establishes the total amount that is payable pursuant to this Act to that provider for the year of the budget.

(2) MODIFICATIONS REQUIRED BY ANNUAL BUDGET.—A State Health Board shall require, as a condition of the approval of a prospective budget for a year before the National Health Board's adoption of the Annual Budget for the year, that the budget be resubmitted for approval if a modification is required because the anticipated expenditures for the State under the Annual Budget were higher than the amount of such expenditures set forth in the Annual Budget adopted.

(3) TRANSFERS WITHIN AN APPROVED BUDGET.—An approved prospective budget may establish maximum expenditure and payment levels for parts of the budget and may permit, subject to restrictions established by regulation by the National Health Board, transfers between parts of the budget.

(4) TRANSMITTAL TO APPROVED INSURERS.—Upon approval of a prospective budget of a provider, the State Health Board shall provide for the transmittal of the budget to approved insurers which are likely to be required to make payments to the provider for services provided to enrollees of plans offered by the insurers.

(5) TREATMENT OF DISAPPROVED EXPENDITURES.—Except as approved by the State Health Board, no payment may be made pursuant to this Act for expenditures by an institutional provider for covered health-care services it furnishes to the extent these expenditures are not included in its prospective budget approved under this section.

SEC. 322. MAXIMUM FEE SCHEDULES FOR PROFESSIONAL SERVICES.

(a) ESTABLISHMENT BY STATE HEALTH BOARDS.—

(1) IN GENERAL.—Each State Health Board shall provide for the development of maximum-fee schedules, applicable to covered health-care services (other than durable medical equipment and laboratory services) furnished for a year in the State by a physician or other non-institutional provider, consistent with this subsection and the guidelines for such schedules developed under this subsection.

(2) CONFORMITY WITH ANNUAL BUDGET AND ANNUAL STATE BUDGETS.—Total levels of payments expected under such schedules in a State shall be consistent with the anticipated expenditures for services of the type covered by the schedule, as set forth in the Annual Budget and annual State budget for the State in which the services are furnished, and shall be developed based upon the best available projections as to the demand for, and the utilization of, that type of provider or service during the period in which the schedule will be applied.

(3) USE OF NEGOTIATIONS.—Maximum-fee schedules shall be developed only after providing opportunity for negotiations with participating providers to occur, in accordance with section 324.

(b) NATIONAL GUIDELINES FOR ESTABLISHMENT OF SCHEDULES.—The National Health Board shall develop guidelines for the development and modification of maximum-fee schedules by State Health Boards. Such schedules applicable to services furnished in the first effective year shall be the maximum fee schedules applicable (pursuant to section 602(b)) under Medicare in the previous year as modified to reflect application of these guidelines. Such guidelines shall include the following:

(1) RELATIVE VALUE SCALE.—A guideline establishing the relative value of particular covered health-care services, which takes into consideration—

(A) the time and effort required to furnish the service;

(B) the level of skill required in performing such service;

(C) the cost (including indirect costs) to the provider of furnishing such service; and

(D) the relative cost-effectiveness of providing such service.

(2) GEOGRAPHICAL VARIATION.—A guideline providing for appropriate variations in fees with respect to services provided in different geographic areas, which takes into consideration—

(A) the relative costs of practice in the different areas;

(B) the relative earnings of non-physicians in the different areas;

(C) the relative rate of change in physicians' fees in the different areas; and

(D) the need to encourage the provision of such services in underserved areas.

(3) TREATMENT OF SIMILAR SERVICES.—A guideline which provides that where two or more categories of health personnel are qualified to provide a particular health-care service of a comparable quality, the maximum fee for that service shall be the lowest of the maximum fees authorized for that service for such categories of personnel.

(c) NATIONAL FORMULA FOR UPDATING MAXIMUM-FEE SCHEDULES.—The National Health Board shall develop a formula for establishing permissible year-to-year changes in the maximum-fee schedules established pursuant to this section. Such formula shall take into account—

(1) the increase in an index of the earning of non-physicians,

(2) the increase in an index of the cost of operation of offices of the different types of providers,

(3) limitation on increases for expenditures permitted for the service provided under the Annual Budgets,

(4) changes in the utilization of the different services, and

(5) applicable negotiations undertaken pursuant to section 324,

and shall provide that the maximum fee permitted for a service for a year under such a schedule shall not be less than the maximum fee permitted for the service under the schedule for the previous year.

SEC. 323. PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND LABORATORY SERVICES ON A REASONABLE COST BASIS AND FOR DRUGS AND HEARING AIDS ON A COST-PLUS-FEE BASIS.

(a) IN GENERAL.—Payment shall be made for the provision of—

(1) durable medical equipment and laboratory services on the basis of the lower of the charge or reasonable cost of the equipment or services (as determined under subsection (b)), and

(2) drugs and hearing aids on the basis of the lower of the charge or the reasonable cost of the drug or hearing aid (as determined under subsection (b)) plus a reasonable professional fee (as determined under subsection (c)).

(b) COMPUTATION OF REASONABLE COST.—

(1) IN GENERAL.—The National Health Board shall establish guidelines for the reasonable cost of durable medical equipment, laboratory services, drugs, and hearing aids. Such guidelines shall provide that the reasonable cost for such an item shall be the lowest cost at which such item of comparable quality is (or could be made) generally available in an accessible area. In the case of drugs, the Board shall establish categories of generic equivalent drugs which will be treated as drugs of comparable quality for purposes of this subsection.

(2) LISTS.—Each State Health Board shall establish and distribute information listing the limitations that exist under this subsection with respect to the reasonable cost of different items of durable medical equipment, laboratory services, and hearing aids. The National Health Board shall establish and distribute information listing the limitations that exist under this subsection with respect to the reasonable cost of different drug items.

(c) COMPUTATION OF PROFESSIONAL FEE.—

(1) HEARING AIDS.—The amount of professional fee that is payable under this section for provision of a hearing aid is the lesser of (A) the charge for such provision, or (B) such amount as may be provided in a maximum-fee schedule established by the State Health Board in a manner consistent with section 322. In establishing such a schedule, the Board may provide for such fees as reflect reasonable salary levels for providers of hearing aids in the area in which such items are provided.

(2) DRUGS.—The amount of professional dispensing fee that is payable under this section for the dispensing of a drug is the lesser of (A) the charge for such dispensing, or (B) such amount as may be provided in a maximum-fee schedule established by the National Health Board in a manner consistent with section 322. In establishing such a schedule, the Board may provide for such fees as reflect reasonable salary levels for dispensers of drugs in the area in which the drugs are dispensed. The National Health Board may delegate to State Health Boards the function of establishing maximum-fee schedules under this paragraph.

SEC. 324. USE OF NEGOTIATIONS IN DETERMINING AMOUNTS OF PAYMENTS

(a) STATE-LEVEL NEGOTIATIONS.—

(1) IN GENERAL.—Each State Health Board shall regularly and periodically invite representatives of participating providers in the

State (selected in accordance with subsection (b)) to meet and negotiate with representatives of persons (including consortia, participating insurers and health maintenance organizations, employers, and employees) who pay, directly or indirectly, for covered health-care services furnished to enrollees in that State concerning—

(A) screens, maximum rates, and other limitations with respect to payments made (in accordance with section 321) to institutional providers on the basis of approved prospective budgets;

(B) maximum-fee schedules with respect to payments made in accordance with sections 322 or 323;

(C) reasonable cost levels with respect to payments made in accordance with section 323; and

(D) any other method for the control of costs involved in the provision of such services. Such State Health Board shall supervise such negotiations.

(2) INCORPORATION OF AGREEMENTS.—A State Health Board may incorporate within its annual State budget the provision of any agreement achieved as a result of such a negotiation under this section if the effect of it would keep expenditures within the limit on expenditures for the State under the annual State budget.

(b) STATE NEGOTIATING GROUPS.—

(1) REPRESENTATION OF VARIOUS PROVIDERS.—The National Health Board shall establish criteria for the selection of persons to be members of the provider negotiating groups in each State for each of the following groups of providers (which groups may be modified from time to time by the National Health Board):

(A) (i) Hospitals.

(ii) Skilled nursing facilities.

(iii) Home health care agencies.

(iv) Other institutional providers, including community health centers, migrant health centers, and health clinics.

(B) Physician providers.

(C) Other non-institutional providers, such as pharmacists, physical therapists, and occupational therapists.

(D) Employees of hospitals (regardless of profession or occupation).

(2) REQUIRED REPRESENTATION WITHIN GROUPS.—

(A) ALL GROUPS.—Within each such group established, representatives of providers shall be elected for each type of geographic area (including at least representatives of urban area, rural areas, and suburban areas in which the providers represented in the group furnish services in the State.

(B) INSTITUTIONAL PROVIDERS.—Within each group described in paragraph (1)(A), representatives shall be elected to represent employees of the institutional providers.

(C) PHYSICIAN GROUPS.—Within the group described in paragraph (1)(B), representatives of physicians shall be elected for—

(i) each medical and osteopathic specialty included in the group, and

(ii) each style of medical practice (including at least solo practice, group practice, and institution-based practice) engaged in by providers represented in the group.

(3) SELECTION OF REPRESENTATIVES.—The National Health Board shall, after consultation with any existing negotiating groups and other associations of health-care providers or institutions, and may revise from time to time general guidelines for the election of representatives for each provider negotiating group. Such guidelines shall provide for—

(A) differences in the sizes of the various negotiating groups;

(B) proportional representation for each type of health-care provider (as determined by the National Health Board) in the group, in terms of—

(i) the number of providers of that type in the State,

(ii) the recommended number of providers of that type in the State specified in the health care improvement plan of the State.

(iii) the percentage of total amount of payments made pursuant to this Act in that State which are for payment for services furnished by providers of that type, and

(iv) the percentage of total amount of payments recommended to be made in the State which are for payment for services furnished by providers of that type;

(C) three-year terms for each representative; and

(D) methods for the nomination and election of such representatives, each of which assures full information being made available to the providers of that type and opportunity for the nomination of candidates and the election of representatives by all of the providers of that type and, as appropriate, their employees in each group.

(4) ESTABLISHMENT OF GROUPS.—Each State Health Board, in accordance with the guidelines established by the National Health Board under paragraph (3) and after consultation with any existing negotiating groups and other associations of health-care providers in the State, shall establish (and may revise from time to time) the size, composition, and other characteristics of the provider negotiating groups within the State and the process for nomination and election of the members of those groups and shall conduct (or oversee the conduct of) these elections.

(c) ELECTION AND CONDUCT OF NEGOTIATING GROUPS.—The election of representatives to serve on providers negotiating groups under this section shall be by secret ballot. The negotiating sessions of such negotiating groups established under this section shall be open to the public, except under such circumstances as the National Health Board may provide.

PART C—DETERMINING AMOUNTS OF PREMIUMS AND INCENTIVE PAYMENTS AND BENEFITS

SEC. 331. DETERMINATION OF NATIONAL COMMUNITY-RATED PREMIUM AND RATE AND GROUP-RATED PREMIUMS.

(a) COMMUNITY-RATED PREMIUM AND RATE.—

(1) ESTABLISHMENT.—The National Health Board shall establish, in conjunction with the adoption each year of an Annual Budget and after conducting negotiations with consortia and with participating insurers and health maintenance organizations in accordance with subsection (c)—

(A) a national community-rated premium, and

(B) a national premium rate.

(2) NATIONAL COMMUNITY-RATED PREMIUM—

(A) BASIS.—The national community-rated premium for a year shall be established in such manner so that if the members of each family (other than Medicare-eligible individuals, SSI-eligible individuals, AFDC-eligible individuals, residents of Federal or State institutions, or members of a uniformed service on active duty or members of such members' families) of which a member is enrolled under section 112 or 113(c) were to pay premiums based on such community-rated premium, the amount of the premiums paid for the year would equal the anticipated cost for the year under the Annual Budget for expenditures (including administrative costs, other than for State Health Boards, for the National Health Board, and for professional standards review organizations, and contingency funding as well as payments to participating providers for the furnishing of basic covered health-care services) under qualified health plans but excluding the portion of such cost associated with or attributable to the furnishing of covered health-care services to individuals while they are Medicare-eligible individuals, SSI-eligible individuals, AFDC-eligible individuals, residents of Federal or State institutions, or members of a uniformed service on active duty or members of such members' families.

(B) SCHEDULES FOR DIFFERENT SIZE FAMILIES.—The national community-rated premium shall be established in three schedules, one for one-member families, another for two-member families, and a third for families with three or more members. The apportionment of the premium among such schedules shall be based on the relative actuarial costs of furnishing basic covered health-care services to families of these different sizes.

(3) BASIS FOR NATIONAL PREMIUM RATE.—The national premium rate shall be established for a year in such a manner so that—

(A) the sum of the wage-related premiums (under section 341), non-wage related premiums (under section 342), the government payment for unpaid private premiums (under section 346), and voluntary premiums under international agreements (determined under section 343 on the basis of the community-rated premium) anticipated to be paid for the year,

is equal to—

(B) all the anticipated expenditures contained in the Annual Budget for the year, other than those expenditures associated with or attributable to the furnishing of covered health-care services to individuals while they are Medicare-eligible individuals, SSI-eligible individuals, AFDC-eligible individuals, or residents of Federal or State institutions.

(b) GROUP-RATED PREMIUM.—

(1) ESTABLISHMENT.—The National Health Board shall establish a group-rated premium for SSI-eligible individuals and for residents of Federal institutions who are enrolled in a qualified health plan.

(2) BASIS.—Such group-rated premium shall be designed, for each such group of individuals, so that the total amounts paid during each year by or on behalf of such individual's equals the anticipated expenditures contained in the Annual Budget associated with or attributable to the furnishing of covered health-care services to individuals in that group. In making such determination, the Board shall take in account—

(A) the previous cost experience associated with provision of covered health-care services to such groups of individuals, and

(B) estimates of premium and other payments, with respect to health-care services provided to such groups of individuals, that may be made by or on behalf of such individuals,

and shall prevent the disclosure to consortia or others, in the process of compiling data in order to establish such premiums, of the fact that any particular individual is a member of such a group. The Board shall provide for the adjustment of such premium at the end of a year to reflect the actual cost experience (including any dividend or rebate payment made or additional benefits made available under a qualified health plan) with respect to expenditures associated with or attributable to such groups of individuals during the year.

SEC. 332. DETERMINATION OF STATE COMMUNITY-RATED PREMIUM, PREMIUM RATE, AND GROUP-RATED PREMIUM.

(a) IN GENERAL.—

(1) APPLICATION OF NATIONAL PREMIUMS AND RATE.—Except as provided in paragraph (2) the national community-rated premium and the national premium rate established under section 331 shall apply as the State community-rated premium and premium rate for each State.

(2) STATE NEGOTIATED PREMIUM.—If a State, for a year, is able in its annual State budget to reduce its level of approved expenditures likely to be realized by an amount below the level of expenditures provided for in the

Annual Budget with respect to the State, the National Health Board, upon the request of the State Health Board, shall provide for such decrease in the community-rated premium and the premium rate for the State, below the national community-rated premium and premium rate, as will reflect a reduction of premium payments under this act no greater than the amount of such reduction in its approved expenditures.

(b) GROUP-RATED PREMIUM.—

(1) ESTABLISHMENT.—Each State Health Board shall establish a group-rated premium for AFDC-eligible individuals and for residents of State institutions who are enrolled in a qualified health plan. Such premium may vary by area within each State (in accordance with guidelines established by the National Health Board).

(2) BASIS.—Such group-rated premium shall be designed, for each such group of individuals, so that the total amount of premiums paid during each year by or on behalf of individuals in the group equals the anticipated expenditures contained in the Annual Budget with respect to the furnishing of basic covered health-care services to individuals in that group. In making such determination, each State Health Board shall take into account—

(A) the previous cost experience associated with provision of covered health-care services to such groups of individuals, and

(B) estimates of premium and other payments, with respect to health-care services provided to such groups of individuals, that may be made by or on behalf of such individuals,

and shall prevent the disclosure to consortia or others, in the process of compiling data in order to establish such premiums, of the fact that any particular individual is a member of such a group. Each State Health Board shall provide for the adjustment of such premium at the end of a year to reflect the actual cost experience (including any dividend or rebate payment made or additional benefits made available under a qualified health plan) with respect to such groups of individuals during the year.

SEC. 333. INSURER AND HEALTH MAINTENANCE ORGANIZATION BENEFITS, DIVIDENDS, AND REBATE TO PROMOTE COST-EFFECTIVENESS.

(a) PROVISION OF SUPPLEMENTAL BENEFITS, DIVIDENDS, OR REBATES.—

(1) OFFERING TO NON-MEDICARE ENROLLEES.—A participating insurer or health maintenance organization may offer eligible individuals (other than Medicare-eligible individuals) an incentive to enroll with (or to change their enrollment to) a qualified health plan offered by the insurer or organization—

(A) by providing the individuals with health insurance coverage with respect to health-care services in addition to basic covered health-care services, or

(B) by paying dividends or by making cash rebates on premiums,

or both.

(2) OFFERING TO MEDICARE-ELIGIBLE INDIVIDUALS.—A participating health maintenance organization may offer Medicare-eligible individuals an incentive to enroll in (or to change their enrollment to) a qualified health plan which is offered by the organization and which provides for all covered health-care services provided under Medicare—

(A) by providing the individuals with health insurance coverage with respect to health-care services in addition to the covered health-care services under Medicare, or

(B) by paying dividends or by making cash rebates on premiums,

or both.

(b) CONDITION FOR OFFERING ADDITIONAL BENEFITS.—A participating insurer or health maintenance organization may not offer to an individual enrolled under a qualified health plan the incentive described in subsection (a)(1)(A) or (a)(2)(A), respectively, unless—

(1) the incentive is also made available to all individuals enrolled under that plan, and

(2) the insurer or organization provides to individuals, before their enrollment under the plan, with a statement of the actuarial value of the benefits added by that incentive.

(c) DISTRIBUTION AND TREATMENT OF DIVIDENDS AND CASH REBATES.

(1) DISTRIBUTION.—

(A) IN GENERAL.—Subject to subparagraph (B), any dividend or cash rebate provided under subsection (a)(1)(B) or (a)(2)(B) shall be paid to the enrollee.

(B) PAYMENT OF PORTION TO EMPLOYER.—In the case of rebates or dividends provided with respect to an enrollee who is employed, the rebate or dividend shall be divided between the enrollee and the employer in proportions determined in accordance with procedures established by the National Health Board. Such procedures shall provide that if any of the employees of an employer are represented by a collective bargaining representative or other employee representative designated or selected under any law, the issue of the division of such rebate or dividend shall first be presented to such representative for negotiation with the employer.

(2) TAX AND OTHER TREATMENT OF REBATES AND DIVIDENDS.—Notwithstanding any other provision of law, any cash rebate or dividend received by an individual pursuant to this section—

(A) shall not be treated as income to the individual, for purposes of subtitle A of the Internal Revenue Code of 1954;

(B) shall not be treated as income or other resources, for purposes of administration of any Federal or Federally-assisted welfare program (as defined by the National Health Board), including programs under titles IV, XVI, or XIX of the Social Security Act, or the Food Stamp Act of 1977; and

(C) shall not reduce the amount of any credit due under section 334 (relating to a limit on amount of private premium payments).

SEC. 334. LIMIT ON AMOUNT OF PRIVATE PREMIUMS.

(a) IN GENERAL.—The sum of the amount of—

(1) 35 percent of the wage-related premiums paid, under section 341(a)(1), with respect to members of a family unit as employees, and

(2) the non-wage-related premiums paid, under section 342, by members of the family unit,

may not, for a year, exceed the amount of the state community-rated premium (established under section 332(a)) for a family unit of that size in that State for that year. In computing the size of a family unit, there shall not be counted individuals who, on January 1 of the year, are Medicare-eligible individuals, SSI-eligible individuals, or residents of Federal or State institutions.

(b) REQUEST FOR REFUND.—In accordance with regulations established by the National Health Board, family units for which premiums have been paid in a year in excess of the limit specified under subsection (a), may apply to the applicable consortium with respect to which the members of the unit are enrolled for a refund of the amount of such excess payments. Refunds of such amounts to members of a family unit shall, in the absence of agreement among members of the family unit, be apportioned to each such member in accordance with the amount of premiums paid with respect to the income of such member.

PART D—PAYMENT AND COLLECTION OF PREMIUMS

SEC. 341. WAGE-RELATED PRIVATE PREMIUMS.

(a) PAYMENTS BASED ON WAGE INCOME.—

(1) PAYMENT BY EMPLOYER.—Each employer is obligated to make payments, with respect to each employee for each payroll period, of an amount equal to the product of—

(A) the amount of wages paid to the employee during the period in any year, and

(B) the state premium rate (determined under section 332(a)) for the year in which the period occurs,

not later than 15 days after the last date of the payroll period.

(2) PAYMENT TO CONSORTIA.—The payment under paragraph (1) with respect to an employee enrolled (or whose family is enrolled) in a qualified health plan shall be made to the applicable consortium.

(3) EMPLOYEE CONTRIBUTION.—

(A) MANDATORY CONTRIBUTION.—An employer may, subject to section 334 and to any applicable collective bargaining agreement, require each employee, with respect to whom a payment is made under paragraph (1), pay the employer, by deduction or other reasonable method (approved by the National Health Board), an amount not to exceed 35 percent of the amount of the payment made on the employee's behalf under paragraph (1).

(B) VOLUNTARY CONTRIBUTIONS.—In order to assist in payment of premiums under section 342, if an employee requests (in a manner specified by the National Health Board) his employer to withhold or otherwise deduct from payments due the employee and to pay to the appropriate consortia specific amounts, in addition to any amounts withheld under subparagraph (A), the employer shall deduct and so make payments of such amounts to the appropriate consortia and the consortia shall apply such amounts as a credit toward payment of any non-wage-income-related premium payable, under section 342, with respect to the family unit of which the employee is a member.

(b) GRANTS AND CREDITS FOR IMPACTED EMPLOYERS.—

(1) APPLICATION AND ENTITLEMENT.—Any employer may apply to the National Health Board for certification as an impacted employer for a year. Such an application shall be submitted at such time and in such manner as the National Health Board shall provide. If the National Health Board determines, on the basis of such an application, that the employer is an impacted employer (as defined in subsection (c)(2)) for the year, the Board shall certify such fact and the employer shall be entitled, if the employer is—

(A) not a State employer or a nonprofit employer, to a credit against such taxes for the tax year in which the year ends (in accordance with section 44D of the Internal Revenue Code of 1954), or

(B) a State employer or a nonprofit employer, to a payment from the National Health Board,

in the amount determined under paragraph (2).

(2) AMOUNT OF GRANT OR CREDIT.—The amount of any credit or grant for an employer under this subsection, in the case of a credit or grant—

(A) for the first effective year, is equal to one-half,

(B) for the year after the first effective year, is equal to one-third, and

(C) for the second year after the first effective year, is equal to one-sixth,

of the lesser of (i) the incremental increase in employee health insurance costs (as defined in subsection (c)(3)) for the employer

for the year, or (ii) in case of an employer which is not a State employer or nonprofit employer, the amount by which the employer's absolute net income for the year is less than the employer's absolute net income for the base year.

(3) LIMITED APPLICATION OF SUBSECTION.—No credit or grant may be provided under this subsection for a year after the second year after the first effective year.

(4) SPECIAL RULES.—For purposes of this section, rules similar to the rules under section 44D(c) of the Internal Revenue Code of 1954 shall apply.

(5) REGULATIONS.—The National Health Board, in consultation with the Secretary of the Treasury, shall promulgate regulations to carry out this subsection, subsection (c), and section 44D of the Internal Revenue Code of 1954.

(c) DEFINITIONS.—For purposes of this section (and section 44D of the Internal Revenue Code of 1954):

(1) EMPLOYER, NONPROFIT EMPLOYER; STATE EMPLOYER.—

(A) EMPLOYER.—The term "employer" does not include an agency or instrumentality of the United States.

(B) NONPROFIT EMPLOYER.—The term "nonprofit employer" means an employer exempt from tax under subtitle A of the Internal Revenue Code of 1954.

(C) STATE EMPLOYER.—The term "State employer" means an employer which is a State or any political subdivision thereof, or any agency, instrumentality, or corporation wholly owned by such a State or subdivision thereof.

(2) IMPACTED EMPLOYER DEFINED.—The term "impacted employer" means, for a year, an employer—

(A) for which the product of—

(i) the amount by which the amount of the employer's health insurance premiums per full-time employee equivalent (as defined in paragraph (4)) for the year exceeds the amount of such premiums in the base year, and

(ii) the number of full-time employee equivalents for the employer for the year,

is greater than 3 percent of the wages paid by the employer in the year, and

(B) in the case of an employer which is not a State employer or nonprofit employer—

(i) the employer's net income as a percentage of gross income for the year is less than the employer's net income as a percentage of gross income for the base year, and

(ii) the employer's absolute net income for the tax year ending in the year is less than the employer's absolute net income for the tax year ending in the base year.

(3) INCREMENTAL INCREASE IN EMPLOYEE HEALTH INSURANCE COSTS DEFINED.—The term "incremental increase in employee health insurance costs" means, for an employer for a year, the lesser of—

(A) the product of—

(i) the amount by which the amount of the employer's health insurance premiums per full-time employee equivalent for the year exceeds the amount of such premiums in the base year, and

(ii) the number of full-time employee equivalents for the employer for the year,

less 3 percent of the wages paid by the employer in the year, or

(B) in the case of an employer which is not a State employer or a nonprofit employer—

(i) the product of (I) the percentage by which the employer's net income as a percentage of gross income for the year is less than the employer's net income as a percentage of gross income for the base year, and (II) the gross income for the year, or

(ii) the amount by which the employer's absolute net income for the year is less than the employer's absolute net income for the base year.

(4) HEALTH INSURANCE PREMIUMS PER FULL-TIME EMPLOYEE EQUIVALENT DEFINED.—The term "health insurance premiums per full-time employee equivalent" means, for a year, the amount of the health insurance premiums of the employer for the year divided by the number of full-time employee equivalents of the employer in the year.

(5) HEALTH INSURANCE PREMIUMS.—The term "health insurance premiums" means—

(A) for the base year, the amount paid by the employer to insurers or health maintenance organizations for health plans for its employees during the year, and

(B) for a year after the base year, the amount of payments made by the employer pursuant to subsection (a)(1) for the year, less the amount of employee contributions which are made (under subsection (a)(3)(A)) with respect to such payments for the year.

(6) FULL-TIME EMPLOYEE EQUIVALENTS DEFINED.—The term "full-time employee equivalents" means, for an employer for a year, the sum of—

(A) the sum of the fractions, for each salaried non-hourly employee by the employer in the year, of the year in which such employee was employed in a salaried non-hourly position by the employer; and

(B) the number of hours of employment for other employees of the employer (not counting any such hours which would be in excess of the maximum hours permitted under section 7 of Fair Labor Standards Act of 1938 (29 U.S.C. 207) without payment of excess compensation) in the year, divided by 2000.

(7) BASE YEAR.—The term "base year" means the year before the first effective year (as defined in section 4(a)(7).

SEC. 342. NON-WAGE-INCOME RELATED PRIVATE PREMIUMS.

(a) IN GENERAL.—

(1) OBLIGATION TO PAY.—Each individual (other than an exempt individual, as defined in subsection (c)(1)) is obligated to pay a premium based on non-wage-related income of the individual's family unit in accordance with this section.

(2) TO WHOM PAID.—The premium provided for under paragraph (1) shall be paid by the individual to the applicable consortium.

(3) WITHHOLDING OF PREMIUMS FROM WAGES OR PENSIONS.—

(A) WAGE WITHHOLDING. — Individuals with respect to whom premiums are payable under this section who are employees may have such premiums withheld from income and paid to the applicable consortium in accordance with section 341(a)(3)(B).

(B) PENSIONS WITHHELD.—Under such procedures as the National Health Board shall provide, individuals under the age of 65 years who receive pensions or other regular sources of income, upon which a premium is based under this section, from a previous employer, may have the entity paying the pension withhold from such payments and pay, in whole or in part, the amount of premiums due under this section.

(4) AMOUNT OF PREMIUM.—The amount of premium due under this section for a year is (subject to the limitation on total private premiums under section 334) equal to the product of—

(A) one-half of the state premium rate for the year (determined under section 332) for the State in which the family unit is enrolled, and

(B) the amount of the non-wage-related income (as defined in subsection (d)) of the family unit of which the individual is a member attributable to the individual.

(b) MANNER AND TIME OF PAYMENT.—

(1) INFORMATION RETURNS.—Each individual obligated to pay a premium under subsection (a) shall provide, in conjunction with the quarterly filing of such information returns (required to be filed under the Internal Revenue Code of 1954) as the National Health Board (after consultation with the Secretary of the Treasury) designates by regulation or as the National Health Board otherwise provides, for the filing of such information as will provide for the computation of the amount of any premium due under this section and the consortium or other entity to which such a premium is due. After appropriate verification of the information filed, the National Health Board shall forward information respecting amount of premiums due from individuals under this section to the appropriate consortia for collection.

(2) QUARTERLY AND ANNUAL PAYMENTS.—Premiums due under this section are payable quarterly on such an estimated basis as the consortia may provide, consistent with procedures established by the National Health Board, and in final settlement on an annual basis.

(3) LATE PAYMENTS.—The National Health Board may provide for the charging of a collection surcharge for an individual's failure to pay a premium required under this section on a timely basis, but such a surcharge may not exceed, for any 12-month period, 15 percent of the premium due. The Board may provide for waiver of such a surcharge under such circumstances as it deems appropriate.

(c) DEFINITIONS.—For purposes of this section:

(1) EXEMPT INDIVIDUAL.—The term "exempt individual" means a Medicare-eligible individual, a member of a uniformed service on active duty (and the member's spouse, if any), a foreign visitor, an eligible individual described in section 101(a)(3), or a dependent of another individual.

(2) NON-WAGE-RELATED INCOME.—The term "non-wage-related income" means, with respect to a family for a calendar year, the sum of the adjusted gross incomes (as defined in section 62 of the Internal Revenue Code of 1954) for each member of the family for the calendar year, less—

(A) wages paid to members of the family in the calendar year;

(B) such income as is attributable to dependents in the family or to individuals who, during the month in which the income accrues, are Medicare-eligible individuals; and

(C)(i) $4,000, in the case of a family unit consisting of an individual and the individual's spouse, with or without dependents, or

(ii) $2,000, in the case of any other family unit.

In the case of income attributable to more than one individual, the income, for purposes of this section, shall be pro-rated among the individuals in accordance to their legal interest in such income. For each year after the first effective year, the dollar amounts specified in subparagraph (C) shall be increased by the same percentage as the consumer price index for all urban consumers (as published monthly by the Bureau of Labor Statistics of the Department of Commerce) for the first month of the year exceeds the consumer price index for the first month of the first effective year.

SEC. 343. VOLUNTARY PREMIUMS UNDER EXECUTIVE AGREEMENTS.

(a) HEALTH INSURANCE PREMIUMS PAYMENTS.—Premium payments (described in section 101(b)(1)(A)) due with respect to eligible individuals described in section 101(a)(3) are payable on the basis of the national community-rated premium for the family units of the eligible individuals (or on such other basis as is otherwise provided) to the applicable consortium.

(b) PAYMENTS MADE IN LIEU OF HOSPITAL INSURANCE (MEDICARE) TAX.—Payments (described in section 101(b)(1)(B)) due with respect to eligible individuals described in section 101(a)(3) are payable to the National Health Board for deposit into the Federal Hospital Insurance Trust Fund (established

under section 1817 of the Social Security Act).

SEC. 344. HOSPITAL INSURANCE TAX AND PREMIUMS FOR MEDICARE-ELIGIBLE INDIVIDUALS.

For changes in the Medicare hospital insurance tax and premiums for Medicare-eligible individuals, see section 633.

SEC. 345. FEDERAL AND STATE PAYMENTS FOR PREMIUMS ON BEHALF OF CERTAIN RECIPIENTS OF FEDERAL AND STATE ASSISTANCE.

(a) FEDERAL PAYMENTS.—The National Health Board shall provide for the payment on a monthly basis of premiums to each consortium for qualified health plans, offered by participating insurers or health maintenance organizations under the consortium, provided to enrollees while they are SSI-eligible individuals or residents of Federal institutions on the basis of the group-related premium established under section 331(b).

(b) STATE PAYMENTS.—Each State shall provide for the payment on a monthly basis of premiums to each consortium for the qualified health plans, offered by participating insurers or health maintenance organizations under the consortium, provided to enrollees while they are residents of State institutions and to enrollees (and members of their families) while they are AFDC-eligible individuals on the basis of the group-related premium established under section 332(b).

SEC. 346. GOVERNMENT PAYMENT AND COLLECTION OF UNPAID PREMIUMS.

(a) PAYMENT BY GOVERNMENT ON BEHALF OF ENROLLEE.—If a consortium has attempted, in accordance with procedures established by the National Health Board, to collect premiums due under this part and has not been able to collect such premiums within a reasonable time period of the time they were due, the National Health Board shall pay the consortium the estimated amount of the premiums due. In any such case (except in the case of an employer which is an agency of a State or political subdivision of a State), the National Health Board shall be subrogated to the right to collect such premium and such unpaid premiums shall constitute a claim of the United States for money arising out of activities of the National Health Board (for purposes of the Federal Claims Collection Act of 1966, 31 U.S.C. 951 et. seq.).

(b) APPLICATION TO STATE AND LOCAL GOVERNMENTS.—If an employer which is an agency of a State or political subdivision of a State fails to make the payment of an amount required to be paid by the agency as an employer under section 341(a), the National Health Board shall provide for the deduction and transfer to the appropriate consortia, from any amounts otherwise owing or due to any agency of the State under any program under the jurisdiction of the Board, of an amount equal to the amount not paid and shall provide for an additional such deduction equal to 50 percent of such amount to be paid into the Health Resources Distribution Fund.

PART E—DISTRIBUTION OF PREMIUMS AMONG CONSORTIA, INSURERS, AND HEALTH MAINTENANCE ORGANIZATIONS

SEC. 351. COMPUTATION OF ADJUSTED CAPITATION AMOUNTS.

(a) CAPITATION AMOUNTS.—

(1) COMPUTATION.—With respect to each capitation individual (as defined in paragraph (2)) in a qualified health plan offered by a participating insurer or health maintenance organization in a State, the consortia jointly shall compute an amount (hereinafter in this section referred to as the "capitation amount") which is equal to the average anticipated expenditures contained in the approved annual State budget of the State with respect to the individual, including administrative costs of the consortium and the insurer or organization with respect to the individual and funds for the contingency fund (under section 352) but excluding administrative costs of the State Health Board. The consortia shall report capitation amounts they have computed to the National Health Board for its review and approval.

(2) DEFINITIONS.—For purposes of this part:

(A) CAPITATION INDIVIDUAL.—The term "capitation individual" means an enrollee other than a non-capitation individual.

(B) NON-CAPITATION INDIVIDUAL.—The term "non-capitation individual" means an enrollee while the enrollee is a group-rated individual (as defined in subparagraph (C)), Medicare-eligible individual, or a member of a uniformed services (or a member of such member's family).

(C) GROUP-RATED INDIVIDUAL.—The term "group-rated individual" means an enrollee while the enrollee is an AFDC-eligible individual, SSI-eligible individual, or a resident of a Federal or State institution.

(b) ADJUSTMENTS FOR AREA COSTS AND ACTURIAL RISKS.—Each consortium shall adjust the capitation amounts in order to reflect, for a specific capitation individual—

(1) the relative actual costs of providing covered health-care services to enrollees in the area in which the individual resides, as reflected and permitted in the applicable annual State budget, and

(2) the acturial risk associated with an enrollee with the individual's characteristics (including age, sex, institutional status, disability status, and any other relevant factors) obtaining, or incurring expenses with respect to, covered health-care services for the year. Such adjustment shall be made in such manner as would eliminate any financial incentive for insurers or health maintenance organizations to practice risk selection or experience rating of premiums to reflect the health of enrollees or otherwise to prevent attainment of the objectives of this Act.

(c) TOTAL AMOUNTS.—The total of the capitation amounts and the total of adjusted capitation amounts with respect to the capitation enrollees in a State in a year shall be equal to the total expenditures in the annual State budget relating to the provision (and administration by the consortia, insurers, and health maintenance organizations with respect to) covered health-care services to capitation individuals, other than administrative expenses of the State Health Board.

SEC. 352. ALLOCATION OF PREMIUMS AMONG CONSORTIA, INSURERS, AND HEALTH MAINTENANCE ORGANIZATIONS.

(a) BASIC ALLOCATION.—

(1) INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS.—Each consortium shall provide for the apportionment to each of its members of an adjusted capitation amount for each capitation individual as determined under section 351 and of the group-rated premium (established under part C) for each group-rated individual. Such apportioned amount shall be paid out to members in such installations as the consortium may provide, consistent with guidelines approved by the National Health Board.

(2) ADDITIONAL PAYMENT TO NEW HEALTH MAINTENANCE ORGANIZATIONS BASED ON APPROVED PROSPECTIVE BUDGETS.—The National Health Board shall provide for payments from the Health Resources Distribution Fund of payments, supplementary to the payments provided under paragraph (1), to participating health maintenance organizations that have been in operation for less than five years. In order to be eligible to receive such a payment, the organization must submit to, and have approved by, the applicable State Health Board a prospective budget in accordance with the procedures and policies established under section 321. The amount of such a payment under this paragraph shall be equal to such proportion of the reasonable costs contained in the prospective budget, for covered health-care services provided to eligible enrollees, in excess of the payments received under paragraph (1) as the National Health Board determines to be appropriate.

(b) ALLOCATION OF PREMIUMS AMONG CONSORTIA.—In accordance with guidelines established by the National Health Board, the consortia shall provide for the redistribution of premiums collected by each of the consortia in order to assure that each consortium is provided—

(1) an adjusted capitation amount (determined under section 351) for each capitation individual enrolled in a qualified health plan offered by a member of the consortium, and

(2) a group-rated premium for each group-rated individual enrolled in a qualified health plan offered by a member of the consortium.

SEC. 353. TREATMENT OF SHORTAGES AND OVERAGES; USE OF CONTINGENCY FUNDS.

(a) USE OF CONTINGENCY FUNDS.—Each consortium shall maintain from the premiums collected and allocated to it a contingency fund to be used for expenditures associated with unforseen and unanticipated circumstances, beyond the control of insurers or organizations, relating to enrollees in plans offered by its members.

(b) LOAN GUARANTEES TO PREVENT PREMIUM SHORTFALLS.—

(1) AUTHORITY TO MAKE LOAN GUARANTEES.—If for any year the amount of the premiums collected and collectable under this Act are less than the amounts of such premiums provided for in the Annual Budget, the National Health Board is authorized to guarantee, and to make commitments to guarantee, the principal and interest (including interest accruing between the date of default and the date of the payment in full of the guarantee) of loans issued by the consortia for the purpose of assuring revenues for a year in order to provide for the furnishing of covered health care services under this Act.

(2) TERMS OF LOAN GUARANTEES.—Loan guarantees under this subsection shall be on such terms and conditions as the National Health Board determines, except that no guarantee, or commitment to make a guarantee, may be made pursuant to paragraph (1) unless the National Health Board certifies that—

(A) such a loan is required because premium revenues for a year will be below those specified in the Annual Budget for the year,

(B) the loan bears interest at a rate not to exceed such annual per centum on the principal obligation outstanding as the National Health Board, after consultation with the Secretary of the Treasury, determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

(C) the terms of such loan require full repayment over a period not to exceed three years;

(D) the total amount of loans guaranteed under this subsection for a year will not exceed the amount by which (i) the antipated expenditures for the year contained in the Annual Budget or (ii) the actual expenditures for the year under such Budget, whichever is less, exceeds the actual revenues for the year.

(3) FEES.—The National Health Board shall not charge any fees for the investigation of an application for a guarantee or for the issuance of a commitment to make a guarantee under this subsection.

(4) DEFAULT.—In the event of any default by the consortia on a loan guaranteed under this subsection, the National Health Board is authorized to make payment in accordance with the guarantee.

(5) ADJUSTMENT OF SUBSEQUENT BUDGETS.—

In the event that loans are guaranteed in a year under this subsection, the National Health Board shall provide for appropriate adjustments in subsequent Annual Budgets and annual State budgets to provide for the recoupment of the costs of securing the loans and the prompt retirement of such loans.

(6) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this subsection with respect to both principal and interest, including interest, as may be provided for in the guarantee, accruing between the date of default under a guaranteed loan and the payment in full of the guarantee.

(c) SURPLUS PREMIUMS.—If for any year the premiums collected and collectable under this Act are greater than the amounts provided for in the Annual Budget, the National Health Board shall provide for the maintenance and distribution of such excess funds by the consortia in accordance with guidelines established by the Board. Such guidelines shall provide for appropriate adjustments in subsequent Annual Budgets and annual State budgets to take account of such surpluses and interest on such surpluses.

TITLE IV—ADMINISTRATION

PART A—NATIONAL HEALTH BOARD AND STATE HEALTH BOARDS

Subpart I—National Health Board and Commission on the Health of Americans

SEC. 401. ESTABLISHMENT OF NATIONAL HEALTH BOARD.

(a) ESTABLISHMENT.—There is established as an independent establishment (as defined in section 104 of title 5, United States Code) the National Health Board (hereinafter in this subpart referred to as the "Board").

(b) ORGANIZATION.—

(1) APPOINTMENT OF MEMBERS.—The Board shall consist of five members appointed by the President by and with the advice and consent of the Senate. The President shall first submit the nominations of individuals to serve as members of the National Health Board not later than 60 days after the date of the enactment of this Act.

(2) CHAIRMAN.—The President shall designate a member of the Board to serve as chairman of the Board at the pleasure of the President. If, because of death, retirement, expiration of term, or other reason, the chairman ceases to be a member of the Board, the member who has served as a member for the longest period of time, shall serve as acting chairman, until a new chairman is designated by the President.

(3) POLITICAL AFFILIATION, OUTSIDE EMPLOYMENT.—Not more than three members of the Board shall be of the same political party. An individual may not engage in any other business, vocation, or employment while serving as a member of the Board.

(4) TERM OF OFFICE.—

(A) BASIC TERM.—Except as provided in subparagraphs (B) and (C), the term of office of a member is five years.

(B) INITIAL STAGGERED TERMS.—Of the members first appointed to the Board—

(i) one shall be appointed for a term of one year,

(ii) one shall be appointed for a term of two years,

(iii) one shall be appointed for a term of three years, and

(iv) one shall be appointed for a term of four years,

as designated by the President at the time of appointment.

(C) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(5) COMPENSATION.—Each member of the Board shall be paid at a rate equal to the rate of basic pay payable for level II of the Executive Schedule.

(6) REMOVAL.—Any member of the Board may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) STAFF OFFICES.—

(1) DIRECTOR.—The Board shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the chairman of the Board and who shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—Subject to such rules as may be prescribed by the Board, the chairman of the Board may appoint such additional personnel as the chairman considers appropriate.

(d) GENERAL PROVISIONS.—

(1) QUORUM.—A quorum for the transaction of business of the Board shall consist of a majority of the members.

(2) OFFICIAL SEAL.—The Board may have an official seal, which shall be judicially recognized.

(3) OFFICE SERVICES.—The General Services Administration shall furnish the Board with such offices, equipment, supplies, and services as it is authorized to furnish to any department, agency, or independent instrumentality of the United States.

SEC. 402. AUTHORITY AND DUTIES.

(a) DUTIES OF THE BOARD.—In addition to the specific functions prescribed for it by this Act, the Board shall—

(1) establish and maintain such commissions, bureaus, divisions, offices, and other entities as are required by this Act or as it deems appropriate for the efficient and effective conduct of its responsibility and the execution of its powers and duties;

(2) perform the functions of a participating insurer or consortium with respect to any area in which, or group of insurers for which, there is no participating insurer or consortium certified under part B;

(3) perform the functions of a State Health Board with respect to any State in which a State Health Board has not been established in accordance with subpart II;

(4) establish administrative procedures for receiving and acting upon appeals from consumers and providers from decisions of State Health Boards respecting enrollment, eligibility for benefits, benefits, and certification; and

(5) be responsible for the general implementation and administration of the functions of the Federal Government under this Act.

(b) CONTINUING EVALUATION.—The Board shall, on a continuing basis after the date health-care benefits are first made available under this Act, study and evaluate the operation of this Act, including the adequacy and quality of services furnished under this Act, of the cost of each type of health-care service furnished, of the effectiveness of measures taken to restrain the costs under this Act, and of the economic impact on employers and employment of wage-related premiums charged pursuant to this Act. In addition, the Board may conduct such other studies as it considers appropriate for the evaluation or improvement of the operation of this Act.

(c) TRANSFER OF FUNCTIONS.—There are transferred to, and vested in, the National Health Board all functions of the Secretary of Health, Education, and Welfare, or other officers and components of the Department of Health, Education, and Welfare, relating to—

(1) the following provisions of the Social Security Act:

(A) title V,

(B) sections 1121, 1123, 1124, and 1126,

(C) section 1131, but only with respect to decisions relating to Medicare,

(D) part B of title XI,

(E) title XVIII, and

(F) title XIX,

and any other functions performed under any authority of law by the Administrator of Health Care Financing;

(2) all the provisions of the Public Health Service Act, except—

(i) provisions of title II (other than sections 226 and 227),

(ii) the following provisions of title III: sections 301 through 303, the biomedical research authorities of section 307, 310, through 318, and parts C (except section 330), E, F, G, H, I, and J,

(iii) title IV,

(iv) title V,

(v) title X, and

(vi) title XIV;

(3) the Community Mental Health Centers Act;

(4) such functions under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as the Secretary determines, after consultation with the National Health Board, relate primarily to treatment of alcoholics or alcohol abusers;

(5) such functions under the Drug Abuse Office and Treatment Act of 1972 as the Secretary determines, after consultation with the National Health Board, relate primarily to treatment of drug addicts or abusers; and

(6) the provision of health-care services to American Indians, including functions of the Secretary, under the Indian Health Care Improvement Act (Public Law 94-437).

SEC. 403. OFFICES AND COMMISSIONS OF THE BOARD.

(a) OMBUDSMAN.—

(1) APPOINTMENT.—The Board shall have an Ombudsman who shall be appointed by the chairman of the Board and who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

(2) FUNCTION.—The Ombudsman shall investigate complaints made to the Board respecting the operation of the national health insurance system, report to the Board the results of such investigations, and make recommendations to the Board respecting such administrative actions as the Ombudsman determines on the basis of such investigations should be taken.

(b) ADVOCATE.—

(1) APPOINTMENT.—The Board shall have an Advocate who shall be appointed by the chairman of the Board and who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

(2) FUNCTION.—The Advocate shall, upon request, assist consumers in determining their rights to services and reimbursements under the national health insurance system, assist consumers in obtaining such services, and take such action as may be appropriate to protect such rights. The Advocate shall give priority to requests for assistance from the elderly, the disabled, members of minorities, and other disadvantaged groups and from women.

(C) INSPECTOR GENERAL.—

(1) APPOINTMENT.—The Board shall have an Inspector General who shall be appointed by the chairman of the Board and who shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

(2) DUTIES.—The Inspector General shall

(A) supervise, coordinate, and provide policy direction for auditing and investigative activities of the Board relating to the national health insurance system;

(B) recommend policies for, and conduct, supervise, or coordinate other activities carried out or financed by the Board for, the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, the national health insurance system; and

(C) recommend policies for, and conduct, supervise, or coordinate, relationships be-

tween the Board and other Federal agencies, State and local government agencies, and nongovernmental entities with respect to (i) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, the national health insurance system, or (ii) the identification and prosecution of participants in such fraud or abuse.

(3) AUTHORITIES.—In carrying out the duties prescribed by paragraph (2), the Inspector General may—

(A) have access to all records, reports, audits, reviews, documents, papers, recommendations or other material available to the Board which relate to activities under the national health insurance system with respect to which the Inspector General has responsibilities under paragraph (2);

(B) request such information or assistance as may be necessary for carrying out such duties from any Federal, State, or local governmental agency or unit thereof; and

(C) require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of such duties, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate district court of the United States.

(4) CONTRACTS WITH STATE FRAUD AND ABUSE UNITS.—The Inspector General shall, to the extent or in such amounts as are provided in advance in appropriations Acts, contract with State medicaid fraud control units (certified under section 1903(q) of the Social Security Act) for such unit to conduct activities described in such section with respect to health care services provided under the national health insurance system.

(d) COMMISSIONS.—

(1) ESTABLISHMENT.—The Board shall establish the following Commissions:

(A) COMMISSION ON BENEFITS.—A Commission on Benefits, which will—

(i) review on a continuing basis the provision of basic covered health-care services provided under qualified health plans and determine their cost and effectiveness in improving the health of the public;

(ii) examine the cost and effectiveness of other health care services in improving the health of the public; and

(iii) recommend to the Board such changes in the coverage of such services, particularly with respect to actions that may be taken to expand the scope or type of basic covered health-care services (such as preventive health services, mental health services, drugs, vision care, long-term care, home health care, and dental care) for which coverage under this Act is limited, as it deems appropriate based on its reviews and examinations.

(B) COMMISSION ON QUALITY.—A Commission on Quality, which will—

(i) review on a continuing basis the quality of the health care services provided pursuant to this Act;

(ii) examine the standards used with respect to the qualification and certification of participating providers (including health maintenance organizations); and

(iii) recommend to the Board actions which should be taken to maintain and improve the quality of such services.

(C) COMMISSION ON ACCESS.—A Commission on Access, which will—

(i) review on a continuing basis the utilization of covered health-care services by the different categories of eligible individuals;

(ii) examine the specific problems of rural, elderly, migrant, American Indian, inner-city, disabled, imprisoned, and institutionalized eligible individuals, and other groups of disadvantaged eligible individuals, in achieving access to covered health-care services on a basis equal to that of other groups in the population; and

(iii) recommend to the Board actions which should be undertaken to maintain and improve the accessibility of covered health-care services to all eligible individuals.

(D) COMMISSION ON HEALTH CARE ORGANIZATION.—A Commission on Health Care Organization, which will—

(i) review on a continuing basis the cost and effectiveness of methods for the delivery of covered health-care services to eligible individuals;

(ii) particularly examine the relative performance of health maintenance organizations, community health centers, community mental health centers, migrant health centers, maternal and child health centers, and other innovative methods in providing cost-effective health care services; and

(iii) recommend to the Board actions which should be taken to support and encourage the creation and expansion of more cost effective organizational methods for the provision and financing of covered health care services pursuant to this Act.

A Commission may include in its recommendations to the Board recommendations for legislation, establishment of budget guidelines or requirements, changes in regulations, and use of the Health Resources Distribution Fund or other authority of the Board.

(2) MEMBERSHIP.—The Board shall determine the number of members to be appointed to each commission and their terms of office. At least one-half of the members of each Commission shall be consumers or representatives of consumers and shall also include such representatives of various participating institutional and other health care providers, their employees, and participating insurers and health maintenance organizations as the Board determines to be appropriate. The members of a Commission shall serve without pay. Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of the duties vested in the Commission.

(3) STAFF.—The Board shall, upon request, detail to each Commission such of the Board's full-time personnel as may be necessary to enable the Commission to carry out its functions, with at least one such staff member detailed specifically to assist members who are or represent consumers.

SEC. 404. COMMISSION ON THE HEALTH OF AMERICANS.

(a) ESTABLISHMENT AND DUTIES.—There is established the Commission on the Health of Americans. The Commission shall on an ongoing basis review the health status of the population of and population groups in the United States, review a broad range of proposals (and their costs), including research, environmental programs, highway safety, public health programs, and personal health services programs, for improving such health status, and recommend to the President the proposals which the Commission determines would be effective in improving such health status, including those which could be implemented by the National Health Board.

(b) MEMBERSHIP.—The Commission shall consist of nine members appointed by the President. The chairman of the Commission shall be selected by the members of the Commission. The members of the Commission shall serve at the pleasure of the President.

(c) COMPENSATION.—Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of the duties vested in the Commission.

(d) STAFF.—The Commission may appoint such personnel as it considers necessary for the performance of the Commission's duties. Upon request of the Commission, the head of any Federal department or agency is authorized to detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties.

(e) OFFICE SERVICES.—The General Services Administration shall furnish the Commission with such offices, equipment, supplies, and services as it is authorized to furnish to any department, agency, or independent instrumentality of the United States.

SEC. 405. NATIONAL INSTITUTES OF HEALTH CARE RESEARCH.

(a) ESTABLISHMENT.—There is established, under the direction of the National Health Board, a National Institutes of Health Care Research which shall be composed of an Institute of Health Statistics, an Institute of Health Service Research, and an Institute of Health Technology Evaluation.

(b) GENERAL TRANSFER OF FUNCTIONS.—There are transferred to the—

(1) Institute of Health Statistics, all of the functions of the Secretary of Health, Education, and Welfare under section 304 of the Public Health Service Act relating to health statistics and all of the functions of the Secretary and the National Center for Health Statistics under section 306 of such Act;

(2) Institute of Health Services Research, all of the functions of the Secretary of Health, Education, and Welfare under section 304 of the Public Health Service Act relating to health services research and all of the functions of the Secretary and the National Center for Health Services Research under section 305 of such Act; and

(3) Institute of Health Technology Evaluation, all of the functions of the Secretary of Health, Education, and Welfare under section 304 of the Public Health Service Act relating to health care technology and all of the functions of the Secretary and the National Center for Health Care Technology under section 309 of such act.

(c) INSTITUTE OF HEALTH STATISTICS.—

(1) ESTABLISHMENT OF DATA SYSTEMS.—In addition to the functions transferred to the Institute under subsection (b)(2), the Institute of Health Statistics shall—

(A) propose to the National Health Board regulations, guidelines, and policies with respect to the establishment and operation by the Board of such data systems as will assure the appropriate flow of information for—

(i) management of the national health insurance system, including the budget process; and

(ii) monitoring the impact of the cost, accessibility, and quality of health-care services provided pursuant to this Act on morbidity and mortality in the United States; and

(B) assist in the analysis of data gathered from such systems in order to meet the needs of administrators, consumers, and health care providers under the national health insurance system.

(2) BASIS FOR SYSTEMS.—The Institute shall provide that the data systems described in paragraph (1)(A)—

(A) are based on such uniform minimum data sets as have been developed under section 306 of the Public Health Service Act;

(B) include the entire population of the United States and all health care services provided to residents of the United States; and

(C) are designed in such a manner as to—

(i) promote efficiency and effectiveness in the collection, processing, analysis, and dissemination of information,

(ii) minimize duplication in the data gathering activities of consortia, State and local governments, and the National Health Board, and

(iii) provide such information as will facilitate consortia, employers, participating insurers and health maintenance organizations, participating providers, and consumers in making informed decisions with respect to their involvement with the national health insurance system.

Subpart II—State Health Boards

SEC. 407. ESTABLISHMENT.

(a) STATE HEALTH INSURANCE CORPORATIONS.—In accordance with such guidelines as shall be issued by the National Health Board, each State shall charter as a public corporation a State Health Insurance Corporation.

(b) STATE HEALTH BOARDS.—

(1) MEMBERSHIP.—The board of directors of a State Health Insurance Corporation shall be a board to be known as the State Health Board. Each State Health Board shall consist of five members appointed by the Governor of the State by and with the advice and consent of the National Health Board. At least two members of a State Health Board shall be individuals who represent the interests of employers, labor unions, or other major purchasers of qualified health plans, at least one other member shall be a consumer, and not more than three members may be members of the same political party. A vacancy in a State Health Board shall be filled in the same manner as the original appointment was made.

(2) TERM OF OFFICE.—

(A) BASIC TERM.—Except as provided in subparagraphs (B) and (C), the term of office of a member is five years.

(B) INITIAL STAGGERED TERMS.—Of the members first appointed—

(i) one shall be appointed for a term of one year,

(ii) one shall be appointed for a term of two years,

(iii) one shall be appointed for a term of three years, and

(iv) one shall be appointed for a term of four years,

as designated by the Governor at the time of appointment.

(C) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) OFFICES AND COMMISSIONS.—In accordance with such guidelines as the National Health Board shall issue, a State Health Board shall establish an ombudsman, an advocate, and such advisory commissions as may be appropriate to carry out its functions. The functions of the ombudsman and advocate shall correspond to the functions of the Ombudsman and Advocate of the National Health Board and the memberships and functions of the commissions shall correspond to the commissions appointed by the National Health Board.

(4) FUNCTIONS.—A State Health Board shall perform the functions prescribed for it by this Act and shall also provide for the establishment of administrative procedures for receiving and acting upon appeals from consumers and providers in the State from decisions of participating insurers and health maintenance organizations and the consortia respecting enrollment, eligibility for benefits, benefits, and certification. Each State Health Board that has an Indian tribe or intertribal Indian organization located with its State shall carry out its functions under this section in a manner that recognizes tribal self-determination, and shall seek to enter into an agreement with each such tribe or organization on matters of mutual concern, as defined in regulations of the National Health Board.

PART B—PARTICIPATING INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, AND CONSORTIA

SEC. 411. PARTICIPATING INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS.

(a) STANDARDS.—

(1) APPLICATION.—Each insurer and health maintenance organization may apply to the National Health Board for certification as a participating insurer or participating health maintenance organization under the national health insurance system.

(2) REQUIREMENTS.—The National Health Board may not certify an insurer as a participating insurer or a health maintenance organization as a participating health maintenance organization unless—

(A) it is satisfied that the insurer (other than a self-insurer) or organization may lawfully act as an insurer or health maintenance organization, respectively, in each State in which it intends to operate,

(B) the insurer or organization, if previously certified, has not violated the terms of any previous participation agreement under this section, and

(C) the insurer or organization enters into a participation agreement under subsection (b).

(b) PARTICIPATION AGREEMENT.—The National Health Board shall provide for a participation agreement between itself and insurers and health maintenance organizations. This agreement would include the following provisions, and such other provisions as the National Health Board determines to be appropriate to carry out this Act:

(1) CONSORTIUM MEMBERSHIP.—The insurer or organization agrees to apply to and serve as a member of the consortium for its type of insurer or organization or (with the approval of the National Health Board and of the consortium) of another consortium and comply with such rules as the consortium may establish consistent with this Act.

(2) OFFERING OF BASIC PLANS.—The insurer or organization agrees to offer enrollment in at least one qualified health plan which provides for at least all basic covered health-care services, without charging (with respect to such basic services) any fee, deductible, coinsurance, copayment, or other charge in addition to the premiums provided for under this Act.

(3) OPEN ENROLLMENT.—

(A) IN GENERAL.—The insurer or organization agrees to accept for enrollment, during enrollment periods provided in section 111, in a qualified health plan it offers all eligible individuals (with respect to the plan) in the order in which they apply for enrollment, up to the limits of its capacity and without restriction (except as may be authorized by regulation of the National Health Board).

(B) ENROLLMENT RESTRICTIONS.—The National Health Board shall provide by regulation for limitations on the number and kinds of individuals required to be enrolled under subparagraph (A) to reflect the needs for (i) capacity to develop cost-effective services, and (ii) the special characteristics of qualified health plans which are offered by self-insurers and which have been negotiated or arranged between employers and employees.

(4) ISSUANCE OF HEALTH INSURANCE ENROLLMENT CARDS.—The insurer or organization agrees to provide for the issuance of a health insurance enrollment card for each eligible individual enrolled in a qualified health plan offered by the insurer or organization.

(5) PAYMENT OF PROVIDERS.—

(A) INSURERS.—The insurer agrees to provide for the payment to participating providers (and other providers to which payments may be made under qualified health plans), in such amounts no greater than the amounts permitted under this Act and at such intervals and in such manner as is consistent with this Act, for their provision of covered health-care services to eligible individuals enrolled in a qualified health plan offered by the insurer.

(B) HEALTH MAINTENANCE ORGANIZATIONS.—The health maintenance organization agrees to—

(i) provide for the payment to participating providers (and other providers to which payments may be made under qualified health plans), in amounts no greater than the amounts permitted under this Act and in such manner as is consistent with this Act, for their provision, or

(ii) provide directly,

or a combination of both, of covered health-care services to eligible individuals enrolled in a qualified health plan offered by the organization.

(C) REPORTS ON PAYMENTS.—The insurer or organization agrees to report to the State Health Board and its consortium on payments made (and on expenses incurred) under this Act during appropriate periods of any year.

(D) NOTIFICATION OF INDIVIDUALS.—The insurer agrees, in accordance with regulations of the National Health Board, to notify enrollees of the fact and the service with respect to which a payment by the insurer has been made on the enrollees' behalf.

(6) INFORMATION AND ACCESS.—The insurer or organization will maintain such records and afford such access thereto by the applicable consortium, State Health Boards, and the National Health Board as the National Health Board finds necessary to carry out the purposes of this Act, and to provide for such confidential treatment to its individually-identifiable records as the National Health Board may provide for by regulation.

(7) EQUAL REBATE POLICY.—The insurer or organization agrees that if any rebates, cash dividends, or additional health-care benefits are offered with respect to a qualified health plan pursuant to section 333, such rebates, dividends, or benefits are made available to all eligible individuals enrolled in the plan on the same basis, subject to the provisions of section 333(c)(1)(B) (relating to payment of portion of rebate to an employer).

(8) FAIR HEARING.—The insurer or organization agrees to establish and maintain procedures pursuant to which—

(A) an individual enrolled in a qualified health plan offered by the insurer or organization who is dissatisfied by reason of his failure to receive without additional cost to the individual (or have payment made for) any health care service to which the individual believes he is entitled under the plan shall, if the amount in controversy is over such threshold amount as the National Health Board shall establish, be entitled to opportunity for a fair hearing by the insurer or organization, and

(B) a participating provider, providing covered health-care services to individuals enrolled in a qualified health plan offered by the insurer or organization, who is dissatisfied by reason of the insurer's or organization's failure to make payment properly and with reasonable promptness in accordance with this Act shall, if the amount in controversy is over such threshold amount as the National Health Board shall establish, be entitled to an opportunity for a fair hearing by the insurer or organization.

(9) PAYMENT OF INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS.—The National Health Board agrees that, in return for such services and understandings, the insurer or organization shall be provided, by the consortium of which it is a member, payment for each enrollee in a qualified health plan offered by the insurer of such amounts as are established under part E of title III.

(10) OTHER CONDITIONS.—The insurer or organization agrees to perform functions otherwise required to be performed by participating insurers or health maintenance organizations under this Act and to comply with such reasonable regulations (respecting marketing and customer service practices and other areas) as the National Health Board establishes.

(c) PERIOD OF CERTIFICATION.—Each certification under this section shall be for a term of at least one year, as determined by the National Health Board, 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 National Health Board may terminate any such certification at any time (after reasonable notice and opportunity for hearing to the insurer or organization involved as it may provide in regulations), if it finds that the insurer or organization (1) has failed substantially to carry out the participation contract, (2) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this Act, or (3) no longer substantially meets the applicable conditions to be an insurer or a health maintenance organization. The effective date of such a certification shall be specified in the agreement pursuant to regulations of the National Health Board.

(d) LIMITATION ON AVAILABLE PROVIDERS AS A CONDITION ON ENROLLMENT UNDER A PLAN.—A participating insurer or health maintenance organization may provide that, as a condition of an individual's enrollment under a qualified health plan offered by the insurer or organization, payments will only be made under the plan with respect to covered health-care services furnished to the individual by specified participating providers or offered by the organization.

SEC. 412. CONSORTIA.

(a) ESTABLISHMENT.—The National Health Board shall provide for the certification of corporations, lawfully established and able to operate in each of the States, to serve as consortia with respect to this Act. The Board shall certify one such consortium to carry out functions with respect to each of the following types of participating insurers or health maintenance organizations:

(1) BLUE CROSS-BLUE SHIELD CONSORTIUM.—Non-profit State-chartered medical/hospital services corporations.

(2) COMMERCIAL INSURANCE CARRIER CONSORTIUM.—Profitmaking commercial insurers which do not directly furnish health care services.

(3) PREPAID GROUP PRACTICE HMO CONSORTIUM.—Health maintenance organizations which provide basic covered health-care services through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups) (as such term is defined in section 1302(4) of the Public Health Service Act).

(4) INDIVIDUAL PRACTICE ASSOCIATION HMO CONSORTIUM.—Health maintenance organizations which provides basic covered health-care services through (A) an individual practice association (or associations), as such term is defined in section 1302(5) of the Public Health Service Act, or (B) a combination of such association (or associations), medical group (or groups), staff, and individual physicians and other health professionals under contract with the organization.

(5) SELF-INSURER CONSORTIUM.—Insurers that are self-insurers (as defined in section 4(c)(5)(D)).

An insurer or health maintenance organization, with the approval of the National Health Board and of the consortium, may apply and serve as a member of a consortium other than the consortium to which it would otherwise belong under this subsection.

(b) STANDARDS FOR CERTIFICATION.—

(1) BLUE-CROSS AND COMMERCIAL INSURANCE CONSORTIA.—The National Health Board may not certify a corporation as a consortium described in paragraph (1) or (2) of subsection (a) unless the consortium has members which offer qualified health plans to such extent, in all the States and in each major area of each of the States, as will provide for such plans to be effectively available to all eligible individuals in the United States.

(2) CERTIFICATION.—The National Health Board may not certify a corporation as a consortium unless—

(A) it is satisfied that the corporation (i) may lawfully act as a consortium in each State in which it intends to operate and (ii) has sufficient resources and plans of operation to carry out the functions of a consortium under this Act,

(B) the consortium, if previously certified, has not violated the terms of any previous participation agreement under this section, and

(C) the consortium enters into a participation agreement under subsection (c).

(c) PARTICIPATION AGREEMENT.—The participation agreement referred to in subsection (b) between the National Health Board and a consortium shall include the following provisions, and such other provisions as the National Health Board determines to be appropriate to carry out this Act:

(1) CONSORTIUM MEMBERSHIP.—The consortium agrees to accept for membership each participating insurer (of the type described in subsection (a) with respect to the consortium) which applies, which has not previously violated the rules of the consortium, and which agrees to comply with such rules as the consortium may establish consistent with this Act.

(2) PREMIUM COLLECTION.—The consortium agrees to provide for the collection of premiums and the reallocation, in concert with the other consortia, of such premiums in accordance with this Act and to provide for such good faith efforts to collect wage and non-wage-related premiums (provided for under sections 341 and 342) as the National Health Board may provide.

(3) PAYMENT OF CONSORTIUM MEMBERS.—The consortium agrees to pay, from premiums collected under this Act, each member of the consortium for each enrollee in a qualified health plan offered by the member such amounts as are established under part E of title III.

(4) CONTINGENCY FUND.—The consortium agrees to maintain a contingency fund, in accordance with section 353(a).

(5) MONITORING UTILIZATION AND PAYMENTS.—The consortium agrees to monitor, and report regularly—

(A) to the National Health Board on (i) amounts of premiums collected, (ii) payments made to members in the States, (iii) number of enrollees of its members and their characteristics (as established by the consortia for risk-setting purposes), (iv) transfers of premiums between consortia, and (v) such other information as the National Health Board may require, and

(B) to each State Health Board, on (i) levels of utilization of the different covered health-care services in the State, and (ii) payments made (to institutional and other providers) from the funds of members of the consortium for such services.

(6) REPRESENTATION OF AND ASSISTANCE TO MEMBERS.—

(A) PARTICIPATING IN NEGOTIATIONS.—The consortium agrees to participate in negotiations with provider negotiation groups in the establishment of prospective budgets for institutional providers and maximum-fee schedules in the areas in which its members offer qualified health plans, except that no representative of the consortium shall participate in any negotiation concerning a State or area in which the consortium has no members or in which no member of the consortium offers a plan pursuant to this Act.

(B) FACILITATION OF ENROLLMENT.—The consortium agrees to assist members of the consortium in the enrollment of eligible individuals.

(C) FACILITATION AND ARRANGEMENT OF PAYMENT OF INSTITUTIONAL PROVIDERS.—The consortium agrees to facilitate and assist members of the consortium in the payment of institutional providers.

(7) FAIR HEARING.—The consortium agrees to establish and maintain procedures pursuant to which individuals and participating providers dissatisfied with the determination of a member of the consortium after a hearing under section 411(b)(8), shall be entitled, if the amount in controversy is over such threshold amount as the National Health Board shall establish, to opportunity for a review of such determination by the consortium.

(8) OTHER CONDITIONS.—The consortium agrees to perform functions otherwise required to be performed by a consortium under this Act and to comply with such regulations, respecting standard claims forms and procedures, rights of privacy of enrollees and participating providers, and other areas, as the National Health Board establishes.

SEC. 413. PROMOTION OF COMPETITION.

(a) APPLICATION OF ANTI-TRUST LAWS.—

(1) DEFENSE IN CERTAIN ACTIONS.—There shall be available as a defense to any civil or criminal action brought under the anti-trust laws (or any similar State law) in respect to actions taken by a participating insurer or health maintenance organization or a consortium or the consortia (if such actions were not taken for the purpose of injuring competition) that such actions were taken in the course of carrying out duties required of them as insurers, health maintenance organizations, and consortia under agreements entered into under this Act, and in a manner meeting standards and procedures established under paragraph (2). Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(2) REGULATIONS.—The National Health Board, after consultation with the Attorney General and the Federal Trade Commission, shall prescribe by rule standards and procedures (including those related to open meetings and maintenance of records) for the conduct of insurers, health maintenance organizations, and consortia in a manner consistent with promotion of competition and with the proper conduct of their responsibilities under this Act.

(3) ANTI-TRUST LAWS DEFINED.—For purposes of this subsection, the term "anti-trust law" means (A) the Sherman Act, (B) the Clayton Act, (C) the Federal Trade Commission Act, (D) sections 73 and 74 of the Wilson Tariff Act, and (E) sections 2, 3, and 4, of the Act of June 19, 1936, chapter 592 (15 U.S.C. 21a, 13a, and 13b).

(b) COMPLAINTS OF ANTICOMPETITIVE ACTIVITIES.—A participating insurer or health maintenance organization may file a complaint with the National Health Board that another participating insurer or organization (or the consortium of which it is a member) has engaged in an anticompetitive activity, including (1) the establishment of a formula for determining adjusted capitation amounts under section 351 which does not reflect actuarial risk or (2) a marking or enrollment practice which results in risk-selection of enrollees. The National Health Board shall provide for investigations of such complaints

and, where it determines that such activities have occurred, provide for such adjustments in participating agreements under section 411 or 412 and such other relief under this Act as it deems appropriate.

TITLE V—HEALTH CARE IMPROVEMENT PROGRAM

SEC. 501. ESTABLISHMENT OF PROGRAM AND FUND.

(a) ESTABLISHMENT.—The National Health Board shall establish a program to improve the distribution, in accordance with this part, of health care resources in the United States in order to promote the improvement in the quality, accessibility, and efficiency in the provision of health-care services under this Act.

(b) HEALTH RESOURCES DISTRIBUTION FUND.—There is established, in the Treasury of the United States, an account to be known as the "Health Resources Distribution Fund".

(c) AUTHORIZATION.—There is authorized to be appropriated, to be deposited into the Health Resources Distribution Fund for use under this title—

(1) for the fiscal year beginning before the first effective year, $500,000,000, and

(2) for each succeeding fiscal year, the amount authorized to be provided in the previous fiscal year under this section increased by the average annual rate of increase in the gross national product for the three-year period ending with the year in which the previous fiscal year begins.

SEC. 502. USE OF HEALTH RESOURCES DISTRIBUTION FUND.

(a) USE OF FUND BY NATIONAL HEALTH BOARD.—The National Health Board shall, in accordance with subsection (b), make grants to the State Health Boards from the Health Resources Distribution Fund and, from the Fund, may provide directly or by grant or contract for projects to improve the quality, accessibility, or efficiency in the provision of health care-services under this Act, including any of the following projects:

(1) CLOSURE AND CONVERSION.—For the conversion or closure of health care facilities, where such conversion or closure would improve the efficiency of use of such facilities in the area.

(2) HEALTH PERSONNEL.—For the provision of needed health-care services in health manpower shortage areas.

(3) RENOVATIONS.—For renovations of institutional health care facilities to enable institutional providers to meet specific health, safety, or other critical requirements.

(4) DELIVERY SYSTEMS.—For the stimulation and support of health maintenance organizations, community health centers, migrant health centers, and other cost-effective health care delivery systems.

(5) EDUCATION OF HEALTH PROFESSIONALS.—For educational programs for health professionals, in order to meet projected needs for health manpower in the various specialties and professions.

(6) CONTINUING PROFESSIONAL EDUCATION.—For programs, through professional standards review organizations or other private entities, of continuing educational and professional development with respect to current clinical practice and improvements in practice patterns.

(b) GRANTS TO STATE HEALTH BOARDS.—

(1) IN GENERAL.—From the Health Resources Distribution Fund, the National Health Board shall provide for an amount to be provided to each State Health Board, based on the State's needs as reflected in the national Health Care Improvement Plan and the ability of the State Health Board to use such amount to achieve the purposes of the plan. In allocating funds among the State Health Boards, the amount of any such grant to a State Health Board may not be less, with respect to the total amounts of such grants made under this subsection, than one-half of the ratio of the population of the State Health Board's State to the population of all the States.

(2) USE OF GRANT.—Grants provided to a State Health Board under this subsection may be used directly, or for grants or contracts, for any of the purposes for which the National Health Board may use the Fund.

SEC. 503. HEALTH EDUCATION PROGRAM.

Each State Health Board shall provide for the conduct of a program for the education of consumers in the State concerning health, self-care, the effective use of health care resources, and their rights and privileges under this Act. As part of such a program, each such Board shall provide for the development of material, suitable for distribution through the media, for classroom instruction at various levels, and for training of professionals, concerning—

(1) the impact on health and availability of health resources of different habits and practices relating to life style and utilization of health resources, and

(2) the appropriate participation of patients in the provision of health care services.

SEC. 504. SPECIAL STUDIES AND PROJECTS.

(a) STUDY OF RESIDUAL MEDICAID PROGRAM.—The National Health Board shall, through its Commissions or otherwise, study and evaluate—

(1) the impact of this Act on the programs of States under title XIX of the Social Security Act, including its impact on the comprehensiveness, accessibility, and quality of services (particularly long-term care services) provided under such programs; and

(2) means of improving such programs with respect to the comprehensiveness, accessibility, and quality of services (particularly long-term care services) provided under the programs.

Based on such study and evaluation, the National Health Board shall take such steps within its authority, including establishment of guidelines in the budget process, use of funds from the Health Resources Distribution Fund, the promulgation of regulations, and recommend such legislation as may be appropriate to implement improvements in such programs. The National Health Board shall report to Congress, not later than five years after the date of the enactment of this Act, on such recommendations and include in the report what means it recommends to meet the needs for long-term care in the United States.

(b) DEMONSTRATION PROJECTS.—The National Health Board may develop and demonstrate, or make grants and contracts for the development and demonstration of, methods designed to provide for improvements in—

(1) the coordination of health care services furnished by different providers,

(2) the adequacy, quality, or accessibility of health-care services or greater efficiencies in the provision of such services, and

(3) peer review and control of utilization and quality in the provision of drugs, laboratory services, and other health-care services,

under this Act and Medicare. The National Health Board may waive any of the reimbursement requirements of part B of title III in the case of such a demonstration project.

(c) HOSPICE PROJECT.—The National Health Board shall provide for the conduct of demonstration projects to evaluate the feasibility of providing hospice services as part of basic covered health-care services. Such projects will be funded from funds available from the Health Resources Distribution Fund.

(d) ANALYSIS OF MALPRACTICE.—The National Health Board shall provide for an analysis (based, to the extent feasible, on existing studies) of the incidence and circumstances of provider malpractice and the provision of mapiractice insurance, and its impact on patients, providers, and health care costs. The Board, not later than two years after the date of the enactment of this Act, shall transmit to the Congress a report on such analysis, together with recommendations for such changes in the laws relating to provider malpractice and in the national health insurance system as will most effectively protect patients and providers and contain costs to the system.

SEC. 505. DEMONSTRATION PROJECT IN PERSONAL CARE SERVICES.

(a) ESTABLISHMENT.—The National Health Board (hereinafter in this section referred to as the "Board") shall provide for the conduct of a demonstration project (hereinafter in this section referred to as the "project") in the organization, delivery, and financing of personal care services (as defined in subsection (f)) to groups of individuals likely to require such services.

(b) GRANT PROGRAMS.—In conducting the project, the board shall make grants, with funds provided from the Health Resources Distribution Fund, to participating public or nonprofit providers or public or nonprofit local community agencies or organizations to assist them in establishing and maintaining programs to provide, or assist in the provision of, personal care services for a substantial population of individuals residing in their homes who, without such services and by reason of their disability or other health-related factors, would be required (or be expected to be required) to reside on a continuing basis in an institution that provides personal care services.

(c) APPLICATION AND REQUIREMENTS.—No grant may be made under this subsection unless an application therefor is submitted to, and approved by, the Board and unless the Board is satisfied that—

(1) the applicant is capable of developing and willing to develop, within a reasonable time period, a program of comprehensive personal care services for populations at risk;

(2) the applicant will provide for non-Federal financing of such proportion of the costs of the program as is appropriate in view of the resources of, and available to, the applicant and the community in which the applicant is located;

(3) the program will provide for such combination of health care and other services (including all basic covered health-care services, other than inpatient institutional services, through participating providers) as is appropriate to enable individuals, otherwise requiring inpatient services, to continue to maintain themselves outside institutions.

(4) the program will provide for coordination of services provided under the program with the health or personal care services furnished by others to individuals participating in the program;

(5) the program provides for the establishment of a committee, composed of at least one physician, one professional nurse, one professional social worker, three consumers of personal care services, and such other qualified personnel as the Board may require (A) to review and approve, in accordance with specified criteria, applications of individuals seeking assistance under the program, (B) to review utilization of services by individuals who will be provided assistance under the program, and (C) to terminate assistance to any such individual when, in accordance with specified criteria, such assistance is no longer needed; and

(6) the program provides for such methods of evaluation of the program, including evaluation of the assistance provided to individuals and of the cost of such assistance, as will enable the Board to evaluate and make recommendations with respect to the feasibility of providing for (or assisting in the provision of) some or all of personal

care services as part of basic covered health-care services under the national health insurance system.

(d) DURATION.—No grant may be made under the project for a period of longer than four years.

(e) PAYMENTS.—

(1) INSTALLMENTS.—Payments under grants under this section may be made in advance or by way of reimbursement and in such installments and on such conditions as the Board may establish. The Board may provide for such decrease over time in the proportion of costs of a program assisted under this section as it deems appropriate and the Board may provide for such increase in the funds provided for a program where it determines that the reasonable costs of the program will exceed original estimates.

(2) CONTINUATION.—The Board shall provide, to the extent of available funds, that grants which have been approved under this section will not be terminated except for such grounds, other than lack of funding, as would otherwise justify termination of such a grant.

(3) SOURCE.—The Board shall provide that, of the funds available from the Health Resources Distribution Fund in each year, not less than $100,000,000 shall be available for the purpose of making grants under this section.

(f) REPORTS.—

(1) ANNUAL REPORT.—The Board shall periodically evaluate each program assisted under under this section and shall annually report to the Congress on the results of the project.

(2) FIVE-YEAR REPORT.—The Board, not later than five years after the date of the enactment of this Act, shall transmit to Congress a comprehensive report describing and evaluating the project conducted under this section, together with such recommendations with respect to—

(A) making available to all communities which lack such programs, programs of personal care services to individuals requiring such services as an alternative to institutional services,

(B) the sources and means of continued financing of such programs, and

(C) the proper role of the national health insurance system in the provision of personal care services.

(g) PERSONAL CARE SERVICES DEFINED.—For purposes of this section, the term "personal care services" means such services, including homemaker and home help services, home maintenance services, laundry services, meals-on-wheels and other nutrition services, assistance with transportation and shopping, as may be appropriate to maintain individuals, otherwise requiring institutionalization, in a noninstitutional residential setting.

TITLE VI—EFFECTIVE DATES, TRANSITION PROVISIONS, AMENDMENTS

PART A—EFFECTIVE DATES AND TRANSITION PROVISIONS

SEC. 601. EFFECTIVE DATES.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, but shall only apply to health-care services furnished in or after the first effective year.

(2) BUDGET AUTHORITY.—The authority of the National Health Board to enter into contracts under this Act is effective for any fiscal year only to such extent or in such amounts as may be provided in advance in appropriations Acts.

(b) PREPARATION OF ANNUAL BUDGET AND ANNUAL STATE BUDGETS.—Except as provided in section 602, the National Health Board shall first provide for an Annual Budget, and State Health Boards shall provide for the preparation of annual State budgets, for the first effective year.

(c) ENROLLMENT AND BENEFITS.—

(1) NON-MEDICARE ELIGIBLE INDIVIDUALS.—Eligible individuals (other than Medicare-eligible individuals) shall first be enrolled in qualified health plans, offered pursuant to this Act, during the year before the first effective year and such plans shall first be effective for basic covered health-care services furnished on or after January 1 of the first effective year.

(2) MEDICARE-ELIGIBLE INDIVIDUALS.—The amendments made to section 226(a) of the Social Security Act shall apply to months beginning with January of the first effective year.

(d) PREMIUM PAYMENTS.—

(1) WAGE-RELATED PREMIUMS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), premiums are first payable under section 341, relating to wage-related premiums, for wages paid on or after October 1 of the year before the first effective year.

(B) SPECIAL PREMIUM RATE.—In applying section 341 to the period from October 1 of the year before the first effective year through December 31 of such year—

(i) the National Health Board shall establish a special national premium rate (under subparagraph (C)) which will be applied in place of the state premium rate under subsection (a)(1)(B) of such section;

(ii) amounts payable with respect to wages paid in the month of October are not due until November 15; and

(iii) subsection (b) of such section shall not apply to premiums paid during such period.

(C) SPECIAL NATIONAL PREMIUM RATE.—The National Health Board shall, in consultation with the consortia, establish a special national premium rate to be applied under this paragraph. Such rate shall be computed so as to provide for sufficient payments, during the three-month period described in subparagraph (B), so as to assure prompt payment of benefits provided under this Act and the administrative expenses thereunder during the early months of the program establish by this Act and to provide an initial contingency reserve. Such rate may not exceed the national premium rate established under section 331 for the first effective year.

(2) NON-WAGE-RELATED PRIVATE PREMIUMS.—Premiums are first payable under section 342, relating to non-wage-related private premiums, for calendar years beginning with the first effective year.

(3) OTHER PREMIUMS.—Premiums are first payable under sections 343 and 345 for December of the year before the first effective year and shall be payable at the national group-rated premium established under section 331 for the first effective year.

(4) MEDICARE TAXES.—The amendments made by section 633(a), relating to changes in certain employment taxes, shall apply to wages and other income paid on or after January 1 of the first effective year.

(e) MISCELLANEOUS PROVISIONS.—

(1) HEALTH CARE IMPROVEMENT PROGRAM.—The provisions of title V of this Act shall apply to fiscal years ending in or after the first effective year.

(2) INTERNAL REVENUE CODE AMENDMENTS.—The amendments made by section 641, relating to the Internal Revenue Code of 1954, shall apply to taxable years beginning on or after January 1 of the first effective year.

(3) MEDICAID AMENDMENTS.—The amendments made by section 636, relating to the residual medicaid program, shall apply to calendar quarters beginning on or after January 1 of the first effective year.

(f) REPEAL OF SECTION 1310 REQUIREMENT.—The repeal of section 1310 of the Public Health Service Act, made by section 642(b)(1) of this Act, shall apply to calendar years beginning with the first effective year.

SEC. 602. TRANSITION PROVISIONS.

(a) INTENT OF CONGRESS.—It is the intent of the Congress that levels of appropriations in effect on the date of the enactment of this Act for programs providing for health-care services for the needs of special populations, such as migrant health programs and programs relating to community health centers, rural health services, and Indian health services, should be continued at least at such levels after the effective date of health benefits, under section 601, in order to carry out the objectives of this Act.

(b) AREA FEE SCHEDULES.—

(1) ESTABLISHMENT.—The National Health Board shall establish for localities within each State maximum fee schedules (applicable to health-care services reimbursable under part B of Medicare) based on the average level of allowable charges for the services under Medicare in the locality during the previous year. Notwithstanding any other provision of law, effective with respect to requests for payment made on or after July 1 of each year but before January 1 of the first effective year, payment may be made under part B of Medicare for the furnishing of a service only to the extent it does not exceed the lesser of—

(A) the customary charge or actual charge for the service, or

(B) the greater of (i) the maximum fee for the service otherwise permitted under section 1842 of the Social Security Act for the year before the first year for which a maximum fee schedule is established under this subsection, or (ii) the amount provided in the maximum-fee schedule (established under this subsection) for the services, increased, for each year after the first year of such schedule, to the extent that the National Health Board determines, on the basis of appropriate economic index data, that such higher fee levels are justified by economic changes.

(2) APPLICATION TO INSURERS.—

(A) IN GENERAL.—Notwithstanding section 411, as a condition for an insurer to be a participating insurer under this Act, the insurer must not make payments for services described in paragraph (1) to the extent such payments exceed the maximum payment that may be permitted for such payment under the Medicare program under paragraph (1).

(B) EXCLUSION OF PAST CONTRACTS.—Subparagraph (A) shall not apply to services performed under contracts entered into before the date of the enactment of this Act.

(c) DEVELOPING AND TESTING OF ADMINISTRATIVE STRUCTURE.—

(1) TESTING OF ADMINISTRATIVE STRUCTURES.—As soon as possible after the date of the enactment of this Act and before the first effective year, the National Health Board shall establish such regulations, guidelines, standards, and procedures as will provide for the orderly administration of this Act and shall provide for the testing of the efficacy of such procedures and operations before such effective year.

(2) REPORT TO CONGRESS.—The National Health Board shall report to the Congress, not later than 18 months after the date of the enactment of this Act, on its progress under paragraph (1) in establishing procedures to implement this Act and on any technical or administrative changes, including authorization of additional authorities, which would facilitate the implementation of this Act.

(3) GAO STUDY.—The Comptroller General shall review, and report to Congress (not later than 18 months after the date of the enactment of this Act) on, the National Health Board's progress in establishing procedures required to implement this Act on a timely basis.

(4) TESTING OF BUDGET AND PLANNING PROCESS.—The National Health Board shall

provide to the extent feasible, for the testing on a thorough basis of the budget and planning process established under title III as it would apply to the year before the first effective year.

SEC. 603. IMPACT ON EXISTING EMPLOYER-EMPLOYEE HEALTH PLANS.

(a) NO SHIFTING OF OBLIGATIONS.—No provision of this Act (other than this section) shall affect or alter any contractual or other nonstatutory obligation of an employer to pay for or provide health-care services to present and former employees and their dependents and survivors, or to any of such persons, or the amount of any obligation for payment (including any amount payable by an employer for insurance premiums or into a fund to provide for any such payment) toward all or any part of the costs of such services if the effect or alteration shifts the obligation in any part to such persons.

(b) CONTINUATION OF OBLIGATIONS.—Any contractual or other nonstatutory obligation of the employer to pay all or part of the cost of the health-care services described in subsection (a) shall continue, but any payment of wage-related premiums under section 341(a) shall be credited against such obligation to the extent such payments do not exceed the greater of—

(1) the per capita monthly amount of the cost to the employer of providing or paying for health care services (either through insurance premiums or into a fund) on behalf of persons described in subsection (a), for September of the year before the first effective year, or

(2) the per capita monthly amount of the cost the employer would have incurred had this Act not been enacted.

(c) CONTINUED PAYMENTS.—At least for the duration of any obligation of an employer described in subsection (a), the employer shall arrange to pay to eligible employees, former employees, and survivors described in subsection (a) such amounts by which the per capita monthly costs to the employer of providing or paying for health-care services described in subsection (a) in September of the year before the first effective year exceed the sum of (1) the per capita monthly costs to the employer of the premiums, and (2) any other employer contributions for health insurance premiums or health benefits or services provided by the employer after January 1 of the first effective year. By agreement between the employer and his employees or their representatives, an employer may provide other benefits of an equivalent monetary value in lieu of such payments.

(d) COMPUTATION OF COSTS.—For purposes of subsections (b) and (c), the per capita amounts and per capita costs for an employer shall be determined by dividing the aggregate amounts and the aggregate costs by the number of eligible employees, former employees, and survivors on the date as of which the determination is made.

SEC. 604. PROVISIONS RELATING TO TRANSFER OF FUNCTIONS.

(a) EFFECTIVE DATE.—The transfers of functions made by subpart I of part A of title IV of this Act shall take effect 120 days after the members of the National Health Board first take office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of the enactment of this Act the National Health Board may promulgate regulations pursuant to subsection (b)(5)(B)(ii). Funds available to a department or agency (or any official or component thereof) functions of which are transferred to the National Health Board under this Act may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

(b) TRANSITIONAL AND SAVINGS PROVISIONS.—

(1) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this subsection, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used arising, from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are transferred to the National Health Board for appropriate allocation. Unexpended funds transferred pursuant to this paragraph shall only be used for the purposes for which the funds were originally authorized and appropriated.

(2) EFFECT ON PERSONNEL.—Except as otherwise provided in this subsection, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions pursuant to this Act shall not cause any such employee to be separated or reduced in grade or compensation for one year after the effective date of such transfer. Any person who, on the effective date of such transfer, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed by the National Health Board to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

(3) AGENCY TERMINATIONS.—Whenever all of the functions vested by law in any agency or any component thereof, have been transferred from that agency or component by this Act, the agency or component shall terminate. If such an agency or component terminates pursuant to this paragraph, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office of position at level III, IV, or V of the Executive Schedule (5 U.S.C. 5313–5316), shall terminate.

(4) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, in consultation with the National Health Board shall make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency or component affected by this Act to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

(5) SAVINGS PROVISIONS.—

(A) PREVIOUS RULINGS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(i) which have been issued, made, granted, or allowed to become effective by the President, any Federal department, agency, or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the National Health Board after the date of enactment of this Act, and

(ii) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the National Health Board, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(B) PREVIOUS PROCEEDINGS.—

(i) EFFECT.—The provisions of this Act shall not affect any proceedings or any application for financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and order issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this clause shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(ii) REGULATIONS.—The National Health Board is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Board.

(C) SUITS.—Except as provided in subparagraph (E)—

(i) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(ii) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(D) NO ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of an agency function of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any agency functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(E) NAMED PARTIES.—If, before the date on which this Act take effect, any agency, or officer thereof in his official capacity, is a party of a suit, and under this Act any function of such agency or officer is transferred to the National Health Board or any official, then such suits shall be continued with the Board or other official, as the case may be, substituted.

(6) REFERENCE.—With respect to any functions transferred by his Act and exercised after the effective date of this Act, reference in any other Federal law to any department, or agency, or any officer of office the functions of which are so transferred shall be deemed to refer to the National Health Board, or other official or component of the National Health Board in which this Act vests such function.

(7) PRESIDENTIAL AUTHORITY.—Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

PART B—MEDICARE-RELATED AMENDMENTS

Subpart I—General Amendments and Eligibility

SEC. 611. GENERAL AMENDMENTS.

(a) REFERENCES IN THIS PART.—Except as otherwise specifically provided in this part, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision,

the reference shall be considered to be made to a section or other provision of the Social Security Act.

(b) SECTION 1801.—Section 1801 is amended by striking out "the practice of medicine" and all that follows through "compensation" and inserting in lieu thereof "the selection or tenure".

(c) HEADING.—The heading to part A of title XVIII is amended to read as follows:

"PART A—HOSPITAL AND HOSPITAL-RELATED INSURANCE BENEFITS FOR THE AGED AND DISABLED".

(d) APPLICATION OF DEFINITIONS TO HEALTH CARE FOR ALL AMERICANS ACT.—Section 1861 is amended by inserting "and of the Health Care for All Americans Act" after "For the purposes of this title" before subsection (a).

SEC. 612. MEDICARE ELIGIBILITY.

(a) AMENDMENTS TO SECTION 226.—

(1) HEADING.—The heading to section 226 is amended to read as follows:

"ENTITLEMENT TO HEALTH INSURANCE BENEFITS"

(2) SUBSECTION (a).—Subsection (a) of such section is amended to read as follows:

"(a) Every individual who—

"(1) has attained age 65, and

"(2)(A) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary, or

"(B) is a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act),

shall be entitled to health insurance benefits under title XVIII for each month for which the individual meets the condition specified in paragraph (1). To the extent possible, the National Health Board shall provide for the distribution of information regarding enrollment to such individuals at least 60 days before the date they become eligible for such benefits.".

(3) SUBSECTION (b).—Subsection (b) of such section is amended—

(A) by striking out ", and has for 24 consecutive months been entitled to";

(B) by striking out ", and has been for not less than 24 consecutive months";

(C) by striking out "hospital insurance benefits under part A of title XVIII" and inserting in lieu thereof "health insurance benefits under title XVIII or to enroll with a participating health maintenance organization, under the Health Care for All Americans Act, for the provision of such benefits"; and

(D) by striking out "twenty-fifth consecutive" and inserting in lieu thereof "first".

(4) SUBSECTION (c)(1).—Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) entitlement of an individual to health insurance benefits for a month shall consist of entitlement to have payments made under, and subject to the limitations in, title XVIII for services described in such title and furnished him or to enroll with a participating health maintenance organization, under the Health Care for All Americans Act, for the provision of at least such services during such month; except that no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of title XVIII occurred (A) on or after the first day of the month in which he attains age 65, or (B) if he was entitled to health insurance benefits pursuant to subsection (b), at a time when he was so entitled; and".

(5) SUBSECTION (e).—Subsection (e) of such section is amended by striking out "hospital insurance benefits" and inserting in lieu thereof "health insurance benefits" each place it appears.

(b) AMENDMENTS TO SECTION 226A.—

(1) SUBSECTION (a).—Subsection (a) of section 226A is amended by striking out "to benefits" and all that follows through the end and inserting in lieu thereof the following: "to health insurance benefits under title XVIII."

(2) SUBSECTION (b).—Subsection (b) of such section is amended by striking out "under part A and eligibility to enroll under part B of title XVIII" and inserting in lieu thereof "described in subsection (a)".

(3) SUBSECTION (c).—Subsection (c) of such section is amended—

(A) by striking out "the requirements of section 1881(b), entitlement to benefits under part A and eligibility to enroll under part B of title XVIII" in paragraph (1) and inserting in lieu thereof "requirements established by the National Health Board, entitlement to benefits described in subsection (a)", and

(B) by striking out "under part A and eligibility to enroll under part B of title XVIII" in paragraphs (2) and (3) and inserting in lieu thereof "described in subsection (a)".

(c) PART A.—

(1) SECTION 1811.—Section 1811 is amended—

(A) by inserting "or are citizens or permanent resident aliens in the United States" before ", (2)"; and

(B) by striking out "have been entitled for not less than 24 consecutive months" and inserting in lieu thereof "are entitled".

(2) SECTION 1818.—Section 1818 is repealed.

(d) PART B.—

(1) SECTION 1831.—The text of section 1831 is amended to read as follows:

"SEC. 1831. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the costs of physicians' services and certain other medical services in accordance with this part, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.".

(2) SECTIONS 1836 AND 1837.—Sections 1836 and 1837, relating to eligible individuals and enrollment periods, are repealed.

(3) SECTION 1838.—The text of section 1838 is amended to read as follows:

"SEC. 1838. (a) The period during which an individual is entitled to benefits under this part shall begin on the first day of the first month in which the individual first is eligible for benefits under this title.

"(b) In the case of an individual whose entitlement to benefits under this title is based on a disability, rather than on his having attained the age of 65, the period during which the individual is entitled to benefits under this part shall be terminated as of the close of the last month for which the individual is entitled to benefits under this title.".

(4) SECTION 1843.—Section 1843, relating to State agreements for coverage of certain individuals, is repealed.

(e) AMENDMENTS TO SECTION 7 OF RAILROAD RETIREMENT ACT OF 1974.—

(1) SECTION 7(d)(1).—The first sentence of paragraph (1) of section 7(d) of the Railroad Retirement Act of 1974 is amended to read as follows: "The National Health Board shall, for purposes of this subsection, have the same authority to determine that rights of individuals described in subdivision (2) to have payments made on their behalf for health insurance benefits under title XVIII of the Social Security Act (or to enroll with a participating health maintenance organization, under the Health Care for All Americans Act, for the provision of such benefits) as the National Health Board has under such title with respect to individuals to whom such title applies."

(2) SECTION 7(d)(2).—Paragraph (2) of such section is amended—

(A) by striking out "for not less than 24 consecutive months and (B) could have been entitled for 24 consecutive calendar months, and" and inserting in lieu thereof "and (B)", and

(B) by striking out "to the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "to the National Health Board".

(3) SECTION 7(d)(4).—The first sentence of paragraph (4) of such section is amended—

(A) by striking out "to have payment made on their behalf for the services referred to in subdivision (1) but provided" and inserting in lieu thereof "with respect to provision of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services which are provided" in the first sentence;

(B) by striking out "the Secretary of Health, Education, and Welfare" in the first sentence and inserting in lieu thereof "the National Health Board";

(C) by striking out "1867, 1868," in the first sentence; and

(D) by striking out "extended care facility" in the second sentence and inserting in lieu thereof "skilled nursing facility".

(4) SECTION 7(d)(5).—Paragraph (5) of such section is amended—

(A) by striking out "the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "the National Health Board"; and

(B) by striking out "part A of".

Subpart II—Benefits

SEC. 615. PART A BENEFITS.

(a) SCOPE OF BENEFITS.—

(1) SECTION 1812(a).—Subsection (a) of section 1812 is amended—

(A) by striking out "or, in the case of payments referred to in section 1814(d)(2) to him" in the matter before paragraph (1);

(B) by inserting "and of the Health Care for All Americans Act" after "subject to the provisions of this part" in the matter before paragraph (1);

(C) by amending paragraph (1) to read as follows:

"(1) inpatient hospital services;";

(D) by striking out "and" at the end of paragraph (2);

(E) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(F) by adding after paragraph (3) the following new paragraph:

"(4) mental health day care services (as defined in section 1861(cc)).".

(2) SECTION 1812(b).—Subsection (b) of such section is amended to read as follows:

"(b) Payment under this part for services furnished an individual during a spell of illness may not be made for post-hospital extended care services furnished to him during such spell after such services have been furnished to him for 100 days during such spell.".

(3) SECTION 1812(c).—Subsection (c) of such section is amended to read as follows:

"(c)(1) Notwithstanding any other provision of this part or of the Health Care for All Americans Act, payment may not be made under this part and basic covered health-care services under the Health Care for All Americans Act do not include inpatient psychiatric hospital services, inpatient hospital services primarily for the diagnosis or treatment of mental illness, or mental health day care services for more than—

"(A) 150 consecutive days, in the case of

an individual eligible for benefits under this title, or

"(B) 45 consecutive days, in the case of any other individual,

beginning with the first day of hospitalization or other provision of such services which occurs more than 60 days after the last date of such hospitalization or provision of such services.

"(2) In determining the period of consecutive days of inpatient mental health services described in paragraph (1)—

"(A) each day in which an individual is provided inpatient psychiatric hospital services or inpatient hospital services primarily for the diagnosis or treatment of mental illness is counted as a day, and

"(B) each day in which the individual is provided mental health day care services is counted as half a day.".

(4) SECTION 1812(e).—Section (e) of such section is amended by striking out "subsection (b), (c), and (d), inpatient hospital services, inpatient psychiatric services, post-hospital extended care services," and inserting in lieu thereof "subsections (c) and (d), post-hospital extended care services".

(5) HMO ELECTION.—Subsection (f) of such section is redesignated as subsection (g) and the following new subsection is inserted after subsection (e):

"(f) An individual eligible for benefits under this title other than because of section 226A or section 1181(d), in lieu of the entitlement provided under subsection (a), may elect, in such manner as the National Health Board provides under the Health Care for All Americans Act, for the individual to enroll in a qualified health plan offered by a participating health maintenance organization.".

(b) INCLUSION OF HOSPITAL-BASED PHYSICIAN SERVICES.—

(1) SECTION 1861(b).—Section 1861(b) is amended—

(A) by inserting "or (4)" after "paragraph (3)" in the matter before paragraph (1);

(B) by striking out "and" at the end of paragraph (2);

(C) by inserting "and" at the end of paragraph (3); and

(D) by striking out "excluding, however" and all that follows through the end and inserting in lieu thereof the following:

"(4)(A) medical or surgical services provided by a physician, resident, or intern, provided under such a resident-in-training program or teaching program as the National Health Board may approve;

"(B) medical or surgical services provided by a physician under contract with the hospital;

"(C) medical services provided by a radiologist or pathologist; and

"(D) medical services of a physician primarily for the diagnosis or treatment of mental illness,

excluding, however, medical or surgical services (other than described in paragraph (4)(D)) provided by a physician, resident, or intern or the services of a private-duty nurse or other private-duty attendant.".

(2) CONFORMING AMENDMENTS.—

(A) SECTION 1861(h).—Section 1861(h)(6) is amended by striking out "medical services" and all that follows through "subsection (b)" and inserting in lieu thereof "medical or surgical services described in subsection (b)(4) provided by a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (1))".

(B) SECTION 1861(m).—Section 1861(m) is amended by striking out "medical services" and all that follows through "subsection (b)" and inserting in lieu thereof "medical or surgical services described in subsection (b)(4) provided by the hospital".

(C) SECTION 1861(q).—Section 1861(q) is amended by striking out "(but not including services described in subsection (b)(6))" and inserting in lieu thereof "(but not including services described in subsection (b)(4)(D))".

SEC. 616. PART B BENEFITS.

(a) SECTION 1832.—

(1) SUBSECTION (a).—Subsection (a) of section 1832 of the Social Security Act is amended to read as follows:

"(a) The benefits provided to an individual by the insurance program established by this part shall consist of entitlement to have payment made on his behalf (subject to the provisions of this title and of the Health Care for All Americans Act) for—

"(1) medical and other health services (except such of those services as are described in section 1861b)(4)),

"(2) home health services for up to 100 visits during a calendar year; and

"(3) outpatient prescription drugs for treatment of chronic conditions.".

(2) HMO ELECTION.—Such section is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) An individual eligible for benefits under this title other than because of section 226A or section 1881(d), in lieu of the entitlement provided under subsection (a), may elect, in such manner as the National Health Board provides under the Health Care for All Americans Act, for the individual to enroll in a qualified health plan offered by a participating health maintenance organization.".

(b) APPLICATION OF CERTAIN LIMITATIONS UNDER SECTIONS 1833 AND 1835.—Section 1833 is amended—

(1) by amending subsection (c) to read as follows:

"(c) Notwithstanding any other provision of this part or of the Health Care for All Americans Act, payment may not be made under this part and basic covered health-care services under the Health Care for All Americans Act do not include expenses for physicians' services, health clinic services, or outpatient mental health center services primarily for the diagnosis or treatment of mental illness, to the extent these expenses exceed in a year the equivalent of 20 times the fee contained in the maximum fee schedule (established under section 316 of the Heatlh Care for All Americans Act) for a visit with a psychiatrist in the area in which the individual resides."; and

(2) by striking out the subsection (g) that begins "In the case" and inserting in lieu thereof the following:

"(g)(1) In the case of outpatient physical therapy services, outpatient speech pathology services, or outpatient occupational therapy services described in the second sentence of section 1861(p), payment may not be made under this title and is not provided as basic covered health-care services under the Health Care for All Americans Act for expenses incurred for such services in excess of $100 in any calendar year.

"(2) In the case of outpatient occupational therapy services, payment may not be made under this title and is not provided as basic covered health-care services under the Health Care for All Americans Act for services beyond such short-term period as the National Health Board provides.".

(c) CHANGES IN AND ADDITIONS TO DEFINITIONS OF SERVICES.—

(1) OUTPATIENT PHYSICAL THERAPY, SPEECH PATHOLOGY, AND SHORT-TERM OCCUPATIONAL THERAPY SERVICES.—Subsection (p) of section 1861 is amended—

(A) by amending the heading to read as follows: "Outpatient Physical Therapy, Speech Pathology, and Occupational Therapy Services";

(B) by striking out "The term 'outpatient physical therapy services' means physical therapy services" before paragraph (1) and inserting in lieu thereof "The terms 'outpatient physical therapy services', 'outpatient speech pathology services', and 'outpatient occupational therapy services' mean physical therapy services, speech pathology services, or occupational therapy services, respectively";

(C) by inserting ", speech pathology services, or occupational therapy services, respectively," in paragraph (2) after "physical therapy services";

(D) by striking out "by a physician (as so defined)" in paragraph (2) and inserting in lieu thereof "either by a physician (as so defined) or by a qualified physical therapist, speech pathologist, or occupational therapist, respectively";

(E) by inserting ", speech pathology services, or occupational therapy services, respectively," in paragraph (4)(A)(i) after "physical therapy services";

(F) by inserting "qualified speech pathologists, or qualified occupational therapists, respectively," in paragraph (4)(A)(ii) after "qualified physical therapists,";

(G) by striking out "The term 'outpatient physical therapy services' also includes physical therapy services" in the second sentence and inserting in lieu thereof "The terms 'outpatient physical therapy services', 'outpatient speech pathology services' and 'outpatient occupational therapy services' also include physical therapy services, speech pathology services, or occupational therapy services, respectively,";

(H) by inserting ", speech pathologist, or occupational therapist, respectively," in the second sentence after "physical therapist";

(I) by striking out "such term includes physical therapy services" in the third sentence and inserting in lieu thereof "such terms include physical therapy services, speech pathology services, and occupational therapy services, respectively,"; and

(J) by striking out the fourth sentence.

(2) MEDICAL AND OTHER HEALTH SERVICES.—Subsection (s) of such section is amended—

(A) by inserting ", outpatient speech pathology services, and outpatient occupational therapy services" before the semicolon at the end of paragraph (2)(D);

(B) by striking out "rural" in paragraph (2)(E) and the second sentence of such subsection;

(C) by striking out "and" at the end of subparagraph (E);

(D) by inserting after paragraph (2)(F) the following new subparagraphs:

"(G) hearing examinations conducted by a physician or qualified audiologist and hearing aids; and

"(H) outpatient mental health services (as defined in section 1861(cc));";

(E) by inserting "and lens after cataract surgery" in paragraph (8) after "colostomy care";

(F) by inserting "(A)" after "(8)" in paragraph (8) and striking out "and" at the end of such paragraph; and

(G) by inserting after paragraph (8)(A) the following new subparagraph:

"(B) orthopedic shoes (to the extent and as defined in regulations); and".

(3) OUTPATIENT PRESCRIPTION DRUGS FOR TREATMENT OF CHRONIC CONDITIONS DEFINED.—Subsection (t) of such section is amended by inserting "(1)" after "(t)" and by adding at the end the following new paragraph:

"(2) The term 'outpatient prescription drugs for treatment of chronic conditions' means insulin or a drug—

"(A) which is only available to an individual upon the prescription of a physician;

"(B) which is provided by a pharmacy or pharmacist to an individual who is not an inpatient of a hospital or skilled nursing facility; and

"(C) the name of which is contained on a

list, prepared by the National Health Board after consultation with appropriate experts, of drugs that are appropriate for the treatment or control of a chronic illness, disease, or other condition (as determined by the Board).".

(4) HEALTH CLINIC SERVICES.—Subsection (aa) of such section is amended—

(A) by striking out "rural health clinic" each place it appears in subsection (aa) and inserting in lieu thereof "health clinic", and

(B) by striking out the second and third sentences of paragraph (2).

(5) PREVENTIVE HEALTH SERVICES, MENTAL HEALTH DAY CARE SERVICES, AND OUTPATIENT MENTAL HEALTH SERVICES DEFINED.—Such section is amended by adding after subsection (aa) the following new subsections:

"Preventive Health Services

"(bb) The term 'preventive health services' means services, described in section 205 of the Health Care for All Americans Act, which are basic covered health-care services for purposes of that Act.

"Mental Health Day Care Services; Outpatient Mental Health Services

"(cc) The terms 'mental health day care services' and 'outpatient mental health services' mean the following items and services furnished to an individual as a day patient or as an outpatient, respectively, by a community mental health center (meeting the conditions of section 201 of the Community Mental Health Centers Act) or other qualified provider (as determined by the National Health Board)—

"(1) active diagnostic and therapeutic services furnished by qualified mental health professionals (as defined by the National Health Board in regulations), including psychologists, psychiatric social workers, and counselors;

"(2) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered; and

"(3) such items and services (including comprehensive mental health services described in section 201(b) of the Community Mental Health Centers Act) as are ordinarily furnished to day patients or outpatients, respectively, in connection with an active mental health program of diagnosis and treatment,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.".

(d) CONFORMING AMENDMENTS.—Section 1861(r) is amended—

(1) by inserting "section 1862(a)(13)(C)," in clause (3) after "section 1835,", and

(2) by inserting "or to the provision of preventive health vision services (as defined by the National Health Board)" in clause (4) after "prosthetic lenses".

SEC. 617. RENAL PROGRAM BENEFITS.

(a) SECTION 1881(b).—Section 1881(b) is amended—

(1) by striking out "if payments for his other professional services" and all that follows through "paragraph (3)(A) of this subsection" in paragraph (1)(A) and inserting in lieu thereof "if there is no separable charge associated with such routine services";

(2) by striking out "to or on behalf" in pargaraph (1)(B) and inserting in lieu thereof "on behalf";

(3) by striking out paragraphs (2) and (3);

(4) by striking out "on the basis of a target reimbursement rate (as defined in paragraph (6))" in pargaraph (4) and inserting in lieu thereof "on the basis of a prospective budget, approved under section 321 of the Health Care for All Americans Act"; and

(5) by striking out paragraph (6).

(b) SECTION 1881(d).—Section 1881(d) is amended—

(1) by striking out "(without regard to the deductible, premium, and coinsurance provisions of this title)"; and

(2) by striking out "parts A and B of" each place it appears.

(c) SECTION 1881(e).—Section 1881(e)(1) is amended by striking out "(without regard to the deductible and coinsurance provisions of this title) for the reasonable cost of" and inserting in lieu thereof "for".

(d) SECTION 1881(f).—Subsection (f) of section 1881 if repealed.

SEC. 618. TREATMENT OF EXCLUSIONS.

(a) BASIC EXCLUSIONS.—Subsection (a) of section 1862 is amended—

(1) by inserting "or under the Health Care for All Americans Act" after "under this title";

(2) by inserting "(except for preventive health services)" in paragraph (1) after "which are";

(3) by striking out "illness or injury" in paragraph (1) and inserting in lieu thereof "illness, injury, or condition";

(4) by striking out paragraphs (2), (3), and (5);

(5) by inserting "(other than for preventive health services)" in paragraph (7) after "where such expenses";

(6) by inserting "(in excess of one every three years)" in paragraph (7) after "hearing aids" and by inserting "(in excess of once per individual per year)" in such paragraph after "or examinations";

(7) by striking out paragraph (8), relating to orthopedic shoes;

(8) by inserting "(other than for preventive health services)" in paragraph (12) after "for services";

(9) by striking out "or" at the end of paragraph (12);

(10) by striking out the period at the end of paragraph (13)(C) and inserting in lieu thereof ", unless prescribed by a physician as seriously handicapping or a danger to general health for a patient with a diagnosed case of diabetes mellitus; or"; and

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

"(14) which are for insulin or prescriptions for outpatient prescription drugs for treatment of a chronic condition to the extent the prescription is in excess of such maximum amounts as the National Health Board may establish with respect to the drug.".

(b) APPLICATION TO HEALTH CARE FOR ALL AMERICANS ACT.—

(1) SUBSECTION (b).—Subsection (b) of such section is amended—

(A) by inserting "or under the Health Care for All Americans Act" after "under this title" the first place it appears;

(B) by inserting "or under such Act" after "under this title" the second place it appears; and

(C) by inserting "or to the appropriate consortium under such Act" after "by this title".

(2) SUBSECTION (d).—Subsection (d) of such section is amended—

(A) by inserting "or under the Health Care for All Americans Act" in paragraph (1) after "under this title" in the matter before subparagraph (A);

(B) by inserting "or under such Act" in paragraph (1)(A) after "under this title" each place it appears;

(C) by amending subparagraph (B) of paragraph (1) to read as follows:

"(B) has submitted or caused to be submitted bills or requests for payment under this title or such Act containing charges or costs for services rendered which are determined, in accordance with guidelines established by the National Health Board, to be substantially in excess of the amount permitted under part B of title III of such Act, unless the National Health Board finds there is good cause for such bills or requests containing such charges or costs; or";

(D) by inserting "or under the Health Care for All Americans Act" in paragraph (1)(C) after "the program under this title";

(E) by striking out "the Secretary", "him", and "he" in paragraph (1)(C) and inserting in lieu thereof "a State Health Board", "the Secretary", and "the Secretary" respectively;

(F) by striking out "of this Act" in paragraph (1)(C);

(G) by inserting "or under such Act" in paragraph (1)(C) after "under this title";

(H) by striking out "the Secretary" in the first sentence of paragraph (2) and inserting in lieu thereof "a State Health Board";

(I) by striking out "the Secretary" in the second sentence of paragraph (2) and inserting in lieu thereof "the State Health Board";

(J) by striking out "the Secretary" in the second sentence of paragraph (3) and inserting in lieu thereof "a State Health Board"; and

(K) by striking out "by the Secretary to the same extent" in paragraph (3) and all that follows through the end of such paragraph and inserting in lieu thereof "by the National Health Board in the manner provided in section 402(a)(4) of the Health Care for All Americans Act.".

(3) SUBSECTION (e).—Subsection (e) of such Act is amended—

(A) by inserting "or the national health insurance program under the Health Care for All Americans Act" in paragraph (1) after "under title XIX";

(B) by inserting "and under such Act" in paragraph (1) after "under this title" the second place it appears;

(C) by inserting "or under such Act" in paragraph (1) after "under this title" the third place it appears;

(D) by amending the second sentence of paragraph (1) to read as follows: "Any such practitioner who is dissatisfied with a determination made by the National Health Board under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the National Health Board, in such manner as the National Health Board shall provide by regulation.";

(E) by iinserting "or under such Act" in paragraph (2) after "under this title";

(F) by inserting "the consortia and" in paragraph (2)(A) after "notify"; and

(G) by striking out "the Department of Health, Education, and Welfare" in paragraph (2)(B) and inserting in lieu thereof "the National Health Board".

Subpart III—Certification of Services, Participating Providers, and Professional Standards Review

SEC. 621. CERTIFICATION STANDARDS.

(a) PART A.—Section 1814(a)(2) is amended by striking out "or" at the end of subparagraph (D) and by adding after subparagraph (E) the following new subparagraphs:

"(F) in the case of inpatient psychiatric hospital services, inpatient hospital services primarily for the diagnosis or treatment of mental illness, and mental health day care services, such services constitute an active treatment of the individual's condition and such services are or were medically required, and, in the case of mental health day care services, such services are or were medically necessary; or

"(G) in the case of electroshock therapy treatment, the patient required such services because of severe depression and such treatment was approved under standards established by a professional standards review organization;".

(b) PART B.—Section 1835(a) is amended—

(1) by inserting "or other qualified health care provider (as determined by the National Health Board)" in paragraph (2) after "(2) a physician";

(2) by striking out "physical or speech therapy" in paragraph (2)(A) and inserting in lieu thereof "physical or occupational therapy or speech pathology services";

(3) by striking out "and (D)" in paragraph (2)(B) and inserting in lieu thereof "(D), and (G)";

(4) by inserting "or in section 1861(bb)" in paragraph (2)(B) after "section 1861(s)(2)";

(5) by striking out "and" at the end of subparagraph (B) of paragraph (2);

(6) by striking out subparagraphs (C) and (D) and inserting in lieu thereof the following:

"(C) in the case of outpatient physical therapy services, outpatient speech pathology services, or outpatient occupational therapy services, (i) such services are or were required because the individual needed physical therapy services, speech pathology services, or occupational therapy services, respectively, (ii) a plan for furnishing such services has been established, and is periodically reviewed, by a physician or qualified physical therapist, speech pathologist, or occupational therapist, respectively, (iii) such services are or were furnished while the individual is or was under the care of a physician or a qualified physical therapist, speech pathologist, or occupational therapist, respectively, and (iv) in the case of occupational therapy services, there is a substantial likelihood of improvement in the individual's functioning; and

"(D) in the case of outpatient prescription drugs (other than insulin) for treatment of a chronic condition, such drugs are or were medically required because of the chronic condition of the individual and are appropriate in the dosage, quantity, and duration prescribed, and, in the case of insulin, it is or was medically required.";

(7) by striking out "subparagraph (A) or (B)" in the second sentence and inserting in lieu thereof "subparagraph (A), (B), (C), or (D)"; and

(8) by inserting ", speech pathology, or occupational therapy" in the third sentence after "outpatient physical therapy".

SEC. 622. PARTICIPATING PROVIDER AGREEMENTS.

(a) Amendments to subsection (a)(1).—Subsection (a)(1) of section 1866 is amended—

(1) by striking out "(except a fund designated for purposes" and all that follows through "Secretary an agreement" in the matter before subparagraph (A) and inserting in lieu thereof the following: "(as defined in subsection (e)) shall be qualified to serve as a participating provider under this title and under the Health Care for All Americans Act and shall be eligible for payments under this title and under such Act only if it files with the State Health Board (established under title IV of such Act) an agreement";

(2) by striking out ", except as provided in paragraph (2)," in subparagraph (A);

(3) by inserting "or such Act" in subparagraph (A) after "under this title";

(4) by striking out "or for which such provider is paid pursuant to the provisions of section 1814(e)" in subparagraph (A);

(5) by inserting "or such Act" in subparagraph (B) after "under this title";

(6) by inserting "of section 1862(a)" in subparagraph (B) after "paragraph (7) or (9)";

(7) by inserting "and of such Act" in subparagraph (B) after "of this title";

(8) by striking out "and" at the end of subparagraph (C);

(9) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and";

(10) by adding after subparagraph (D) the following new subparagraphs:

"(E) to be paid for items and services to which individuals are entitled to have payments under this title or under the Health Care for All Americans Act in accordance with the applicable provisions of this title and of part B of title III of such Act;

"(F) not to discriminate on the ground of race, color, or national origin in the furnishing of items or services to an individual for which the individual is entitled to have payment made under this title or such Act;

"(G) to furnish such information and reports as may be required for the making of payments to the provider under this title or such Act or as may be required by a professional standards review organization or for approval of a prospective budget with respect to the provider;

"(H) to permit such examination of records as may be necessary for verification of the information upon which requests for payment (and payments) are based;

"(I) to meet the special requirements under subsection (f) with respect to prescription and filling of prescriptions for outpatient drugs; and

"(J) to comply with such other requirements as the National Health Board may reasonably establish by regulation."; and

(11) by striking out the second sentence.

(b) AMENDMENTS TO SUBSECTION (a)(2).—Subsection (a)(2) of such section is amended.—

(1) by striking out subparagraph (A);

(2) by inserting "or under the Health Care for All Americans Act" in subparagraphs (B)(i) and (B)(ii) after "under this title" the first place it appears;

(3) by inserting "or under such Act" in subparagraphs (B)(i) and (B)(ii) after "under this title" the second place it appears;

(4) by striking out "(or, if less, the customary charges for)" in subparagraph (B)(ii);

(5) by striking out subparagraph (C);

(6) by striking out "a provider of services" in subparagraph (D) and inserting in lieu thereof "an institutional provider";

(7) by inserting "or under the Health Care for All Americans Act" in subparagraph (D) after "under this title" the first place it appears; and

(8) by inserting "or under such Act" in subparagraph (D) after "under this title" the second place it appears.

(c) AMENDMENTS TO SUBSECTION (b)—Subsection (b) of such section is amended—

(1) by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" before paragraph (1);

(2) by striking out "6 months" in paragraph (1) and inserting in lieu thereof "12 months";

(3) by inserting "or of the Health Care for All Americans Act" in paragraph (2)(A) after "of this title";

(4) by inserting "or under the Health Care for all Americans Act" in paragraph (2)(C)(i) after "under this title";

(5) by inserting "or under the Health Care for All Americans Act" in paragraph (2)(D) after "under this title" the first place it appears;

(6) by inserting "or under such Act" in paragraph (2)(D) after "under this title" the second place it appears; and

(7) by inserting "or under such Act" in paragraph (2)(E) after "under this title".

(d) AMENDMENTS TO SUBSECTION (c).—Subsection (c) of such section is amended—

(1) by striking out "under this title" and inserting in lieu thereof "under this section" each place it appears in paragraph (1);

(2) by striking out paragraph (2); and

(3) by striking out "(1)".

(e) SUBSECTION (d) AMENDMENT.—Subsection (d) of such section is amended by inserting "or under the Health Care for All Americans Act" after "under this title".

(f) SUBSECTION (e) AMENDMENT.—Subsection (e) of such section is amended to read as follows:

"(e) For purposes of this section, the term 'provider of services' includes a clinic, rehabilitation agency, physician, community mental health center, or any other provider of health-care services which provides health care services for which payment may be made under this title or under the Health Care for All Americans Act.".

(g) ADDITIONAL SUBSECTION.—Such section is amended by adding at the end the following new subsection:

"(f) The requirements for prescription of outpatient drugs referred to in subsection (a)(1)(J) are as follows:

"(1) A provider who prescribes outpatient drugs for chronic illness agrees to prescribe such drugs only under such generic or other names and not in smaller or larger quantities per prescription as the National Health Board may provide to insure quality of treatment and efficiency in provision of such drugs.

"(2) A provider that fills a prescription for a drug described in paragraph (1) agrees to fill such prescription in quantities not less than or greater than such quantities as the National Board may establish.".

(h) HEADING.—The heading to such section is amended to read as follows:

"PARTICIPATING PROVIDER AGREEMENTS".

SEC. 623. USE OF AGENCIES IN DETERMINING CONDITIONS OF PARTICIPATION.

(a) SECTION 1863.—Section 1863 is amended—

(1) by striking out "and (o)(6)" and inserting in lieu thereof "(o)(6), (aa)(2), and (cc)"; and

(2) by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies" and inserting in lieu thereof "the Commission on Quality of the National Health Board, State Health Boards".

(b) SECTION 1864(a).—Section 1864(a) is amended—

(1) by striking out "rural" each place it appears;

(2) by inserting "or whether a community mental health center or other qualified provider meets the requirements of section 1861(cc)" before the period at the end of the first sentence;

(3) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or community mental health center or other qualified provider";

(4) by inserting "or under the Health Care for All Americans Act" in clause (1) of the fifth sentence after "under this title";

(5) by striking out ", and for the Federal" in subsection (b) and all that follows through the end of such subsection and inserting in lieu thereof a period;

(6) by inserting "or other institutional providers" in subsection (c) after "hospitals"; and

(7) by inserting "or other national provider accreditation organization for that category of provider" in subsection (c) after "Joint Commission on Accreditation of Hospitals".

(c) SECTION 1865.—Section 1865 is amended—

(1) by striking out "or (o)" in the third sentence of subsection (a) and inserting in lieu thereof "(o), (aa)(2), or (cc)";

(2) by striking out "to the hospital" in subsection (b) and inserting in lieu thereof "to the institution"; and

(3) by striking out "of the numbered paragraphs of section 1861(e)" in subsection (b) and inserting in lieu thereof "within

the appropriate subsection (or paragraph of a subsection) of section 1861."

SEC. 624. AMENDMENTS RELATING TO PART B OF TITLE XI (PROFESSIONAL STANDARDS REVIEW).

(a) GENERAL APPLICATION TO HEALTH CARE FOR ALL AMERICANS ACT.—Part B of title XI is amended—

(1) by inserting "or under the Health Care for All Americans Act" in section 1151 after "under this Act";

(2) by inserting "or under such Act" in section 1151 after "under the Social Security Act";

(3) by inserting "or of the Health Care for All Americans Act" in section 1152(e) after "(other than this part)";

(4) by inserting "or of the Health Care for All Americans Act" in section 1152(e) after "any provision of this Act";

(5) by inserting "or under the Health Care for All Americans Act" in section 1153 after "under this Act";

(6) by inserting "or under the Health Care for All Americans Act" in section 1155 (a)(1) after "under this Act";

(7) by inserting "or under the Health Care for All Americans Act" in section 1156 (c)(1) after "under this Act";

(8) by inserting "and no funds used by a participating insurer under the Health Care for All Americans Act" in section 1158(a) after "(other than title V)";

(9) by inserting "or under such Act" in section 1158(a) after "program established pursuant thereto";

(10) by inserting "or under the Health Care for All Americans Act" in section 1158 (c) after "under this Act";

(11) by inserting "or under the Health Care for All Americans Act" in section 1160 (a)(1) after "under this Act" the first place it appears;

(12) by inserting "or under such Act" in section 1160(a)(1) after "under this Act" the second place it appears;

(13) by inserting "or under the Health Care for All Americans Act" in section 1160 (b)(1) after "under this Act";

(14) by inserting "or under the Health Care for All Americans Act" in section 1162 (e)(1) after "by this Act";

(15) by striking out "Department of Health, Education, and Welfare" in section 1163(c) and inserting in lieu thereof "the National Health Board";

(16) by inserting "or qualified health plans offered pursuant to the Health Care for All Americans Act" in section 1165 after under this Act"; and

(17) by inserting "or under the Health Care for All Americans Act" in section 1171 (b)(2) after "of this Act".

(b) ADDITIONAL AMENDMENTS.—

(1) SECTION 1154(g).—Section 1154(b) is amended by striking out "and, in addition" and all that follows through the end and inserting in lieu thereof "or by other health care providers.".

(2) SECTION 1155(g).—Section 1155 is amended by striking out subsection (g).

(3) SECTION 1156(b).—Section 1156(b) is amended—

(A) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and

(B) by inserting after such paragraph the following new paragraph:

"(3) that physicians, as a part of their medical practice, should closely monitor workers and other populations at special risk because of past exposure to environmental and occupational hazards.".

(4) SECTION 1157.—Section 1157 is amended by striking out "Secretary" and inserting in lieu thereof "the State Health Board (established under the Health Care for All Americans Act) for the State".

(5) SECTION 1159.—Section 1159 is repealed.

(6) SECTION 1160.—Section 1160 is amended—

(A) by striking out "to the Secretary" in subsection (b)(1) and inserting in lieu thereof "to a State Health Board";

(B) by striking out "as the Secretary may prescribe" in subsection (b)(1) and inserting in lieu thereof "as the State Health Board may provide, in accordance with guidelines established by the National Health Board";

(C) by striking out "the Secretary" in subsection (b)(2) the first place it appears and inserting in lieu thereof "a State Health Board";

(D) by striking out "the Secretary" in subsection (b)(2) the second place it appears and inserting in lieu thereof "the State Health Board";

(E) by striking out "the Secretary" in subsection (b)(3) and inserting in lieu thereof "a State Health Board";

(F) by inserting "or to the appropriate consortium under the Health Care for All Americans Act (as the case may be)" in subsection (b)(3) after "United States" the first place it appears;

(G) by inserting "or by the appropriate consortium under the Health Care for All Americans Act (as the case may be)" in subsection (b)(3) after "instrumentality thereof)";

(H) by striking out "the Secretary" in subsection (b)(4) the first place it appears and inserting in lieu thereof "a State Health Board"; and

(I) by striking out "the Secretary" the second place it appears and all that follows through the end of subsection (b)(4) and inserting in lieu thereof "the State Health Board pursuant to section 407(b)(4) of the Health Care for All Americans Act".

(7) SECTION 1168.—The text of section 1168 is amended to read as follows:

"SEC. 1168. Expenses incurred in the administration of this part shall be payable from funds appropriated to carry out the provisions of this part. The National Health Board shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from such funds (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.";

(8) SECTION 1172.—Section 1172(4) is amended by striking out "incurred under" and all that follows through "by such titles" and inserting in lieu thereof "incurred under this part".

(9) SECTION 1861(w).—Section 1861(w)(2) is amended by striking out "insured under part A of this title or" and "part B of".

SEC. 625. HEALTH MAINTENANCE ORGANIZATIONS.

(a) SECTION 1876.—Subsection (a) of section 1876 is amended to read as follows:

"(a) In the case of an individual eligible (other than under section 226A or section 1881(d)) for benefits under this title who has elected, in accordance with the Health Care for All Americans Act, to enroll with a participating health maintenance organization for receipt of such benefits, the National Health Board shall provide for payment, in such proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund as the Board may provide, of the amounts otherwise payable with respect to such individuals, amounts established under part B of title III of the Health Care for All Americans Act.".

(b) DEFINITION OF HMO.—Subsection (b) of such section is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) provides to its enrollees—

"(i) who are insured for benefits under this title (hereinafter in this subsection referred to as 'Medicare-eligible individuals') through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits covered under this title, or

"(ii) who are not Medicare-eligible individuals and are enrolled with the organization pursuant to the Health Care for All Americans Act (hereinafter in this subsection referred to as 'non-Medicare eligible individuals') through institutions, entities, and persons meeting the applicable requirements of section 1861, all of the services and benefits treated as basic health-care services under such Act;

which are available to individuals residing in the geographic area served by the organization;";

(2) by striking out clauses (i), (ii), and (iii) of paragraph (1)(B) and inserting in lieu thereof the following:

"(i) the term 'basic health services' and references thereto shall be deemed to refer, for purposes of Medicare-eligible individuals, to services and benefits included under this title and, for purposes of non-Medicare eligible individuals, to basic covered health-care services (as described in part A of title II of the Health Care for All Americans Act), and";

(3) by inserting "and under the Health Care for All Americans Act" in paragraph (1)(B)(iv) after "by this title";

(4) by striking out clauses (i) and (ii) of paragraph (1)(C) and inserting in lieu thereof the following:

"(i) the term 'basic health services' and references thereto shall be deemed to refer, for purposes of Medicare-eligible individuals, to services and benefits included under this title and, for purposes of non-Medicare eligible individuals, to basic covered health-care services (as described in part A of title II of the Health Care for All Americans Act), and";

(5) by striking out "subsection (k) of this section" in paragraph (1)(C)(iii) and inserting in lieu thereof "the Health Care for All Americans Act"; and

(6) by amending paragraph (2) to read as follows:

"(2) The duties and functions of the National Health Board 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 subsections (a) and (b) of section 1312 of the Public Health Service Act.".

(c) SUBSECTION (c).—Subsection (c) of such section is amended to read as follows:

"(c) The benefits provided under this section or under the Health Care for All Americans Act (hereinafter in this section referred to as 'the Act') to enrollees of a health maintenance organization which has entered into a contract with the National Health Board pursuant to subsection (1)(2)(A) shall consist of—

"(1)(A) in the case of a Medicare-eligible individual, to have payment made on his behalf for all services described in section 1812 and section 1832 which are furnished to him by the organization in which he is enrolled pursuant to the Act, or

"(B) in the case of a non-Medicare eligible individual, to have payment made for basic covered health-care services as established under the Act; and

"(2) entitlement to have payment made by such organization on the individual's behalf for (A) such emergency services (as defined in regulations), (B) such urgently needed services (as defined in regulations) furnished to the individual during a period of temporary absence (as defined in regulations) from the geographic area served by the organization which enrolls the individual, and (C) such other services as may be determined, in accordance with subsection (f), to be services which the individual was entitled to have furnished by the organization, as may be furnished to the individual

by a physician, supplier, or provider of services, other than the organization.".

(d) FURTHER AMENDMENTS.—Such section is further amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) A Medicare-eligible individual and a non-Medicare eligible individual are eligible, in accordance with the Act, to enroll with a health maintenance organization that serves the geographic area in which the individual resides.".

(e) SUBSECTION (f).—Subsection (f) of such section is amended by striking out ", if the amount" and all that follows through the end and inserting in lieu thereof the following: "be entitled to a hearing as provided in the Act.".

(f) FURTHER AMENDMENTS.—Such section is further amended by striking out subsections (g) and (h) and paragraphs (1), (2) and (3) of subsection (f).

(g) SUBSECTION (1)(6).—Subsection (1)(6)(B) of such section is amended—

(1) by striking out ", in the case of" and all that follows through "paragraph (2)(A),", and

(2) by striking out ", as defined in clause (iii) of subsection (a)(3)(A),".

(h) SUBSECTION (k).—Subsection (k) of such section is amended to read as follows:

"(k) Each health maintenance organization with which the National Health Board enters into a contract under this section shall have a general open enrollment period in accordance with the Act under which it accepts up to the limits of its capacity and without restriction, except as may be authorized in regulations, Medicare-eligible individuals and non-Medicare-eligible individuals in the order in which they apply for enrollment unless to do so would result in enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the National Health Board, of the population in the geographic area served by such organization.".

Subpart IV—Conditions of Payments

SEC. 628. CHANGES IN CONDITIONS OF PAYMENT.

(a) REPEAL OF DEDUCTIBLES AND COINSURANCE.—Section 1813 and paragraph (3) of section 1861(y) are repealed.

(b) AMENDMENTS TO SECTION 1814.—

(1) SUBSECTION (a).—Subsection (a) of section 1814 is amended—

(A) by striking out "subsections (d) and (g) and in section 1876" in the matter before paragraph (1) and inserting in lieu thereof "subsection (f)";

(B) by striking out "eligible therefor" in the matter before paragraph (1) and by inserting in lieu thereof "participating providers of health care"; and

(C) by striking out "such individual" in paragraph (1) and inserting in lieu thereof "an authorized representative of such provider"; and

(D) by striking out "the individual" in paragraph (1) and inserting in lieu thereof "the provider".

(2) AMOUNT PAID TO PROVIDERS.—Subsection (b) of such section is amended by striking out "shall," and all that follows through the end and inserting in lieu thereof "shall be the amount determined under part B of title III of the Health Care for All Americans Act".

(3) PAYMENT TO FEDERAL PROVIDERS.—Subsection (c) of such section is amended to read as follows:

"No Payments to Certain Federal Providers of Services

"(c) Except as provided in subsection (j), no payment may be made under this part, or under a qualified health plan offered pursuant to the Health Care for All Americans Act (other than a plan described in section 4(d)(4)(B) of such Act), to any Federal provider of services administered by or under the control of the Department of Defense or the Veterans Administration or, with respect to services provided to a member of a uniformed service on active duty (or a member of the member's family), of the Public Health Service; and no such payment may be made to any provider of service for any item or service which such provider is obligated by a law of, or a contract with, the United States to render at public expense.".

(4) EMERGENCY HOSPITAL SERVICES.—Subsection (d) of such section is repealed.

(5) PAYMENT FOR CERTAIN INPATIENT SERVICES.—Subsection (e) of such section is repealed.

(6) CONFORMING AMENDMENT.—Subsection (f) of such section is amended—

(A) by striking out "hospital insurance benefits" each place it appears and inserting in lieu thereof "health insurance benefits"; and

(B) by striking out the second sentence of paragraph (4) and inserting in lieu thereof the following: "The amount payable with respect to such services shall be equal to such reasonable amount as, in accordance with regulations of the National Health Board, is consistent with part B of title III of the Health Care for All Americans Act.".

(7) PAYMENT FOR CERTAIN PHYSICIAN SERVICES IN A TEACHING HOSPITAL.—Subsection (g) of such section is repealed.

(8) CONFORMING AMENDMENT.—Subsection (j)(1) of such section is amended by striking out "hospital insurance benefits" and inserting in lieu thereof "health insurance benefits".

(c) CHANGE IN PAYMENTS TO PROVIDERS.—

(1) INSTITUTIONAL PROVIDERS.—Section 1815 is amended—

(A) by striking out "(a) The Secretary shall periodically determine" in subsection (a) and inserting in lieu thereof "The National Health Board, consistent with part B of title III of the Health Care for All Americans Act, shall determine".

(B) by striking out "(but not less often than monthly)" in subsection (a).

(C) by striking out subsection (b). and

(D) by inserting "or under the Health Care for All Americans Act" in subsection (c) after "under this title".

(2) OTHER PROVIDERS.—Section 1833 is amended—

(A) by amending subsection (a) to read as follows:

"(a) Subject to the succeeding provisions of this section, there shall be paid from the Federal Supplementary Medical Insurance Trust Fund, in the case of each individual who is covered under the insurance program established under this part and has been furnished services with respect to which benefits are payable under this part, amounts determined in accordance with part B of title III of the Health Care for All Americans Act.";

(B) by striking out subsection (b);

(C) by striking out "(or would be entitled except for section 1813)" in subsection (d);

(D) by striking out subsection (e);

(E) by striking out "(f)(1)" in subsection (f) and inserting in lieu thereof "(f)";

(F) by striking out paragraphs (2) and (3) of subsection (f);

(G) by striking out "(4)" in paragraph (4) of subsection (f) and inserting the rest of such paragraph at the end of such subsection; and

(H) by striking out the subsection (g) which begins "With respect to".

(3) SECTION 1835.—Section 1835 is amended—

(A) by amending the heading to read as follows: "PROCEDURE FOR PAYMENT OF HEALTH CARE PROVIDERS";

(B) by striking out "subsections (b), (c), and (e)" and all that follows through "under section 1866(a)" in the matter before paragraph (1) of subsection (a) and inserting in lieu thereof "subsection (b), payment for services described in section 1832(a) furnished an individual may be made only to providers of health services which are eligible therefor under section 1866(a) and under the Health Care for All Americans Act";

(C) by striking out "such individual" in paragraph (1) and inserting in lieu thereof "such provider or an authorized representative of such provider";

(D) by striking out "the individual" in paragraph (1) and inserting in lieu thereof "the provider".

(E) by striking out the third sentence of subsection (a);

(F) by striking out subsection (b);

(G) by striking out subsection (c);

(H) by amending subsection (d) to read as follows:

"(d) No payment may be made under this part to any Federal health care provider of services or other Federal agency administered by or under the control of the Department of Defense or the Veterans Administration or, with respect to services provided to a member of a uniformed service on active duty (or a member of the member's family), of the Public Health Service; and no such payment may be made to any provider of services or other person for any item or service which such provider or person is obligated by a law of, or a contract with, the United States to render at public expense."; and

(I) by striking out subsection (e).

(d) REPEAL OF REASONABLE COST.—

(1) REPEAL.—Subsection (v) of section 1861 is repealed.

(2) CONFORMING AMENDMENTS.—

(A) SECTION 1870.—Section 1870 is amended—

(i) by striking out subsections (a) through (f); and

(ii) by amending subsection (g)—

(I) by striking out "(g)"

(II) by striking out "under section 1818 (c) of the Social Security Act or under section 1837" and inserting in lieu thereof "under this title";

(III) by striking out "in the priorities specified in paragraphs (2) through (7) of subsection (e)" and inserting in lieu thereof "in such priorities as the National Health Board may establish".

(B) SECTION 505.—Paragraph (6) of section 505(a) is amended to read as follows:

"(6) provides for payment for inpatient hospital services in amounts determined in accordance with part B of title III of the Health Care for All Americans Act;".

(e) CONFORMING AMENDMENTS.—

(1) SECTIONS 3, 403, 1003, 1403, 1603.—Sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) are each amended by striking out "(including expenditures" and all that follows through "or the cost thereof" in paragraph (1) before subparagraph (A) and in paragraph (2).

(2) SECTION 1861(e).—Section 1861(e) is amended—

(A) by striking out "sections 1814(d), 1814(f) and 1835(b)" in the first sentence and inserting in lieu thereof "section 1814(f)";

(B) by striking out "section 1814(d)" and all that follows through "and subsections (i)" in the third sentence and inserting in lieu thereof "section 1814(f)(2) and subsections (i)"; and

(C) by striking out "sections 1814(d), 1814(f)(2), and 1835(b)" in the fourth sentence and inserting in lieu thereof "section 1814(f)(2)".

(3) SECTION 1861(s).—The second sentence of section 1861(s) is amended by striking out "section 1814(d)" and inserting in lieu thereof "section 1814(f)(2)".

SEC. 629. CONTRACTS FOR THE ADMINISTRATION OF BENEFITS.

(a) HEADING.—The heading to section 1842 is amended by striking out "CARRIERS" and inserting instead "PUBLIC AND PRIVATE ENTITIES".

(b) SUBSECTION (a).—

(1) STANDARDS.—The matter in subsection (a) of that section preceding paragraph (1) is amended—

(A) by striking out "under this part" the first two places it appears and inserting in lieu thereof "under this title";

(B) by striking out "and with a view to further in coordination of the administration of the benefits under part A and under this part,";

(C) by striking out "carriers, including carriers with which agreements under section 1816 are in effect," and inserting instead "public and private entities"; and

(D) by striking out the semicolon and all that follows up to the colon.

(2) FUNCTIONS.—Such section is further amended—

(A) by inserting "(subject to such review by the Secretary as may be provided for by the contract)" in paragraph (1)(A) after "determinations";

(B) by striking out "this part" each place it appears and inserting in lieu thereof "this title";

(C) by striking out "on a reasonable cost or reasonable charge basis (as may be applicable)" in paragraph (1)(A);

(D) by striking out "and" at the end of paragraph (3);

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following new paragraph:

"(4) provide consultative services to entities furnishing health services to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to become or remain eligible for payments under this title; and".

(c) SUBSECTION (b).—

(1) COMPETITIVE BIDDING.—Subsection (b) of such section is amended by striking out paragraph (1).

(2) TERMINOLOGY.—Such subsection is amended by striking out "carrier" each place it appears and inserting in lieu thereof "entity".

(3) CARRIER CONTRACTS.—Paragraph (3) of such subsection is amended—

(A) by inserting ", as appropriate," in the matter preceding paragraph (A) after "provide";

(B) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) will take such action as may be necessary to assure that payments will be made under this title for services in a manner consistent with the provisons of part B of title III of the Health Care for All Americans Act;

"(B) will notify each individual on whose behalf a payment has been made under this title of the fact and service or benefit with respect to which the payment was made;";

(C) by striking out "this part" in subparagraph (C) each place it appears and inserting in lieu thereof "this title";

(D) by striking out "part" in subparagraphs (D) and (E) and inserting in lieu thereof "title";

(E) by inserting "(and to its claims processing operations)" in subparagraph (E) after "thereto";

(F) by striking out the second, third, and fourth sentences and all that follows the fifth sentence;

(G) by striking out "fiscal intermediary," in the fifth sentence; and

(H) by striking out "Department of Health, Education, and Welfare" in the fifth sentence and inserting in lieu thereof "National Health Board".

(4) USE OF FACTORS.—Paragraph (5) of such subsection is amended—

(A) by inserting "or pursuant to a qualified health plan under the Health Care for All Americans Act" after "under this part";

(B) by striking out "(except as provided in section 1870)";

(C) by striking out "such individual or (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3))";

(D) by striking out "(pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3))" the second place it appears;

(E) by striking out "an assignment from the individual to whom the service was provided or"; and

(F) by striking out "assignment or".

(d) SUBSECTION (c).—Subsection (c) of such section is amended to read as follows:

"(c) Any contract entered into with an entity under this section may provide for advances of funds to the entity for the making of payments by it under this title.".

(e) SUBSECTION (d).—Subsection (d) of such section is amended—

(1) by striking out "carrier" each place it appears and inserting in lieu thereof "entity", and

(2) by striking out "surety" and inserting in lieu thereof "fidelity".

(f) SUBSECTION (e).—Subsection (e)(3) of such section is amended by striking out "carrier" and inserting in lieu thereof "entity".

(g) SUBSECTION (f).—Subsection (f) of such section is repealed.

(h) SUBSECTION (g).—Subsection (g) of such section is repealed.

(i) REDESIGNATION.—Such section, as amended by this section, is redesignated as section 1868 and inserted into part C of title XVIII of the Social Security Act after section 1867.

(j) REPEAL OF FISCAL INTERMEDIARY PROVISION.—Section 1816 is repealed.

(k) CONFORMING AMENDMENTS.—

(1) SECTIONS 506(f)(1) AND 1903(i)(1).—Sections 506(f)(1) and 1903(i)(1) are each amended by striking out "under the fourth and fifth sentences of section 1842(b)(3)" and inserting in lieu thereof "under part B of title III of the Health Care for All Americans Act".

(2) SECTION 1106(d)(1).—Section 1106(d)(1) is amended by striking out "carriers, intermediaries," and inserting in lieu thereof "entities with an agreement under section 1868".

(3) SECTION 1124(a)(2)(C).—Subparagraph (C) of section 1124(a)(2) is amended to read as follows:

"(C) an entity that is acting as a fiscal intermediary with respect to one or more providers (for purposes of title XVIII or title XIX) pursuant to (i) an agreement under section 1868, or (ii) an agreement with a single State agency administering or supervising the administration of a State plan under title XIX; or".

(4) SECTION 1158(c).—Section 1158(c) is amended by striking out "agencies and organizations" and all that follows through "section 1842" and inserting in lieu thereof "entities which are parties to contracts entered into by the National Health Board pursuant to section 1868".

(5) SECTION 1165(a).—Section 1165(a) is amended by striking out "agencies and organizations and all that follows through "section 1842, and (3)" and inserting in lieu thereof "entities which are parties to contracts entered into by the National Health Board pursuant to section 1868, and (2)".

(6) SECTION 1841(i).—Section 1841(i) is amended by striking out "1842(g)" and inserting in lieu thereof "1868(g)".

(7) SECTION 1866(a)(1)(D).—Section 1866(a)(1)(D) is amended by striking out "fiscal intermediary or carrier (for purposes of part A or part B, of both, of this title)" and inserting in lieu thereof "contracting entity under section 1868".

(8) SECTION 1877(d).—Subsection (d) of section 1877 is amended to read as follows:

"(d) Whoever is a participating provider under this title or under the Health Care for All Americans Act and provides covered health-care services under this title or such Act and who knowingly, willfully, and repeatedly violates the term of the agreement of subparagraph (A), (B), or (C) of section 1866(a)(1), shall be fined not more than $2,000, imprisoned for not more than six months, or both.".

(9) SECTION 1879.—Section 1879 is amended—

(A) by striking out "pursuant to an assignment under section 1842(b)(3)(B)(ii)" in subsection (a)(1), and

(B) by striking out "1842(b)(3)(C)" in subsection (d) and inserting in lieu thereof "1868(b)(3)(C)".

(l) TRANSITIONAL PROVISION.—Contracts with entities under section 1868 of the Social Security Act may be entered into during the five-year period beginning with the date of the enactment of this Act without regard to section 3709 of the Revised Statutes or any other provision of law requiring bidding.

Subpart V—Taxes, Trust Funds, and Premiums

SEC. 633. HOSPITAL INSURANCE TAX AND PREMIUMS FOR MEDICARE-ELIGIBLE INDIVIDUALS.

(a) REVISION OF HOSPITAL INSURANCE TAX.—

(1) SECTION 3101.—Section 3101(b) of the Internal Revenue Code of 1954, relating to rate of hospital insurance tax on employers, is amended by striking "employment (as defined in section 3121(b))" and inserting in lieu thereof "medicare employment (as defined in section 3121(u))".

(2) SECTION 3111.—Section 3111(b) of such Code, relating to rate of hospital insurance tax on employees, is amended by striking out "employment (as defined in section 3121(b))" and inserting in lieu thereof "medicare employment (as defined in section 3121(u))".

(3) SECTION 3121.—Section 3121 of such Code is amended by adding after subsection (t) the following new subsection:

"(u) MEDICARE EMPLOYMENT.—For purposes of section 3101(b) and 3111(b), the term 'medicare employment' means employment, as defined in subsection (b), except that the exclusions contained in—

"(1) paragraphs (5) and (6), relating to service performed for the United States or instrumentalities,

"(2) paragraph (7), relating to service performed for States and instrumentalities,

"(3) paragraph (8), relating to service performed for charitable organizations,

"(4) paragraph (9), relating to service performed by certain employee representatives,

"(5) paragraphs (10) and (13), relating to service performed by certain students, and

"(6) paragraph (17), relating to service performed for certain organizations,

shall not be applied.".

(b) TRUST FUND CHANGES.—

(1) PART A TRUST FUND.—Section 1817 is amended—

(A) by adding at the end of subsection (a) the following new sentence: "There shall be deposited into the Trust Fund payments, described in section 101(b)(1)(B) of the Health Care for All Americans Act, made by foreign governments and international organizations.";

(B) by striking out "Secretary of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Chairman of the National Health Board";

(C) by striking out "Administrator of the Health Care Financing Administration" in subsection (b) and inserting in lieu thereof "Chairman of the National Health Board, or his designee"; and

(D) by striking out subsection (g).

(2) PART B TRUST FUND.—Section 1841 is amended—

(A) by striking out "Secretary of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Chairman of the National Health Board";

(B) by striking out "Administrator of the Health Care Financing Administration" in subsection (b) and inserting in lieu thereof "Chairman of the National Health Board, or his designee"; and

(C) by striking out subsection (f).

(c) PART B PREMIUMS AND MANDATORY ENROLLMENT.—

(1) SECTION 1839.—Section 1839 is amended by striking out subsections (d) and (f).

(2) SECTION 1840.—

(A) SUBSECTION (c).—Subsection (c) of section 1840 is amended—

(i) by inserting "(1)" after "(c)";

(ii) by striking out "may" and inserting in lieu thereof "shall";

(iii) by striking out "such portion of the monthly premiums for such period as he desires" and inserting in lieu thereof "the remaining portion of the monthly premiums for such period in such manner as the National Health Board may specify"; and

(iv) by adding at the end the following new paragraph:

"(2) In the case of an individual who is entitled to benefits under this title and is an SSI-eligible individual (as defined in the Health Care for All Americans Act), monthly premiums payable with respect to the individual shall be paid by the Secretary of the Treasury from any moneys in the Treasury not otherwise appropriated.".

(B) SUBSECTION (h).—Such section is amended by striking out subsection (h).

Subpart VI—Miscellaneous Medicare and Other Social Security Act Amendments

SEC. 635. MISCELLANEOUS MEDICARE AMENDMENTS.

(a) DEFINITION OF PROVIDER OF SERVICES.—Section 1861(u) is amended by striking out "or, for purposes of section 1814(g) and section 1835(e), a fund" and inserting in lieu thereof "health clinic, or such other institutional provider as the National Health Board may provide by regulation".

(b) REPEAL OF CERTAIN SECTIONS.—Sections 1867 and 1869 are repealed.

(c) SECTION 1872.—The text of section 1872 is amended to read as follows:

"SEC. 1872. The provisions of section 216 (j) and of subsections (a), (d), (e), and (1) of section 205, shall also apply with respect to this title and to the Health Care for All Americans Act to the same extent as they are applicable with respect to title II, except that any reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare shall, for such purposes, be deemed a reference to the National Health Board.".

(d) SECTION 1874.—Section 1874 is amended—

(1) by striking out "Secretary" in subsection (b) and inserting in lieu thereof "Chairman of the National Health Board", and

(2) by striking out "the Secretary" in subsection (c) and inserting in lieu thereof "each member of the National Health Board".

(e) SECTION 1875.—Section 1875 is amended—

(1) by striking out "programs under parts A and B;" in subsection (a) and inserting in lieu thereof "program under this title; and",

(2) by striking out "; and (3)" and all that follows through the end of subsection (a) and inserting in lieu thereof a period, and

(3) by striking out "programs under parts A and B" in subsection (b) and inserting in lieu thereof "program under this title".

(f) SECTION 1877.—Section 1877 is amended—

(1) by inserting "or pursuant to the Health Care for All Americans Act" after "under this title" in subsection (a)(1);

(2) by inserting "or such Act" after "under this title" in clause (i) of subsection (a);

(3) by inserting "or pursuant to the Health Care for All Americans Act" after "under this title" in subsections (b)(1)(A) and (b)(2)(A);

(4) by inserting "or such Act" after "under this title" in subsections (b)(1)(B) and (b)(2)(B);

(5) by inserting "or pursuant to the Health Care for All Americans Act" after "under this title" the first place it appears in subsection (b)(3)(A);

(6) by inserting "or such Act" after "under this title" the second place it appears in subsection (b)(3)(A); and

(7) by striking out "or home health agency" in subsection (c) and inserting in lieu thereof "home health agency, health clinic, community mental health center or other qualified provider".

(g) SECTION 1879.—Section 1879 is amended—

(1) by striking out "under part A or part B of this title" in subsection (a)(1) and inserting in lieu thereof "under this title or under a qualified health plan under the Health Care for All Americans Act";

(2) by striking out "by a provider of services or by another person" in subsection (a)(1) and inserting in lieu thereof "by a participating provider of health services";

(3) by striking out "part A or part B" in subsection (a)(2) and inserting in lieu thereof "this title or such a plan";

(4) by inserting "or under such Act" in subsection (a) after "permitted by this title";

(5) by inserting "or such Act" in subsection (a) after "objectives of this title";

(6) by striking out "the Secretary" in subsection (a) and inserting in lieu thereof "the National Health Board or, in the case of such Act, the participating insurer";

(7) by striking out "such part A or part B" in subsection (b) and inserting in lieu thereof "this title or pursuant to such Act";

(8) by striking out "then the Secretary" in subsection (b) and inserting in lieu thereof "then the National Health Board or, in the case of such Act, the participating insurer";

(9) by striking out ", subject to the deductible and coinsurance provisions of this title," in subsection (b);

(10) by striking out "by the Secretary" in subsection (b) and inserting in lieu thereof "by the National Health Board or the participating insurer";

(11) by striking out "case the Secretary" in subsection (b) and inserting in lieu thereof "case the National Health Board or such insurer";

(12) by striking out "he" in subsection (b) and inserting in lieu thereof "it";

(13) by inserting "and no payments need be made under a qualified health plan under such Act" in subsection (c) after "under this title";

(14) by striking out "under part A or part B" in subsection (c) and inserting in lieu thereof "under this title or under such Act"; and

(15) by striking out "under section 1869 (b)" in subsection (d) and all that follows through "under part (b)" and inserting in lieu thereof "under section 1868(b)(3)(C)".

(h) SECTION 1880.—Section 1880 is amended—

(1) by striking out subsection (a),

(2) by striking out "Notwithstanding subsection (a), a" in subsection (b) and inserting in lieu thereof "A", and

(3) by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(i) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) SECTION 202.—Subsections (t)(9), (u)(1), and (v) of section 202 are amended by striking out "part A of" each place it appears.

(2) SECTION 1131.—Section 1131(a)(1) is amended (A) by inserting "or" at the end of subparagraph (A), and (B) by striking out subparagraph (B).

(3) SECTION 1861. — Section 1861 is amended—

(A) by striking out "hospital insurance benefits under part A" in subsection (f)(3) and inserting in lieu thereof "health insurance benefits under this title", and

(B) by striking out "part A" in subsection (g)(3) and inserting in lieu thereof "this title".

SEC. 636. RESIDUAL MEDICAID PROGRAM.

(a) FEDERAL GUARANTEE AND ELIMINATION OF FEDERAL GRANTS-IN-AID.—Section 1903 is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) subject to subsection (e), an amount equal to the excess State payments (as defined in subsection (e)(2)) made during the quarter; plus";

(2) by striking out "75 per centum" in subsection (a)(2) and inserting in lieu thereof "90 per centum";

(3) by striking out "75 per centum" in subsection (a)(3)(B) and inserting in lieu thereof "90 per centum";

(4) by striking out paragrah (5) of subsection (a);

(5) by striking out "50 per centum" in subsection (a)(7) and inserting in lieu thereof "90 per centum"; and

(6) by inserting after subsection (d) the following new subsection:

"(e)(1) For purposes of subsection (a)(1), the term 'excess payments' means, for a quarter, the amount by which—

"(A) the sum of (i) the expenditures of the State (excluding Federal expenditures) under the State plan approved under this title with respect to care and services which were available under the plan for a period of not less than two years before January 1 of the first effective year (as defined in paragraph (2)(A)) and (ii) the State's expenditures for premiums under section 346 of the Health Care for All Americans Act on behalf of AFDC-eligible individuals (as defined in paragraph (2)(B)),

for the quarter exceeds—

"(B) the product of (i) the expenditures of such State (excluding Federal expenditures and expenditures for premiums under section 636(b) of the Health Care for All Americans Act) under the State plan under this title for the quarter ending on the day before the first effective year, and (ii) a factor for growth (determined under paragraph (2)(C)).

"(2) For purposes of paragraph (1):

"(A) The term 'first effective year' means, as defined in section 4(a)(7) of the Health Care for All Americans Act, the first year in which health care benefits are provided under such Act.

"(B) The term 'AFDC-eligible individual' means an AFDC-eligible individual (as defined in section 4(b)(1) of the Health Care for All Americans Act) who is enrolled in a qualified health plan, and includes such members of the individual's family as are enrolled with the individual under such plan.

"(C) The term 'factor for growth' means, for a quarter, the ratio of the total anticipated expenditures under the Annual Budget (under the Health Care for All Americans Act) of the National Health Board with respect to that quarter over the total anticipated expenditures under such budget for the quarter beginning on January 1 of the first effective year.".

(b) TEMPORARY MEDICAL ASSISTANCE.—There shall be treated as medical assistance provided under a State plan approved under title XIX of the Social Security Act payments of the State for group-rated premiums un-

der section 345 of this Act for the month of December of the year before the first effective year.

(c) ADDITIONAL PLAN REQUIREMENTS.—Section 1902(a) is amended—

(1) by striking out "either pursuant" and all that follows through "or similar charges under part B of title XVIII for individuals eligible for benefits under such part," in clause (II) of paragraph (10) and inserting in lieu thereof "by reason of the payment of premiums under such part by the State agency on behalf of such individuals";

(2) by amending paragraph (13) to read as follows:

"(13) provide—

"(A) for the inclusion of such care and services (other than covered health-care services provided pursuant to qualified health plans under the Health Care for All Americans Act) in such amount, duration, and scope as either (i) were covered under the plan as in effect in the quarter before the first effective year (as defined in section 1903(e)(3)(A)), or (ii) are specified in regulations established by the National Health Board,

"(B) for the payment of premiums, under section 345 of such Act, with respect to AFDC-eligible individuals and residents of State institutions who are enrolled in a qualified health plan under such Act; and

"(C) for the payment of hospitals, skilled nursing facilities and intermediate care facilities, and other institutional providers (as defined in the Health Care for All Americans Act) in such manner, consistent with the method established under section 321 of such Act, as the National Health Board may establish;";

(3) by amending paragraph (14) to read as follows:

"(14) provide that enrollment fees, premiums, deductions, cost sharing or similar charges may only be imposed under the plan in the case of such individuals and in such amounts as the National Health Board permits by regulation;";

(4) by striking out paragraph (15);

(5) by striking out "as provided for in section 1903(i)(4)" in paragraph (30);

(6) by striking out "and" at the end of paragraph (39);

(7) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and";

(8) by inserting after paragraph (40) the following new paragraph:

"(41) meet such other standards, including standards relating to quality of care and services provided pursuant to the plan and reimbursement of providers for care and services provided under the plan, as the National Health Board may establish by regulation."; and

(9) by striking out "and of section 1903(i)(4)," in the next to last paragraph.

(d) OTHER CHANGES.—Title XIX is further amended—

(1) by striking out "hospital insurance benefits" in section 1903(b)(1) and inserting in lieu thereof "health insurance benefits";

(2) by striking out subsection (i) of section 1903;

(3) by amending subsection (m) of section 1903 to read as follows:

"(m) The term 'health maintenance organization' means a participating health maintenance organization under the Health Care for All Americans Act.";

(4) by inserting ", other than basic covered health-care services under the Health Care for All Americans Act," in section 1905(a) after "the following care and services";

(5) by striking out "rural" each place it appears in subsection (a)(2)(B) and (1) of section 1905; and

(6) by striking out "RURAL" in the heading to section 1910 and "rural" in subsection (b) of such section.

(e) STATES NOT PARTICIPATING IN MEDICAID PROGRAM.—In the case of any State that does not have a plan approved under title XIX of the Social Security Act, the National Health Board shall require that as a condition for the State's receipt of any funds from the Health Resources Distribution Fund or under title IV of the Social Security Act in the State, that the State must enter into an agreement with the National Health Board under which—

(1) the State agrees to pay premiums, under section 345 of the Health Care for All Americans Act, with respect to AFDC-eligible individuals and residents of State institutions who are enrolled in a qualified health plan under section 116(b) of such Act; and

(2) the National Health Board agrees to provide financial assistance to the State in a manner comparable to that provided under section 1903(a)(1) of the Social Security Act to States with plans approved under such title.

SEC. 637. PART A OF TITLE XI.

(a) SECTION 1121.—Section 1121 is amended by inserting "or under the Health Care for All Americans Act" in subsection (a) after "under this Act".

(b) SECTION 1122.—

(1) REPEAL.—Section 1122 is repealed.

(2) CONFORMING AMENDMENTS.—

(A) TITLE V.—Title V is amended—

(i) by striking out "section 1122" in sections 505(a)(6) and 509(a) and inserting in lieu thereof "the Health Care for All Americans Act"; and

(ii) by striking out subsection (g) of section 506.

(B) TITLE XIX.—Title XIX is amended—

(i) by striking out "section 1122" in section 1902(a)(13)(D) and inserting in lieu thereof "the Health Care for All Americans Act", and

(ii) by striking out paragraph (2) of section 1903(b).

(c) SECTION 1123.—Section 1123 is repealed.

(d) SECTION 1124.—Section 1124 is amended—

(1) by inserting "or under the Health Care for All Americans Act" in subsection (a)(1) after "XX" each place it appears;

(2) by striking out "or" at the end of subparagraph (C) of subsection (a)(2);

(3) by striking out the period at the end of subparagraph (D) of subsection (a)(2) and inserting in lieu thereof "; or"; and

(4) by inserting after subparagraph (D) of subsection (a)(2) the following new subparagraph:

"(E) a participating insurer or a consortium under the Health Care for All Americans Act.".

(e) SECTION 1126.—Section 1126(a) is amended—

(1) by inserting "or under the Health Care for All Americans Act" after "XX" each place it appears; and

(2) by striking out "in the Department of Health, Education, and Welfare" and inserting in lieu thereof "of the National Health Board".

SEC. 638. TREATMENT OF CERTAIN PREMIUM PAYMENTS UNDER SSI AND AFDC PROGRAMS.

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) any health premiums paid, pursuant to the Health Care for all Americans Act, by or on behalf of the individual (or his spouse).".

(b) AFDC PROGRAM.—Section 402(a) is amended—

(1) by striking out "and" at the end of paragraph (8)(A)(i);

(2) by striking out "; and" at the end of paragraph (8)(A)(ii) and inserting in lieu thereof ", and";

(3) by inserting after clause (ii) of paragraph (8)(A) the following new clause:

"(iii) any health premiums paid, pursuant to the Health Care for All Americans Act, by or on behalf of any of the persons specified in clause (ii); and";

(4) by striking out "and" at the end of paragraph (28);

(5) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(6) by adding after paragraph (29) the following new paragraph:

"(30) provide for payment by the State of premiums due, under section 345 of the Health Care for All Americans Act, with respect to State enrollees in the State.".

PART C—MISCELLANEOUS AMENDMENTS TO OTHER ACTS

SEC. 641. AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.

(a) MEDICAL EXPENSE DEDUCTION.—

(1) IN GENERAL.—Subsection (a) section 213 of the Internal Revenue Code of 1954 (relating to itemized deductions for medical, dental, etc., expenses) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the amount, not compensated for by insurance or otherwise, by which the amount of the expenses paid during the taxable year for medical care of the taxpayer, his spouse, and dependents (as defined in section 152) exceeds 3 percent of the adjusted gross income."

(2) CONFORMING AMENDMENTS.—Paragraph (1) of section 213(e) of such Code is amended—

(A) by inserting "or" at the end of subparagraph (A);

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

(C) by striking out subparagraph (C).

(b) EMPLOYER CREDIT FOR EXCESS HEALTH INSURANCE EXPENSES.—

(1) CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. EXCESS HEALTH INSURANCE CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an impacted employer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the amount of the impacted employer credit for the calendar year ending in the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) IMPACTED EMPLOYER.—The term 'impacted employer' means any employer—

"(A) for which a certification is in effect under section 341(b) of the Health Care for All Americans Act for the calendar year which ends in the taxable year, and

"(B) which is not exempt from tax under this subtitle.

"(2) IMPACTED EMPLOYER CREDIT.—The term 'impacted employer credit' means the amount determined under section 341(b) of such Act for such calendar year.

"(c) SPECIAL RULES.—For purposes of computing the impacted employer credit under section 341(b) of the Health Care for All Americans Act—

"(1) CONTROLLED GROUP OF CORPORATIONS.—All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case the credit (if any) allowable under subsection (a), to each such member shall be its proportionate contribution to the incremental increase in health employee costs giving rise to such credit. For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(2) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations established by the National Health Board—

"(A) all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

"(B) the credit (if any) allowable by subsection (a) with respect to each trade or business shall be its proportionate contribution to the health insurance premiums giving rise to such credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of paragraph (1).

"(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS, ETC.—Under regulations prescribed by the National Health Board—

"(A) ACQUISITIONS.—If, after the base year, an employer acquires the major portion of a trade or business of another person (hereinafter in this subparagraph referred to as the 'predecessor') or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying subsection (a) for any calendar year ending after such acquisition, the amount of the health insurance premiums deemed paid and the number of full-time equivalent employees employed by the employer during periods before such acquisition shall be increased by so much of such premiums paid and full-time equivalent employees employed by the predecessor with respect to the acquired trade or business as is attributable to the portion of such trade or business acquired by the employer.

"(B) DISPOSITIONS.—If, after the base year—

"(i) an employer disposes of the major portion of any trade or business of the employer or the major portion of a separate unit of a trade or business of the employer in a transaction to which subparagraph (A) applies, and

"(ii) the employer furnishes the acquiring person such information as is necessary for the application of subparagraph (A),

then, for purposes of applying subsection (a) for any calendar year ending after such disposition, the amount of the health insurance premiums deemed paid and the number of full-time equivalent employees employed by the employer during periods before such disposition shall be decreased by so much of such premiums paid and full-time equivalent employees employed as is attributable to such trade or business or separate unit.

"(4) CHANGE IN STATUS FROM SELF-EMPLOYED TO EMPLOYEE.—If—

"(A) during the base year an individual has net earning from self-employment (as defined in section 1402(a)) which are attributable to a trade or business, and

"(B) for any portion of a succeeding calendar year the individual is an employee of such trade or business,

then, for purposes of determining the credit allowable for a taxable year ending in such succeeding year, the employer's aggregate health care premiums and the number of full-time employee equivalents shall be increased by the amount of such premiums and such employees in such base year.

"(5) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation (as defined in section 1371)—

"(A) the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

"(B) any person to whom an amount is apportioned under subparagraph (A) shall be allowed a credit under subsection (a) for such amount.

"(6) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(A) the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each, and

"(B) any beneficiary to whom an amount is apportioned under subparagraph (A) shall be allowed a credit under subsection (a) for such amount.

"(d) APPLICATION OF SECTION.—This section shall apply to taxable years which begin during the period of 3 calendar years beginning with the first calendar year in which health-care benefits are provided under the Health Care for All Americans Act."

(2) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 44C the following:

"Sec. 44D. Excess health insurance credit.".

(3) REFUNDABLE CREDIT AMENDMENT.—

(A) SECTION 6401.—Subsection (b) of section 6401 of such Code (relating to excessive credits treated as overpayments) is amended—

(i) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to excess health insurance credit)", and

(ii) by striking out "39, and 43" and inserting in lieu thereof "39, 43, and 44D".

(B) SECTION 55.—Paragraph (2) of section 55(a) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof", 43, and 44D".

(C) SECTION 56.—Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(D) SECTION 6201.—Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or 44D (relating to excess health insurance credit)".

(E) SECTION 882.—Paragraph (2) of section 882(c) of such Code (relating to tax on income of foreign corporations connected with United States business) is amended by striking out "or the credit" and inserting in lieu thereof ", the credit" and by inserting before the period ", or the credit provided by section 44D for excess health insurance expenses".

SEC. 642. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) SERVICE REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS.—Section 1301(b)(1) of the Public Health Service Act is amended—

(1) by inserting "and" before "(C)" in the first sentence,

(2) by inserting a period after "community rating system" in the first sentence and striking out the remainder of that sentence, and

(3) by striking out the second sentence.

(b) ORGANIZATIONAL REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS.—Section 1301 of the Public Health Service Act is amended—

(1) by striking out "the provisions of subsection (d)" in paragraph (4) of subsection (c) and inserting in lieu thereof "title I of the Health Care for All Americans Act";

(2) by amending paragraph (6) of subsection (c) to read as follows:

"(6) have an advisory board—

"(A) to the policymaking body of the health maintenance organization, or

"(B) in the case of a public health maintenance organization, to the policymaking body of the public entity operating the organization,

which advisory board is organized in such a manner that at least one-third of the membership of the board will be members of the health maintenance organization and that there will be equitable representation on the board of members from medically underserved populations served by organization, and to which advisory board may be delegated policymaking authority for the organization;";

(3) by striking out paragraph (9) of subsection (c) and

(4) by striking out subsection (d).

(c) DEFINITION OF BASIC AND SUPPLEMENTAL HEALTH SERVICES.—Section 1302 of the Public Health Service Act is amended—

(1) by striking out the first five sentences of paragraph (1) and inserting in lieu thereof the following: "The term 'basic health services' means basic covered health-care services, as described in part A of title II of the Health Care for All Americans Act.";

(2) by inserting before the semicolon in paragraph (2)(A) the following: "not included as a basic health service";

(3) by striking out "under paragraph (1)(D)" in paragraph (2)(D); and

(4) by striking out "and" at the end of subparagraph (F) of paragraph (2), by redesignating subparagraph (G) of such paragraph as subparagraph (J), and by inserting after subparagraph (F) of such subparagraph the following new subparagraphs:

"(G) treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol or other drugs, not included as a basic health service;

"(H) home health services not included as a basic health service;

"(I) preventive health services not included as a basic health service; and".

(d) EMPLOYEES' HEALTH BENEFITS PLANS.—

(1) REPEAL OF SECTION 1310.—Section 1310 of the Public Health Service Act is repealed.

(2) CONFORMING AMENDMENTS.—

(A) SECTION 1302.—Section 1302 of such Act is amended by adding after paragraph (9) the following new paragraph:

"(10) The 'qualified health maintenance organization' means (A) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b) and that it is organized in the manner prescribed by section 1301(c), and (B) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and

operated in the manner prescribed by section 1301(c).".

(B) SECTION 1311.—Subsections (a)(2) and (b) of section 1311 of such Act are each amended by striking out "for purposes of section 1310 (relating to employees' health benefits plans)".

(C) SECTION 1312.—Section 1312 of such Act is amended (i) by striking out "or which was included in a health benefits plan offered to employees pursuant to section 1310" in subsection (a), (ii) by striking out subsection (b)(1), and (iii) by striking out "(2)" in subsection (b) and inserting in lieu thereof "(b)".

(D) SECTION 1315.—Paragraph (1) of section 1315(a) of such Act is amended by striking out "and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 1310".

(E) SECTION 1316.—Section 1316 of such Act is amended by striking out "sections 1310 and 1312" and inserting in lieu thereof "section 1312".

EXHIBIT 2

SUMMARY OF HEALTH CARE FOR ALL AMERICANS ACT

INTRODUCTION

This proposed new national law has been developed using the social insurance principles that were embodied in the Health Security Act and supported by a broad coalition of institutions, including labor unions, health providers, religious organizations, social agencies, and others. The Health Care for All Americans Act proposes to implement these social insurance principles through private insurers, rather than government. This new act proposes, indeed, a progressively financed comprehensive health insurance program for all Americans using government-regulated private insurance.

Major features of this program include:

Income-related premiums.

Maximum on premium payments of individuals equal to the value of the protection received (most individuals will pay considerably less).

Limits on the rise in health costs through budget controls and reimbursement reforms.

Fair, negotiated, reimbursement rates.

Incentives to individuals, insurers, States, and providers to keep down rates.

The redress, over time, of the maldistribution of resources.

Reform of Medicaid, eliminating the means tests as a condition of eligibility for covered benefits.

Retention and improvement of Medicare.

The Health Care for All Americans Act would rely heavily on private health insurers, health care providers, employers, unions, and the American consumer. Most of the costs of the improved insurance coverage and most of the administrative responsibility is left with these private institutions and individuals, and outside of government.

The government's role is to guarantee that every American is provided comprehensive health insurance coverage, and to assure that private institutions work to make good health care available to every American at costs that the individual, employers, the taxpayer, and the Nation can afford to pay. The government performs these roles by presiding over negotiations on private insurance premiums and doctor and hospital payments, by regulating private insurers and setting budgetary limits on total health care costs, and by encouraging competition. Finally, the Federal Government would operate an improved Medicare program covering all elderly and disabled Americans, and States would operate a residual, reformed Medicaid program.

This proposed new law, in short, proposes to implement Health Security principles by building on the best in both private institutions and government. The new Federal costs for this broad program, with no deductibles and coinsurance, would approximate $30 billion when implemented in 1983.

SUMMARY

This national health insurance plan is designed to assure every American choices among the best health plans our Nation has to offer and free choice of provider of health care at a cost that employers, individuals, and government can afford to pay.

1. The plan preserves and builds on the best in private health insurance and health care.

Private health insurance carriers and HMOs would be a mainstay of the program. They would be called on to provide insurance plans which meet or surpass Federal standards and to administer the insurance according to insuring practices now in use. The benefit standards for the insurance program would be modeled after the best private plans now available through employers and labor unions, without deductibles and coinsurance. Under this plan insurers and HMOs would be able to compete for business, both on the basis of their efficiency and service to customers and on the basis of the range of benefits they offer above the standard benefits or the actual price of their program for the employee or individual. Employers and unions would continue as at present to negotiate with insurers and HMOs for the best possible plan and pay premiums to these insurers. Individuals who are not employed, including those currently on Medicaid programs, would also be provided choices among the same insurers.

The program depends on private doctors, hospitals, health centers, and other health care practitioners to provide the care it covers. In return for caring for the program's beneficiaries, providers would be guaranteed fair payment from the participating private insurers, HMO's, or Medicare. Doctors, hospitals, and other providers would be parties to negotiations to establish fair budgets and fees in every State or area. Negotiations would also relate to improvement in the accessibility, efficiency, and quality of care.

2. The plan preserves and strengthens the medicare program for the elderly and disabled—and reforms Medicaid.

Medicare would be extended to all Americans over 65 or disabled and would be improved to include the same broad coverages as the standard private insurance plan, with no deductibles and coinsurance. In addition, Medicare and private insurance plans would operate identically in how they pay doctors, hospitals, and other providers, and how they administer their activities. Medicare eligibles would receive additional benefits beyond those covered for the general population.

The private health insurance plan of their choice would be provided to people formerly on Medicaid, including all people who receive Supplemental Security Income. No means test would have to be met any longer by any American to receive these private insurance benefits. The Medicaid program would be reduced to residual State programs to provide service not covered by the private insurance plan.

3. The plan assures freedom of choice.

Employers, unions, and individuals would have the freedom to choose their private insurer or HMO, and to choose their physicians. Medicare eligibles also would enjoy a broadened choice of HMOs or other health care arrangements. Most Americans could choose the same insurer, HMO, or physician they have today, but would find other options open to them—if they want to change—as the program develops.

Likewise, insurers and health care providers would be free to participate in the program or not, and to choose their styles and place of practice or business. Through four national consortia, insurers and HMOs would regulate their own affairs within broad Federal regulations. Through elected representatives, doctors and hospitals would negotiate fees, budgets, and other provider concerns under the plan.

The basic rules of the plan, such as requiring everyone not eligible for Medicare to choose insurance coverage, requiring payment of income-related premiums, requiring participating physicians to accept plan fee payments as payment in full for all patients, and requiring open enrollment and community rating by insurers, are necessary to assure that all Americans are provided full insurance coverage and quality health care. Most restrictions in the plan, such as those resulting from yearly limits on national, state, and area expenditures for health care, maximum doctor fees and hospital budgets, and community insurance rates would be based on good faith negotiations among providers, insurers, employers/unions, consumers, and government aimed at assuring good health care for all, at reasonable costs with fair payment to providers.

4. Every American could choose the best in private insurance or HMO plans, privately or through Medicare in the case of the aged and disabled, regardless of whether he is employed, whether he is part-time or full-time what his health status may be, or any other factor.

All employers must contribute toward a plan meeting at least the Federal standard for all of their employees. Self-employed and non-employed individuals would enroll in these same plans and pay a premium related to their incomes. Individuals would enroll or change enrollment with the insurer or HMO of their choice during an annual open enrollment season. No one could be turned away or charged more than the premium set by law. People who change jobs or are unemployed might stay with their same insurer or elect a new one, but their coverage would never stop.

Government agencies would help small employees and individuals shop for insurance and enroll in the plan of their choice.

Finally, no one can ever be deprived of their right to insurance. Even if individuals default on their premiums, the insurance continues, with bad debts paid to insurers by government and collected through the existing government system for collecting amounts owed to it.

5. All Americans would be guaranteed that their doctors or hospitals would be paid in full by insurance for covered health services—from birth to death—with no gaps between jobs or waiting periods.

Under the plan, the government would guarantee doctors, hospitals, and other providers that they would be paid at negotiated rates. For patients who have forgotten to enroll, lost their health care, or do not know who their insurers are, the doctor or hospital would bill a public agency, which would identify the appropriate insurer or enroll the individual with an insurer and require that the provider be paid.

Neither the doctor, hospital, nor insuring organization would need to know whether the patient is rich or poor, employed or unemployed, self-sufficient or on welfare. The

health insurance card indicates only with whom they are enrolled—and even without the card, payment is guaranteed.

6. All employers and individuals are assured they will pay a fair and affordable premium for health insurance.

Traditional insurance premiums are set on the basis of an individual or group of health care experience, and the same flat premium is charged to employers and individuals for everyone in the same group or with the same experience. Individuals with low incomes and employers with less profitable businesses find it hard to pay such a flat premium per person and usually buy minimal insurance or none at all.

Under this new national health insurance plan, employers and employees pay premiums related to wages—and individuals with non-wage income over $2,000 per year pay an income-related premium. The maximum paid by an individual would be the negotiated community rated premium, which would not exceed the actual value to the individual of the health insurance coverage.

This approach allows all employers and individuals to afford to buy the best in health insurance or HMO coverage, paying a premium based on wages or income, without regard to past health care experience or any other factor. It also means that virtually every person with income makes a contribution toward the cost of the plan—proportional to their income.

As is the case at present with the best insurance plans in the Nation, the employer would pay most of the total premium, with the employee sharing up to 35 percent, or less based on labor/management agreements. In order to be fair to higher income individuals, a limit is set such that the employee or other individual's premium share never exceeds the actual community insurance rate for their insurance coverage.

In order to be fair to employers, if the premiums for this new insurance exceed their current premium as a percentage of wages by more than three percent and if their profits are adversely affected by it—the government will credit their taxes for part of the excess.

The burden of health costs of people on welfare would not be placed on employers or individual premium payers. Instead, the premiums for insurance for people who are on welfare (including those receiving Supplemental Secretary Income) would be paid by the State and Federal Government based on the actual costs of health care provided to these individuals. The States' costs for these premiums and residual Medicaid would be limited to no more than would have been the Medicaid cost in the absence of the plan. The States would overall, experience lower costs under the plan, especially if the costs of State-owned facilities are taken into account.

All wage-related and income-related premiums are paid to the insurers' consortia. The premiums would then be allocated by the consortia to individual insurers on an experience-rated premium basis for each insurer's enrollees. In most cases, the insurers would be the same ones people deal with now. The government would guarantee that the wage-related and income-related premiums raise enough revenue to pay for all health care covered by the plan except for those persons eligible for Medicare, SSI, AFDC.

Financing for the separate and improved Medicare program would be as now, except that participation in the full program would be mandatory, and Medicare taxes would apply to all wage earners.

7. All Americans would be assured they can afford the health care they need.

The plan would cover everyone for a broad array of unlimited health services, with provisions for developing expanded long-term care, home health care, and other benefits over time. These services would be paid for by the insurer or HMO at no additional cost to the individual beyond the income-related premium.

Doctor, hospital, and other health care bills would be sent directly to the insurer based on the patient's health card, and the insurer would pay them directly at negotiated rates. The patient would never have to pay the bill and then be reimbursed nor would there be any additional charge to the patient over and above what the insurance pays. The payment system itself would be easier and less costly for both providers and insurers.

These provisions virtually eliminate the fear of unaffordable health care costs from Americans' lives.

8. The plan would work to make the best in American health care more accessible in every community.

The plan aims, over time, at getting adequate numbers of physicians, health centers, and other needed services actually available in every community—while discouraging still more services where there is already an excess. The plan would encourage a redistribution of health services by slowing growth in hospital budgets and total expenditures in oversupplied areas and encouraging more rapid growth in shortage areas. Consistent with State plans for health care, health care providers, employers, unions, and consumers would develop State and national health budgets that allocate available resources to the communities where need is greatest, and they would negotiate fee schedules and budgets for individual physicians, hospitals, health centers, and other providers consistent with these budgets.

The plan would also establish a Health Resources Distribution Fund to make grants to start up needed services and would establish programs of data collection, research, and demonstration to identify problems and find ways to furnish good health care to everyone in the country over time. Special studies would focus early on the needs of special populations, such as the elderly, disabled, migrant workers, American Indians, the poor, and women.

9. The plan would work to slow down the rise in costs of health care and insurance premiums in the Nation for employers, for government, and for individuals.

The plan aims at slowing rising costs through competition, through negotiations, and through budgeted limits.

Competitive Incentives for Insurers and HMOs: Insurers and HMOs are given competitive incentives to operate efficiently, to assure provider fee schedules and budgets are complied with, and to offer health care in more cost-effective ways. First, they are free to market their plans to everyone in the Nation, and the more people who enroll because of the advantages of their plan, the more the insurer stands to benefit. This creates an incentive to control costs in order to offer broader benefits at the negotiated community rates, or the standard benefits at a reduced rate. The plan allows insurers to do both by permitting "rebates" or "dividends" to be paid to enrollees when the plan's costs are lower than the community rate.

Second, insurers and HMOs would have to absorb any financial losses incurred if their negotiated community rate fails to cover the costs of health care services to their enrollees—i.e., they are "at risk." This creates further incentive for efficiency and careful monitoring of claims, fee schedules and budgets.

Third, insurers and HMOs would be permitted to make special arrangements with doctors, hospitals, or other providers to pay amounts less than the amounts that would result from following the negotiated fee schedules or budgeted rates. They would then offer such special arrangements to everyone who enrolls with them, with any savings from the community-rated premiums converted into more benefits or premium rebates.

Finally, incentives for insurers to compete by experience rating or risk selection—which aggravate the overall costs of care problem by increasing costs to the ill—are eliminated by careful government regulation of open enrollment, how plans are priced and advertised, and other marketing practices, and by the insurers and HMOs self-regulating efforts within consortia.

Incentives for Providers of Health Care and Payment Negotiations:

Providers of health care would be given incentives to assure fair billing and good medical practice in order to keep health care costs to the levels they helped budget for the State, and for which they negotiated fee schedules and budgets. This is accomplished by putting providers "at risk" for any cost overrun. That is, doctors would have to renegotiate or "pro rate" fees for the remainder of the year if, based on reports to the government by the insurers, fee payments were being made at rates that would exceed the budget (except for epidemics and other explainable causes). Hospitals also would be required to absorb any such overruns. In addition, providers would be encouraged to form HMOs and would be free to make desirable arrangements with insurers or HOMs for new forms of care at payment rates at or below the costs that would result from following the negotiated fee schedules and budgets in order to compete for patients.

Negotiation of fee schedules, hospital and other provider budgets, and national and state community-rated premiums are critical to the plan's approach to cost control. Under the plan, providers of health care negotiate with those who ultimately pay for health care—namely, employers, unions, individual consumers, and government—to agree on what payment rates and budgets are fair and reasonable. In turn, based on these fee schedules and budgets, the government negotiates with insurers and HMOs to establish fair and reasonable community-rated premiums to cover services in every State, and to set national wage-related and income-related premiums adequate to pay these community-rated premiums.

Incentives for Employers, Employees, and State Governments:

Employers, unions, government, and individuals are given incentives to negotiate to keep costs down by a provision that allows the actual wage-related premiums for a State to be reduced below the national rate if the State spends less on health care than its budget limit allows. The State's premium for AFDC beneficiaries would also be reduced by lower health costs.

All of the negotiations, both those with providers of care and those with insurers, are based on a joint effort to plan needed services in each State, project their realistic

costs, and make necssary choices under the budget limits set for the Nation and each State by formulas in the law.

Budget limits:

The overall national and state budget limits in the plan are designed to slow cost increases to the rate of overall increase in the rest of the economy, and to encourage some services and areas of the country to increase faster than others. They are not designed to stop increases in health care costs, and are generous enough to allow improvments in the quality and accessibility of care. These budget limits would be firm and stated specifically in the law. They could not be exceeded by the wage-related or income-related premiums set under the plan, or by the community-rated premiums negotiated with insurers and HMOs.

The combined effect of these incentives, negotiations, and budget limits would result in providing more and better health care, which after just a few years would be provided at lower costs than if our health system were left unchanged.

10. American citizens would be assured that private insurance and health care institutions would retain most of the responsibility for this plan—and would be required to meet higher standards set by government to assure every American obtains the best in insurance and health care.

Under this plan, government at the Federal and State levels would act as a convenor of private institutions to plan, budget, and negotiate, and as a regulator to assure all parties participate by agreed upon rules designed to assure fairness, competition, and individual and institutional rights. In addition, the elderly and disabled would be served by a government-run Medicare program responsive to their special needs—and as a standard for other insurance.

The plan would result in more responsibility being placed with insurers and providers than ever before in the history of the Nation, and would define a new government role in health care, putting government at a considerable distance from the actual day-to-day provision of health care.

EXHIBIT 3

SUMMARY OF COST ESTIMATES FISCAL YEAR 1983 [1]

[In billions of 1980 dollars]

	Present law	Kennedy plan	Difference
I. Total spending for services covered by the plan	—$171.4	$211.4	$40.0
II. Total on-budget Federal cost	51.0	79.6	+28.6
III. Total non-Federal cost	120.4	131.8	+11.4

[1] All estimates prepared by Gordon Trapnell of Actuaria Research Corp.

Note: Actuary estimates an employer/employee premium of 7 to 8 percent, depending upon the success of cost containment programs.

CROSSOVER POINT [1]

The crossover point is the year in which, under this plan, the Nation spends less on health care than if it enacts no legislation.

Crossover—4 years after passage.

In 1988, for example, the Nation would spend $38,000,000,000 less than if no law is enacted.

[1] Figures prepared by Prof. Isidore Falk, professor emeritus Yale School of Medicine.

NATIONAL SPENDING UNDER PRESENT LAW IN FISCAL YEAR 1983 FOR SERVICES THAT WILL BE COVERED BY KENNEDY PLAN [1]—TOTAL POPULATION

[In billions of 1980 dollars]

	Part A [2]	Part B [3]	Mental [4]	Prevention [5]	Drugs [6]	Administration	Total
Total	81.2	66.5	5.2	0.7	5.0	12.8	171.4
Private payments	40.9	45.2	2.5	.6	4.1	9.7	103.0
Paid out of pocket	7.0	21.6	1.1	.4	3.7		33.8
Private insurance	33.0	22.7	1.2	.2	.4	9.2	66.7
Other private payments	.9	.9	.2	(1)	(1)	.5	2.5
Government required insurance	1.7	4.6	(1)	0	(1)	1.3	7.6
Medicare		2.5				.2	2.7
National health plan							
Workmen's compensation	1.7	2.1	(1)		(1)	1.1	4.9
Federal taxpayers	34.5	13.3	1.0	.1	.6	1.5	51.0
Medicare	26.3	7.6	.2			1.0	35.1
Medicaid/SSI beneficiary costs	4.2	3.3	.4	.1	.4	.4	8.8
Employment subsidies							
Federal facilities and grants	4.0	2.4	.4	(1)	.2	.1	7.1
State and local taxpayers	4.1	3.4	1.7	(1)	.3	.3	9.8
Medicaid/AFDC recipient costs	3.3	2.6	.3	(1)	.3	.3	6.8
State or local facilities and grants	.8	.8	1.4	(1)	(1)	(1)	3.0
Bad debts and unbilled services [7]	2.9	5.9	.3	(1)	.1		9.2

NATIONAL SPENDING UNDER KENNEDY PLAN IN FISCAL YEAR 1983 FOR SERVICES COVERED BY BILL [1]—TOTAL POPULATION

Total	85.2	95.5	6.9	2.2	6.8	14.8	211.4
Private payments							
Paid out of pocket							
Private insurance							
Other private payments							
Government required insurance	39.7	65.9	4.2	1.9	2.2	11.1	125.0
Medicare		2.6				.2	2.8
National health plan	38.0	61.3	4.2	1.9	2.2	9.8	117.4
Workmen's compensation	1.7	2.0	(1)		(1)	1.1	4.8
Federal taxpayers	42.2	27.0	2.4	.3	4.3	3.4	79.6
Medicare	36.8	21.5	1.8		3.8	2.0	65.9
Medicaid/SSI beneficiary costs	.6	1.1	.2	.2	.4	.2	2.7
Employment subsidies [8]	2.5	3.8	.3	.1	.1	.7	7.5
Federal facilities and grants	2.3	.6	.1			.5	3.5
State and local taxpayers	3.3	2.6	.3	(1)	.3	.3	6.8
Medicaid/AFDC recipient costs	3.3	2.6	.3	(1)	.3	.3	6.8
State or local facilities and grants							

NATIONAL SPENDING UNDER PRESENT LAW IN FISCAL YEAR 1983 FOR SERVICES THAT WILL BE COVERED BY KENNEDY PLAN [1]—AGED AND DISABILITY INSURANCE BENEFICIARIES

Total	36.1	19.1	1.2	0	2.8	4.1	63.3
Private payments	5.9	6.9	.5		2.3	2.5	18.1
Paid out of pocket	2.2	3.7	.3		2.0		8.2
Private insurance	3.4	3.0	.2		.3	2.4	9.3
Other private payments	.3	.2			(1)	.1	.6

Footnotes at end of table.

Government required insurance	.4	2.7	(1)	(1)	.4	3.5
Medicare	(1)	2.5			.2	2.7
National health plan						
Workmen's compensation	.4	.2	(1)	(1)	.2	.8
Federal taxpayers	28.6	8.7	.3	.3	1.1	39.0
Medicare	26.3	7.6	.2		1.0	35.1
Medicaid/SSI beneficiary costs	1.3	.9	.1	.3	.1	2.7
Employment subsidies						
Federal facilities and grants	1.0	.2		(1)	(1)	1.2
State and local taxpayers	1.2	.8	.4	.2	.1	2.7
Medicaid/AFDC recipient costs	1.0	.7	.1	.2	.1	2.1
State or local facilities and grants	.2	.1	.3	(1)	(1)	.6
Bad debts and unbilled services [7]	1.7	1.3	.1	.1		3.2

NATIONAL SPENDING UNDER KENNEDY PLAN IN FISCAL YEAR 1983 FOR SERVICES COVERED BY BILL [1]—AGED AND DISABILITY INSURANCE BENEFICIARIES

Total	37.5	24.4	1.8	3.8	2.4	69.9
Private payments						
Paid out of pocket						
Private insurance						
Other private payments						
Government required insurance	.4	2.8			.4	3.6
Medicare		2.6			.2	2.8
National health plan						
Workmen's compensation	.4	.2	(1)	(1)	.2	.8
Federal taxpayers	37.1	21.6	1.8	3.8	2.0	66.3
Medicare	36.8	21.5	1.8	3.8	2.0	65.9
Medicaid/SSI beneficiary costs						
Employment subsidies						
Federal facilities and grants	.3	.1				.4
State and local taxpayers						
Medicaid/AFDC recipient costs						
State or local facilities and grants						

NATIONAL SPENDING UNDER PRESENT LAW IN FISCAL YEAR 1983 FOR SERVICES THAT WILL BE COVERED BY KENNEDY PLAN [1]—AFDC/SSI BENEFICIARIES

Total	3.6	2.8	0.3	0.1	0.5	0.5	7.8
Private payments	.5	.3	(1)	(1)	.3	.2	1.3
Paid out of pocket	.2	.2	(1)	(1)	.3		.7
Private insurance	.3	.1	(1)			.2	.6
Other private payments	(1)	(1)				(1)	(1)
Government required insurance	(1)	.1				(1)	.1
Medicare							
National health plan							
Workmen's compensation	(1)	.1				(1)	.1
Federal taxpayers	1.7	1.3	.1	.1	.1	.2	3.5
Medicare							
Medicaid/SSI beneficiary costs	1.7	1.3	.1	.1	.1	.2	3.5
Employment subsidies							
Federal facilities and grants	(1)	(1)		(1)	(1)	(1)	(1)
State and local taxpayers	1.4	1.1	.2		.1	.1	2.9
Medicaid/AFDC recipient costs	1.4	1.1	.1		.1	.1	2.8
State or local facilities and grants	(1)	(1)	.1			(1)	.1
Bad debts and unbilled services [7]	.1	.1	(1)	(1)	(1)		.2

NATIONAL SPENDING UNDER KENNEDY PLAN IN FISCAL YEAR 1983 FOR SERVICES COVERED BY BILL [1]—OTHER POPULATION

Total	43.8	67.4	4.6	2.0	2.3	11.8	131.9
Private payments							
Paid out of pocket							
Private insurance							
Other private payments							
Government required insurance	39.3	63.1	4.2	1.9	2.2	10.7	121.4
Medicare							
National health plan	38.0	61.3	4.2	1.9	2.2	9.8	117.4
Workmen's compensation	1.3	1.8	(1)			.9	4.0
Federal taxpayers	4.5	4.3	.4	.1	.1	1.1	10.5
Medicare							
Medicaid/SSI beneficiary costs							
Employment subsidies [8]	2.5	3.8	.3	.1	.1	.7	7.5
Federal facilities and grants	2.0	.5	.1			.4	3.0

Footnotes at end of table.

NATIONAL SPENDING UNDER KENNEDY PLAN IN FISCAL YEAR 1983 FOR SERVICES COVERED BY BILL [1]—OTHER POPULATION—Continued

State and local taxpayers	
Medicaid/AFDC recipient costs	
State or local facilities and grants	

[1] Assumes passage during 1979 of Administration hospital cost control proposal.
[2] Includes services covered by part A of medicare and hospital based physician services, except those provided by psychiatric facilities.
[3] Includes services covered by part B of medicare, except hospital based physician and psychiatric facility services.
[4] Includes services in psychiatric facilities that are covered by proposal.
[5] Services for children only.
[6] Limited to a formulary for chronic conditions.
[7] Bad debts are services for which a valid bill is presented to a patient but is not paid, unbilled services are those for which a provider normally charges but are not billed for some patients.
[8] Assumes larger employment subsidy than specified in bill.

EXHIBIT 4

COALITION OF NATIONAL HEALTH INSURANCE ORGANIZATIONS

Amalgamated Clothing and Textile Workers.
Amalgamated Meat Cutters.
American Association of Retired Persons.
American Council of the Blind.
American Federation of Labor-Congress of Industrial Organizations (AFL–CIO).
American Federation of Teachers.
American Nurses Association.
American Psychological Association.
American Public Health Association.
Americans for Democratic Action.
Association of Federal, State, County and Municipal Employees (AFSCME).
Bakery and Confectioner Workers.
Baptist Joint Committee.
Bridge and Construction Workers.
Building and Construction Trades Department.
Center for Community Change.
Chemical Workers Union.
Citizens Against High Blood Pressure, Inc.
Coalition of American Public Employees.
Coalition of Labor Union Women.
Consumer Federation of America.
Food and Beverage Trades.
Group Health Association of America.
International Association of Machinists.
International Brotherhood of Electrical Workers.
International Brotherhood of Teamsters.
International Ladies Garment Workers.
International Longshoremens Association.
International Printing and Graphics Communications Union.
International Union of Bricklayers and Allied Craftsmen.
International Union of Operating Engineers.
League of Women Voters.
Mexican-American Legal Defense Fund.
National Association for the Advancement of Colored People.
National Association of Counties.
National Association of Farmworker Organizations.
National Association of Neighborhood Health Centers.
National Association of Social Workers.
National Coalition for Children and Youth.
National Coalition of Hispanic Mental Health and Human Services Organizations.
National Conference of Catholic Charities.
National Congress of American Indians.
National Consumers League.
National Council of Jewish Women.
National Council of Senior Citizens.
National Education Association.
National Farmers Union.
National Urban League.
National Women's Political Caucus.
Newspaper Guild.
Oil, Chemical and Atomic Workers Union.
Physicians National Housestaff Association.
Pipefitters Union.
Population Resource Center.
Retail Clerks International Union.
Service Employees International Union.
United Auto Workers (UAW).
United Church of Christ.
United Methodist Church.
United Presbyterian Church.
United Steelworkers.
U.S. Catholic Conference.
Women's Lobby.
Workmen's Circle.

EXHIBIT 5

SECTION-BY-SECTION ANALYSIS

The "Health Care For All Americans Act" assures the provision of adequate comprehensive health care services, including protection against catastrophic health care expenses, to all residents of the United States at affordable prices through a system that provides for cost control.

Section 1 includes a Table of Contents, as follows:

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Sec. 1. Short Title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Statement of rights of eligible individuals, providers, and insurers.
Sec. 4. Definitions.

TITLE I—ELIGIBILITY, ENTITLEMENT, AND ENROLLMENT

PART A—ELIGIBILITY AND ENTITLEMENT

Sec. 101. Eligibility.
Sec. 102. Entitlement.

PART B—ENROLLMENT

Sec. 111. Enrollment in general.
Sec. 112. Enrollment of employees and offering of qualified health plans by employers.
Sec. 113. Enrollment of members of a uniformed service on active duty, medicare-eligible individuals, foreign employees and visitors.
Sec. 114. Enrollment of other individuals.

TITLE II—BENEFITS AND PROVIDERS

PART A—BASIC COVERED HEALTH-CARE SERVICES

Sec. 201. Inpatient and outpatient hospital services.
Sec. 202. Physicians' services.
Sec. 203. Home health services.
Sec. 204. Post-hospital skilled nursing facility services.
Sec. 205. Preventive health services.
Sec. 206. Medical and other health services.
Sec. 207. Insulin and outpatient prescription drugs for chronic illness for medicare-eligible individuals.
Sec. 208. Mental health services.
Sec. 209. Audiological examinations and hearing aids.
Sec. 210. Exclusions.

PART B—PROVIDER STANDARDS AND CERTIFICATION

Sec. 211. Standards for services, providers, and certification of providers.

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Sec. 300. Budget timetable.
Sec. 301. Annual budget.
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Sec. 352. Allocation of premiums among, consortia, insurers, and health maintenance organizations.
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SECTIONS 2, 3, AND 4—FINDINGS, RIGHTS, AND DEFINITIONS

Section 2 declares that Congress finds that in order to promote the general welfare and health of the people of the United States and the commerce among the States in a rational and equitable manner and to avoid the cumulative adverse impact on the nation, interstate commerce, and Federal expenditures of unmet health needs and inappropriate means of financing health care, it is necessary to establish a national health insurance system which—(1) provides for universal participation; (2) provides for coverage of health care providers and payers acting within States, as well as among States; (3) is progressively and equitably financed primarily through mandatory private-sector premiums; (4) is administered primarily through qualified participating insurers and health maintenance organizations, acting in accordance with standards established by a National Health Board; and (5) provides for incentives to promote the appropriate competition, in interstate and intrastate commerce, in the offering and sale of health insurance plans.

The purpose of the Act and of the health insurance system established by the Act, are: (1) to make comprehensive and high-quality health-care services; (2) to provide health-care services of the same quality to all Americans, regardless of their economic condition and without discrimination on the grounds of race, religion, or national origin; (3) to insure that the total cost of health care for the United States and its people does not increase at a rate faster than the annual rate of growth in the gross national product; (4) to improve the organization and delivery of health-care services; (5) to minimize the financial burden of health care on employers by providing for assistance to impacted employers and to minimize such burden on employees and other insured persons by setting a ceiling on their contributions; (6) to distribute equitably the total cost of the health-care services provided in the United States; (7) to enhance the quality of health-care services and the practical availability of such services in every area of the United States; (8) to encourage the prevention and early detection of disease and disability; (9) to provide reasonable compensation and incentives to the providers of health-care services who choose to participate in the national health insurance system; and (10) to assure full public accountability of all aspects of the system and guarantee consumer participation in its development, administration, and improvement.

Section 3 provides statements of rights for eligible individuals, providers, and insurers. Each eligible individual has the right (1) to choose the participating provider who or which provides a covered health-care service under this Act unless, by enrolling in qualified health plans offered by certain insurers or health maintenance organizations, the individual has agreed to limit the choice of providers; (2) to have all the decisions pursuant to this Act concerning the individual made promptly and accurately; (3) to be heard on any grievance related to health care, insurance, or benefits provided pursuant to this Act; and (5) to make the individual's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the individual, and to have those views considered.

Providers have the right (1) to decide whether or not to participate in the national health insurance system established under this Act; (2) if a participating provider entitled to receive payment for services under this Act, to receive prompt and accurate payment for such services; (3) in the case of a physician provider, to choose the mode and place of the physician's practice; and (4) to make the provider's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the provider, and to have those views considered.

Insurers and health maintenance organizations have the right (1) to decide whether or not to participate in the national health insurance system established under this Act; (2) to carry on a health insurance business covering benefits for health care services supplemental to the benefits paid and payable under this Act; and (3) to make the insurer's or organization's views known, alone or in concert with other persons, on all actions under this Act which are likely to affect the insurer or organization, and to have those views considered.

Section 4 defines the following terms for purposes as used in the Act: (1) annual budget, (2) annual rate of increase in the gross national product, (3) annual state budget, (4) employee, payroll period, employer and wages, (5) grovernor, (6) federal institution, (7) first effective year, (8) health resources distribution fund, (9) Medicare, (10) national health insurance system, (11) state, (12) state institution, (13) United States, (14) AFDC-eligible individuals, (15) consumer, (16) dependent, (17) eligible individual, (18) enrollee, (19) family and family unit, (20) foreign visitor, (21) Medicare-eligible individual, (22) member of a uniform service on active duty, (23) spouse, (24) SSI-eligible individuals (25) consortium and consortia, (26) applicable consortium, (27) commission, (28) health maintenance organization and participating health maintenance organization, (29) health systems agency, (30) insurer, applicable insurer, participating insurer and self-insurer (31) professional standards review organization (32) state health board (33) State Health Planning and Development Agency (34) basic covered health-care services, (35) covered health-care services, (36) health plan, (37) qualified health plan, (38) institutional provider, (39) participating provider, and (40) provider and provider of health care.

TITLE I—ELIGIBILITY, ENTITLEMENT, AND ENROLLMENT

PART A—ELIGIBILITY AND ENTITLEMENT ELIGIBILITY

Section 101(a) declares that the following persons are eligible for health care benefits under this Act: (1) U.S. citizens; (2) aliens admitted as immigrants or otherwise permanently residing in the U.S. under color of law, including refugees; (3) aliens employed in this country by a foreign government or international organization which has entered into an agreement with the U.S.; or (4) aliens admitted as temporary visitors from a nation which has entered into an agreement with the U.S.

Section 101(b)(1) directs the National Health Board (hereinafter referred to as the

Board), after consulting with the Secretary of State, to recommend to the President that the President enter into executive agreements with foreign governments or international organizations to make officers and employees of such governments of organizations who are employed and residing in the U.S. eligible for health care benefits under this Act. Requires payment for such individuals of the national community-rated premiums plus amounts equal to what would otherwise be payable as the Medicare hospital insurance payroll tax if such individuals were subject to such tax.

Section 101(b)(2) directs the Board to recommend similar executive agreements between the President and foreign governments to allow foreign visitors to enroll in qualified health plans in the U.S. and U.S. citizens and permanent resident aliens to receive comparable health care benefits while temporarily in such foreign nations, but only if such agreements are in the national interest.

ENTITLEMENT

Section 102 states that each eligible individual is entitled to: (1) enroll in a qualified health plan of the individual's choice offered by a participating insurer or HMO, and to change enrollment at specified times; (2) have payment made on the individual's behalf and not be charged any fee for basic covered healthcare services; and (3) be issued a health insurance enrollment card.

PART B—ENROLLMENT

ENROLLMENT IN GENERAL

Section 111(a)(1) provides that each eligible individual has the right to enroll in any qualified health plan or be deemed enrolled with a participating insurer or HMO.

Section 111(a)(2) provides for issuance, by a participating insurer or HMO, of a health insurance enrollment card to each enrollee and covered family member upon enrollment in or change of enrollment to a qualified health plan. Requires that the card identify: (1) the individual; (2) the health plan; and (3) the participating insurer or organization, but not identify the category or basis for the individual's enrollment. In lieu of enrollment cards for foreign visitors, the Secretary of State may provide for other identification of entitlement to services under this Act, after consultation with the Board.

Section 111(b)(1) directs the Board to provide for the preparation and distribution of enrollment information which is clear, accurate, easy-to-read, accessible to the visually handicapped, and in foreign languages commonly used by any significantly sized group of eligible persons.

Section 111(b)(2) requires enrollment information to be readily available and provided: (1) by employers to employees; (2) by or through the Board to Medicare-eligible individuals; (3) by the Secretaries of Defense, Transportation, and HEW to active-duty uniformed service personnel under their jurisdiction; (4) by the Social Security Commissioner to SSI (Supplemental Security Income)—eligible individuals; (5) by managers of Federal and State institutions to the residents of such institutions; (6) by State welfare agencies to AFDC (Aid to Families with Dependent Children)—eligible individuals; and (7) by or through State health boards to other individuals (including individuals who are receiving general assistance) and eligible individuals generally.

Section 111(b)(3) directs the Board to notify State health boards of the identity of eligible individuals who, in certain Federal information returns, have failed to indicate enrollment under a qualified plan. Requires participating providers to transmit to their respective health boards requests for payment for eligible individuals who did not indicate enrollment in a plan at the time of receiving services. Directs State health boards to make special efforts to locate such persons and provide for their enrollment.

Section 111(c)(d) defines the terms "first general open enrollment period"; "general open enrollment period"; and "special enrollment period" for purposes of the program.

Section 111(e)(1) specifies effective dates of enrollment during the first general open enrollment period and any change during a general open enrollment period.

Section 111(e)(2) specifies effective dates of enrollment during special enrollment periods. Provides that any eligible individual not enrolled will, for purposes of collection and payment of premiums and making of benefit payments to providers under qualified plans, be deemed to have enrolled in the qualified plan in which the individual is subsequently enrolled.

Section 111(f) states that, except as otherwise provided by the Board, all members of a family (other than those who are Medicare-eligible or SSI-eligible) are enrolled at any time in only one qualified plan.

Section 112(a) requires each employer to offer qualified employees enrollment in a qualified health plan during specified enrollment periods.

Section 112(b) requires employers to offer qualified employees the choice of enrollment under—(1) at least one of the qualified plans offered by a participating insurer belonging either to the Blue Cross-Blue Shield consortium or the commercial insurance carriers consortium and (2) at least one of the qualified plans offered by a participating HMO belonging to either of the HMO consortia, if such a plan is available in the area in which qualified employees and their dependents obtain health care services. The employer may also offer enrollment in one or more qualified plans offered by a self-insurer. For qualified employees represented by a collective bargaining representative or other representative designated or selected under law, the offer of enrollment in any qualified plan must first be made to such representative, and if accepted, then be made to each employee. If a qualified plan does not have the capacity to enroll all qualified employees (and family members) who desire to enroll, the employer must provide for enrollment with other qualified health plans.

Section 112(c) provides that each qualified employee will, in accordance with established procedures, elect the plan in which the employee (and qualified dependents) will be enrolled. In the absence of such election, requires the employer, in accordance with established procedures, to enroll the employee (and qualified dependents) in a plan.

Section 112(d) requires any employer offering, as part of or in conjunction with a qualified plan, a health plan with benefits supplemental to basic covered health-care services, to provide employees with written information (in accordance with guidelines) regarding any additional employee cost for the supplemental plan.

Section 112(e)(1) requires any qualified plan or supplemental plan offered by an employer to provide coverage of the employee and each qualified dependent.

Section 112(e)(2) provides that a family which is offered a choice of qualified plans (because more than one family member is a qualified employee) may enroll under only one plan.

Section 112(e)(3) provides that, in accordance with regulations, the requirements of paragraphs (1) and (2) above do not apply to qualified dependents who do not share the same household with the qualified employee and under such other circumstances as the Board may provide.

Section 112(f) defines the term "qualified employee" to be an employee who is an eligible individual and not (1) Medicare-eligible, (2) an active-duty member of a uniformed service or a member of such member's family, or (3) a foreign employee or foreign tourist covered under special agreements. Defines the term "qualified dependent" to be a member of a qualified employee's family, if the member is an eligible individual and is not Medicare-eligible or a member of a uniformed service on active duty or a dependent of such a member.

Section 112(g)(1) provides for a civil penalty of not more than $10,000 for any employer who knowingly fails to comply with requirements of this section. Continued noncompliance may result in the penalty being assessed and collected for each 30-day period the noncompliance continues. The penalty may be assessed by the Board and collected in a civil action brought in a U.S. district court.

Section 112(g)(2) provides that, in any penalty assessment proceeding, no penalty will be assessed until the employer so charged has been given notice and opportunity to present its views. Requires the Board, in determining the amount of the penalty, to consider the gravity of the noncompliance and the demonstrated good faith of the employer in trying to achieve rapid compliance after notification of noncompliance.

ENROLLMENT OF MEMBERS OF UNIFORMED SERVICES ON ACTIVE DUTY, MEDICARE-ELIGIBLE INDIVIDUALS, AND FOREIGN EMPLOYEES AND VISITORS

Section 113(a)(1) requires each eligible individual who is an active-duty member of a uniformed service to enroll (and change such enrollment) in a health plan from among such health plans, offered by or through the Department of Defense, as the Secretary of Defense, after consulting with the Secretary of HEW and the Board, finds consistent both with chapter 55 of title 10 of the U.S. Code and with policy requiring provision of basic and other covered health care services to such members and members' families through facilities of the uniformed services.

Section 113(a)(2) requires any health plan offered to an active-duty member of a uniformed service to cover family members who are eligible individuals but not Medicare-eligible. Stipulates that this provision does not apply to the member's spouse or dependents who do not share the same household and under such other circumstances as the Board may provide.

Section 113(b) requires Medicare-eligible individuals to enroll, or be enrolled, with the Board or with a participating HMO in accordance with the Medicare program.

Section 113(c) provides that eligible employees of foreign governments and international organizations are entitled to enroll (and change enrollment) in a qualified plan in accordance with provisions of special executive agreements.

Section 113(d) provides that foreign visitors are entitled to enroll in any qualified plan the Secretary provides to them after consultation with the Board.

ENERGY OF OTHER INDIVIDUALS

Section 114(a) provides that SSI-eligible individuals or residents of Federal institutions not otherwise enrolled may enroll or change enrollment during specified periods in any qualified health plan available to such individuals.

Section 114(b) provides that each AFDC-eligible individual, resident of a State institution, or other individual not otherwise enrolled may enroll (or change enrollment during specified periods) in any qualified health plan available to the individual.

Section 114(c) provides that, in accordance with regulations of the Board and rules and procedures of State health boards for

an SSI-eligible individual who fails to enroll in a qualified health plan, the Social Security Commissioner is to notify the individual of the available choices of enrollment, and, in the subsequent absence of any election of plan and in accordance with procedures established by the Board, enroll the individual in a plan.

Provides that the manager of a Federal or State institution is to perform such functions for any resident of those institutions who fails to enroll. Provides that the State health board is to perform such functions for AFDC-eligible individuals or others who fail to enroll.

Section 114(d) requires any qualified plan offered pursuant to this section to an eligible individual (other than SSI-eligible individual) to provide for coverage of both the individual and family members (other than individuals who are Medicare-eligible or SSI-eligible).

PART A—BASIC COVERED HEALTH-CARE SERVICES

INPATIENT AND OUTPATIENT HOSPITAL SERVICES

Section 201(a)-(b) provides that inpatient and outpatient hospital services, including hospital-based physicians' services, are basic covered health-care services. Limits inpatient mental health services to 45 consecutive days (150 consecutive days for Medicare-eligible individuals).

PHYSICIANS' SERVICES

Section 202 (a)-(b) provides that physicians' services are basic covered health-care services. Limits coverage of mental health outpatient services and physician diagnosis or treatment of mental illness to expenses not exceeding the fee-equivalent of 20 psychiatric visits per year.

HOME HEALTH SERVICES

Section 203 provides that home health services for 100 visits per calendar year are basic covered health-care services.

POST-HOSPITAL SKILLED NURSING FACILITY SERVICES

Section 204 provides that post-hospital extended care services for 100 days per spell of illness are basic covered health-care services.

PREVENTIVE HEALTH SERVICES

Section 205(a) provides that preventive health services which initially are basic covered health-care services include the following (as defined by the Board): basic immunizations, pre-natal and post-natal maternal care, well-child care (including physical exams, hearing and vision screening, developmental screening and exams) for children up to age 18, and other preventive health care services which the Board may add.

Section 205(b)(1) permits the Board to add such additional preventive services on a year-by-year basis as it determines will provide for cost-effective delivery of health-care services.

Section 205(b)(2) limits expenditures for preventive health services to $500 million in the first year in which benefits are provided and, in any subsequent year, to the previous year's amount increased by the average annual rate of increase in the gross national product for the three-year period ending with the year before such previous year.

MEDICAL AND OTHER SERVICES

Section 206 provides that the following medical and other health services are basic covered health-care services: services and supplies incidental to physicians' services; hospital services incidental to physicians' services to outpatients; outpatient diagnostic services; outpatient physical, speech, and occupational therapy services; health clinic services, including rural health clinics; home dialysis equipment and supplies; diagnostic x-ray, laboratory, and other diagnostic tests; x-ray therapy; durable medical equipment for home use; ambulance services; prosthetic devices; and braces and artificial limbs.

INSULIN AND OUTPATIENT PRESCRIPTION DRUGS FOR CHRONIC ILLNESS FOR MEDICARE-ELIGIBLE INDIVIDUALS

Section 207 provides that insulin and outpatient prescription drugs for chronic conditions are covered services but only for Medicare-eligible individuals, to the extent provided under Medicare as amended by this Act.

MENTAL HEALTH SERVICES

Section 208(a)-(b) provides that mental health day care and outpatient mental health services are basic covered health-care services. Limits coverage for mental health day care services to 2 days for each day of covered inpatient mental health services. Limits coverage for outpatient mental health services and physicians' services primarily for diagnosis or treatment of mental illness to expenses not exceeding the fee-equivalent of 20 psychiatric visits.

AUDIOLOGICAL EXAMINATIONS AND HEARING AIDS

Section 209(a)-(b) provides that basic covered health-care services include one hearing exam per individual per year and one hearing aid per individual every 3 years.

EXCLUSIONS

Section 210(a) states that basic covered health-care services do not include items or services excluded under Medicare, including the following items or services: those not reasonable or necessary for diagnosis or treatment of illness, injury, or condition (other than preventive health services and hearing exams); those provided outside the United States; personal comfort items; routine physical check-ups; eyeglasses and eye exams (other than preventive health services); custodial care; cosmetic surgery except for prompt repair of accidental injury or for functional improvement of malformed body members; expenses which are charges imposed by the patient's relatives or household; routine dental care; routine foot care except for diabetic patients.

Section 210(b) excludes (except for Medicare-eligibles) coverage of orthopedic shoes, services of chiropractors, and certain inpatient hospital services furnished outside the United States.

Section 210(c) permits the Board, after consultation with the Commissions on Health-Care Benefits and Quality of Health Care, to prescribe, upon the basis of the cost and effectiveness of providing particular health care service, health care for which payment may not be made under a qualified health plan or Medicare.

PART B—PROVIDER STANDARDS AND CERTIFICATION

STANDARDS FOR SERVICES, PROVIDERS, AND CERTIFICATION OF PROVIDERS

Section 211(a) makes the following provisions of title XI and XVIII of the Social Security Act applicable to basic health-care services provided under qualified health care plans to the same extent as they are applicable under Medicare: definitions under section 1861; conditions of participation under section 1866 and use of State and other agencies for determining compliance under section 1863 and 1864; suspension and disqualification of providers under section 1862 and 1866; limitations or exclusions from payment for items and services under sections 1812, 1814, 1833, 1834, and 1862; certifications under section 1814 and 1835; professional standards review under Part B of title XI.

Section 211(b) permits the Board, after consulting with the Commissions on Health-Care Benefits and Quality of Health Care, to establish a list of high-risk, high-cost, elective, or overutilized items or services for which payment may be made only if one or more of the following conditions are met: (1) the provider is board-certified in the relevant specialty; (2) the diagnosis and recommended service are supported by a second qualified opinion or specific objective findings; (3) the provider-institution is adequately equipped and staffed; (4) the specialist or institution is providing care upon referral by a primary-care physician; (5) the provider has demonstrated through statistical evidence that it provides high-quality services and properly uses appropriate methods and technologies.

Section 211(c) states that certain amendments to Medicaid providing for a residual program and requirements for maintenance of effort and additional mandatory services are found in section 636 of this Act.

TITLE III—FINANCING AND PLANNING

PART A—BUDGET AND PLANNING PROCESS

SUBPART I—BUDGET PROCESS

BUDGET TIMETABLE

Section 300 sets forth the annual timetable for the budget process for the national health insurance system as follows: by January 15th, proposed annual State Budgets are to be submitted to the Board; by March 1st, the annual budget for the national program is to be submitted to Congress; by July 1st, the annual State budgets are to be adopted; from September 1 through November 30, there is to be an open enrollment period; and the following January 1st, the budget year begins.

ANNUAL BUDGET

Section 301(a)(1) directs each State health board, after considering policies of the Board, the most recent Health Care Improvement Plan, and recommendations of the Commissions, to prepare and transmit to the Board, not later than January 15 of each year, a proposed annual State budget for the succeeding year.

Section 301(a)(2) directs the Board to prepare and submit to the President an estimate of Federal expenditures to be included in the President's annual budget message.

Section 301(a)(3) directs the Board to prepare and adopt, not later than March 1 of each year, a comprehensive annual budget establishing the expenditure level authorized for covered health care services and administrative costs, and the necessary revenues for the succeeding year.

Section 301(a)(4) directs the Board to transmit a budget report to the President, Congress, each Governor and State health board, and to make the budget available to the public.

Section 301(a)(5) directs the Congressional Budget Office to prepare and submit to relevance Congressional committees an analysis of all aspects of the budget as soon as practicable after its receipt.

Section 301(b)(1) requires the annual budget to stipulate the anticipated expenditures for the nation and each State attributable to the following:

Administrative costs for the Board, State health boards, consortia, and participating insurers;

Payments to providers for provision of covered health-care services categorized by type of service, provider, or both;

Costs of capital investment, health provider education, and research;

Medicare trust fund expenditures;

Adjustments for previous budgets;

A contingency fund for unanticipated expenditures;

Payments for the residual Medicaid program and for the Federal guarantee against additional State expenditures for AFDC-eligible individuals.

Miscellaneous expenditures.

Section 301(b)(2) requires the annual budget to set forth the anticipated revenues attributable to the following:

Wage-related premiums;

Non-wage related income premiums;

Federal group-rated premiums for SSI-eligible individuals and residents of Federal institutions;

State group-rated premiums for AFDC-eligible individuals and residents of State institutions;

Premium payments paid by foreign governments and international organizations for their employees and officers;

Medicare taxes, premiums, and interest;

Residual Federal payments to consortia for defaults in premium payments and appropriations from general Federal revenues.

Miscellaneous revenues as the Board may specify.

Section 301(b)(3) requires the budget to also set forth separate schedules for expenditures and revenues under the Medicare program and certain other public programs and also for individuals enrolled in qualified private health insurance plans. Permits the Board, upon a Governor's request, to provide for a separate schedule of anticipated expenditures for different intrastate or adjoining interstate areas. Further requires the budget to show the anticipated expenditures from and appropriations to the Health Resources Distribution Fund.

Section 301(b)(4)–(5) requires the budget to include the national community-rated and group-rated premium amounts and national premium rate for the year. Further requires the budget to project anticipated expenditures and revenues for the succeeding five years showing any effects from the Health Resources Distribution Fund or cost-control efforts.

Section 301(c)(1) stipulates that the total anticipated expenditures for a year may not exceed the previous year's expenditures by more than the average annual rate of increase in the gross national product for the three-year period ending with the year before the year in which the annual budget is adopted.

Section 301(c)(2) states that the amounts set forth as total anticipated expenditures nationally and for each State for covered health-care services (including administrative costs of insurers, HMOs, and consortia, but excluding services and costs for active-duty members of the uniformed services and their families) are the maximum amounts that may be expended for that year. Prohibits a State board, in implementing its annual State budget and negotiating various agreements or schedules, from providing for total expenditures in excess of those contained in the Board's annual national budget with regard to that State. Within percentage variations permitted by the Board, sets similar maximum limits on expenditures nationally and for each State by category of provider or type of service.

Section 301(c)(3) provides that the annual percentage increase in anticipated expenditures per capita for covered services for a State and in the annual State budget over the actual expenditures for such services for the previous year is to inversely reflect the degree to which such actual expenditures in the State (calculated to the extent feasible on a price-adjusted basis) for the previous year are less than such per capita expenditures nationally for that year. Limits the State's allowable percentage increase for anticipated per capita expenditures to not less than 80 percent or more than 120 percent of the percentage increase for such expenditures nationally for that year over such expenditures for the previous year.

Further provides that the State's allowable percentage increase may provide for a higher rate of increase than calculated above if the State has a severely medically-underserved population for which a special development program has been approved in the Health Care Improvement Plan, or if the State has an Indian health, migrant health, or other health program for medically underserved populations.

ANNUAL STATE BUDGETS

Section 302(a) requires each State health board to prepare and submit, not later than January 15 of the previous year, a proposed annual State budget to the Board, in accordance with regulations. Requires each State health board to adopt, not later than July 1 of the previous year, and submit to the Board an annual State budget. Requires the State budget to take into consideration all pertinent conclusions, including recommended changes in resource availability, in the most recently revised State health care improvement plan.

Section 302(b) requires each annual State budget to be prepared after consultation with, and consideration of any comments submitted by the State government (and political subdivisions), State advisory commission, representatives of consortia, insurers, and HMOs, participating providers and consumers in the State. Requires the budget to be based on agreements negotiated (and any maximum payment schedules agreed to in negotiations) by the State health board with providers with respect to payments for covered services. Further requires the budget to be based on prospective budgets submitted by participating institutional providers and approved by the State health board.

Section 302(c) requires the State budget to contain the same types of information required for the national budget but only with respect to expenditures, revenues, premiums, and premium rates in that State.

Subpart II—Planning Process

NATIONAL HEALTH CARE IMPROVEMENT PLAN

Section 305(a)(1) requires the Board, in consultation with the President's Commission on the Health of Americans, to prepare and annually revise, before adoption of each annual budget, a five-year national Health Care Improvement Plan describing the needs in the United States relating to accessibility, quality, and cost of health care.

Section 305(a)(2) requires the Plan to describe the current and projected effect of this Act in meeting such needs.

Section 305(a)(3) further requires the Plan to recommend additional actions that should be taken. Provides that the description of needs and recommended actions is to take into account the needs and actions contained in the State plans for health care improvement.

Section 305(b) requires the Board, in establishing any guidelines or standards under this Act, to describe how such guidelines and standards facilitate meeting the needs projected in the most recently revised Health Care Improvement Plan.

STATE HEALTH CARE IMPROVEMENT PLANS

Section 306 requires each State governor to prepare and annually revise a State health care improvement plan describing the State's five-year needs relating to accessibility, quality, and cost of health care and the specific actions the State intends to take to meet those needs. Requires the State plan to take into account and, to the extent appropriate, include the objectives of applicable State plans in effect under section 1524 of the Public Health Service Act and title XIX of the Social Security Act, and any current State plan submitted for financial assistance under the Public Health Service Act or the Community Mental Health Centers Act.

TITLE III, PART B—PAYMENTS TO PROVIDERS GENERALLY

Part B—Payments to Providers

Subpart I—Payments to Providers Generally

WHO MAKES PAYMENTS TO PROVIDERS

Section 311(a) requires participating insurers and HMOs to make payments to participating providers furnishing covered health-care services to their respective enrollees.

Section 311(b) requires an insurer or HMO to pay providers for covered services rendered to an individual who is not an enrollee at the time of services but subsequently enrolls or is enrolled with the insurer or HMO.

Section 311(c) requires the Board to pay providers for covered services furnished to Medicare-eligible individuals.

Section 311(d) requires the Secretary of Defense to pay for services furnished to an active-duty member of the uniformed services (or the member's family) in accordance with chapter 55 of title 10 U.S.C.

BASIS ON WHICH PAYMENTS MADE

Section 312(a)(1) requires an insurer or HMO to pay an institutional provider an allocated portion of the institution's approved prospective budget which reflects the costs of providing services to the insurer's or HMO's enrollees. Prohibits payment for expenditures not included in the institutional provider's approved prospective budget, except as approved by the State health board.

Section 312(a)(2) requires regulations of the Board to provide for a method or methods of cost apportionment among insurers and HMOs that will allocate costs in an administratively simple and reasonable way, will reflect the portion of costs for which the insurer or HMO is responsible, and will provide for payment to the provider of revenues projected in its approved prospective budget. Provides that such methods may include apportionment based on the number of treatment of particular conditions or diagnosis; the relative value of the services furnished, in accordance with indices or relative values established by the Board; the number of admissions, patient days, diagnoses, or other such easily determinable factor that may fairly allocate costs; and any other method approved by the Board. Requires the Board in establishing the cost apportionment method to take into account the desirability of limiting billing and administrative costs by limiting the amount of data the provider must furnish.

Section 312(a)(3) permits a State health board (when regulations provide for more than one apportionment method for any type of provider in the State) to select and require the use of one of such approved methods, but only after it has considered the relative merits of the various approved methods. Permits the State health board to change its selected method at any time.

Section 312(a)(4) requires each institutional provider with an approved prospective budget to transmit to the State health board, at the close of each year, data and a reconciliation showing differences between the actual expenditures and services provided by the provider with the expenditures and services allowed in its approved prospective budget. If expenditures are below those predicted because of efficiency, the State health board is required to provide for the retention by the provider of one-half the savings. Requires the State health board to provide, to the extent appropriate, for adjustments in the amount of payments made by different insurers and HMOs or in the prospective institutional budget for the following year in order to correct unintended differences in the amount or source of payments to a provider.

Section 312(b)(1) provides that, in general, non-institutional providers are to be paid for furnishing covered health care services (other than drugs, hearing aids, medical equipment or laboratory services) in accordance with the lower of (A) the fee charged by the provider; (B) the fee agreed upon between the provider and the insurer or HMO; or (C) the applicable maximum fee schedule for the service as established by the State health board. Permits the Board, upon recommendation of a State health

board and on an individual basis, to provide for an increase in the payment to a physician for performance of unusual merit.

Section 312(b)(2) permits payment in lieu of the above to be made to a provider at the provider's election, on a salary or fee-for-time basis if the total amount payable in a year to the provider through such method is not greater than the total amount payable for the equivalent amount of service as computed on the basis of the applicable maximum fee schedule in that State.

Section 312(c) provides that payments to providers for durable medical equipment, laboratory services, drugs, and hearing aids are to be the sum of (1) the lower of (A) the charge for the item or service or (B) the maximum reasonable cost of the service or item, plus (2) for drugs and hearing aids, the lowest of (A) the provider's dispensing fee, (B) the fee agreed upon between the provider and the insurer or HMO, or (C) the highest fee permitted under the applicable maximum fee schedule.

Section 312(d) provides that for other covered health-care services, the provider is to be paid the lower of the fee charged by the provider, the fee agreed upon between the provider and participants, insurer or HMO, or the maximum reasonable cost of the service, as established by the State health board in accordance with national guidelines and standards.

Section 312(e) permits the Board to allow payment to be made to institutional and other providers using an experimental or demonstration method of reimbursement if it furthers the purposes of the Act.

Section 312(f) requires the Board to conduct a hearing on reimbursement methods (including related guidelines and standards) at least once every five years or more frequently as the Board may provide and upon presentation of a petition signed by one-fourth of the participating providers within a particular provider category. Requires the Board to invite representatives of the providers involved. Permits the Board, after such hearing, to modify reimbursement guidelines and standards for that type of provider and to recommend to Congress appropriate changes in the Act.

APPLICATION OF BUDGET LIMITS

Section 313(a)(1) requires the State health boards, the consortia, insurers and HMOs to monitor payments to providers to assure that expenditures do not exceed the applicable limits under the annual State budget.

Section 313(a)(2) requires each insurer and consortium in a State to report to the State health board whenever it determines that payments are being made for a category of provider or service at rates that may result in total payments exceeding the anticipated expenditure level provided for under the national or State budget for that category of provider or service.

Section 313(a)(3) requires the State health board to investigate such excessive payment rates, including utilization rates and other pertinent factors, and to take corrective actions, after approval of the Board and consultation with consortia, insurers, HMOs, and providers involved.

Section 313(b)(1) permits a State health board to correct for expenditures for services in excess of those provided for under the annual State budget by transferring expenditures between categories of services or providers within percentage allowances established by the Board.

Section 313(b)(2) permits a State health board to take other corrective action by authorizing the use of funds from contingency funds established by consortia or from the national contingency fund when excess expenditures are due to unforseen circumstances beyond the control of the insurers, HMOs, and providers involved.

Section 313(b)(3) permits the State health board, with the approval of the Board and after consideration of comments from organizations of providers, to modify reimbursement methods, including pro-rated decreases in the amount of payments made to such providers as determined appropriate.

Section 313(b)(4) permits the State health board, to the extent permitted by the Board, to provide that payment be made for particular covered services or to particular providers only if additional certification of the need or qualifications of the provider are met.

Section 313(b)(5) permits the State health board, in accordance with national guidelines, to require insurers and HMOs to make payment for covered services in a particular period in amounts exceeding the premium amounts provided for in that period.

TREATMENT OF PHILANTHROPIC CONTRIBUTIONS AND STATE AND LOCAL GOVERNMENT SUPPLEMENTARY PAYMENTS

Section 314(a) permits philanthropic contributions and supplementary payments by State and political subdivisions to be made to supplement provision of covered services under this Act.

Section 314(b) prohibits a State health board, in reviewing prospective budgets and establishing maximum fee schedules, from recognizing expenses associated with capital expenditures assisted by such philanthropic contributions or government supplementary payments unless such expenditures have been approved under the applicable planning process under this Act.

TITLE III—PART B

Subpart II—METHODS OF REIMBURSEMENT OF PROVIDERS

PAYMENTS TO INSTITUTIONAL PROVIDERS BASED ON APPROVED PROSPECTIVE BUDGETS

Section 321(a)(1) requires each participating institutional provider to submit to the State health board (in accordance with established deadlines and in the required form and manner) its proposed prospective budget for the subsequent year. Requires the budget to cover all health services (not merely covered health-care services) provided by the provider and to include the following:

Anticipated costs, broken down by schedules for costs associated with operations, capital items, inpatient services, outpatient services, and nursing services;

The proportion of anticipated costs associated with provision of covered services to eligible individuals and with provision of other services; and

Anticipated revenues broken down by source.

Section 321(a)(2) requires the budget to be accompanied by documentation (as established by the Board for review purposes) including that related to:

Changes in services or capital expenditures during the two-year and five-year periods following the budget year;

Previous budgets of the provider;

Impact on costs of any anticipated changes in services, the provider's productivity, or utilization of services, and reasons for changes;

Volume of services; and

Relevant characteristics of the patient population.

Section 321(a)(3)(A) requires the budget to include as costs the services of all physicians under contract with the provider, all radiologists and pathologists providing services to inpatients, and, in the case of psychiatric hospitals, all physicians furnishing services to inpatients. Requires the amount budgeted for payment for such services to be reasonable in comparison to the cost of obtaining such services on a salaried or other basis, whichever is less.

Section 321(a)(3)(B) requires the budget to include the total cost of wages and fringe-benefit payments for or on behalf of non-supervisory employees. Requires that the rate budgeted for nonsupervisory wages be at least the minimum wage rate applicable under section 6(a)(1) of the Fair Labor Standards Act of 1938. Requires that, if any nonsupervisory employees are covered by a collective-bargaining or other negotiated agreement, wages and fringe-benefits (and any prospective changes) are to be in accordance with the agreement. Requires the rates for wages or fringe benefits for non-supervisory employees not covered by a collective-bargaining agreement not to exceed the prevailing rates for comparable employees of providers of the same type in the same locality. Defines the term nonsupervisory employee.

Section 321(a)(3)(C) requires that reimbursable costs must include the cost of basic covered health-care services furnished to non-eligible individuals if no other payment for such services is obtainable by the provider.

Section 321(a)(3)(D) excludes depreciation costs from the budget except for payment of debt principal incurred before enactment of the Act; cost of acquiring minor capital items as defined by the Board; cost of major capital items if approved through the planning process; and costs associated with closure or reduction in services, including reasonable costs of easing personnel dislocations.

Section 321(a)(3)(E) provides that the budget will include, for a proprietary hospital or skilled nursing facility, a reasonable rate of return on equity capital in lieu of other allowances, to the extent they reflect similar items. Requires that, for other proprietary institutional providers, the budget also include provision for a reasonable rate of return on equity capital in lieu of other allowances to the extent (and in accordance with regulations) the State health board finds feasible and appropriate. Provides that the rate of return recognized for proprietary providers must not exceed one and one-half times the average of the rates of interest, for each month of the year, on the obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

Section 321(a)(4) requires that the budget include an amount for working capital and reasonable reserves for contingencies.

Section 321(a)(5) ensures technical assistance to primary care institutional providers in the preparation and submission of their budgets.

Section 321(b)(1)(A) requires the Board, after consulting with institutional providers and their representatives and after considering views of the consortia and consumer representatives, to establish policies and guidelines (with variations for different categories of institutional providers) for review and approval by State health boards of proposed prospective budgets.

Section 321(b)(1)(B) requires the guidelines to include standards (commonly known as screens), varied by category of institutional provider, to be applied to each proposed budget to determine which budgets (and elements within) may be approved without individual scrutiny and close examination. Also requires the guidelines to provide for detailed review of a random sample of all such budgets to assure quality control and to verify the validity of the screens. Provides that standards may include review of at least the following: the annual rate of increase in the provider's total budget and average total and per diem costs per inpatient; the provider's costs, for each type of facility of the provider, by average total and per diem costs per outpatient visit, and average educational cost per student by type of student; and the cost-ratios of the provider, including the ratio of

administrative costs to total costs and the ratio of costs of particular services to total costs and to the costs of services on a daily, per admission, or other appropriate basis.

Section 321(b)(1)(C) requires the guidelines to provide for uniform collection and reporting (and making available to the public) of data required for review and approval of budgets.

Section 321(b)(2)(A) requires each State health board to review, in accordance with established policies and guidelines, each proposed prospective budget and to make the results of its review available to the public. Requires each review to assess the extent to which any described changes in services or capital expenditures conform to the current approved plan of the health systems agency in the area and the most recent State health care improvement plan. Also provides for review of the quality, accessibility, and effectiveness of services furnished by the provider. Requires the review to consider any relevant findings of the professional standards review organizations and any national provider accreditation organizations for that category of provider.

Section 321(b)(2)(B) requires the State health board, before it disapproves costs contained in a proposed prospective budget, to inform the provider of the pending disapproval and permit the provider an opportunity for comment.

Section 321(b)(2)(C) requires the State health board to consider any timely recommendations submitted as a result of negotiations between consumer groups, the provider, and representatives of employee organizations, or in the absence of such recommendations, material submitted by any such party. Requires the State health board to make available to consumer groups and employee organizations technical assistance to promote or assist in negotiations.

Section 321(b)(2)(D) permits the State health board to delegate the prospective budget review function (but not approvals) to an appropriate independent entity, in accordance with regulations.

Section 321(c)(1)–(2) disallows any amounts in a prospective budget for capital acquisitions or expenditures (other than minor expenditures, as determined by the Board) and any related operating costs unless the provider participates in, or has established and maintains, a planning process in accordance with regulations. Requires such process to provide for submission of the proposed budget on a timely basis to the State health planning and development agency (under title XV of the Public Health Service Act) for its review and approval of any such acquisitions or expenditures.

Section 321(d)(1) requires each State health board, after and in accordance with its review, to approve the budget with or without any modification. Requires each State health board to take account of the following:

Total limits of anticipated expenditures in the applicable national and State budget;

The plan of the health systems agency for the area in which the provider functions;

Pertinent demographic factors;

Impact on costs of any expected inflation;

Effect of any approved capital expenditures and service modification plan;

Effect of acceptable future wage increases; and

Objectives for efficiency and cost-effectiveness for that provider as established by the Board, based on comparisons with similar providers with consideration for differences in patient mix and other factors. Provides that the amount approved in a prospective budget is the total amount payable pursuant to this Act for that provider for the budget year.

Section 321(d)(2) requires that, as a condition of approval, a prospective budget be resubmitted if modification is required because expenditures allocated to the State under the national budget as adopted are lower than the amount which had been anticipated for the State under the national budget as proposed.

Section 321(d)(3) permits a budget to establish maximum expenditure and payment levels for its various parts and, subject to regulations, to provide for transfers between parts.

Section 321(d)(4) requires the State health board to provide for transmittal of an approved prospective budget to approved insurers likely to pay the provider for services furnished their enrollees.

Section 321(d)(5) disallows any payment pusuant to this Act for expenditures by an institutional provider for covered health-care services not included in its approved prospective budget.

MAXIMUM FEE SCHEDULES FOR PROFESSIONAL SERVICES

Section 322(a)(1) requires each State health board to provide for the development of maximum fee schedules, applicable to covered health-care services (other than durable medical equipment and laboratory services) furnished by a physician or other non-institutional provider.

Section 322(a)(2) requires total payments under such fee schedules to be consistent with expenditures anticipated in the national and State budgets for services of the type covered by the schedule. Requires the level of payments to be based on the best available projections as to demand for and utilization of that type of provider or service.

Section 322(a)(3) provides that maximum fee schedules be developed only after opportunity for negotiations with participating providers.

Section 322(b)(1) requires the Board to develop guidelines for the development and modification of maximum fee schedules by State health boards. Requires that the schedules applicable to services furnished in the first effective year will be the maximum fee schedules applicable under the Medicare program in the previous year with certain modifications. Requires the guidelines to include the relative value of particular covered health-care services taking into consideration the time and effort required to furnish the service; the level of skill required; the cost (including indirect costs) to the provider of furnishing the service; and the relative cost-effectiveness of providing such services.

Section 322(b)(2) requires the guidelines to include appropriate variation in fees for different geographic areas, taking into consideration the relative costs of practice in different areas; relative earnings of nonphysicians in different areas; relative rate of change in physicians' fees in different areas, and the need to encourage provision of services in underserved areas.

Section 322(b)(3) requires the guidelines to provide that, where two or more categories of health personnel are qualified to provide a particular health-care service of comparable quality, the maximum fee for that service will be the lowest of the maximum fees authorized for that service for such categories of personnel.

Section 322(c) requires the Board to develop a formula for establishing permissible year-to-year changes in fee schedules, taking into account the following:

The increase in an index of the earnings of non-physicians;

The increase in an index of the cost of operation of offices of the different types of providers;

Budget limits on expenditure increases permitted for the service;

Changes in utilization;

Applicable negotiations by the State health board with providers. Further requires that the maximum fee permitted for a particular year cannot be less than the maximum fee for that service in the previous year.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT AND LABORATORY SERVICES ON A COST BASIS AND FOR DRUGS AND HEARING AIDS ON A COST-PLUS FEE BASIS

Section 323(a)(1)–(2) provides payment to be made for provision of durable medical equipment and laboratory services based on the lower of the charge, or the reasonable cost of the equipment or services, and for drugs and hearing aids based on the lower of the charge, or the reasonable cost plus a reasonable professional fee.

Section 323(b)(1) requires the Board to establish guidelines for the reasonable cost of durable medical equipment, laboratory services, drugs, and hearing aids. Requires the reasonable cost for such an item to be the lowest cost at which such item of comparable quality is widely available in an accessible area. Requires the Board to establish categories of generic equivalent drugs to be treated as drugs of comparable quality.

Section 323(b)(2) requires each State health board to establish and distribute information listing the limitations pertaining to the reasonable cost of different items of durable medical equipment, laboratory services, and hearing aids. Requires the Board to establish and distribute information listing the limitations pertaining to the reasonable cost of different drug items.

Section 323(c)(1) provides that the amount of professional fee payable for provision of a hearing aid is the lesser of the charge, or the amount provided in a maximum fee schedule established by the State health board. Permits the State health board to provide for fees which reflect reasonable salary levels for providers of hearing aids in the area in which such items are provided.

Section 323(c)(2) provides that the amount of professional dispensing fee payable for dispensing of a drug is the lesser of the charge, or the amount provided in the maximum-fee schedule established by the Board. Permits the Board to provide for fees which reflect reasonable salary levels for dispensers of drugs in the given area. Permits the Board to delegate the establishing of such maximum fee schedules to the State health boards.

USE OF NEGOTIATIONS IN DETERMINING AMOUNTS OF PAYMENTS

Section 324(a)(1) requires each State health board to regularly and periodically invite representatives of participating providers in the State to meet and negotiate with representatives of persons (including consortia, participating insurers, HMOs, and employers) who pay, directly and indirectly, for covered health-care services. Provides that the negotiations will concern the following:

Screens, maximum rates, and other limitations on payments to institutional providers on the basis of approved prospective budgets;

Maximum fee schedules for professional services;

Reasonable cost levels for certain other items and services; and

Any other method for control of costs. Requires the State health board to supervise such negotiations.

Section 324(a)(2) permits a State health board to incorporate within its annual State budget the provision of any agreement achieved through such negotiations if it keeps expenditures within the budgeted State limit.

Section 324(b)(1) requires the Board to establish criteria for the selection of members of the provider negotiating groups in each State for each of the following groups (which may be modified by the Board):

Hospitals; skilled nursing facilities; home health-care agencies—other institutional providers, including community health centers, migrant health centers, and health clinics; physicians providers; other non-institutional providers, such as pharmacists, physician therapists, and occupational therapists; hospital employees (regardless of profession or occupation).

Section 324(b)(2) requires provider representatives to be elected for each type of geographic area (including at least urban, rural, and suburban areas). Requires election of employee representatives for each type of institutional provider. Requires election of physician representatives for each medical and osteopathic specialty and style of practice (including at least solo practice, group practice, and institution-based practice).

Section 324(b)(3) requires the Board to develop, after consulting with any existing negotiating groups and other associations of health care providers or institutions, general guidelines for the election of representatives for each provider negotiating group. Requires guidelines to provide for differences in the size of various negotiating groups; proportional representation for each type of provider; three-year terms for each representative; and nomination and election methods which assure full information and opportunity for participation being made available to all providers of that type and, as appropriate, their employees.

Section 324(b)(4) requires each State health board, in accordance with national guidelines and after consulting with any existing negotiating groups and other associations of health care providers in the State, to establish the size, composition, and other characteristics of the provider negotiating groups within the State; the process of nomination; and the election of members. Further requires such boards to conduct (or oversee the conduct of) these elections.

Section 324(c) requires the election of provider representatives to negotiating groups to be by secret ballot. Requires negotiating sessions to be open to the public, except as the Board may provide.

TITLE III, PART C—AMOUNTS OF PREMIUMS

Part C—Determining Amounts of Premiums and Incentive Payments and Benefits

Determination of national community-rated premiums and rate and group-rated premiums

Section 331(a)(1) requires the Board to establish each year a national community-rated premium and a national premium rate.

Section 331(a)(2) requires that the national community-rated premium be established in such manner that if all enrollees (excluding certain individuals) paid the same amount, the sum of such premiums (including certain administrative costs) equals the expenditures associated with the furnishing of basic covered services to all persons (excluding certain individuals) enrolled in qualified plans. Excluded from the expenditures are costs associated with or attributable to the furnishing of care to Medicare-eligible individuals, SSI-eligible individuals, AFDC-eligible individuals and residents of Federal and State institutions. Excluded from the divisor in determining the premium amount are all Medicare-eligible individuals and members of a uniformed service on active duty and their dependents. Requires that the national community-rated premium be established in three schedules: one for one-member families; one for two-member families; and a third for families with three or more members. Requires that the apportionment of the premium among such schedules be based on the relative actuarial costs of furnishing basic services to each size family.

Section 331(a)(3) requires that the national premium rate be established in such manner that the sum of all wage-related premiums, non-wage related premiums, the government payment for unpaid private premiums, and the voluntary premiums under international agreements equals the anticipated expenditures for covered services furnished Medicare-eligible individuals, SSI-eligible individuals, AFC-eligible individuals and residents of Federal and State institutions.

Section 331(b)(1) requires the Board to establish a group-related premium for SSI-eligible individuals and for residents of Federal and State institutions who are enrolled in a qualified plan.

Section 331(b)(2) requires that the group-related premium be designed so that the total amounts paid by or on behalf of the individuals in the group equal the expenditures attributable to the furnishing of care to the individuals of such group. Requires the Board to take into account previous cost experience and other estimates in making such determinations, and requires that the Board prevent disclosure to consortia and others that any particular individual is a member of such group. Requires the Board to make premium adjustments annually to reflect actual cost experience with respect to expenditures for such groups of individuals.

Determination of state community-rated premium rate, and group-rated premium

Section 332(a)(1) provides, except for subsection (a)(2), that the national community-rated premium and the national premium rate are to apply as the State community-rated premium and the premium rate for each State.

Section 332(a)(2) provides for a decreased community-rated premium and premuim rate for a State, if that State is able to negotiate a lower level of approved expenditures than would otherwise be provided for in the national budget.

Section 332(b) requires each State to establish a group-rated premium for AFDC-eligible individuals and for residents of State institutions who are enrolled in a qualified plan. Such premium may vary by area within a State. Requires that such premium be designed so that the total amounts paid by or on behalf of the individuals in the group are equal to the expenditures attributable to the furnishing of care to the individuals of such group. Requires the State to take into account previous cost experience and other estimates in making such determinations, and requires that the State prevent disclosure to consortia and others that any particular individual is a member of such group. Requires the State to make premium adjustments annually to reflect actual cost experience with respect to expenditures for such groups of individuals.

Insurer and health maintenance organization benefits, dividends and rebates to promote cost-effectiveness

Section 333(a)(1) permits a participating insurer or HMO to offer eligible individuals (other than Medicare-eligible persons) an incentive to enroll in a qualified plan by providing services in addition to basic covered services or by paying dividends or cash rebates on premiums.

Section 333(a)(2) permits participating HMOs to offer the same kinds of incentives to Medicare eligibles.

Section 333(b) requires that such incentives may be offered only if the incentives are available to all individuals enrolled under a plan, and only if individuals receive a statement of the actuarial value of the benefits added by such incentives.

Section 333(c)(1) requires that such dividends or cash rebates be paid to enrollees. Requires, in the case of enrollees who are employed, that dividends or rebates be divided between the employees and the employer in proportions determined in accordance with procedures established by the Board. Requires that such arrangements be presented to the collective bargaining representative of employees or other employee representatives where appropriate.

Section 333(c)(2) provides that dividends and cash rebates are not to be treated as taxable income to individuals nor as income or other resources under Federally-assisted welfare programs, or reduce any tax credit due under Section 334.

Limit on amount of private premiums

Section 334(a) provides that the sum of 35 percent of wage-related premiums, any non-wage-related premiums, and any premiums paid for members of uniformed service may not, in any year, exceed the amount of the State community-related premium established for a family unit of that size in that State for that year.

Section 334(b) provides for a refund to families of amounts in excess of the limits established under subsection (a). Requires further that, in the absence of an agreement among the members of a family, such refund is to be apportioned in accordance with the amount of premiums paid with respect to the income of each family member.

TITLE III, PART D—PAYMENT AND COLLECTION OF PREMIUMS

Part D—Payment and Collection

Wage-related private premium

Section 341(a)(1) requires each employer to pay on behalf of each employee for each payroll period an amount equal to the product of the wages paid during such period and the State premium rate applicable for such period. Such payments must be made by employers not later than 15 days following the last date of the payroll period.

Section 341(a)(2) provides that employer payments be made to an applicable consortium.

Section 341(a)(3) permits an employer (subject to any applicable collective-bargaining agreement) to require employees, by deduction or other reasonable method, to pay an amount not exceeding 35 percent of the amount paid on an employee's behalf under subsection (a)(1). Also requires employers to pay any voluntary contributions an employee may wish to have made on his behalf. Such contributions are to be credited toward non-wage income-related premiums payable, if any, provided for under Section 342.

Section 341(b)(1) permits an employer to obtain certification from the Board as an impacted employer. If so determined, an employer which is not a State employer or a non-profit employer is to be entitled to a tax credit as provided in subsection (b)(2). A State employer or non-profit employer is to be entitled to a payment from the Board as provided for in (b)(2).

Section 341(b)(2) provides for tax credits or payments equal to one-half of the lesser of the incremental costs of health insurance for the employer for the first effective year, or in the case of an employer which is not a State employer or non-profit employer, the amount by which the employer's absolute net income for the year is less than the employer's net income for the base year. Credits or payments are to be reduced to one-third of such amounts for the year after the first effective year and to one-sixth of such amounts for the second year after the first effective year.

Section 341(b)(3) provides that no credits or payments may be made for such purpose for any year after the second year after the first effective year.

Section 341(b)(4) provides that rules similar to those under Section 44D of the IRS Code of 1954 will apply under this section.

Section 341(b)(5) authorizes the Board, in consultation with the Secretary of Treasury, to promulgate regulations to carry out this subsection, subsection (c), and section 44D of the IRS Code of 1954.

Section 341(c)(1) defines, for purposes of this section and section 44D of the IRS Code of 1954, the terms: employer, non-profit employer and State employer. "Employer" does not include an agency or instrumentality of the United States. "Non-profit employer" means an employer exempt from tax under subtitle A of the IRS Code of 1954. "State employer" means an employer which is a State, or any political subdivision thereof, or any agency, instrumentality or corporation wholly owned by such State or subdivision thereof.

Section 341(c)(2) defines "impacted employer" as one for which the product of (A) the amount by which the employer's premium per full-time employee equivalent for a year exceeds the amount of such premiums in the base year, and (B) the number of full-time employee equivalents, is greater than 3 percent of the wages paid by the employer. In addition, employers that are neither state or non-profit employers must satisfy two other requirements—(A) that net income, expressed as a percentage of gross income, for any year is less than such income, for the base year, and (B) that the employer's absolute net income, for the tax year ending in a year is less than such income for the tax year ending in the base year.

Section 341(c)(3) defines "incremental increase in employee health insurance costs" to mean the product of (A) the amount by which an employer's premium per full-time employee equivalent in a year exceeds such amount in the base year and (B) the number of full-time employee equivalents minus, 3 percent of the wages paid by the employer. However, in the case of an employer that is neither State or non-profit employer, the "incremental increase" is the lesser of that calculation; or the product of the percentage by which (A) net income (expressed as a percentage of gross income) for a year is less than such income for the base year, and (B) the gross income for the year; or the amount by which the employer's absolute net income for a year is less than the employer's absolute net income for the base year.

Section 341(c)(4) defines "health insurance premiums per full-time equivalent" to mean the amount of employer premiums for a year divided by the number of full-time employee equivalents of that employer during that year.

Section 341(c)(5) defines "health insurance premiums" to mean (A) for the base year, the amount paid by an employer to insurers or HMOs for its employees during the year, and (B) for any year thereafter, the employer's share of the payments required by this section.

Section 341(c)(6) defines "full-time employee equivalents" to mean (A) the sum of fractions for each salaried, non-hourly employee, plus (B) the number of hours of employment for other employees (not counting hours in excess of the maximum permitted under section 7 of the Fair Labor Standards Act); divided by 40.

Section 341(c)(7) defines "base year" to mean the year before the first effective year (as defined in section 601(a)).

NON-WAGE INCOME-RELATED PRIVATE PREMIUMS

Section 342(a)(1) requires all persons (except certain exempted individuals) to pay a premium based on non-wage-related income of such persons' family units. In the absence of an agreement among family members, such premiums are to be in proportion to an individual member's contribution to such income in the family.

Section 342(a)(2) requires that such premiums be paid to the applicable consortium.

Section 342(a)(3) authorizes employees to have non-wage-related premium amounts withheld from wage income, as provided for in section 342(a)(3). Also authorizes such withholding from pensions or other regular sources of non-wage-related income.

Section 342(a)(4) establishes the amount of such premiums as equal to the product of (A) one-half the State premium rate for the State in which the family is enrolled, and (B) the amount of non-wage-related income of the family units of which an individual is a member.

Section 342(b) requires individuals to file quarterly information returns relating to computation of the amount of premiums due, in accordance with regulations prescribed by the Board. Requires that premiums be paid quarterly, with final settlement on an annual basis. Authorizes the Board to impose a collection surcharge (not to exceed 15 percent of the amounts due) for failure to pay on a timely basis.

Section 342(c)(1) defines an "exempt individual," for purposes of this section, as Medicare-eligible individuals, members of a uniformed service on active duty, alien employees of foreign governments and organizations, and dependents of another individual.

Section 342(c)(2) defines "non-wage-related income" to mean family adjusted gross income minus the sum of: wages paid family members; income attributable to family dependents and Medicare-eligible individuals; and $4,000 in the case of family units consisting of an individual and spouse (with or without dependents), or $2,000 in the case of any other family unit. Income attributable to more than one individual is to be prorated among individuals according to their legal interest in such income. The dollar amounts ($4,000 and $2,000) are to be increased annually according to changes in the consumer price index.

VOLUNTARY PREMIUMS UNDER EXECUTIVE AGREEMENTS

Section 343(a) requires that payments due with respect to alien workers of a foreign government or organization be paid on the basis of the national community-rated premium for the family units of such individuals to the consortium in which such individuals are enrolled.

Section 343(b) requires that payments made in lieu of the Medicare hospital insurance tax be paid to the Board for deposit in the Hospital Insurance Trust Fund.

HOSPITAL INSURANCE TAX AND PREMIUMS FOR MEDICARE-ELIGIBLE INDIVIDUALS

(See Section 633).

FEDERAL AND STATE PAYMENTS FOR PREMIUMS ON BEHALF OF CERTAIN RECIPIENTS OF FEDERAL AND STATE ASSISTANCE

Section 345(a) requires the Board to make monthly premium payments to consortia on behalf of SSI-eligible individuals and residents of Federal institutions.

Section 345(b) requires each State to make monthly premium payments to consortia on behalf of AFDC-eligible individuals and residents of State institutions.

GOVERNMENT PAYMENT AND COLLECTION OF UNPAID PREMIUMS

Section 346(a) requires the Board to pay a consortium any premiums due, after such consortium has made a reasonable effort to collect such premiums, but has not received payment. Except in the case of States (or political subdivisions), the Board is to be subrogated the right of collection, and the unpaid amounts are to constitute a claim of the United States.

Section 346(b) provides that, if a State or political subdivision fails to make a required employer payment, the Board may deduct such permium amounts from any amounts otherwise owing to the State or subdivision under any program under the jurisdiction of the Board. An additional assessment, equal to 50 percent of the amount due, is to be paid into the Health Resources Distribution Fund.

TITLE III, PART E—DISTRIBUTION OF PREMIUMS

PART E—DISTRIBUTION OF PREMIUMS AMONG CONSORTIA, INSURERS, AND HEALTH MAINTENANCE ORGANIZATIONS

COMPUTATION OF ADJUSTED CAPITATION AMOUNTS

Section 351(a)(1) requires the consortia to compute for each capitation individual in a qualified plan offered by a participating insurer or HMO in a State an amount equal to the average anticipated expenditure in the State budget for the individual, including certain administrative costs and funds for the contingency fund, but excluding State health board administrative costs. Requires the consortia to report capitation amounts so computed to the Board for review and approval.

Section 351(a)(2) defines the term "capitation individual", "non-capitation individual", and "group-rated individual" as used in this part.

Section 351(b) requires each consortium to adjust capitation amounts to reflect, for a specific individual, the relative actual costs of providing covered services in the area where the individual lives, and the actuarial risk for someone with the individual's characteristics obtaining or incurring expenses for covered services for the year. Provides for adjustment to be made to eliminate financial incentives for insurers or HMOs to practice risk selection or experience rating.

Section 351(c) requires that the total of capitation amounts and adjusted capitation amounts for capitation enrollees in a State in a year be equal to the total expenditures in the State budget for provision and administration (excluding State health board administrative expenses) of covered services to capitation individuals.

ALLOCATION OF PREMIUMS AMONG CONSORTIA, INSURERS, AND HEALTH MAINTENANCE ORGANIZATIONS

Section 352(a)(1) requires each consortium to apportion to its members an adjusted capitation amount for each captation individual and a group-rated premium for each group-rated individual. Requires these apportioned amounts to be paid to members in installments consistent with Board guidelines.

Section 352(a)(2) directs the Board to provide supplementary payments from the Health Resources Distribution Fund to participating HMOs in operation for less than five years. Requires eligible HMOs to submit a prospective budget to the State health board for approval. Provides for the supplementary payment to be equal to that proportion of reasonable costs in the prospective budget, for covered services provided to enrollees, in excess of regular payments received, as the Board finds appropriate.

Section 352(b) requires consortia to provide, in accordance with Board guidelines, for redistribution of collected premiums to assure that each consortium is provided an adjusted capitation amount for each capitation individual enrolled, and a group-rated premium for each group-rated individual enrolled.

TREATMENT OF SHORTAGES AND OVERAGES; USE OF CONTINGENCY FUNDS

Section 353(a) requires each consortium to maintain a contingency fund for expenditures for unforeseen and unanticipated circumstances, beyond the insurers' or HMOs' control.

Section 353(b)(1) authorizes the Board, in any year when premiums collected are less than amounts provided for in the annual budget, to guarantee the principal and interest of loans issued by the consortia to

assure revenues for a year to furnish covered services.

Section 353(b)(2) provides for loan guarantees to be made under Board terms and conditions. Provides that none may be made unless the Board certifies that: (A) the guarantee is required because premium revenues are below those specified in the budget; (B) the loan bears a reasonable interest as determined by the Board; (C) the terms of the loan require full payment within three years; and (D) the total amount of loans guaranteed for a year will not exceed the amount by which the lesser of anticipated expenditures or actual expenditures exceed actual revenues.

Section 353(b)(3) directs the Board to charge no fees to investigate an application for or to issue a commitment to make a loan guarantee.

Section 353(b)(4) authorizes the Board to make payment under the guarantee if the consortia default.

Section 353(b)(5) directs the Board, when loans are guaranteed, to make appropriate adjustments in annual budgets and State budgets to provide for the recoupment of the costs of securing the loans and for the prompt retirement of the loans.

Section 353(b)(6) pledges the full faith and credit of the U.S. to the payment of all guarantees made for both principal and interest.

Section 353(c) requires the Board, in any year when premiums collected are greater than provided for in the annual budget, to provide for the consortia to maintain and distribute such excess funds in accordance with Board guidelines, including appropriate adjustments in subsequent national and State budgets to account for surpluses and interest on them.

TITLE IV—ADMINISTRATION

PART A—NATIONAL HEALTH BOARD AND STATE HEALTH BOARDS

Subpart I—NATIONAL HEALTH BOARD AND COMMISSION ON THE HEALTH OF AMERICANS

ESTABLISHMENT OF NATIONAL HEALTH BOARD

Section 401(a) provides for the establishment of the National Health Board as an independent establishment (as defined in Section 104 of title 5, U.S.C.).

Section 401(b) requires the Board to have five members appointed by the President with the advice and consent of the Senate, the nominations to be submitted within 60 days after enactment of the Act. Requires the President to designate a member of the Board to serve as chairman. Provides that not more than three Board members may be of the same political party and none may engage in any outside employment while serving on the Board. Provides for the term of office and compensation of Board members. Permits the President to remove a Board member only for inefficiency, neglect of duty, or malfeasance in office.

Section 401(c) requires the Board to have a Director, appointed by the chairman, and, subject to Board rules, permits additional personnel, to be appointed by the chairman.

Section 401(d) describes general provisions for the Board, including provisions for a quorum, an official seal, and office services.

AUTHORITY AND DUTIES

Section 402(a) requires the Board, in addition to other specific functions prescribed for it by the Act, to: (1) establish and maintain commissions, bureaus, divisions, offices, and other entities required by the Act or deemed appropriate; (2) perform the functions of a participating insurer, HMO, or consortium for any area in which, or group of insurers for which, there is no certified participating insurer or consortium; (3) perform the duties of a State health board for any State in which one has not been established; (4) establish administrative procedures for handling consumer and provider appeals of various decisions of State health boards; and (5) be responsible for general implementation and administration of the functions of the Federal Government under the Act.

Section 402(b) directs the Board to study and evaluate, on a continuing basis, the operation of the Act, including the adequacy and quality of services, the cost of each type of service, the effectiveness of cost control measures, and the economic impact of wage-related premiums on employers and employment. Permits the Board to conduct other appropriate studies.

Section 402(c) transfers to, and vests in, the Board all functions of the Secretary of HEW, or other officers and components of the Department of HEW, relating to—

(1) the following provisions of the Social Security Act:

(A) title V (Maternal and Child Health and Crippled Children's Services);

(B) sections 1121 (uniform reporting system for health service facilities and organizations), 1123 (program for determining qualifications for certain health care personnel), 1124 (disclosure of ownership and related information), and 1126 (disclosure of certain individuals who have been convicted of certain offenses);

(C) portions of Section 1131 (notification of social security claimant with respect to deferred vested benefits) relating to the Medicare program;

(D) part B of Title XI (PSROs);

(E) title VIII (Medicare);

(F) title XIX (Medicaid);

and any other functions performed under law by the Administrator of Health Care Financing;

(2) all provisions of the Public Health Service Act, except the following:

(A) provisions of title II (administration) other than sections 226 (administration of grants in certain multigrant projects) and 227 (annual report);

(B) certain provisions of title III (general powers and duties of the Public Health Service)—sections 301 (general), 302 (narcotics), 303 (mental health), the biomedical research authorities of section 307 (international cooperation), 310 (health conferences and health education information), 311 through 318 (Federal-State cooperation), part C (hospitals, medical examinations, and medical care), part D (primary health care) except for section 330 (community health centers), part E (narcotic addicts and other drug abusers), part F (licensing—biological products and clinical laboratories and control of radiation), part G (quarantine and inspection), part H (grants to Alaska for mental health, part I (National Library of Medicine), and part J (assistance to medical libraries);

(C) title IV (National Research Institutes);

(D) title V (Miscellaneous)

(E) title X (population research and voluntary family planning programs); and

(F) title XIV (safety of public water systems);

(3) the Community Mental Health Centers Act;

(4) such functions under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as the Secretary determines, after consultation with the Board, relate to the treatment of alcoholics or alcohol abusers;

(5) functions under the Drug Abuse Office and Treatment Act of 1972 as the Secretary determines, upon consultation with the Board, relate to the treatment of drug addicts or abusers; and

(6) the provision of health care services to American Indians. (Public Law 94-437.)

OFFICES AND COMMISSIONS OF THE BOARD

Section 403(a) requires the Board to have an Ombudsman, appointed by the chairman, who is assigned to investigate complaints about program operation.

Section 403(b) requires the Board to have an Advocate, (appointed by the chairman) assigned to assist consumers in determining their rights to services and reimbursements under the program, to assist consumers in obtaining such services, and to take appropriate action to protect these rights. Requires the Advocate to give priority to requests for aid from the elderly, disabled, members of minority groups, other disadvantaged groups, and women.

Section 403(c)(1)-(2) requires the Board to have an Inspector General, appointed by the chairman. Requires the Inspector General to direct the auditing and investigative activities of the Board; to recommend policies for, and conduct other activities carried out or financed by the Board to promote administrative economy and efficiency or to prevent and detect fraud and abuse; and to recommend policies for, and handle relationships betweeen, the Board and other Federal agencies, State and local governmental agencies, and nongovernmental entities concerning the promotion of administrative economy and efficiency, the prevention of fraud and abuse, or the identification and prosecution of participants in fraud and abuse.

Section 403(c)(3) permits the Inspector General to have access to all materials available to the Board relating to the Inspector General's responsibilities; to request necessary information or assistance from any Federal, State, or local governmental agency; and to require by subpoena, enforceable by a U.S. District Court, any information or evidence necessary.

Section 403(c)(4) requires the Inspector General to contract (to the extent or in amounts provided in advance in appropriations Acts) with State Medicaid fraud control units to conduct these activities concerning health care services under the program.

Section 403(d)(1)(A) requires the Board to establish a Commission on Benefits to review the provision of basic and other services and determine their cost and effectiveness in improving health and to recommend appropriate changes in covered services, particularly to expand the scope or type of services for which coverage is limited.

Section 403(d)(1)(B) requires the Board to establish a Commission on Quality to review the quality of health services, examine standards concerning qualifications and certification of providers (including HMOs), and recommend actions to maintain and improve the quality of services.

Section 403(d)(1)(C) requires the Board to establish a Commission on Access to review the utilization of services by different types of eligible individuals, examine the problems of the disadvantaged in achieving equal access to services, and recommend ways to maintain and improve accessibility for all eligible individuals.

Section 403(d)(1)(D) requires the Board to establish a Commission on Health Care Organization to review the cost and effectiveness of methods for delivery of services, examine the relative performances of HMOs and other types of ambulatory facilities in providing cost-effective health care services, and recommend ways to support and encourage more cost-effective organizational methods to provide and finance services.

Section 403(d)(2) requires the Board to determine commission memberships and terms of office. Requires at least one-half the members to be or represent consumers and requires inclusion of representatives of various types of providers. Provides for compensation of commission members.

Section 403(d)(3) requires the Board to provide staff for the commissions.

COMMISSION ON THE HEALTH OF AMERICANS

Section 404(a)-(b) establishes a nine-member Commission on the Health of Americans to be appointed by the President. Requires the Commission to review the health status of the U.S. population (and subgroups within) and to recommend proposals (and their costs) for improving this health status, including those which could be implemented by the Board.

Section 404(c)-(e) provides for compensation of commission members and for staff and office services.

NATIONAL INSTITUTES OF HEALTH CARE RESEARCH

Section 405(a) establishes under the direction of the Board the National Institutes of Health Care Research to be composed of Institutes of Health Statistics, Health Services Research, and Health Technology Evaluation.

Section 405(b) transfers functions from the Public Health Service Act to these various Institutes, as follows: (1) to the Institute of Health Statistics, all of the functions of the Secretary of HEW under section 304 of the Public Health Service Act relating to health statistics and all of the functions of the Secretary and the National Center for Health Statistics under section 306; (2) to the Institute of Health Services Research, all of the functions of the Secretary under section 304 relating to health services research and all of the functions of the Secretary and the National Center for Health Services under section 305; and (3) to the Institute of Health Technology Evaluation, all of the functions of the Secretary under section 304 relating to health care technology and all of the functions of the Secretary and the National Center for Health Care Technology under section 309.

Section 405(c)(1) requires the Institute of Health Statistics to also (A) propose to the Board ways to establish and operate data systems to assure information to manage the national system and monitor the impact of the cost, accessibility, and quality of health care on morbidity and mortality; and (B) help analyze data gathered from the data systems to meet the needs of administrators, consumers, and providers.

Section 405(c)(2) requires these data systems to be based on uniform minimum data sets developed under section 306 of the Public Health Service Act; to include the entire U.S. population and all health services provided to residents; and to be designed to (1) promote efficiency and effectiveness in collecting, processing, analyzing, and disseminating information; (2) minimize duplication in data gathering; and (3) provide information to facilitate informed decision-making by consortia, employers, insurers and HMOs, providers, and consumers.

Subpart II—STATE HEALTH BOARDS

ESTABLISHMENT

Section 407(a) requires each State, in accordance with the Board's guidelines, to charter as a public corporation a State Health Insurance Corporation.

Section 407(b)(1) provides that the board of directors of a State Health Insurance Corporation is to be known as the State health board, and consist of five members appointed by the Governor with the advice and consent of the Board. Requires: (A) the members of each State health board to be representatives of employers, labor unions, or other major purchasers of qualified health plans, (B) at least one member to be a consumer, and (C) not more than three members to be members of the same political party.

Section 407(b)(2) provides for the term of office of State health board members.

Section 407(b)(3) requires each State health board, in accordance with the Board's guidelines, to establish an ombudsman and an advocate, with functions corresponding to those of the Board's ombudsman and advocate, and advisory commissions corresponding to those of the Board.

Section 407(b)(4) requires each State health board to perform functions prescribed by this Act and also to establish procedures for handling consumer and provider appeals from various decisions of insurers, HMOs, and the consortia.

TITLE VI, PART B—CERTIFIED INSURERS AND CONSORTIA

PART B—PARTICIPATING INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, AND CONSORTIA

PARTICIPATING INSURERS AND HEALTH MAINTENANCE ORGANIZATION

Section 411(a)(1) permits each insurer and HMO to apply to the Board for certification as a participating insurer or HMO.

Section 411(a)(2) directs the Board not to certify an insurer or HMO unless—(A) the insurer or HMO may lawfully operate in each State in which it intends to operate; (B) the insurer or HMO has not violated the terms of any previous participation agreement; and (C) the insurer or HMO enters into a participation agreement.

Section 411(b) requires the Board to provide for a participation agreement between itself and insurers and HMOs containing certain specified provisions.

Section 411(b)(1) requires the insurer or HMO to become a member of the appropriate consortium for its type or (with the approval of the Board and the consortium) of another consortium and comply with the consortium's rules.

Section 411(b)(2) requires the insurer or HMO to offer enrollment in at least one qualified health plan which provides at least all basic covered health care services without any charge other than the premium.

Section 411(b)(3)(A) requires the insurer or HMO to accept during open enrollment all eligible individuals in the order they apply, up to the limits of its capacity, and without restriction (except as authorized by the Board).

Section 411(b)(3)(B) permits the Board to provide for limitations on enrollment to reflect needs for the capacity to develop cost-effective services and for the special characteristics of plans offered by self-insurers which have been arranged between employers and employees.

Section 411(b)(4) requires the insurer or HMO to issue a health insurance enrollment card for each eligible enrolled individual.

Section 411(b)(5)(A) requires the insurer to pay participating providers (and other providers to which payments may be made under qualified plans), in amounts no greater than permitted under the Act, at intervals, and in a manner consistent with the Act, for provision of covered services.

Section 411(b)(5)(B) requires HMOs to pay participating providers (and other providers to which payments may be made), in amounts no greater than permitted under the Act and in a manner consistent with the Act for covered services, or to provide services directly (or a combination of both).

Section 411(b)(5)(C) requires the insurer or HMO to report to the State health board and to its consortium on payments made (and expenses incurred).

Section 411(b)(5)(D) requires the insurer to notify enrollees of the fact and the service for which a payment has been made on the enrollee's behalf.

Section 411(b)(6) requires the insurer or HMO to maintain and afford access to records by the consortium, State health boards and the Board and to provide for confidential treatment of individually-identifiable records.

Section 411(b)(7) requires the insurer or HMO, if a qualified plan offers any rebates, cash dividends, or additional benefits, to offer such to all eligible enrollees on the same basis.

Section 411(b)(8) requires the insurer or HMO to establish and maintain procedures to provide for a fair hearing for either: (A) an individual enrolled in a plan who is dissatisfied by his failure to receive without additional cost any service to which he believes he is entitled, if the amount exceeds the threshold amount established by the Board; or (B) a participating provider who is dissatisfied by the insurer's or HMO's failure to make payment promptly, if the amount exceeds the threshold amount established by the Board.

Section 411(b)(9) requires the Board to agree that, in return for agreed-upon services and understandings, the insurer or HMO is to be paid by its consortium for each enrollee in a qualified plan.

Section 411(b)(10) requires the insurer or HMO to perform other functions required under the Act and to comply with reasonable regulations established by the Board concerning marketing and customer service practices and other areas.

Section 411(c) requires each certification to be for at least one year, as determined by the Board, and permits automatic renewal in the absence of notice by either party to terminate. Provides, however, that the Board may terminate certification at any time (after reasonable notice and opportunity for hearing to the insurer or HMO involved) if it finds that the insurer or HMO (1) has failed to carry out the contract; (2) is carrying out the contract inefficiently or ineffectively; or (3) no longer substantially meets the applicable conditions. Requires the effective date of certification to be specified in the contract.

Section 411(d) permits an insurer or HMO to provide that, as a condition of an individual's enrollment, payments are to be made only for covered services furnished by specified participating providers or by the organization.

CONSORTIA

Section 412(a) requires the Board to certify corporations lawfully operating in each State, to serve as consortia. Requires the Board to certify one consortium to carry out functions for each of the following types of insurers or HMOs:

(1) a Blue Cross-Blue Shield consortium, representing nonprofit State-chartered medical/hospital services corporations;

(2) a commercial insurance carrier consortium, representing profit-making commercial insurers not directly furnishing health care services;

(3) a prepaid group practice HMO consortium, representing HMOs which provide basic services through member physicians or other member health professionals or a medical group (or groups);

(4) an individual practice association HMO consortium, representing HMOs which provide basic services through an individual practice association or a combination of such an association, medical group, staff, and individual physician and other health professionals under contract;

(5) a self-insurer consortium, representing insurers that are self-insurers. Permits an insurer or HMO, with the Board's and consortium's approval, to apply and serve as a member of a consortium other than that to which it would otherwise belong.

Section 412(b)(1) states that the Board may not certify a corporation as either a blue cross-blue shield consortium or a commercial insurance consortium unless it has members offering qualified plans to such an extent in all States and in each major area of each State that plans are effectively available to all eligible individuals in the U.S.

Section 412(b)(2) states that the Board may not certify a corporation as a consortium unless the corporation may lawfully act in each State and has sufficient resources and plans of operation to carry out the functions; the consortiums has not violated the terms of any previous agreement;

and the consortium enters into a participation agreement.

Section 412(c) requires the participation agreement between the Board and a consortium to include certain specified provisions.

Section 412(c)(1) requires the consortium to accept for membership each participating insurer of the appropriate type which applies, has not previously violated consortium rules, and agrees to comply with consortium rules.

Section 412(c)(2) requires the consortium to provide for premium collection and reallocation, in concert with other consortia, and to provide for good faith efforts to collect wage and non-wage-related premiums as the Board may provide.

Section 412(c)(3) requires the consortium to pay to consortium members from premiums collected, for each enrollee in a qualified plan.

Section 412(c)(4) requires the consortium to maintain a contingency fund.

Section 412(c)(5) requires the consortium to monitor and report regularly to the Board on premiums collected, payments made to members, number of enrollees and their characteristics, transfers of premiums between consortia, and other information required by the Board; and to each State health board on utilization of services in the State and payments made to providers from consortium member funds.

Section 412(c)(6)(A) requires the consortium to negotiate with provider groups in establishing prospective budgets and maximum fee schedules in areas where its members offer plans, except that no consortium representative is to participate in a negotiation concerning a State or area where the consortium has no member, or where no member offers a plan pursuant to the Act.

Section 412(c)(6)(B) requires the consortium to assist members in enrolling eligible individuals.

Section 412(c)(7) requires the consortium to establish review procedures for individuals and providers dissatisfied with a member's determination, after a hearing, if the amount in question exceeds the threshold amount set by the Board.

Section 412(c)(8) requires the consortium to perform certain other functions and to comply with regulations concerning standard claims forms and procedures, privacy rights of enrollees and providers, and other areas.

PROMOTION OF COMPETITION

Section 413(a)(1) requires that with respect to civil or criminal actions brought under Federal or State anti-trust laws regarding actions taken by a participating insurer, HMO, consortium, or consortia (if such actions were not taken to injure competition) that there be available as a defense that such actions were taken in carrying out duties required under agreements under this Act and in accord with regulations established by section 413(a)(2) below. Requires that persons interposing this defense are to have the burden of proof, except that the burden is to be on the person against whom the defense is asserted with respect to whether the actions were taken to injure competition.

Section 413(a)(2) requires the Board, after consulting with the Attorney General and the Federal Trade Commission, to prescribe standards and procedures (including those related to open meetings and maintenance of records) for the conduct of insurers, HMOs, and consortia in a manner consistent with promotion of competition and the proper conduct of their responsibilities.

Section 413(a)(3) defines the term "anti-trust laws" as used in this subsection.

Section 413(b) permits an insurer or HMO to file a complaint with the Board that another insurer or HMO (or its consortium) has engaged in anti-competitive activity, including the establishment of a formula for determining adjusted capitation amounts under section 351 which does not reflect actuarial risk, or a marketing or enrollment practice resulting in enrollee risk-selection. Requires the Board to provide for investigations of such complaints, and, where such activities have occurred, to provide for appropriate adjustments in contracts and for other appropriate relief.

TITLE V—HEALTH CARE IMPROVEMENT PROGRAM; HEALTH RESOURCES DISTRIBUTION FUND

TITLE V—HEALTH CARE IMPROVEMENT PLAN

ESTABLISHMENT OF PROGRAM AND FUND

Section 501(a) requires the Board to establish a program to improve the distribution of health care resources in the U.S. in order to promote improvement in the quality, accessibility, and efficiency of health-care services.

Section 501(b) establishes in the U.S. Treasury an account known as the Health Resources Distribution Fund.

Section 501(c)(1)-(2) authorizes appropriations of $500 million to be deposited in the Health Resources Distribution Fund for the fiscal year beginning before the first year health care benefits are available under this Act. Authorizes for each succeeding fiscal year, the amount authorized for the previous fiscal year increased by the percentage increase in total expenditures contained in the annual budget over the annual budget for the preceding year.

USE OF HEALTH RESOURCES DISTRIBUTION FUND

Section 502(a)(1)-(2) requires the Board to make grants to State health boards from the Health Resources Distribution Fund and permits the Board to provide directly, or by grant or contract, for projects to improve health care services, including any of the following projects:

For closure or conversion of under-utilized health care facilities;

For provision of needed health services in health manpower shortage areas;

For renovation of institutional health facilities to meet specific health, safety, or other critical requirements;

For stimulation and support of HMOs and other cost-effective health delivery systems;

For education of health professionals to meet projected needs in various specialties and professions;

For programs of continuing professional education.

Section 502(b)(1)-(2) requires the Board to allocate amounts from the Health Resources Distribution Fund to each State health board, based on State needs. Provides that the grant to a State may not be less than one-half of the ratio of the population of the State to the population of all the States. Permits State grants to be used directly, or for grants or contracts, for any purposes for which the Board may use the Fund.

HEALTH EDUCATION PROGRAM

Section 503 requires each State health board to provide for a program of consumer education concerning health, self-care, effective use of health resources, and consumer rights and privileges under the Act. Requires the State health board to develop material for classroom instructions and for training of professionals about the impact on health and availability of health resources of different personal life styles.

SPECIAL STUDIES AND PROJECTS

Section 504(a)(1)-(2) requires the Board to study and evaluate the impact of this Act on State Medicaid programs and the means of improving such programs with respect to comprehensiveness, accessibility, and quality of services (particularly long-term care). Requires the Board to take steps appropriate to implement improvements in State Medicaid programs, including establishment of guidelines in the budget process, use of Health Resources Distribution Funds, promulgation of regulations and recommendations for legislation. Requires the Board to report its recommendations to Congress within five years after enactment and to include recommendations for long-term care.

Section 504(b) permits the Board directly or by contract to develop and demonstrate methods to improve (A) the coordination of health services furnished by different providers; (B) the adequacy, quality, accessibility of services or greater efficiencies in the provision of services; and (C) peer review and control of utilization and quality in the provision of drugs, laboratory services, and other health services. Permits the Board to waive certain reimbursement requirements for such demonstration projects.

Section 504(c) requires the Board to provide, from funds available from the Health Resources Distribution Fund, for demonstration projects to evaluate the feasibility of hospice services as part of basic covered health-care services.

Section 504(d) requires the Board to provide for a study (based, to the extent feasible, on existing studies) of provider malpractice and malpractice insurance and its impact on patients, providers, and health costs. Requires the Board to transmit to Congress within two years after enactment a report on such study together with recommendations for any statutory changes.

DEMONSTRATION PROJECT IN PERSONAL CARE SERVICES

Section 505(a) requires the Board to provide for a demonstration project on the organization, delivery, and financing of personal care services to groups of individuals likely to require such services.

Section 505(b) requires the Board to make grants, from the Health Resources Distribution Fund, to participating public or nonprofit providers or public or nonprofit local community agencies or organizations for programs to provide personal care services for a substantial population of individuals in their homes, who without such services would require (or be expected to require) continuing inpatient services.

Section 505(c) makes project grant approval contingent upon submission to the Board of a satisfactory application showing the following:

The applicant can and will develop within a reasonable time period a program of comprehensive personal care services for populations at risk;

The applicant will provide for partial non-Federal financing of program costs, as appropriate to the community's and applicant's resources;

The program will provide for such combination of services (including all basic covered health-care services, other than inpatient services) which enable individuals to remain outside institutions.

The program will provide for coordination with other health or personal care services furnished to individuals participating in the program;

The program provides for a committee of health personnel and consumers to review and approve applications for assistance; to review utilization of services by individuals assisted under the program; and to terminate assistance to any individual when no longer needed; and

The program provides for program evaluation, including evaluation of the feasibility of providing for some or all of personal care services as basic covered health-care services.

Section 505(d) limits project grant duration to a maximum of four years.

Section 505(e)(1) provides that grant payments may be made in advance or by way of reimbursement and in installments and on conditions established by the Board. Permits the Board to decrease over time the proportion of program costs assisted under this section and to increase funds where the reasonable costs of the program exceed original estimates.

Section 505(e)(2) requires the Board not to terminate approved grants except for such grounds (other than lack of available funds) as would otherwise justify termination.

Section 505(e)(3) requires the Board to provide that at least $100 million from the Health Resources Distribution Fund be available for such project grants.

Section 505(f) requires the Board to report annually to Congress on the program and to transmit to Congress within five years after enactment a comprehensive report on demonstration projects for personal care services. Requires the report to include recommendations with respect to making such programs available to all communities; the continued financing of such programs; and the proper role of the national health insurance system in the provision of personal care services.

Section 505(g) defines the term personal care services as services, including homemaker and home help services, home maintenance services, laundry services, meals-on-wheels and other nutrition services, assistance with transportation and shopping, as may be appropriate to maintain individuals otherwise requiring institutionalization in a noninstitutional resident setting.

TITLE VI—EFFECTIVE DATES, TRANSITION PROVISIONS, AND AMENDMENTS

PART A—EFFECTIVE DATES AND TRANSITION PROVISIONS

EFFECTIVE DATES

Section 601(a) provides that this Act and its amendments are to take effect upon enactment, except otherwise provided, but only for health care services furnished in or after the first effective year. Provides that the authority of the Board to enter into contracts is effective for any fiscal year only to such extent or in such amount as provided in advance in appropriations Acts.

Section 601(b) requires the Board and State health boards, except for transitional provisions, to first provide for annual budgets for the first effective year.

Section 601(c) provides that non-Medicare-eligible individuals are first to be enrolled in qualified health plans during the year before the first effective year and that such plans are first to be effective for covered services furnished on or after January 1 of the first effective year. Provides that amendments to section 226(a) of the Social Security Act are to apply to months beginning with January of the first effective year.

Section 601(d)(1) provides that wage-related premiums are first payable for wages paid on or after October 1 of the year before the first effective year. Provides for a special national premium rate, established by the Board, for the period between October 1 and December 31 of the year before the first effective year. Provides that the rate will be computed to assure prompt payment of benefits and administrative expenses during the early months of the program and to provide an initial contingency reserve.

Section 601(d)(2) provides that non-wage-related private premiums are first payable for calendar years beginning with the first effective year.

Section 601(d)(3) provides that certain other premiums are first payable for December of the year before the first effective year and are to be payable at the national group-rated premium for the first effective year.

Section 601(d)(4) provides that amendments to Medicare relating to changes in certain employment taxes are to apply to wages and other income paid on or after January 1 of the first effective year.

Section 601(e) provides effective dates for certain miscellaneous provisions pertaining to the Health Care Improvement Program, and amendments to the Internal Revenue Code and Medicaid.

Section 601(f) provides that the repeal of section 1310 of the Public Health Service Act applies to calendar years beginning with the first effective year.

TRANSITION PROVISIONS

Section 602(a) declares it to be the intent of Congress that appropriations levels in effect on the date of enactment of this Act for programs providing for health services to special populations such as those served by community health centers, rural health services, and Indian health services, are to be continued at such levels after the effective date of this Act's health benefits.

Section 602(b)(1) requires the Board to establish, for localities within each State, maximum fee schedules (applicable to services reimbursed under Medicare Part B) based on the average level of allowable charges for services under the Medicare program in the locality in the previous year. Provides that, for payment made on or after July 1 of each year but before January 1 of the first effective year, payments may be made under Medicare part B only for the lesser of (A) the customary charge or actual charge for the service, or (B) the greater of the maximum fee otherwise permitted under section 1842 of the Social Security Act for the year before the first year for which a maximum fee schedule is established, or the amount provided in the maximum fee schedule, increased for each year after the first year of such schedule to the extent the Board determines, on the basis of appropriate economic index data, that is economically justified.

Section 602(b)(2) prohibits participating insurers from making payments for services described above to the extent such payments exceed the maximum payment permitted under the Medicare program under paragraph (1). Excludes from this requirement services performed under contracts entered into before the date of enactment.

Section 602(c)(1) requires the Board to (A) establish (as soon as possible after enactment and before the first effective year) regulations, guidelines, standards, and procedures providing for the orderly administration of the Act; and to (B) provide for testing the efficacy of such procedures and operations before such effective year.

Section 602(c)(2) requires the Board to report to Congress not later than 18 months after enactment on its progress in establishing implementation procedures, along with recommendations for any technical or administrative changes to facilitate implementation.

Section 602(c)(3) requires the General Accounting Office to review and report to Congress not later than 18 months after enactment on the Board's progress in establishing implementation of procedures on a timely basis.

Section 602(c)(4) requires the Board to provide, to the extent feasible, for the thorough testing of the budget and planning process as it would apply to the year before the first effective year.

IMPACT ON EXISTING EMPLOYER-EMPLOYEE HEALTH PLANS

Section 603(a) provides that no provision of this Act affects or alters any contractual or other nonstatutory obligation of an employer to pay for or provide health services to present and former employees if the effect or alteration shifts the obligation in any part to such persons.

Section 603(b) provides that any payment of wage-related premiums is to be credited against any contractual or other obligation of an employer for employee health services to the extent such payments do not exceed the greater of (A) the per capita monthly cost to the employer of providing or paying for health services for September of the year before the first effective year, or (B) the per capita monthly cost the employer would have incurred had this Act not been enacted.

Section 603(c) requires employers (at least for the duration of any contractual or other obligation) to arrange for payments to employees, former employees, and spouses, of amounts equivalent to that by which the total per capita monthly cost in the preceding September exceeds the sum of: (A) the per capita premium cost; (B) the cost of the contractual or other obligation; and (C) any other contributions for premiums or benefits or costs of services provided after January 1 of the first effective year. Permits an employer to provide other benefits of an equivalent monetary value in lieu of such payments.

Section 603(d) provides for determination of the per capita amounts and costs for an employer for purposes of subsections (b) and (c).

PROVISIONS RELATING TO TRANSFER OF FUNCTIONS

Section 604(a) provides that transfers of functions made by subpart I of part A of title IV of this act will take effect 120 days after Board members first take office, or on such earlier date as the President may prescribe.

Section 604(b)(1) provides for transfer and allocation to the Board of appropriations and personnel associated with functions transferred by the Act to the Board. Provides that unexpended funds be used only for the originally authorized and appropriated purposes.

Section 604(b)(2) provides that such transfers of personnel are not to result in employee separations or reductions in grade or compensation for one year after the effective date of transfer. Provides for certain protection of compensation rates for employees compensated in accordance with the Executive Schedule.

Section 604(b)(3) provides for termination of agencies, or their components, for which all functions have been transferred elsewhere.

Section 604(b)(4) requires the Director of the Office of Management and Budget, in consultation with the Board, to make necessary determinations regarding incidental transfers of personnel, appropriations, etc.

Section 604(b)(5) provides for continuation in effect of certain previous Government rulings, proceedings, and suits where the functions of the departments, agencies, or components or officials thereof have been transferred to the Board.

Section 604(b)(6) provides that references in any other Federal law to departments, agencies, or officials whose functions are transferred by the Act are to be considered as referring to the Board.

Section 604(b)(7) provides that nothing in this Act is to be construed to limit, curtail, abolish, or terminate any function of, or the delegation of any function of, or any authority available to, the President which he had before the Act's effective date.

TITLE VI

PART B—MEDICARE-RELATED AMENDMENTS

Subpart I—General Amendments and Eligibility

GENERAL AMENDMENTS

Section 611 amends section 1801 of the Social Security Act to delete the prohibition against Federal supervision or control over the practice of medicine and the compensation of employees and officers of health care providers.

MEDICARE ELIGIBILITY

Section 612(a) amends section 226 of the Social Security Act by (1) specifying that all references to "hospital insurance" be changed to "health insurance"; (2) broadening Medicare entitlement to include citizens of the United States, persons legally admitted for permanent residence, and certain other persons who are age 65 and over; (3) deleting the 24 month waiting period for Medicare eligibility for the disabled; and (4) providing that all individuals entitled to Medicare benefits are entitled to enroll in a participating health maintenance organization.

Section 612(b) makes conforming and technical amendments to Medicare entitlement and eligibility provisions related to end-stage renal disease.

Section 612(c) conforms the description of Medicare Part A with the new eligibility amendments specified in section 612(a), and repeals the provision which permits certain uninsured individuals to enroll for Part A benefits.

Section 612(d) changes Medicare Part B from a voluntary insurance program to an entitlement program financed by premium payments and Federal funds.

Section 612(e) specifies conforming technical amendments to section 7 of the Railroad Retirement Act of 1974.

Subpart II—BENEFITS

PART A BENEFITS

Section 615(a) makes conforming technical amendments and modifies the scope of benefits under Medicare Part A by (1) deleting the limitation on inpatient hospital days; (2) adding mental health day care services; (3) replacing the existing limitation on inpatient psychiatric hospital services with a 150 consecutive day limit for Medicare purposes and a 45 consecutive day limit for purposes of the Health Care for All Americans Act; and (4) specifying that each day of mental health day care services counts as half a day of inpatient psychiatric hospital services.

Section 615(b) amends the definition of inpatient hospital services to include services by certain hospital-based physicians.

PART B BENEFITS

Section 616(a) makes conforming technical amendments and modifies the scope of benefits under Medicare Part B by (1) specifying that Part B benefits are payable only on behalf of beneficiaries; (2) including insulin and outpatient prescription drugs for treatment of chronic conditions; and (3) permitting beneficiaries to enroll in a participating HMO for Part B benefits.

Section 616(b) amends the provision relating to payment of Part B benefits to establish new limitations also applying to the Health Care for All Americans Act. Payment for outpatient psychiatric services and services related to the diagnosis or treatment of mental illness is limited annually to an amount equal to 20 times the maximum fee under the Health Care for All Americans Act for a psychiatrist's visit. Payment for certain outpatient therapy services in the therapist's office or in the beneficiary's home is limited to $100 annually.

Section 616(c) modifies certain definitions under Medicare to include outpatient speech and occupational therapy on the same basis as outpatient physical therapy; to include health clinic services, hearing examinations conducted by a physician or qualified audiologist, hearing aids, outpatient mental health services, and lens after cataract surgery in the definition of medical and other health services. Defines the term "outpatient prescription drugs for treatment of chronic conditions" and changes the term "rural health clinic" to "health clinic". Also defines preventive health services, mental health day care services, and outpatient mental health center services.

Section 616(d) specific technical conforming amendments to the Medicare definition of the term "physician".

RENAL PROGRAM BENEFITS

Section 617 amends Medicare coverage for end-stage renal disease to conform reimbursement and various technical provisions to the provisions of the Health Care for All Americans Act.

TREATMENT OF EXCLUSIONS

Section 618(a) modifies Medicare's exclusions from coverage to (1) extend the applicability of exclusions to the Health Care for All Americans Act; (2) delete certain technical exclusions; (3) specify that preventive health services are not excluded from coverage; (4) exclude hearing aids and related examinations only if they exceed one every three years, and one per individual per year, respectively; (5) delete the exclusion relating to orthopedic shoes; (6) permit the waiver, under certain conditions, of the foot care exclusions for persons with diabetes mellitus; and (7) add a new exclusion drugs for chronic conditions exceeding maximum amounts established by the Board.

Section 618(b) conforms certain other exclusions relating to services covered under a workmen's compensation law and Medicare's program abuse to the appropriate provisions of the Health Care for All Americans Act.

TITLE VI, PART B

Subpart III—MEDICARE AMENDMENTS RELATING TO CERTIFICATION AND PROVIDERS

CERTIFICATION STANDARDS

Section 621 makes various conforming and technical amendments to Medicare Parts A and B relating to requirements for certification and requests for payment.

PARTICIPATING PROVIDER AGREEMENTS

Section 622 specifies conforming and technical amendments to section 1866 of the Social Security Act relating to agreements with participating providers. Requires agreements to be filed with the State health board and to apply to both Medicare and the Health Care for All Americans Act. Requires payments to be made in accordance with the applicable Medicare and Health Care for All Americans Act provisions, and providers to comply with certain specified criteria, including requirements established by the Board. Requires providers who prescribe outpatient prescription drugs to use only generic or other names and specify only such amount as the Board may provide to insure quality and efficiency. Requires providers filling prescriptions to provide only the amount specified by the Board.

USE OF AGENCIES IN DETERMINING CONDITIONS OF PARTICIPATION

Section 623 makes various conforming and technical amendments to Medicare relating to the use of State agencies to develop and determine compliance with conditions of participation for providers of services. Requires the Secretary, in determining conditions of participation, to consult with the Commission on Quality and the State health boards.

AMENDMENTS RELATING TO PART B OF TITLE XI

Section 624(a) specifies various technical and conforming amendments to Part B of title XI of the Social Security Act relating to professional standards review organizations (PSROs). Requires professional standards review to apply to the provision of health care services under the Social Security Act and the Health Care for All Americans Act.

Section 624(b) requires PSROs to assume review responsibility during the conditional period for services provided both in institutions or by other health care providers. Deletes special reference to shared health facilities. Requires in conjunction with development of norms for heatlh care services, that physicians closely monitor workers and other populations at risk because of past exposure to environmental or other hazards. Provides that payments to PSROs are to be made by the Board from appropriated funds.

HEALTH MAINTENANCE ORGANIZATIONS (HMO'S)

Section 625 makes certain conforming changes in Medicare relating to payments to HMO's. Directs the Board to provide for payment to HMO's on behalf of eligible individuals under Medicare and the Health Care for All Americans Act. Modifies Medicare's definition of an HMO to conform to the benefits provided under the amended Medicare program for Medicare-eligibles and the Health Care for All Americans Act for other persons. Requires participating HMO's to have a general open enrollment period in accordance with regulations.

TITLE VI, PART B, SUBPARTS IV AND V—MEDICARE AMENDMENTS RELATING TO CONDITIONS OF PAYMENT, TAXES AND PREMIUMS

Subpart IV—CONDITIONS OF PAYMENTS

CHANGES IN CONDITIONS OF PAYMENTS

Section 628(a) repeals the deductible and coinsurance provisions of the Medicare Part A program.

Section 628(b) makes certain conforming changes in Medicare relating to payments to participating providers. Payments are to be the amounts determined under the provisions of the Health Care for All Americans Act. Also makes explicit (with certain minor exceptions) that no Medicare payments may be made to any Federal provider of services administered by or under the control of the Department of Defense, the Veterans Administration or for services provided to members of uniformed services on active duty.

Section 628(c) makes various changes in Medicare relating to payments to institutional and other providers. Requires the Board to determine, consistent with the provisions of the Health Care for All Americans Act, the amounts to be paid various providers of services. Authorizes payments into the Supplementary Medical Insurance Trust Fund of certain amounts needed to pay for services under Part B, in accord with the provisions of the Health Care for All Americans Act. Repeals the deductible, coinsurance and other patient cost-sharing requirements of Medicare.

Section 628(d) repeals the existing definition of "reasonable cost." Deletes provisions relating to overpayments and the settlement of claims filed on behalf of deceased individuals. Provides that refunds of premiums in the case of deceased individuals be made according to priorities prescribed by the Board.

CONTRACTS FOR THE ADMINISTRATION OF BENEFITS

Section 629 makes various amendments to Medicare relating to the administration of benefits. Deletes most of the existing provisions relating to intermediaries and carriers. Provides that public and private entities are to bid competitively to administer the benefits provided under the revised Medicare program. Requires such entities to make payments for services in a manner consistent with the provisions of the Health Care for All Americans Act, and to notify individuals on whose behalf such payments are made. Permits contracts with entities to provide for advances of funds for payment of claims. Contains a transitional provision permitting contracts with entities without regard to competitive bidding requirements for a period of five years following enactment of the legislation.

HOSPITAL INSURANCE TAX AND PREMIUMS FOR MEDICARE—ELIGIBLE INDIVIDUALS

Section 633(a) expands the definition of employment now subject to the Medicare

hospital insurance tax to include employment with Federal, State and local governments, service performed for charitable organizations, service performed by certain employee representatives, certain students and for certain organizations.

Section 633(b) authorizes deposit into the Hospital Insurance Trust Fund of certain payments made on behalf of certain employees of foreign governments and international organizations. Designates the Chairman of the Board as a member of the Board of Trustees of the HI and SMI trust funds, in lieu of the Secretary of HEW.

Section 633(c) deletes the Medicare Part B premium surcharges for late enrollment and the definition of "continuous period of eligibility." Also requires individuals who receive cash benefits under the Social Security program to pay any balance due, if such cash payments are less than premium payments for health insurance. Authorizes payments from general revenues for the premiums of Medicare beneficiaries who are also SSI-eligible indivduals.

TITLE VI—PART B

Subpart VI—Miscellaneous Medicare and Social Security Act Amendments

Subpart VI—Miscellaneous Medicare and Other Social Security Act Amendments

MISCELLANEOUS MEDICARE AMENDMENTS

Section 635(a) repeals Medicare provisions relating to the establishment of the Health Insurance Benefits Advisory Council (HIBAC) and determinations of entitlement of individuals to the Medicare program, and to appeals thereof.

Section 635(b) applies various provisions of title II of the Social Security Act relating to such matters as evidence, procedure, etc., to Medicare and to the Health Care for All Americans Act. Designates, where appropriate, responsibilities for certain actions to the Board in lieu of the Secretary of HEW.

Section 635(c) designates the Chairman of the Board as the administrator of the Medicare program, in lieu of the Secretary of HEW.

Section 635(d) deletes certain studies from the list of studies pertaining to the Medicare program.

Section 635(e) amends Medicare provisions relating to penalties for certain acts to extend such provisions to the Health Care for All Americans Act.

Section 635(f) extends Medicare provisions relating to limited beneficiary liability under certain circumstances to the qualified health plans under the Health Care for All Americans Act, and makes various other conforming changes.

RESIDUAL MEDICAID PROGRAM

Section 636(a) replaces the present Federal Medicaid-matching arrangement with a new temporary arrangement to remain in effect following the first date on which benefits become available under the Health Care for All Americans Act.

Under the new arrangement, the Federal Medicaid payment is to be equal to "excess State payments." "Excess Payments" are to be calculated in the following manner: for any calendar quarter, expenditures (excluding Federal expenditures) made by a State for Medicaid services provided for a period of at least two years prior to January 1st of the "first effective year" are to be added to a State's expenditures for premiums paid under the Health Care for All Americans Act on behalf of certain AFDC-eligible individuals. From such sums is to be subtracted the product of the expenditures (excluding Federal expenditures and the expenditures for one month for the premiums on behalf of certain AFDC, SSI and certain other recipients) of the State for the quarter prior to the "first effective year" and calculation of the "factor for growth."

Specifies that the term "first effective year" is the first year in which benefits are provided under the Health Care for All Americans Act. The term "factor for growth" is the ratio of total anticipated expenditures under the annual budget of the Board for any quarter to the total anticipated expenditures under such budget for the first quarter of the "first effective year."

Increases the Federal share of certain other State Medicaid expenditures: (A) for the training and compensation of skilled professional personnel, from 75 to 90 percent; (B) for operation of management information systems, from 75 to 90 percent; and (C) for general administration, from 50 to 90 percent. Deletes increased matching rate for family planning services.

Section 636(b) counts as medical assistance under present Medicaid-matching arrangements premium payments of a State on behalf of certain recipients for the month of December of the year before the first effective year.

Section 636(c) establishes certain additional State Medicaid plan requirements. Requires States to continue to provide such care and services (other than those covered under the Health Care for All Americans Act), in the amount, duration and scope, as were covered by the States in the quarter before the first effective year of the program (or those which are specified in regulation by the Board). Requires States to pay premiums on behalf of AFDC-eligible recipients. Requires States to reimburse providers in a manner consistent with the methods established by the Board. Permits imposition of enrollment fees, premiums, deductions, and other cost-sharing only in amounts permitted by the Board. Permits the Board to prescribe other standards, relating to quality of services and reimbursement.

Section 636(d) makes various technical and conforming changes in the Medicaid program.

Section 636(e) requires any State that does not have a Medicaid program to enter into an agreement with the Board under which the State agrees to pay premiums on behalf of AFDC-eligible recipients and certain other persons, and receives financial assistance from the Board in a manner comparable to the methods described above. Provides that failure to enter into such an agreement results in loss of funds from the Health Resources Distribution Fund and under title VI of the Social Security Act.

PART A OF TITLE XI

Section 637(a) amends Section 1121 of the Social Security Act to extend the provisions for uniform reporting to the Health Care for All Americans Act.

Section 637(b) repeals Section 1122 of the Social Security Act relating to limitations of Federal participation for capital expenditures.

Section 637(c) repeals Section 1123 of the Social Security Act relating to programs for determining the qualifications of certain health care personnel.

Section 637(d) amends Section 1124 of the Social Security Act to extend the provisions for disclosure of ownership and related information to the Health Care for All Americans Act.

Section 637(e) amends Section 1126 of the Social Security Act to extend disclosure requirements of certain persons who have been convicted of certain offenses to the Health Care for All Americans Act.

TREATMENT OF CERTAIN PREMIUM PAYMENTS UNDER SSI AND AFDC PROGRAMS

Section 638(a) excludes from the definition of income of SSI recipients any health premiums paid pursuant to the Health Care for All Americans Act by or on behalf of such persons.

Section 638(b) excludes from the definition of income of AFDC recipients any health premiums paid pursuant to the Health Care for All Americans Act by or on behalf of such persons. Requires State AFDC plans to provide for payment of such premiums for State enrollees.

TITLE VI, PART C—MISCELLANEOUS AMENDMENTS TO OTHER ACTS

PART C—MISCELLANEOUS AMENDMENTS TO OTHER ACTS

Section 641(a) amends Section 213(a) of the IRS Code of 1954 by eliminating the present deduction for amounts paid during a taxable year for health insurance. Permits deduction for amounts of medical expense, not compensated for by insurance or otherwise, in excess of 3 percent of adjusted gross income.

Section 641(b) amends Section 44 of the IRS Code adding a new excess health insurance credit for impacted employers, equal to the amount determined under Section 341(b) of the Health Care for All Americans Act.

Section 641(c) amends the IRS Code to establish special rules for computing the impacted employer credit for controlled groups of corporations; employees of partnerships, proprietorships; etc.; in the case of acquisitions or dispositions; in the case of changes in status from self-employed to employee-status; for subchapter S corporations; and for estates and trusts.

Section 641(d) amends the IRS Code to apply the provisions of Section 641 to the taxable years which begin during the period of 3 calendar years beginning with the first calendar year in which benefits are provided under the Health Care for All Americans Act.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Section 642(a) amends certain provisions of title XIII of the Public Health Service Act relating to health maintenance organizations (HMOs) by eliminating the authority to impose nominal payments for the provision of specific services.

Section 642(b) amends organizational requirements for HMOs, by requiring an open enrollment period in accordance with the provisions of the Health Care for All Americans Act. Requires both private and public HMOs to have advisory boards composed of at least one-third HMO members and equitable representation from medically underserved populations served by the HMO. Deletes requirements that HMOs provide medical social and health education services.

Section 642(c) amends definitions of basic and supplemental services of HMOs, by defining basic services as those services described in Part A of title II of the Health Care for All Americans Act. Adds to the definition of supplemental health services: medical treatment and referral for alcohol abuse or addiction, and home health services and preventive services not included as basic services.

Section 642(d) deletes existing requirements for employers to provide an HMO option in their health benefit plans. Makes various other conforming and technical amendments.

● Mr. WILLIAMS. Mr. President, I am pleased to join today with Senator KENNEDY and others in introducing the Health Care for All Americans Act.

The bill represents over a decade of hard work by Senator KENNEDY and the Committee for National Health Insurance. Over the years, a variety of proposals have been developed by the committee and debated in the public forum. This new legislation reflects the collective wisdom and expertise of the committee's experiences. Perhaps most important, the bill confronts today's fiscal realities without compromising the committee's principles of comprehensive

benefits, universal coverage, strong cost controls, system reforms and quality assurance.

As a nation we are only beginning to understand the relationship of quality health care to the stability of our economy and the well-being of our society. Quality health care is not a luxury. It is a right, just as basic education is the right of every American.

The need for the Health Care for All Americans Act is clearly reflected in the achievements and failures of the present health care system in improving the health of Americans.

Our achievements are many. In the past 15 years, the difference in infant mortality rates for nonwhites and whites has been cut in half. In the past 10 years, deaths from heart disease have decreased by 22 percent and the life span of Americans increased by 2.7 years.

Yet much remains to be done as illustrated through comparisons of the health status of Americans with other industrial nations.

Twelve other countries are more successful in preventing death from cancer. Eleven countries have lower rates of infant mortality. Life expectancy is higher for men in 14 countries and higher for women in 6.

In addition, basic health benefits are unavailable or inadequate for over 20 percent of the American people, particularly the elderly, the disabled, and the working poor. They cannot afford to be ill.

Today's bill confronts these and other failures of our complex American health care delivery system. It responds to our needs for a national health policy; a policy which treats all Americans equally. No distinctions are made between benefits or quality of care received by the poor, the elderly, the middle class, or the rich. The Health Care for All Americans Act utilizes the private insurance companies, rather than Government, to administer the program. Consumers are given freedom of provider and health plan choice. It gives providers freedom of choice of practice mode. It controls health expenditures while minimizing Federal interference in the day-to-day operations of providers through a prospective budgeting system.

The provisions of this bill will come under intense scrutiny by the Senate and will be compared with alternatives offered by Senator Long, President Carter, and others. In examining the issues, the crucial question will be how much the current economic situation will permit us to spend on health care.

If the Health Care for All Americans Act was enacted in fiscal 1980, it would cost $28 billion. But under the act, the total cost of health care will be less within a few years than it would be under current programs because of the immediate and long-range cost control requirements of the bill. Despite this important fact, we will probably be unable to afford to provide all proposed benefits to all Americans now. Benefits for other than the most seriously ill, the elderly, and children may need to be delayed until our economy is less inflationary and we can demonstrate that health care costs can be stabilized. This is no reason to delay enactment of the cost controls and other structural reforms of the health care delivery system. Without these reforms no national health insurance plan can succeed. Among the current legislative proposals, only the Health Care for All Americans Act includes the necessary controls.

As chairman of the Senate Committee on Labor and Human Resources, I look forward to committee debate on the national health insurance. I am eager for the challenges and opportunities it will present the Senate.●

● Mr. JAVITS. Mr. President, I am pleased to cosponsor the Health Care for All Americans Act. It is designed to effect necessary structural reforms in how we pay for medical treatment and in how health care delivery is distributed across the country. In this way, in my judgment, we can be on the way to insuring to every American the right of access to adequate health care at reasonable cost.

Mr. President, now is the time to choose sides on the issue of a national health plan. The introduction of this bill will crystalize the great debate that has come to focus now on but two alternatives—enactment of a national health plan that addresses the needed reforms and establishes the necessary administrative structure, or enactment of a narrow bill for catastrophic health insurance that will not deal with the problems and only will further aggravate the impediments that now exist in health care delivery and financing. Let there be no mistake about the consequences of this choice; we are now paying a heavy price for our earlier inability to act in order to address runaway costs, maldistribution of health care services, and the tragedy facing millions of Americans who have no health insurance at all or clearly inadequate coverage. We cannot afford to continue to ignore the extent and persistence of these problems.

Catastrophic health insurance alone will not control health care costs, it will aggravate them. Catastrophic health insurance alone will not solve the problems faced by thousands of communities with inadequate health care services—it will perpetuate them. Catastrophic health insurance alone will not benefit the millions of Americans without adequate health insurance—it will benefit only a miniscule percentage of those urgently needing medical care.

The comprehensive bill introduced by Senator KENNEDY, myself, and six other Senators today is a realistic and pragmatic response to the need for action. It is far remove from earlier proposals which advocated a unitary Government-run national health system.

The Health Care for All Americans Act is based upon the need for a strong private sector role, minimizes the additional costs to the Federal budget, reduces the regulatory burden on health care providers, and is easily adapted to being phased-in over time in order to smooth implementation and cushion its fiscal and economic impact.

These features are consistent with my long-held position on the need for national health legislation. I have always believed that adequate health care should be a right to be enjoyed by all Americans regardless of economic means, location, age, race or religion. I have vigorously advocated the adoption of broader health insurance benefits by the Congress since 1949, when I introduced my first national health insurance bill as a Member of the House of Representatives. Since that time, as a member of the Senate Labor and Human Resources Committee, I have introduced 14 major bills designed to provide comprehensive health insurance protection to the people who most need it.

Today, the need for a comprehensive national health plan is greater than ever. An estimated 18 million Americans have no health insurance whatsoever, and another 18 million have only inadequate coverage. We should no longer accept a health care system that leaves 36 million citizens without access to its benefits at a reasonable cost. There is no need to permit almost one person in six to continue to live without this most basic of human rights—the right to adequate health care when needed.

Mr. President, public opinion poll after public opinion poll has demonstrated wide support for a comprehensive national health plan. In a recent poll conducted by the New York Daily News, nearly 8 of 10 New Yorkers surveyed favored adoption of a national health insurance plan. In fact, half of those polled said that they would support a plan even if it meant higher taxes.

The American people have put the need for a national health plan high on the agenda of the 96th Congress. The President has proposed a first-stage plan and many Senators and Representatives have announced their own versions of a national health bill. In my judgment, the issue is no longer whether or not we need a national health plan. We simply cannot responsibly afford to go without one. The financial crisis that runaway medical costs have generated has combined with this Nation's long-nurtured goal of universal health insurance in this Congress to produce a mandate for action.

The real issue today is, therefore, one of implementation: How to structure a national health plan in such a way as to build upon the strengths of our existing health care providers, yet encourage needed innovation and cost-efficiencies, while fairly allocating the costs of expanded services in a noninflationary manner. These are complex and difficult issues which cannot be addressed in isolation from every other facet of health insurance, organization and delivery.

I have earlier introduced Senate Joint Resolution 21, which would overcome the fragmentation that currently exists in both House and Senate committee jurisdiction in the health policy area and would permit a truly comprehensive resolution of the difficult issue of implementation of a national health plan.

The bill we introduce today is based upon the emerging national consensus with regard to three of these implementation issues: First, that the plan should utilize the strengths of the private insurance industry in administration, claims management, and handling of

premiums, and also to minimize the Federal budgetary impact of broader health insurance protection; Second, that the plan should establish incentives favoring cost-efficiencies; and Third, that the plan should address the need for reforms in the organization and delivery of health care services.

The administrative and budgetary impact can be further minimized through a gradual phasing-in of the full plan. The Health Care for All Americans Act can easily be phased to accomplish this objective by both population and cost-sharing mechanisms. Thus the bill is firmly within the practical realities of today's fiscal and economic concerns.

Mr. President, I would like to discuss the three major characteristics of the Health Care for All Americans Act which are based upon these themes.

First, the bill is premised upon and strengthens the established pattern of employment based private health insurance coverage. This approach both reduces costs to the Government and builds upon the strength of the private sector. Employers already provide some type of health coverage for over 69 million employees, over 80 percent of our work force; 85 million more are insured as dependents of these employees. This insurance is financed by some $41 billion in annual premiums. I see no need for the Government to attempt to administer this sum.

The bill builds upon the established system by requiring employers to offer insurance covering a minimum benefit package, and by requiring coverage to be continued for employees whose employment status changes during the year. Employers who already meet these standards will be, in effect, exempt from the bill.

The bill would also strengthen the private sector insurance role by adding provisions designed to encourage active competition. The bill would give most employees a choice among at least two different insurance or HMO providers. The insurers will be encouraged to compete in offering extra benefits or cash rebates in order to attract subscribers. Insurers and HMO's will enjoy an expanded market in addition to the right to invest prepaid premiums. In sum, the bill would strengthen the role of the private sector by expanding the market for insurers, introducing increased competition among insurers, and maintaining administration of premiums and payment of claims within the private insurance industry.

Second, the bill would introduce the necessary systemic measures to control costs. Today, the third party reimbursement system is the primary reason costs are expanding beyond our ability to pay. Consumers on average pay only 6 percent of hospital bills and 39 percent of physicians' fees. Providers are reimbursed for whatever services they themselves decide to provide. It is not surprising under these circumstances to find that health expenditures nationally rose from $127.7 billion in 1975 to an estimated $206 billion in 1979, or that health care as a percentage of GNP grew from 8.6 percent in 1975 to 9.1 percent in 1979.

Forceful action is needed to change this pattern. The bill incorporates two principal tools that are absolutely vital to better management of our health budget—prospective budgeting for hospitals; and negotiated fee schedules for fee-for-service providers.

I believe that the consequences of continuing our present course in runaway health spending are both well known and disastrous. Only prospective budgeting and negotiated fee schedules are likely to bring costs under effective management without impairing the quality of service.

Finally, the Health Care for All Americans Act is designed to encourage needed reforms in the organization and delivery of health care services. The bill will help remove the barriers, other than insurance, which continue to impede access to health care for millions of Americans. Approximately 50 million—almost one-quarter of our population—live in areas of the country which suffer from a serious shortage of health care services.

The bill would help States reduce many of the disparities in fee schedules which now induce physicians to concentrate in wealthier areas. It would also establish a health resources and development fund to support new services in previously underserved areas.

Efficiency in health care delivery can be dramatically improved. Many medical services are today delivered in inappropriate and high-cost settings—simple procedures and routine tests are performed in hospitals because insurance coverage is limited to inpatient services. Cost-effective preventive care is neglected for lack of adequate reimbursement. When the average cost for 1 day of hospitalization has grown to $203, as it has today, we must encourage alternatives to keep unnecessary hospitalization to a minimum.

The bill provides for unlimited routine and preventative care in appropriate settings. Physicians' visits, diagnostic tests, and immunizations will be fully covered.

A major area of prevention that must be quickly implemented under a national health plan is comprehensive health care for mothers and children. Nothing is more precious to our children than their health. I have long advocated greater support of maternal and child health programs, but major deficiencies persist. The Health Care for All Americans Act would provide for all basic immunizations, pre- and post-natal care, and well-baby care. Children up to age 18 would have unlimited physician visits. These benefits would go a long way toward protecting the health of our children. Child health benefits are cost effective. These benefits are the soundest investment we can make in the future of our Nation.

The Health Care for All Americans Act would greatly benefit those most in need of better health care services—our poor and our elderly. The "dual-class" system that has inhibited the services available under medicaid would be eliminated by shielding the source of payment information from the provider. States and localities would enjoy substantial fiscal relief as many persons now eligible for medicaid would be covered under either private sector or federally paid premiums.

Perhaps the largest beneficiaries of the bill's provisions are this Nation's medicare recipients. Their cost sharing would be eliminated and their benefits broadened.

The bill has been designed to spread the cost of adequate health protection as broadly as possible, in order to minimize the short-term economic effects of higher premium payments in the private sector. We must remember, however, that in the long term only a program such as the one in this bill is capable of controlling health care expenditures while at the same time insuring adequate levels of services.

Mr. President, the themes incorporated in this measure that I have elaborated are based both on an emerging consensus as to what threatens the future of health care in this country and what must be done by way of a cure. They are not radical or impractical. This is no time for rhetoric—it is a time for action. Either we face up to the need to look at health care as a complete system in legislation such as this, or we default the chance to better manage this critical service by considering only narrow "catastrophic" insurance programs. The needs of the American people require no less than enactment of a comprehensive national health plan and I submit that the bill we introduce today is worthy of the earnest consideration of every Senator concerned about health care.●

● Mr. METZENBAUM. Mr. President, I am pleased to join the Senator from Massachusetts in introducing the Health Care for All Americans Act of 1979.

I believe that quality medical care should be a fundamental right for all Americans, and I believe that a comprehensive national health insurance program is the first essential step toward securing that right.

For many years now, the American people have heard from Presidents of both parties that the Nation cannot afford national health insurance. But the fact is, Mr. President, that we cannot afford to be without national health insurance.

Health care is now the third largest industry in this country. In fiscal year 1978, Americans spent $138 billion—8.8 percent of the GNP—on health care.

In that same fiscal year, more than 12½ cents of every Federal tax dollar—a total of nearly $60 billion—went for health care. And spending in the health care industry continues to rise at an annual rate of 12 percent.

Yet, despite increased costs, despite the most advanced health technology in the world, despite very competent practitioners, and despite the new and important research findings occurring every day, our Nation still does not rank in the upper 50 percent among developed nations with respect either to infant mortality or adult mortality.

These statistics are shameful and to make matters worse, there are persistent inequities in health among the subgroups of our population. Racial minori-

ties in the United States still have a life expectancy that is 6 years less than the majority population. And the mortality rate among minorities is 40 percent higher than it is for whites.

I believe that it is scandalous that our system distributes quality medical care on the basis of ability to pay. The system provides the well-to-do with the world's best in services and care, and it leaves the less privileged to cope as best they can.

Too many people in this country—poor people, people living in rural areas—do not have access to the medical services they require. Too many people in this country, too many of our average working people, do not qualify for existing Government programs and do not have comprehensive and expensive medical insurance. These Americans go without medical care because they simply cannot afford it.

At least 20 million Americans have no health insurance coverage at all; of these, about 13 million have incomes above the poverty line.

More than 18 million Americans have inadequate insurance that fails to cover basic hospital bills, doctors' bills, or medical tests.

About 85 million Americans—40 percent of the population—do not have insurance against very large medical bills.

Private health insurance often does not cover preventive and ambulatory services—those which are among the most beneficial and cost effective.

Some people argue that medicare and medicaid provide health insurance coverage for the elderly and poor. But the fact is that these Americans can be denied care if the doctor refuses to accept assignment. Moreover, the elderly and disabled, who live on fixed incomes, are not completely compensated by medicare. They must still cover the deductible and coinsurance portions of their medical expenses. If the fee is substantially above the medicare-allowed rate, and the doctor refuses to accept assignment, the elderly patient can often be held liable up to an amount equal to or even greater than that paid by medicare.

Catastrophic health insurance proposals alone will not help these Americans. In fact, any program that is not comprehensive in nature will become a disaster over the long term. It will add to the inflationary spiral of health care costs by encouraging expensive care services where they are not required; it will further skew the inequitable distribution of practitioners away from the rural areas; and it will fail to deal with problems of access to care by leaving the present delivery system intact.

I believe the time has come to modify that system and create a link between our country's medical resources and those Americans they are designed to serve. This Nation needs a new, better, and more equitable way to meet the health needs of its people.

It is my conviction that the best way to create that link and to meet those needs is a comprehensive national health insurance program as detailed in this bill.

The President has told us that we cannot afford a comprehensive national health program at this time. He says that the money is not there.

However, if this Nation can find $125 billion a year to protect us from hostile foreign powers, we can also find $28 billion to protect our people from sickness, suffering, and financial ruin; if we can find $4 billion a year to explore the vast reaches of space, we can also find the money to improve health here on Earth; and if our national economy can tolerate a decontrol giveaway to the oil companies of $100 billion between now and 1985, we can surely find the resources to meet the pressing health care needs of this Nation.

I believe that the time has come to decide what is truly important for this Nation's future; the time has come to translate talk about national priorities into concrete action; the time has come to guarantee affordable and quality medical care as a fundamental right for every American; the time has come to enact comprehensive national health insurance.

For the sake of the health and welfare of our people, I am proud to stand up as a firm supporter of the Health Care for All Americans Act. And once again, I would like to commend Senator KENNEDY, Congressman WAXMAN and the other members of the Coalition for National Health Insurance for their diligence in this admirable effort.●

● Mr. RIEGLE. Mr. President, I am pleased to join Senator KENNEDY today in introducing the Health Care for All Americans Act.

Although our Nation can boast of one of the most sophisticated health care systems in the world, too many of our citizens are denied the health care they need because of inadequate health insurance protection. Eighteen million Americans have no health insurance protection at all. Another 19 million Americans have health insurance which fails to cover them against basic hospital costs, doctor bills and medical tests. And a staggering 43 million Americans have no protection against the oftentimes ruinous medical bills which can accompany chronic or catastrophic illness and injury.

These statistics measure social injustice, as much as they reflect the failures of our present patchwork system of public and private insurance. The time is long overdue when every American—regardless of his or her income or age, where he or she lives or where he or she works—can count on access to basic medical care.

The Health Care for All Americans Act would extend protection against the costs of illness and chronic disease to all Americans. Every citizen would be covered for the basic costs of hospital care, physician services, laboratory tests, X-rays, ambulance services and medical equipment. Certain preventive services are included, as are limited benefits for home health care, nursing home care and mental health services.

As chairman of the Senate Subcommittee on Alcoholism and Drug Abuse, I feel a special responsibility to describe the bill's impact on the 10 million Americans who are directely affected by alcoholism and alcohol abuse, the third greatest cause of death in the United States.

Because the Health Care for All Americans Act is designed to provide health care for individuals rather than for a limited list of diseases, benefits are defined in terms of covered services, not covered conditions. Individuals suffering from alcoholism and alcohol-related health and mental health conditions are covered on an equal footing with those suffering from other illnesses, within the context of covered inpatient, outpatient, and mental health care where each is appropriate.

The act covers unlimited inpatient hospital services provided in general acute care hospitals and qualified residential alcoholism treatment centers which meet licensing and certification standards for the hospital services they provide. All hospital services provided by State-licensed, accredited residential alcoholism treatment centers would be covered under this provision.

Similarly, outpatient physicians' services and laboratory tests provided by outpatient alcoholism clinics attached to hospitals or eligible residential centers would be covered without limitation. These services would also be covered when provided to alcoholics or those suffering from alcohol abuse in traditional outpatient settings and physicians' offices.

Alcoholics requiring mental health-related care will be eligible for inpatient care up to 45 consecutive days of active psychiatric treatment, provided no such care has been utilized in the previous 60 days, in either psychiatric hospitals or residential alcoholism treatment centers which are licensed to provide inpatient psychiatric care. For each day of this inpatient psychiatric benefit not used, an individual would be eligible for 2 days of outpatient mental health day care services in a community mental health center, an alcoholism treatment center qualified to provide outpatient mental health care, or a similar setting.

Counseling, group therapy, and related mental health treatment for alcoholism provided in outpatient settings would be covered up to a cost set at an amount equivalent to 20 psychiatric visits, which are generally among the most expensive forms of treatment. These services are covered if provided in a psychiatrist's office, in a community mental health center, in an alcoholism treatment center qualified to provide such mental health care, or in a similar outpatient facility, including an outpatient alcoholism program attached to an inpatient hospital or alcoholism facility. This mental health benefit would also be available to "significant others"—spouses, children, and family members who are affected by an alcoholic's illness, for example—who require mental health treatment on this basis.

For individuals eligible for medicare, the National Health Board established under the act will establish a list of diseases and conditions found to be chronic and the drugs to be covered for each such disease and condition. Antabuse is an

example of the kind of drug which could be made available without cost under this provision for alcoholics who qualify for medicare coverage. The Board is also authorized, upon the advice of a panel of experts, to authorize preventive services which are deemed likely to be effective, if the first-year cost would not exceed $500 million.

Americans suffering from drug abuse or addiction or from drug-related health and mental health conditions will be eligible for the same kinds of services. The act will thus help reduce the Nation's annual economic loss of more than $50 billion from alcoholism and drug abuse. Experience in the insurance industry indicates that providing such alcoholism and drug abuse coverage will also decrease inappropriate utilization of other health services.

The Federal Government must, of course, maintain its commitment to the battle against alcoholism and other addictions. In the long run, we need much more extensive educational and preventive campaigns, such as those conducted by the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and the Office of Education's Alcohol and Drug Abuse Education Program. Passage of the Health Care for All Americans Act will not mean that we have solved the Nation's alcoholism and drug abuse problems. It will mean, however, that the millions of Americans suffering from these diseases, like Americans suffering from other diseases, will have access to quality health care without regard to their income.

Equally important, the Health Care for All Americans Act offers important new tools for restraining the growth in health care costs and encouraging badly needed competition in the health care market place.

Over the last decade, increases in health expenditures have outpaced virtually all other price increases in the national economy. Health care costs are roughly doubling every 5 years. The proportion of our gross national product allocated to health care has risen from 5.2 percent in 1960 to an estimated 9.1 percent in 1979. Unless something is done, this figure will increase to 10.2 percent of GNP by fiscal year 1984. In 1968, the average cost of a hospital stay was $56 a day. By 1977, it had climbed to $183 a day. By 1984—unless we take action—it will reach $400 a day.

This alarming inflation in health care costs—and the staggering increase in Federal spending for health services which it triggers—must be turned around. It has reduced the purchasing power of our citizens, particularly the poor and the elderly. It has strained the national economy. It is rapidly eating away at the Federal budget.

The Health Care for All Americans Act, by instituting strong cost controls and incentives for cost efficiency across the board, will give us the tools we need to bring this costly escalation in health care costs under control. Prospective budgeting for hospitals, negotiated fee schedules for physicians, and incentives for enrollees to join health maintenance organizations and other cost-effective arrangements—all of which are incorporated in this legislation—hold the promise of significantly altering the inflationary forces which are inherent in our present health care system. Insurers who are able to reduce costs could either rebate savings to their enrollees or expand covered services at no additional cost—a provision designed to foster competition among insurers for enrollees and to stimulate negotiation between providers and insurers for reduced rates. Because of these and related provisions, within 4 years after passage of the Health Care for All Americans Act it is estimated that the Nation will actually be spending less for health care than it would if no bill were enacted.

The Health Care for All Americans Act builds on existing programs and relies heavily on the private sector. Private insurers would underwrite and market policies and administer claims processing. Beneficiaries would be eligible to choose between a private insurer and a qualified health maintenance organization. The medicare program would remain in place, but would be expanded to offer more adequate protection to seniors and disabled citizens. States would continue to play a major role in rate setting, planning, qualifying providers and managing a residual medicaid program.

In short, Mr. President, the Health Care for All Americans Act would finally assure that no citizen is turned away from the door of our health care system because he or she cannot afford basic medical care. It would establish strong and effective cost controls and encourage a more competitive health care market place. It would build on existing private and public systems and thereby avoid the need for a massive new bureaucratic structure.

This bill that I and others submit today is a reflection of our thinking at this time. It has been modified and improved from our earlier drafts of national health insurance legislation. Further modifications, refinements, and improvements will be made as we move through the legislative process. I stand ready to work cooperatively and constructively during that process with all the parties at interest: consumers, doctors, insurers, health service institutions, and all others. We must work together in a spirit of openness and good will to develop public law that truly serves the public interest and which is balanced and fair in its final construction.

The American people have waited too long for a national health insurance program which meets these goals. I urge my colleagues to join with me in working for the enactment of the Health Care for All Americans Act.●

● Mr. WEICKER. Mr. President, today, I am pleased to join with Senator KENNEDY and others in introducing the "Health Care for All Americans Act of 1979." I rise to offer my full and bipartisan support for legislation that will shape a new policy of quality and affordable health care for all Americans.

I support a national health program which is based on the principle that all Americans, regardless of age or income, are entitled to the best health care available. The participation of private sector insurers must be included in a health insurance scheme. I believe that the private institutions in this country should work with the Federal Government to make good health care accessible to every American at costs the individual, employer, taxpayer and the Nation can afford to pay.

The citizens of this country do not need economic advisors or the Consumer Price Index to tell them that health care costs are going up. In 1978, Americans spent an estimated $183 billion on health care services—about $750 for each person, or more than $3,000 for a family of four. Besides health care, the present inflationary state of the economy affects other necessities of life; this includes housing, food, and education. The future of an individual or family is maimed with the prospect of financial bankruptcy.

In addition, according to the Department of Health, Education, and Welfare, in fiscal year 1979, Federal outlays for health care are estimated to be $62 billion. In 1966, a year before medicare and medicaid, the Government shared 26 percent of the Nation's health bill; today it is 42 percent. In nearly three decades, the share of our gross national product accounted for by health care expenditures has risen steadily from 4.5 percent to over 9 percent.

Mr. President, whatever the reason is for this leap in health care expenses—waste, the growth and aging of the population, income and general inflation trends or changes in consumer preferences which may demand more and better health care—I believe it is incumbent upon this Congress to enact legislation that would protect Americans from skyrocketing medical bills while providing the needed quality care.

The legislation being introduced today by Senator KENNEDY, the Health Care for All Americans Act, offers a proper and measured response to this health care dilemma.

The health care industry in this country includes: the individuals, groups and hospitals that provide the care, including HMO's; the organizations through which consumers pay for it, like Blue Cross and commercial insurers; and finally, the Federal Government which guarantees adequate health care for the aged and poor through medicare and medicaid. The focus of the Kennedy health care program is on the entire health care industry. In doing so, this plan provides universal and comprehensive coverage, cost and quality controls system.

Mr. President, this legislation is designed to assure every American choices among the best health plans our Nation's private sector insurers have to offer and free choice of provider of health care at an affordable cost. An individual can freely choose those health services he or she desires from a member of any of the four national consortiums: a commercial insurance company; Blue Cross-Blue Shield; a qualified health maintenance organization; or a prepaid,

independent practice association. A special consortium will be available for those health plans which are directly or jointly administered by unions and employers. With these choices, competition is built into the health program; competition means efficiency. And, by better administration or agreements with doctors or hospitals to give care for lower rates, efficient insurers could offer subscribers cash rebates or added benefits. Profit would be the incentive and reward for efficient operation.

The Government's role, then, is to guarantee comprehensive health care coverage to every American. There will be full coverage of inpatient hospital services, X-rays, and lab tests. Costs of catastrophic illness will be covered since there will be no arbitrary nonmedical limits on the number of hospital days or physician visits. To the private sector insurers, this will not mean that they cannot continue to market insurance, including supplemental coverage not mandated under the plan.

In addition, they can continue to collect income-related premiums under the rules of their consortium, adjust those premiums to area cast and enrollee risk, and pay health care providers the maximum fee allowable under the area's prospective budget. Mr. President, there is no proposal before this Congress that will offer a more competitive role for the private insurers and allow growth and development than this bill.

For the poor and near poor, this legislation would replace medicaid with a uniform national health plan of all mandated benefits. Medicaid will cover only those services such as long-term nursing care which are not incorporated in the national health insurance plan. The States will contribute only what they are presently spending for medicaid, and no more. Therefore, this program will insure adequate coverage for those who need our special care and will insulate the States from burgeoning medical costs.

For the elderly and eligible disabled, this legislation will extend and improve medicare in the first year of implementation of the act by injecting over $20 billion in new benefits to the disabled and all persons 65 years of age or over. Some of the new benefits include prescription drugs, hearing aids and examinations, and eye examinations. Under this act, senior citizens will no longer have to pay 38 percent of their medical bills; no deductibles or coinsurance. In this way, they will be insured from being financially wiped out. Finally, physicians will no longer bill medicare beneficiaries but will be paid directly by the insurance company.

Mr. President, a unique aspect of the Kennedy health plan is that because of the immediate and long range cost control application, total costs of health care within 4 years of passage will be less than they would be under current programs. The budgetary impact in the first year is estimated to be $40 billion. But, over $20 billion would be for coverage of the poor and for improving medicare.

Mr. President, I must stress that a piecemeal approach of building upon the existing system is not the way to guarantee quality and affordable health care to every American in this country. What is needed is embodied in the Kennedy Health Care for All Americans Act: comprehensive benefits; universal coverage; the strongest possible quality and cost controls; system reforms to encourage preventive medicine and prepaid group practice. In addition, it gives a meaningful role to the private sector insurers. If we build on the best in both the private sector and the Government, we will attain that goal.

The Health Care for All Americans Act of 1979 makes sense. To me, this is what a national health insurance plan should include; what the Congress should pass; and most importantly, what the people of this country deserve. Again, I am pleased to lend my support to this legislation and will push actively for its adoption during this Congress.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced today by Senator KENNEDY for himself and others dealing with health care be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

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

By Mr. MORGAN:

S. 1721. A bill for the relief of Erasmo Ramitrez Cruz, Jr., M.D., and Emelito Riego de Bios Castor Cruz, M.D., husband and wife; to the Committee on the Judiciary.

● Mr. MORGAN. Mr. President, today, I am introducing a private bill for the relief of Drs. Erasmo and Emelito Castor Cruz, who now reside in Brooklyn, N.Y.

These two doctors, husband and wife, came from the Philippines in 1974 to do their internship and residency. They passed the Federal licensing examination, and have been licensed in New York and Maryland. They have concluded their studies this summer and they plan to settle in Norwood, N.C. The major obstacle to their appearing before the North Carolina Board of Medical Examiners and being licensed in the State is an emigration point.

Norwood, Mr. President, is like many rural communities in this country—it has no, I repeat—no doctors. Yet, here we have two doctors, trained in the United States, not overseas, ready to come to this small town and provide it with needed medical attention. This is not the case of some doctors who attempt to come to our country directly from overseas, without any familiarity with our medical procedures and practice.

These two doctors offer this small community the opportunity for nearly complete medical coverage, as one is a pediatrician and the other is a general practitioner. Facilities are available for their use and the community has expressed interest in their coming to live in Norwood.

Norwood has been designated to be a medically depressed area by the Department of Health, Education, and Welfare. It appears that private legislation is the proper course in this case to manage the immigration question and to move quickly to provide this community with adequate medical attention.●

ADDITIONAL COSPONSORS

S. 93

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 93, a bill to require that Federal agencies publish certain statements during the rulemaking process, and for other purposes.

S. 110

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 110, a bill to amend the Internal Revenue Code of 1954 to provide accelerated and simplification depreciation for small business.

S. 111

At the request of Mr. BUMPERS, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 111, a bill to improve the administrative process by making Federal agencies more responsive to the will of the people as expressed by their elected representatives in Congress.

S. 252

At the request of Mr. GLENN, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 252, the Anti-Arson Act of 1979.

S. 259

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 259, a bill to establish the goal of reducing Federal paperwork costs by 225 percent, to prescribe the procedures for the reduction of such costs, to provide for the development of strategies and methods for determining such costs and effecting such reductions, and for other purposes.

S. 326

At the request of Mr. BUMPERS, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 326, a bill entitled the "Taxpayers' Bill of Rights Act."

S. 414

At the request of Mr. BAYH, the Senator from South Carolina, (Mr. HOLLINGS), and the Senator from New Hampshire, (Mr. DURKIN), were added as cosponsors of S. 414, the University and Small Business Patent Procedures Act.

S. 487

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 487, a bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in original issue stock of small businesses.

S. 506

At the request of Mr. BAYH, the Senator from Vermont, (Mr. LEAHY), and the Senator from Massachusetts, (Mr. TSON-

GAS), were added as cosponsors of S. 506, the Fair Housing Amendments.

S. 653

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 653, a bill to amend the Internal Revenue Code of 1954 to provide for the nonrecognition of gain in the proceeds from the sale of incentive stock if those proceeds are reinvested in such stock, and for an incentive in basis for incentive stock held for certain periods.

S. 793

At the request of Mr. NELSON, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 793, a bill to amend the Small Business Act.

S. 1090, S. 1091, AND S. 1092

At the request of Mr. TALMADGE, the Senator from Texas (Mr. TOWER), the Senator from Montana (Mr. MELCHER), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 1090, S. 1091, and S. 1092, bills to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 relating to church plans.

S. 1096

At the request of Mr. STEVENS, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1096, a bill to amend title 39, United States Code, to provide for an extension of the provisions of section 3626(a) relating to reduced rates.

S. 1179

At the request of Mr. BAYH, the Senator from Mississippi (Mr. COCHRAN), was added as a cosponsor of S. 1179, a bill to incorporate the Gold Star Wives of America.

S. 1268

At the request of Mr. BAYH, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New York (Mr. MOYNIHAN), were added as cosponsors of S. 1268, the Gasohol Marketing Freedom Act.

S. 1364

At the request of Mr. TALMADGE, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 1364, a bill to amend the Federal Property and Administrative Services Act of 1949 to permit State and county extension services, and any State agricultural experiment station to obtain excess property from the United States.

S. 1424

At the request of Mr. JAVITS, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1424, the International Health Act of 1979.

S. 1465

At the request of Mr. TALMADGE, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1486

At the request of Mr. CHURCH, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1486, a bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

S. 1592

At the request of Mr. DOLE, the Senator from Mississippi (Mr. COCHRAN) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 1592, the Financial Regulation Simplification Act of 1979.

S. 1608

At the request of Mr. RIEGLE, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1608, the National Employment Priorities Act of 1979.

S. 1711

At the request of Mr. CRANSTON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1711, a bill to amend the authorization for the Santa Ana River flood control project in the State of California.

SENATE RESOLUTION 216

At the request of Mr. PROXMIRE, the Senator from North Dakota (Mr. BURDICK) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of Senate Resolution 216, a resolution relating to the construction of office buildings for the Senate.

AMENDMENT NO. 363

At the request of Mr. MCCLURE, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of amendment No. 363 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

AMENDMENTS SUBMITTED FOR PRINTING

RECLAMATION REFORM ACT OF 1979—S. 14

AMENDMENTS NOS. 400 THROUGH 402

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

Mr. STEVENS (for Mr. HATFIELD) submitted three amendments intended to be proposed by him to S. 14, a bill to amend and supplement the acreage limitation and residency provisions of the Federal Reclamation Law, as amended and supplemented, and for other purposes.

Mr. STEVENS. Mr. President, on behalf of the Senator from Oregon (Mr. HATFIELD), I submit three amendments to S. 14, the Reclamation Reform Act of 1979.

I ask unanimous consent that a statement by Senator HATFIELD relating to these amendments be printed at this point in the RECORD.

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

STATEMENT BY SENATOR HATFIELD

A great deal of controversy and criticism has surrounded S. 14, the Reclamation Reform Act of 1979. Before the Senate immerses itself in debate over conflicting facts and scenarios, I would like to take this opportunity to discuss briefly the history of reclamation in the West and explain my view of how S. 14 stands in the one-hundred year development of this issue.

During the middle of the 19th century the West was being settled by ambitious miners, cattlemen, and traders. The development of agriculture in the arid westlands was very much in question until the 1850's when members of the Mormon Church demonstrated that through proper irrigation these desert lands could be cultivated.

Expansion on this beginning was limited to several small locations because of the inadequate supply of water. Reclamationists at that time had not developed adequate techniques for water storage and delivery. In addition, agricultural developers found that farm practices in the humid areas of the Midwest and South did not apply to the arid region of the West. Congress, as well, found that the Homestead Act of 1862 established public lands policy but did little for growing farm interests in the West. Nevertheless, the passion for land heightened as men and women desired homesteads, and railroad companies and speculators envisioned profit from land investment.

With the passage of the Desert Lands Act in 1877, Congress encouraged agricultural development in the West by authorizing the sale of public lands to any person who could successfully cultivate the desert soil. The statute provided for a twenty-five cent per acre filing fee and an additional dollar per acre sale upon proof of compliance. This, the Federal Government's first major reclamation policy, was to be changed four years later after speculators and large economic interests exploited the law by buying promising parcels and selling the undeveloped land for profit.

During the 1880's and 1890's farmers and reform advocates banded together to form the Farmers Alliance which later became the Populist Party. With strong political support from the West and South, the Populist Party sought to reform federal reclamation policy and rid the country of special interest domination.

Behind the Populist Movement in 1891, Congress passed the General Revision Act which attempted to eliminate abuses and encourage private development of western lands. Farmers of public lands were required to submit plans and had to be residents of the state in which they were filing. Maximum acreage was lowered to 320 acres and title could not be transferred unless an eighth of the land was cultivated within three years.

The next major reform was the Carey Act of 1894, introduced by Wyoming Senator Joseph M. Carey. The Carey Act granted public lands to states which would in turn contract with private construction companies to build irrigation works. By 1902 barely 11,000 acres had been reclaimed of the one million acres which had been turned over by the Federal Government.

After thirty years it was becoming increasingly apparent that if agricultural development of the West was to succeed in the near-term, the Federal Government was going to have to become directly involved in the construction of reclamation facilities.

After 1900, federal reclamation policy became an explosive issue on the national political scene. The 56th Congress began with a number of reclamation proposals and nearly every party and interest group expressed a position on the future of reclamation policy.

Southern and midwestern Congressmen opposed reclamation on the grounds that development of large agricultural interests in the West would compete with existing farm operations in their states. Aid to western

irrigators, they argued, would be unfair to farmers in other parts of the country. Supporters brought forward social and financial arguments promising the legislation would relieve population pressures, stabilize the national farm economy, assist the drought-stricken Midwest and, above all, restrict the federal reclamation benefits to families, not corporations, who wanted to reclaim desert lands.

Both supporters and opponents of reclamation legislation were keenly aware of the primacy of water to the development of the West and understood the need to manage the valuable benefits which would be created by federal reclamation projects. Previous reclamation policy did not address these important concerns.

Representative Francis G. Newlands of Nevada introduced the bill which, after several modifications, passed both Houses by a wide margin and which was signed into law by President Roosevelt on June 17, 1902. The Reclamation Act of 1902 represented the culmination of efforts to conform public lands policy to the social and agricultural needs of the nation. While the benefits of reclamation water would flow primarily to western farmers, southern and midwestern representatives played an influential role in seeing that reclamation law was for the benefit of the nation as a whole and not just the seventeen western states.

As we look at the debate surrounding reclamation reform today, these same concerns are expressed. How is Congress to manage the benefits of reclamation water? How is Congress to protect the public's interest from being exploited by land speculators and abused by large agribusinesses? How is Congress to update the 1902 law to meet the agricultural, economic and social needs of today?

The period between 1902 and 1926 was marked by extreme devotion of the Bureau of Reclamation to the engineering aspects of reclamation projects. Many of the economic and social purposes of the 1902 Reclamation Law were put aside to solve the technical problems involved with delivering water. An attempt was made in 1926 to strengthen the economic and social elements when Congress passed the Omnibus Adjustment Act. Further restrictions were placed on speculators and would-be monopolists while the economic burden for small farmers was lifted by suspending $14 million worth of construction costs.

Throughout the '40's, '50's and '60's, development of the West took on a new look. Industry, as well as agriculture, put further demands on the scarce water supply. Multi-use projects were built to meet the growing need for power, irrigation and industrial water supply, transportation, and flood control in western states. Farmers, developers and conservationists clashed over the management and use of natural resources.

The '60's and '70's saw the executive branch and the courts attempt to untangle reclamation policy from the battles of these interest groups of the previous decades. Still, a vague impression of the agricultural and social purposes of the program remained despite the confusion created by various decisions. In 1961 the Department of Interior reversed itself on the question of exempting the Kings River project in California from the provisions of Reclamation Law, deciding finally that acreage limits should apply. The Ninth Circuit Court of Appeals ruled in 1969 to abrogate acreage limits in the Imperial Valley Irrigation District, but nearly contradicted itself by upholding residency requirements.

While the Congress has struggled over the issue of reclamation policy for the past 100 years, it has maintained the agrarian values upon which the reclamation program was founded. Congress has continually recognized the public's interest in reclamation law by upholding safeguards against the program's exploitation by other than the family farmers it was meant to assist. There is grave concern at this time, however, that S. 14 does not adequately protect the public's interest in seeing that the federal subsidy continues to encourage viable family owned farms.

Specifically, I believe the program is vulnerable to abuse in the short-term lease exemption of Sec. 7 of S. 14 and in the payout provision of Section 6. Through the loose language contained in these sections a large agribusiness could simply avoid acreage limitations by signing one-year leases or by satisfying repayment obligations before the end of the contract periods.

In addition, I believe that because landholders have been able to sell excess land to business associates and distant relatives to maintain their effective control and benefit, a limited lottery provision should be adopted to allow a farmer to sell only 1280 acres of his excess land at his discretion, or up to 3840 acres to his lineal descendents with the remainder to be sold to other qualified recipients through an impartial lottery.

I believe that these three changes in S. 14 are necessary to preserve the basic intent of reclamation policy in the West. I say this as a member of the Senate from a reclamation state and as a former governor of such a state. Without these amendments S. 14 will effectively allow landholders to benefit from unlimited reclamation water service and will greatly reduce opportunities to expand family farm opportunities in the West. Congress has been conscious of such abuses in the past and should maintain its vigilence in seeing that a meaningful reclamation policy continues.

NOTICES OF HEARINGS

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, has scheduled hearings on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing. The hearings are presently scheduled for Monday, September 17, 1979, in room 6226, Dirksen Senate Office Building at 9:30 a.m.

Any persons wishing to submit written statements for the hearing record should send them to Ben Dixon, 102–B Russell Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, has scheduled a markup session on S. 506, a bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing.

The markup will be held in room 457, Russell Senate Office Building on Wednesday, September 19, 1979 at 9:30 a.m.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. DANFORTH. Mr. President, on September 21 at 10 a.m., in room 3302, of the Dirksen Senate Office Building, the Subcommittee on Federal Spending Practices and Open Government will hold hearings on S. 691, a bill to prohibit the use of appropriated funds to lobby members of state legislatures and legislative bodies of political subdivisions. Interested persons should call Christopher Brewster of my office at: 224–6154.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate beginning at 2 p.m. today, September 6; Tuesday, September 11; and Wednesday, September 12, 1979, to hold markup sessions on synthetic fuel measures.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold an oversight hearing on economic regulation of the trucking industry.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERT C. BYRD. I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the sessions of the Senate on Wednesday, September 12; Thursday, September 13; and Friday, September 14, 1979, to hold hearings on the capabilities of the reconnaissance system of the intelligence agencies of the United States to monitor the provisions of the SALT II treaty.

Mr. STEVENS. Mr. President, there is no objection.

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

CONSUMER SUBCOMMITTEE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the sessions of the Senate on September 18, 19, 27, and 28, 1979, to hold oversight hearings on the Federal Trade Commission.

Mr. STEVENS. Mr. President, there is no objection.

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

ADDITIONAL STATEMENTS

THE BRAZILIAN EXPERIMENT IN ALCOHOL FUELS

● Mr. BAYH. Mr. President, to my great satisfaction, interest in the potential of alcohol as an energy source is gathering steam all over this country and, indeed, all over the world.

Last year, the Congress authorized formation of a National Alcohol Fuels Commission, of which I am privileged to be chairman, to help speed commercialization of this new liquid energy supplement. Commission staff recently met in Washington, with one of the leading alcohol experts in Brazil, which has embarked on a major ethanol to energy pro-

gram. As many of my colleagues are aware, the Government of Brazil is counting on alcohol as a key tool in decreasing that nation's heavy dependence on imported oil—to the point that some predict Brazil will decrease its oil imports by 50 percent by 1985. This would solve several national problems at once: The energy shortage, the world glut in sugar and uneven income distribution and overly rapid urban migration. I hope the Senate will take note of this as we consider energy legislation this fall.

Mr. President, the June and July 1979 editions of Brazil magazine have informative articles on Brazil's efforts. I ask that they be printed in the RECORD for the information of my colleagues.

The articles follow:

THEY ARE RUNNING WELL ON PURE ALCOHOL

The world may be losing its sweet tooth, but as far as Brazil's sugar industry is concerned there are many other uses for the product. One of these uses is of vital importance—energy. Sugar can be transformed into energy in the form of ethanol. And the source of that energy—the sun—is renewable, unlike oil and coal (or uranium, for that matter) which are extracted from diminishing fossil and mineral reserves.

Four years ago sugar prices reached the all-time high on the London commodities exchange of more than US $1,200 per metric ton. In September, 1978, sugar was selling for one-sixth that amount. But sugar producers in the world's largest sugar producing country are not particularly worried. Brazil has not joined any of the commodities cartels springing up. Nor has there been a retraction in planting, despite the disorder in the world's commodity markets. Instead, sugar is being used in novel ways.

One of the most striking new sugar projects—Brazil's Proalcool Plan—involves a technology about 2,000 years old when alcohol was first distilled from fermenting vegetable matter. But in Brazil alcohol is being produced on a rapidly increasing scale with up-to-date nationally developed technology: if all the ethyl alcohol distilled in Brazil this year were converted into gin, there would be five cases for each person living in this country. Of course, alcohol is not being used for a massive binge.

A small part of it is exported, the chemical industry uses about 17 percent of the production and the remaining 82 percent is mixed with gasoline to propel Brazil's more than 6.5 million passenger cars. A small but significant number of vehicles already run, in fact, on pure alcohol.

C_2H_6O is the stuff that gives Grandfather's martini its kick, but in increasing amounts, it is being used to move Mom's sedan as she makes her weekly purchases at the supermarket, especially if she lives in Brazil. The Proalcool Plan, proponents claim, will solve two perplexing problems: the energy shortage and the world glut in sugar.

Liquid fuel—Energy shortages have become a part of daily life, and not just in Brazil. In 1973, when the petroleum cartel quadrupled the price of crude oil, Brazil was reaching an annual vehicle production of nearly one million cars, trucks, buses and tractors, all propelled by a fuel that, suddenly, was no longer inexpensive. Because Brazil imports about 80 percent of the more than 900,000 barrels of crude petroleum consumer daily, in one year's time the nation's trade balance went way out of control. An almost US $5 billion deficit was recorded in 1974. Draconian import measures were just one of the immediate results.

Another result was a widening search for new energy sources. A number of factors account for the rapid emergence of alcohol as a high-priority element in Brazil's energy strategy. The country has practical experience dating back to the 1920's in using alcohol as a fuel for automobiles.

Fairly large-scale use only occurred immediately after World War II, but with the oil crisis, the Federal Government shifted gears and started encouraging the production of even more alcohol. An important factor in the growing use of alcohol in motor fuels is the experimental evidence that ethyl alcohol, despite its low caloric heat content compared to gasoline, is a competitive fuel when burned in a properly designed engine, delivering liter for liter as much power with less pollution. Yet another factor in alcohol's emergence was the realization that the manufacture of alcohol can employ raw materials other than sugarcane, which requires relatively good soils. For instance, alcohol is now being commercially produced from *manioc* (cassava), a root crop that grows in all parts of the country, and of which Brazil is the world's largest producer.

Don't think sugar—The cyclical world sugar glut is also an important factor. Possibly representing a long term trend, the demand for sucrose has been steadily declining. There appear to be shifts in social attitudes towards sugar, among these a dramatic dietary switch away from sugar in the industrialized nations. Several British and North American commodities experts predicted that, by 1985, consumption of one sugar substitute alone, high fructose corn syrup, will be displacing about 2 to 3 million tons of sugar a year in the United States. In addition, there has been a major effort by traditionally sugar-importing nations to become self-sufficient in the product. Some make sugar from beets, others are planting sugarcane. The United Nations Food and Agriculture Organization predicts world output should grow at an annual rate of 2%—3% by 1985, and that 70% of that increase will be in countries which formerly imported sugar. Demand is expected to grow at a lower rate in the same period.

And for this reason, sugar producers have been looking to other end-uses for relief from lower demand patterns. In Brazil, the search is centering on chemicals and petrochemicals. With oil reserves generally declining and prices on the upswing, sugar is becoming more attractive as the building block for other vital basic inputs. Ethylene, methylene, and butadiene—the raw materials used in the manufacture of plastic and synthetic rubber—are being produced from alcohols with increasing efficiency.

A steady growth—Low world sugar prices probably were the most decisive factor in the Brazilian Government's decision to re-allocate the sugarcane equivalent of 2.1 million metric tons of sugar to the alcohol program between June 1, 1978 and May 31, 1979.

The trend line for Brazilian alcohol production shows a steady growth pattern for more than two decades followed by a drastic jump with the 1977–1978 sugarcane harvest (see table). The 23–year average annual alcohol production between the 1954–1955 harvest and the 1976–1977 harvest is about 475 million liters (126 million gallons) with a deviation of around 100 million liters (29 million gallons). The 1977/1978 harvest yielded about 1.5 billion liters (396 million gallons). For the current crop year, the expected volume is 2.5 billion liters (660 million gallons), which will raise the annual average to 600 million liters (158 million gallons) for the 25-year period with a deviation of about 480 million liters (127 million gallons), or in non-statistical terms—a big jump.

Facing the nation, however, is an even bigger increase in alcohol production. Extensive tests have demonstrated that with alcohol mixtures up to 20 percent, no major adjustments in car motors are required. Diesel engines can run on a 50 percent mixture with the only major design change being a dual carburetion system. If just the 20 percent mixture in passenger car fuel is attained by 1980 (as called for in the Proalcool Plan), the nation will be able to reduce its petroleum imports about 10 percent, thus allowing trade savings of about US$ 500 million annually.

From 8 percent to 20 percent—Brazilian cars are presently burning gasoline containing 8 percent alcohol (national average), and the mixture of gasoline and alcohol reaches 20 percent in some states—particularly the bigger industrial states like Sao Paulo. Annual alcohol production is now reported around 2.5 billion liters (661 million gallons), a more than 300 percent increase in only two years.

Proponents of the alcohol program would like to see an even bigger jump—to an output of 30 billion–35 billion liters (7.94 billion to 9.26 billion gallons) by 1985. This would theoretically permit a 50 percent reduction in Brazil's expensive oil imports, currently running at more than US $4 billion annually. An increase of such magnitude (more than ten-fold) would require structural industrial changes. For instance, the electrical generating plants now burning fuel oil could be switched to cleaner-burning alcohol. Car and truck motors would require some design modifications. Additional storage capacity would be needed, particularly in the Northeast, where sugar-mills are still selling residual molasses on the international commodities markets—at a relative loss.

Brazilian alcohol has traditionally been produced from the residual molasses left over from crystal sugar productions. But in 1979 the Government decision to convert the entire sugarcane equivalent of 2.1 million tons of sugar directly into alcohol resulted in the sharply increased production described above.

Overall view—At the opening session of last year's National Sugar Producers' Conference at Campos, in the state of Rio de Janeiro, one of the opening session's panelists, Antonio Delfim Netto, provided an overall assessment of the Proalcool Plan's possibilities.

The former Ambassador to France, peripatetic economist and Minister of Finance during the preceding Federal Administration (and now Minister of Agriculture) regretted the alcohol program had not received Governmental impetus even earlier.

Delfim Netto noted that going to a 30 billion–35 billion liter annual alcohol production will involve yet another notable modification of enormous strategic importance. Planting, cultivating, irrigating, transporting and processing sufficient sugarcane to meet an increased demand for alcohol-based fuel will require a larger agricultural labor force.

To attract a bigger labor force, Delfim Netto observed, a mechanism could be established that would greatly help alleviate two serious economic problems: unevenly distributed income and structural urban difficulties. The Brazilian Government would like to make the uptrending gross domestic product more accessible but at the same time somehow slow the migration overloading Brazil's major urban areas.

In Delfim Netto's words: "Proalcool has extraordinary possibilities. There will be an increased demand in Brazil for sugarcane and wheat and other primary alcohol-yielding products which would bring about a great improvement in the agricultural sector. It should lead to improved wages for agricultural labor. What would the social costs be? I feel we could expand production of alcohol-yielding products with very low social costs. At any rate, the social costs of producing these products would certainly be much less than what is now involved in obtaining the dollars to buy petroleum." A

tenfold jump to a 30 billion–35 billion liter annual alcohol production will require serious study. Such factors as production costs—alcohol is still about twice as expensive to produce as gasoline—and the lead time needed to establish additional alcohol producing infrastructures will be carefully examined as Brazil charts its strategy for the upcoming years.

ENERGY

A reduction of dependence on oil imports, through efforts to expand domestic production (presently about 20 percent of consumption needs), and the development of alternative energy sources will continue defining the strategy of the energy policy of the new Administration.

A new and redoubled effort will be exerted in the area of alternative energy sources, endeavoring to accelerate the achievement of targets set by the National Alcohol Program (Proalcool). For example, the production of 2.6 billion liters of ethanol predicted for 1980 will already be achieved in 1979. Added to gasoline in a proportion of up to 15 percent, production of alcohol should make possible substantial savings in gasoline. The main aim of Proalcool, which will be achieved in the short-run, is ethanol-gasoline mixture, with 20 percent of ethanol (see Brazil Trade and Industry, June, 1979 issue).

In addition, Brazilian technicians and scientists are presently working on the manufacture of engines exclusively fueled by alcohol, and the auto industry has already proposed the production of up to 100,000 ethanol-powered cars annually, about 10 percent of Brazilian annual production. The use of fleets of 100 percent alcohol-run vehicles is scheduled for the second phase of Proalcool.●

EARL MOUNTBATTEN OF BURMA

● Mr. MATHIAS. Mr. President, Louis Mountbatten died at sea, yet the sea had not claimed him. Neither had any bold, declared enemy stalked him to his death. Nor had a demented assassin struck at him while he held a great office of state and was a visible target for acts of public discontent.

Although any one of these deaths was possible for him, Louis Mountbatten's death at the hands of terrorists came improbably in a pleasure boat while setting out for an afternoon fishing expedition with his family.

It was almost as though even death did not dare to tackle him when his guard was up. This dashing figure who had survived shipwreck in the Aegean Sea, presided with dignity over the wrenching events that preceded India's independence and helped bring the Royal Navy from the age of Jutland to the age of Hiroshima, was apparently immune to most mortal dangers. And so Louis Mountbatten had to be taken off guard.

He had outlived his enemies or made peace with them. He had long since discharged his last duties as Viceroy of India and First Sea Lord. His last battle had long since been fought. He was a man at peace.

And yet he still had a weak spot, a curious vulnerability. It was, in fact, the luck of being born a great grandson of Queen Victoria. He was famous and his violent death would be notorious. That was what made him a target for terrorists when he was no longer a rational target in a classic contest that accorded him the right of self defense.

The way in which death came to Earl Mountbatten does not dishonor him; on the contrary, it illuminates the honors that he won for himself and for his country. It does dishonor his murderers and all who give them comfort or shelter. Finally, his death cries out again for a total condemnation of terrorism by all of us in the civilized world in whatever posture we may stand in respect to any existing controversy.

I ask that the account of Lord Mountbatten's life that appeared in the New York Times on August 28, 1979, be included in the RECORD.

The material follows:

[From the New York Times, Aug. 28, 1979]

EARL MOUNTBATTEN OF BURMA, 79, MILITARY STRATEGIST AND STATESMAN

(By Albin Krebs)

One night in 1955, a campaign worker for Britain's Conservative Party called at Broadlands, the country home of Earl Mountbatten of Burma, to plead for money.

Turning the man down, Lord Mountbatten said: "We're on the other side, you know. You'll have better luck in the servants' wing. They're all Tories."

It should not have surprised the Tory canvasser that Lord Mountbatten, born into the royal establishment and proud of his kinship with Europe's dynasties since Charlemagne, always voted Labor. Unorthodoxy, with Lord Mountbatten, was commonplace.

Few people of royal lineage played a more versatile and colorful role than Lord Mountbatten, who refused to live the idle life of the royal and the rich.

Instead, he became a daring sailor and military strategist, a suave political negotiator, a trusted adviser to prime ministers. He was a major planner for the invasion of occupied Europe in World War II, later the Supreme Allied Commander for Southeast Asia, the Viceroy to India who ended British rule there. First Sea Lord of the Royal Navy, Admiral of the Fleet and chief architect of the overhaul of Britain's defense system.

He was sometimes ruthless. He was also bold, courageous, imaginative and intelligent. Knowing all this, he acknowledged his vanity. He welcomed occasions on which he could wear full uniform and display the 10 rows of medals and decorations, including Knight Companion of the Most Noble Order of the Garter, that emblazoned his chest. The biography he supplied the British "Who's Who" runs to more than a thousand words and is the longest in the volume.

"I am," Lord Mountbatten once said, "the most conceited man I have ever known."

Although he dearly loved the pomp and circumstance of royal ceremonies, Lord Mountbatten detested the spit-and-polish traditions of some of his fellow navy officers, many of whom disliked him. "Admirals are a lot of damned snobs," he said after becoming Admiral of the Fleet.

It was that sort of frankness that led to criticism of Lord Mountbatten from officialdom but made him popular among the public.

GREAT-GRANDSON OF VICTORIA

He was born Louis Francis Albert Victor Nicholas Battenberg on June 25, 1900, at Frogmore House on the grounds of Windsor Castle. His father was the Austrian-born Prince Louis of Battenberg, who was to become First Sea Lord, and his mother was Princess Victoria, granddaughter of Queen Victoria.

Even in infancy he displayed what was to become one of his trademarks, a lack of awe in the presence of the great. At his christening, Queen Victoria bent down to have a look at him, and the infant knocked off her spectacles. The Queen immediately handed him over to be baptized.

At first, his parents, his brother, George, and his sisters, Alice and Louisa, called him Nicky. But when their royal relative, Czar Nicholas and his family, came to visit, it was decided that there were too many Nickys around, so he became Dickie. The nickname stuck for the rest of his life.

When he was 13 years old, he entered the Royal Naval College at Osborne, on the Isle of Wight. At graduation, he was 35th in a class of 79. It was at Osborne that he experienced an emotional shock that became the turning point in his life.

FATHER FORCED TO QUIT

This was in 1914, just after the outbreak of World War I, and his father, Prince Louis, was First Sea Lord of the Royal Navy. After two German cruisers eluded British naval forces in the Mediterranean, Prince Louis became a victim of anti-German hysteria sweeping Britain.

Although he was enormously popular in the Navy, the penny press and its militant readers put relentless pressure on the Government to dismiss him because of his German ancestry. Although reluctant, Winston Churchill, then First Lord of the Admiralty, was forced to ask Prince Louis for his resignation, which was promptly given.

In 1917, the family name, as another result of anti-German feeling, was changed from Battenberg to Mountbatten and Prince Louis became the first Marquess of Milford Haven.

His father's humiliation was said to have had a lasting effect on Lord Louis Mountbatten, whose driving ambition it became to one day be First Sea Lord.

From Osborne he went to Dartmouth Naval College for a war course and finished near the top of his class. Aboard the H.M.S. Lion, to which he was posted as a midshipman at the age of 16, he attracted notice for his tenacity at learning the sailor's trade, devoting even his free hours to studying gunnery, navigation and seamanship. The Admiralty sent him to Christ's College, Cambridge, after the war.

While cultivating the trust and friendship of such men as Churchill, who were to be enormously helpful in his career, the handsome and always charming young naval lieutenant also quickly became a debutantes' delight. In addition, he became the favorite cousin of the fun-loving Prince of Wales, who became King Edward VIII and, ultimately, the Duke of Windsor. The Prince took Lord Mountbatten alone on a world tour in 1920 and on a state visit to India the following year.

The Prince was Lord Mountbatten's best man when, on July 18, 1922, he married Edwina Cynthia Annette Ashley, the beautiful daughter of Baron Mount Temple. She was the heir to a $100 million fortune left by her grandfather, Sir Ernest Cassell, King Edward VII's private banker and confidant. Lord Mountbatten, although not poor, was far from wealthy, and his wife's money allowed them to live handsomely.

After a five-month honeymoon abroad, the couple became the much-photographed, much-written-about leaders of London's bright young set of the 1920's. Their tireless socializing, however, did not divert Lord Mountbatten from his naval career.

He served with the Mediterranean fleet, attended the Signal School at Portsmouth and later taught there from manuals he wrote himself. Operating from Malta, he was signal officer for the Second Destroyer Flotilla. During that tour, he invented an electric stationkeeping device that became standard equipment in the Royal Navy. Known as a "mountbatten," it enabled ships steaming in line to remain a safe distance from each other.

On Malta, he became obsessed with the idea of becoming a fine polo player and, although he was not a born sportsman, learned the game so determinedly that he wrote a

book about it. Calling the treatise "Introduction to Polo," he published it under the whimsical pseudonym of "Marco."

On duty at the Admiralty in 1937, Lord Mountbatten, against much opposition from officers long entrenched in power, began to push a plan to arm British warships with the Oerlikon-Gazda 20-millimeter machine gun, which could fire a thousand shells a minute. The gun, which was not put in service until 1939, proved during World War II to be the Navy's most effective defense weapon against aerial attack.

IRKED FELLOW OFFICERS

In this cause as in others in which he believed, Lord Mountbatten did not hesitate to use his royal connections to get what he wanted. Consequently, he incurred the wrath and dislike of many fellow officers.

In the early months of the war, Captain Mountbatten was in command of a destroyer flotilla, operating from the decks of a trim new destroyer, the H.M.S. Kelly. Years later he called it "the thing I loved best in all my life."

Shortly after he took command, the Kelly was damaged by a mine in the North Sea. After repairs, she took part in the evacuation of Allied forces from Norway and was hit by a torpedo. Repaired again, she was torpedoed in another action. Finally, in the Battle of Crete, a German dive bomber made a direct hit with a 1,000-pound bomb, and the Kelly went down with the loss of half of her crew of 240. Lord Mountbatten and the other survivors spent nearly four hours clinging to wreckage while being strafed by German planes before they were rescued.

In the public eye, Lord Mountbatten was a dashing hero, but in some quarters at the Admiralty he was considered a bit too intrepid for his own good—not to mention the good of his ship and crew. When his friend Noel Coward made a film of the Kelly epic called "In Which We Serve," Lord Mountbatten's critics dubbed it "In Which We Sink."

APPOINTED BY CHURCHILL

However, Lord Mountbatten had the confidence and affection of the man who really counted, Prime Minister Churchill, who in 1941 made him Chief of Combined Operations, the secret task force charged with planning the invasion of Europe.

With his zest for action and armed with the temporary ranks of vice admiral, air marshal and army lieutenant general to allow him to deal with high officers with ease, Lord Mountbatten called in scientific and technological experts from the universities and industry to help devise new weapons and tactics. Several of his own ideas, such as the basic concept of the LST (landing ship tank), were used with great success on D-Day.

Lord Mountbatten was also charged with training commando troops whose mission was to make quick "butcher and bolt" raids on strategic targets in occupied Europe. He directed raids on Vagsoy, Norway, and on St.-Nazaire, Bruneval and Dieppe, France. They resulted in heavy loss of life and questionable gains, and he was severely criticized for them after the war.

A particular disaster was the raid on Dieppe. Not a single main objective was taken, yet casualties among the 6,000 soldiers and commandos were 60 percent. Lord Mountbatten had to assume major responsibility for the debacle.

CHIEF IN SOUTHEAST ASIA

In 1943, Churchill and Roosevelt met at Hyde Park, N.Y., and made a deal: an American would be in command of Operation Overlord, the invasion of northern Europe, and a Briton would be Supreme Allied Commander for Southeast Asia. Roosevelt had met and come to like Lord Mountbatten and was delighted to concur in Churchill's choice of him for the Southeast Asia post.

While the Allies had been concentrating on taking North Africa and Europe, the Japanese had overrun almost all of Southeast Asia and in 1943 were poised to sweep across India to New Delhi. In the spring of 1944, Japan opened the New Delhi offensive, but within a year Lord Mountbatten had halted the drive and struck back with tremendous gains of his own. About 100,000 Japanese were killed, Mandalay was liberated, the Burma Road reopened and Rangoon captured to open Burma to seaborne supplies.

Even while setting the foundations for his title, Lord Mountbatten of Burma, he continued to create friction. Generals and admirals under his command resented the fact that even in wartime he maintained, in New Delhi, a lavish headquarters and a staff of 3,000, including a personal band of 30 musicians. At the same time his detractors noted, Lord Mountbatten made forays into the jungles to give pep talks to his weary troops, a practice the critics found hypocritical.

STILWELL'S COMMENTS

One of his chief antagonists was the American who served as his deputy commander, Lieut. Gen. Joseph W. Stilwell, widely known as Vinegar Joe, a sobriquet richly earned and maintained. To his face he called Lord Mountbatten "Limey Louis," while behind his back he was "Glamour Boy," "a welcher," "a loathsome limey" and "Curly Lashes." Toward the end of the war, however, Stilwell warmed somewhat toward Lord Mountbatten.

Throughout the war, Lord Mountbatten's wife worked tirelessly for the welfare of the wounded, repatriated prisoners of war and the families of servicemen. She joined her husband in Southeast Asia as the war ended to direct aid to former prisoners and civilians who had been interned by the Japanese.

"The fabulous Mountbattens," as the popular press called them, were seen in action to their greatest advantage in the closing phases of British rule on the subcontinent.

Acclaimed as a hero on his return to England in 1946, Lord Mountbatten was persuaded by Clement Attlee, the Labor Prime Minister, to become the last Viceroy to India and to preside over the liquidation of British rule there, bringing political independence and self-determination to the 450 million people of the subcontinent.

Britain, spent by war and no longer able to rule India, was sitting on a powderkeg. The Hindus were striving for sovereignty and the Moslems were bitterly demanding a separate state. Lord Mountbatten arrived in New Delhi on March 22, 1947, determined that the British Raj would end within a year and without religious and communal war.

Lord Mountbattan proved to be a nimble negotiator, extracting agreements from Hindus and Moslems to form an interim joint government pending partition of the subcontinent into the states of Moslem Pakistan and Hindu India. Both Lord and Lady Mountbatten cultivated the friendship of Moslems and Hindus, a new pattern of social behavior for a viceroy and his wife. Indians who had once languished in the viceroy's jails were invited to parties at Government House.

Independence for India and Pakistan came on Aug. 15, 1947, only 145 days after Lord Mountbatten's arrival. Immediately afterward, many thousands died in rioting. By November, Lady Mountbatten was directing relief work for more than a million Moslems, Hindus and Sikhs who had fled their homes after the new boundaries had been set.

It was chaotic, but the Labor Government in London expressed its full confidence in Lord Mountbatten, maintaining that had he not acted as he did to relinquish British power quickly, the consequences would have been even bloodier.

As for the Conservatives back home, many considered Lord Mountbatten a traitor to his class and country for having "presided over the dissolution of the British Empire." Among his critics was his old friend and mentor, Churchill.

FIRST GOVERNOR GENERAL

Lord Mountbatten became India's first Governor General, and he served in that post until June 1948, when he returned to Britain determined to resume his naval career.

As Earl Mountbatten of Burma, a title created in 1947 to supersede that of Viscount Mountbatten of Burma, created a year earlier, he went back to sea a rear admiral in October 1948. A year later he became a vice admiral and served successively as Fourth Sea Lord, commander of the Mediterranean fleet and Commander in Chief, Allied Forces, or NATO, in the Mediterranean.

Churchill, whose Conservative Party regained power in 1951, apparently forgave Lord Mountbatten for his role in India's independence because in 1955 he decided that it was time Lord Mountbatten achieved his lifelong ambition. He appointed him First Sea Lord, the position Lord Mountbatten's father had had to give up 41 years earlier.

As head of the Royal Navy, Admiral of the Fleet Mountbatten pushed ahead its modernization, introducing guided-missile ships, aircraft carrier task forces and nuclear submarines.

CHIEF OF DEFENSE STAFF

In 1959 he became the first Chief of the Defense Staff, fostering the plan for a unified defense system and administration similar to the United States Department of Defense. In unifying command of the British defense forces, he met opposition from admirals and generals who resisted change, but he won.

Countess Mountbatten died in 1960 during a welfare tour in North Borneo. In accordance with her will, she was buried at sea off Portsmouth as a gesture of affection for her seafaring husband.

Lord Mountbatten, who retired in 1965 but from time to time served his Government as a good-will ambassador and chairman of various commissions, continued to live at their London home, at Broadlands in Hampshire and at Castle Classiebawn in Ireland, one of the Countess's inherited residences. He liked to romp at Classiebawn with his grandchildren, the offspring of the Mountbattens' two daughters, Patricia, who was married to the seventh Baron Brabourne, and Pamela, wife of David Hicks, an interior decorator. Lord and Lady Brabourne and their twin sons, Timothy and Nicholas, were aboard the boat on which Lord Mountbatten was killed. Nicholas and a friend, also aboard, were killed in the explosion and the others and Lord Brabourne's mother were injured.

He remained a close confidant of his nephew, Philip, son of his sister Alice and Prince Andrew of Greece. In 1947 Philip married Princess Elizabeth, who became Queen Elizabeth II in 1952. Lord Mountbatten was a naval aide de camp to the Queen, as he had been to her father, King George VI, and to her uncle, the former King Edward VIII.●

WILL SALT II BRING ARMS CONTROL?

● Mr. McGOVERN. Mr. President, the second phase of the SALT hearings opens today in the Committee on Foreign Relations. A recent article in the F.A.S. Public Interest Report, a publication of the Federation of American Scientists, examines the outcome of the first phase of hearings from July and finds that the SALT II Agreement is being denuded of arms control benefits. I share many of the concerns raised in this article. Since it will help us focus

attention on some of the major problems of arms control ratification, I submit the article for my colleagues.

The text of the article follows:

SALT II AGREEMENT BEING DENUDED OF ARMS CONTROL BENEFITS

As the first three weeks of SALT hearings ended, traditional arms control supporters were being whiplashed beyond any anticipation.

We had, of course, anticipated that the treaty would be only a shell of high limitations under which forces would continue to increase in destructiveness and effectiveness. Under less embattled circumstances, arms controllers would have been virtually unanimous in denouncing it as wholly inadequate, if not simply a sham, and, at the very least, would have demanded the firmest commitments as to follow-on progress. Under the circumstances, many put on, instead, what *Bulletin of the Atomic Scientists* Editor Bernard Feld called a "brave front."

PREMATURE DECISION ON MX

The next price to be exacted was the pressure to make a technologically premature decision on MX. This multibillion dollar missile system has arms race implications and costs that, in strategic terms, clearly exceed those of the treaty itself. Testimony by Secretary Brown revealed that the President himself reassured the Secretary of Defense not to worry, that some suitable basing scheme would be found, and hence that it would be all right for the President to announce MX would go forward in advance of the June SALT summit. The Department of Defense is scrambling now to confirm the President's projection, with a design scheme due for August. Never has a major weapon system been so tangibly encouraged by a SALT treaty.

Nevertheless, dismay in the arms control community, used as it is to losing, was muted by two disparate perceptions. In the first place, it was generally assumed that, in the absence of the treaty, MX authorization might be quite as inevitable. Further, it was widely believed that MX might well fall of its own weight, notwithstanding what commitments were made early when its basing problems became clear in subsequent years.

CONVENTIONAL FORCES ENCOURAGED

Once MX commitments seemed assured, however, Senate attention turned to the beefing up of conventional forces. Senator Sam Nunn, followed by General Alexander Haig, made a commitment to the treaty contingent on major increases in NATO spending on NATO theater weapons. The four or five percent real growth in our defense budget desired by Senator Nunn could cost several billion dollars in real dollars and more than 15 percent increases in current dollars at current rates of inflation.

The week after this revelation, Henry Kissinger not only reinforced these complaints but argued, among other things, for, direct—and even periodic renewal of—linkage of the world political situation to SALT. Under his scheme, the Senate would review every two years whether it believed that the Soviets were acting in a fashion consistent with SALT. And this process of linkage would be begun in an initial Senate resolution explaining what the Senate would, and would not, tolerate. Thus was the link between SALT and detente—a traditional concern of disarmament supporters—also held ransom.

The only silver lining in this matter was a development looked on with great suspicion by the disarmament community—the rising proclivity of its traditional Senate opponents to adopt a rhetoric supporting an end to the arms race, and deep reductions. Senators Helms and Garn, following in the footsteps of Senator Henry Jackson, who had for some years been putting forward disarmament proposals, were arguing that the treaty should be recommitted with a view to urging reductions.

While most saw in this maneuver simple hypocrisy, a few saw in it the emergence of a national consensus in favor of arms reductions. Discontinued sincerity as of limited relevance in political affairs, they seized upon this development to urge consensual support for a resolution shaping the future of SALT toward sharp reductions. Without such consensus, no reductions would occur in any case. Senator George McGovern championed this approach. SALT was being made safe for MX, for NATO, for linkage; would it be made safe for SALT?

SOVIET UNEASE PROJECTED

There were some straws in the wind to be reflected upon. The Soviet Union's Politburo, seeing the shift in tide in U.S. thinking, must be concerned. The U.S. hare was about to bolt ahead of the tortoise again, as after Sputnik in the arms race and in the space race. Would the post-Brezhnev Politburo take an approach more forthcoming than heretofore? One could hope for a discontinuity in Soviet practices.

On the Carter Administration side of the equation, one could expect renewed determination to try to get sharp reductions. There were indications that the President himself was strongly in favor of them and sympathetic to the method of percentage reductions. (See January *PIR*.)

And there was, of course, the fact that, ratified or not, the SALT II structure of definitions and limits existed, to which one could apply percentages to try to secure reductions.

But there was not much more to point to. It seems evident that the SALT ratification process will always be, as Kissinger put it, "an opportunity to address problems which should be addressed anyway." Unfortunately, it provides the opportunity in a context in which one third of the Senate can hold the treaty hostage. The gimlet-eyed scrutiny by the Senate of a treaty so easy to veto will always make treaties expensive.●

SEVEN-PERCENT SOLUTION

● Mr. STEVENS. Mr. President, I am pleased to learn of the President's decision to recommend to Congress that Federal employees be given a 7 percent pay raise beginning October 1. I am especially pleased to note that the President did provide a 7 percent increase rather than the 5.5 percent increase which was believed would be the President's recommendation. However, it is widely known that in order for Federal employees' salaries to be comparable to private industry, they should receive a 10.4 percent increase. A 10.4 percent increase would be consistent with the Federal Pay Comparability Act of 1970. I hope that we can get back to the concept embodied in that act and start paying Federal employees comparable wages to that paid in private industry. Mr. President, recently the Washington Post editorialized on this subject. I believe the editorial makes a couple of cogent points which I hope my colleagues will consider when we debate proposals dealing with Federal employees' salaries and fringe benefits. Mr. President, I ask to print at the end of my remarks the editorial from the Washington Post of September 4, 1979, entitled "Seven-Percent Solution."

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

SEVEN-PERCENT SOLUTION

There is a large acknowledgment of failure in President Carter's decision to raise Federal pay 7 percent instead of 5.5 percent next month. The failure is, of course, the administration's inability to bring inflation down. When 7 percent was still a reasonable guideline for wage and price hikes in the private sector, holding federal raises to 5.5 percent made sense as a good example and a slightly deflationary step. Now, with inflation rocketing ahead, keeping pace with the private sector—as measured by comparability formulas—would require raises of about 10.4 percent. Thus Mr. Carter has been pushed to a higher middle ground between that form of indexing and stinginess.

Assuming that Congress goes along, which seems likely, this will be the second straight year that general federal increases have been held down. The cumulative loss of buying power is going to cause some pain, especially for workers in lower brackets. Yes, federal employment does offer special compensations, such as job security and excellent fringe benefits. But those are not much solace at the grocery store. Unfortunately, the current pay-adjustment law makes it hard to give larger increases to those in lower-paid jobs or higher-cost areas. This is one more reason for overhauling the salary system, as the administration has proposed.

Congress is apparently not about to tackle the whole federal pay system this year. But there is one aspect that the lawmakers will have to take up, however reluctantly, this month. That is the always-prickly problem of their own pay and the top-level executive salaries that are tied to it. Those salaries have been frozen since February 1977. If Congress does nothing, the annual-adjustment system will provide two raises in October—this year's 7 percent, plus the 5.5 percent increase that was deferred a year ago. That would be too much. So far, though, the legislators have been unable to agree on a more seemly figure. When the House tried in June, it wound up in a general snarl and the subject was shelved.

How much should Congress give itself? There is no magic point at which fairness and political comfort balance out. The more important question is whether Congress will be able to look beyond its own pay problems and grant some relief for the thousands of federal executives whose salaries are being held down. Many of them have had no increase for 2½ years. Moreover, each general raise in the federal scales pushes more people against the ceiling, causing more inequities. At a time of so much emphasis on improving federal management, Congress should treat the top federal managers more reasonably.●

DEATH OF JOHN L. McMILLAN

● Mr. HOLLINGS. Mr. President, on Labor Day one of South Carolina's greatest public servants passed away. John L. McMillan served both his district and his Nation well during a career spanning 34 years.

An all-Southern Conference football star in college, John McMillan had politics in his blood. After attending the University of South Carolina Law School, he came to Washington as secretary to Congressman Allard Gasque, beginning a public life that saw him become one of the most influential men in Washington.

Upon Gasque's death in 1938, "Johnny Mac" entered and won the Democratic primary and the general election for the Sixth Congressional District seat. For the next 34 years, John McMillan represented the people of the district, holding the seat longer than any other person in history.

No one knew the problems of the farmers better than John McMillan. And no one worked harder in Washington to bring about some solutions. As a ranking member of the House Agriculture Committee and its Tobacco Subcommittee, he took the hearings out of Washington and brought them down to the district so his constituents could add their voice to the decisionmaking process. His door was always open and his word was good.

During the years, he rose to the chairmanship of the House District of Columbia Committee, a position that earned him the title of "unofficial mayor of Washington."

He oversaw the rapid growth of Washington during the years following World War II and guided the day-to-day operations of the Nation's Capital. In that capacity, he was one of the most influential men in Washington for over two decades.

I was most proud to be a participant in the groundbreaking ceremonies 5 years ago for the John L. McMillan Federal Building in Florence, S.C. No finer tribute could be paid my friend. It will stand as an everlasting reminder of his service and dedication to the people of the Sixth District.

South Carolina has lost a dedicated and able public servant. I have lost a dear and old friend.●

CHARITABLE CONTRIBUTIONS BILL ENDORSED BY COMMUNICATIONS WORKERS OF AMERICA

● Mr. PACKWOOD. Mr. President, today I am delighted to announce the endorsement of the Communications Workers of America for S. 219, the Packwood-Moynihan charitable contributions bill. This bill would permit all taxpayers making charitable contributions to deduct those contributions on their Federal income tax returns, whether or not they "itemize" their other deductions.

This bill is vital to nonprofit organizations to assist the important accomplishments and advances that have been made and will be made in many areas of endeavor, including education, the arts, health, civil rights, womens' rights, and a wide variety of other community needs. Encouragement of charitable giving will help encourage support for these organizations that give us so many services.

I appreciate the endorsement of S. 219 by the Communications Workers of America. This is an important step forward in encouraging the passage of this legislation.

I ask that the endorsement letter and policy resolution by the Communications Workers of America be printed in the RECORD.

The material follows:

COMMUNICATIONS WORKERS OF AMERICA,
Washington, D.C., August 29, 1979.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: The 41st Annual Convention of this Union, on July 18, 1979, adopted a policy resolution, "Deductions for Charitable Contributions," supporting an income tax treatment proposal of which you are a key sponsor.

For your information and use, I am enclosing a copy of the resolution.

With all good wishes, I am,
Sincerely yours,

GLENN E. WATTS,
President.

DEDUCTIONS FOR CHARITABLE CONTRIBUTIONS

More than any other nation, the United States always has relied heavily on voluntary organizations to help meet community needs. The non-profit segment of the private sector reaches into almost every field of human interest supporting a wide variety of institutions, including symphonies, museums, libraries, religious organizations, health clinics and hospitals, colleges and universities, civic and social service organizations such as United Way, Salvation Army, 4–H Clubs, day care centers, half-way houses and cooperatives. Taken together, these groups constitute an indispensable part of American life.

Today, as Federal, State and local governments are being pressed to cut back on public dollars for social services, education and the arts, Americans are being pressed to turn more to the private sector for assistance.

Unfortunately, philanthropy—the private giving of time, money and effort—has declined in recent years. Voluntary organizations of all kinds are experiencing difficulties in keeping up with inflation and maintaining their services. A major reason cited for the decline in charitable giving has been the drive toward tax simplification. During the last nine years, this trend has provided welcome relief for low-income Americans and easier tax return filing, in the "short form" 1040A. However, these tax code changes inadvertently created some disincentives to charitable giving by low- and moderate-income families. Increases in the standard deduction have had the effect of reducing the number of taxpayers electing to itemize deductions. Since the charitable contributions deduction is only available to itemizers, these changes eliminate the tax incentive to give from an estimated 80 percent of taxpayers.

In order to help the voluntary-giving sector, four Members of Congress are sponsoring legislation to allow all taxpayers to deduct charitable gifts from their taxable incomes whether or not other deductions are itemized. This legislation, offered in the 95th Congress and reintroduced in the 96th, is sponsored by Representatives Joseph L. Fisher of Virginia and Barber B. Conable of New York and Senators Daniel P. Moynihan of New York and Bob Packwood of Oregon. Their bipartisan effort received considerable support in committee in the last Congress, with help from the voluntary sector. However, the proposed charitable giving provisions were struck from the 1978 Revenue Act, in part due to the Congressional budget process. These members are continuing their efforts in the 96th Congress, with a new emphasis on tax relief for Americans of moderate incomes.

Resolved: That this 41st Annual Convention of the Communications Workers of America support the Fisher-Conable-Moynihan-Packwood proposal to allow itemization of charitable deductions for all taxpayers, whether they use the short or long form tax return.●

CONGRESSMAN JOHN BRADEMAS AWARDED HONORARY DEGREE BY INDIANA STATE UNIVERSITY

● Mr. BAYH. Mr. President, the distinguished majority whip of the House of Representatives, my friend and colleague from Indiana, the Honorable JOHN BRADEMAS, was recently awarded the honorary degree of doctor of civil law by Indiana State University in Terre Haute.

Mr. BRADEMAS also delivered the commencement address on this occasion.

Mr. President, Congressman BRADEMAS was presented for the honorary degree by a constituent of his and mine, a distinguished attorney from Goshen, Ind., and president of the board of trustees of Indiana State University, Charles W. Ainlay.

The degree was conferred by Richard G. Landini, president of Indiana State University.

Mr. President, I submit for the RECORD the statements of Mr. Ainlay and President Landini.

JOHN BRADEMAS

Mr. President, it is an honor to present John Brademas, the distinguished Representative of the Third District of Indiana, and Majority Whip of the United States House of Representatives.

A native of Mishawaka, Indiana, also my hometown, he is a 1945 graduate of South Bend Central High School. After service in the Navy, he was a Veterans National Scholar at Harvard University, where he earned the Bachelor of Arts degree, magna cum laude, and was elected to Phi Beta Kappa. He was awarded a Rhodes Scholarship for study at Oxford University, where he earned the Doctor of Philosophy degree in Social Studies, in 1954.

He served as an Executive Assistant to Adlai Stevenson from 1955 until 1956 and was in charge of research issues for the first months of Mr. Stevenson's 1956 Presidential campaign. Prior to his election to Congress in 1958, he was an assistant professor of political science at Saint Mary's College, South Bend, Indiana.

Mr. Brademas was Chief-Deputy-Majority Whip for four years before being appointed Whip for the 95th Congress. He was reappointed for a second term at the beginning of the 96th Congress. As third-ranking member of the Majority Leadership, he serves as assistant Majority floor leader.

He is a member of the Education and Labor Committee and its Subcommittees on Post Secondary Education and Select Education. He is a member of the House Administration Committee and is Chairman of its Subcommittee on Accounts. He is a member of the Joint Committee on the Library of Congress.

During his 20 years of service on the Education and Labor Committee, he has had a principal role in writing major legislation on elementary and secondary education, higher education, vocational education, services for the elderly and handicapped, and Federal support for libraries, museums, and the arts and humanities.

He is chief architect of the National Institute of Education, the principal Federal Agency supporting research in education. He was a major sponsor of the Omnibus Education Act of 1972 and the Higher Education Amendments of 1976.

Mr. Brademas was principal author of major provisions of the 1974 and 1976 Federal Election Campaign Act and was cited by Common Cause for his role in reestablishing the Federal Election Commission in 1976. He is also a skillful political campaigner, as I can attest to from personal experience.

A former member of the Board of Overseers of Harvard, Mr. Brademas serves on the Overseers' Committee to visit the Graduate School of Education. He is a member of the

Advisory Council to the College of Arts and Letters at the University of Notre Dame, and he serves on the boards of the Church Society for College Work and the Woodrow Wilson International Center for Scholars. He is also a member of the Central Committee of the World Council of Churches, and he was a delegate from the United Methodist Church to the Fifth Assembly of the World Council in Nairobi, in 1975.

He has been elected a Fellow of the American Academy of Arts and Sciences. In 1978, he received the annual Award for Distinguished Service of the Arts of the American Academy and Institute of Arts and Letters.

In 1975, he was cited as one of the nation's most influential leaders in higher education. The New York Times described him in 1977 as "Congress' most articulate and effective spokesman for aid to culture."

Mr. President, I am pleased to present John Brademas for the honorary degree, Doctor of Civil Law, honoris causa.

JOHN BRADEMAS

(Conferral statement by Richard G. Landini, President, Indiana State University, May 13, 1979)

John Brademas, distinguished statesman, scholar, and friend of education, and ardent advocate of the arts and humanities, in recognition of your long and successful support for education, the arts and humanities, and the common good of our great nation, by the authority vested in me by the Board of Trustees, I hereby confer upon you the degree, Doctor of Civil Law, honoris causa, with all the rights and privileges thereto appertaining, hand you this diploma in testimony thereof, and present to you the academic hood appropriate to that degree.●

SALT II TREATY

● Mr. JAVITS. Mr. President, as we begin our postrecess consideration of the SALT II Treaty, I commend to your attention a recent analysis of the issues involved written by Arthur B. Krim, a member of the General Advisory Committee on Arms Control and Disarmament and a leading New York lawyer. The article appeared recently in the New York Times.

The beauty of the analysis is in its simplicity—its willingness, in the author's words, to "cut through" the fog and the maze to "the bottom line"—the layman's view of SALT II. In the author's view, and in my mind, our decision turns on essentially two issues:

One, is ratification of the SALT II Treaty in our national interest or not. As Mr. Krim puts it, "Which of (our) objections to the terms of SALT II would be satisfied or alleviated by repudiation of the treaty?"; and

Two, what can we propose to do "to enhance our security that cannot be done under SALT II?"

On the first issue Mr. Krim concludes that the "principal arguments against the treaty would actually in most instances be exacerbated if the treaty were not to be ratified."

As to the second, Mr. Krim argues that—

Whatever is being credibly proposed to improve our security or the security of our allies involves questions for broad national debate that are not inhibited by SALT II.

Mr. Krim has made a valuable contribution to the national debate on SALT II by providing in terms simply understood the pivotal issues for consideration.

I recommend highly the reading of Mr. Krim's article to my colleagues and I ask that it be printed in the RECORD at the conclusion of my remarks.

The article follows:

[From the New York Times, Aug. 21, 1979]

TWO QUESTIONS ON SALT

(By Arthur B. Krim)

To those millions of Americans to whom evaluation of the strategic-arms treaty has become lost in technicalities and conflicting generalities, I suggest that you ask your Senators two basic questions. You will be amazed by the extent to which the answers will cut through to the bottom line, not only for yourself, but also for your Senators as they approach their own moment of truth in making one of the most crucial decisions in our country's life.

1: *Which of your objections to the terms of SALT II would be satisfied or alleviated by a repudiation of the treaty?*

The fact is that the principal arguments against the treaty would actually in most instances be exacerbated if the treaty were not to be ratified.

As an example, take the argument that the treaty allows the Soviet Union the unfair advantage of the 308 heavy missiles now in place. If there were no treaty, this limit would be lifted; even more, the Soviet Union could then arm each of these missiles with up to 30 warheads, instead of the limit of 10 provided by the treaty, an overall potential increase of 6,000 warheads or more, which would otherwise be prohibited under SALT II.

Or take the argument that the Soviet Backfire bomber is not counted within the treaty ceiling. If there were no treaty, the Soviet Union could increase the range of the Backfire and its production rate without limits. Instead, in assurances that are integral to the treaty, the Soviet Union has specifically agreed to restrict the capacity of the Backfire to less than intercontinental range and to limit its production to no more than 30 a year.

Or, take the argument that compliance with the terms of the treaty is not adequately verifiable. If there were no treaty, we would be required to rely entirely on our ability to penetrate what is happening in a closed society in order to know what missiles the Russians were testing or deploying. Instead, under the treaty the Soviet Union is required to take affirmative steps to aid us in monitoring these same developments.

Or, take the argument that our Minutemen missiles will be vulnerable in the early 1980's. No one can argue that this is in any way due to, or caused by, the terms of SALT II. However, any steps to counteract this vulnerability are made much simpler by knowledge under SALT II that the threat to be counteracted comes from a limited and known number of Soviet missiles.

You may be surprised to find that your Senator, if he is opposed to the treaty, may not be able to point to a single substantive objection that would be remedied to any extent by a defeat of ratification.

2: *What do you propose be done to enhance our security that cannot be done under SALT II?*

The fact is that whatever is being credibly proposed to improve our security or the security of our allies involves questions for broad national debate that are not inhibited by SALT II. Should we deploy the MX missile and, if so, how? Should we enlarge our nuclear forces in the European theater?

You may again be surprised to find that our choices on these and the other important issues of security remain the same, SALT II or not. The difference is that under SALT II we can make these choices with greater certainty of the extent of the strategic forces deployed against us.

The argument that SALT II should not be ratified unless and until these choices are made, even though they are unrelated to any SALT II restrictions, in effect says that one-third instead of a majority of our Senators should control our defense decisions.

These two questions recognize that your Senator's decision cannot turn on what an ideal treaty might be but on whether we are better off under the terms of this treaty or by opting for the foreseeable future to go our own way without restraints on either side. If you insist on satisfactory answers, the bottom line becomes clear.●

LAURENCE STERN, PRIZE-WINNING POST EDITOR, DIES AT 50

○ Mr. McGOVERN. Mr. President, I was saddened to learn of the death of Larry Stern. Larry was a man of uncommon ability and sensitivity. His perceptive anal ses will be sorely missed by all of us who sought an intelligent, insightful view of an issue, whether domestic or international. But those of us who were privileged to know him will most of all miss his unique presence. Mr. President, I ask that an article by Richard Harwood that appeared in the Washington Post of August 12, 1979, be printed in the RECORD.

The article follows:

LAURENCE STERN, PRIZE-WINNING POST EDITOR, DIES AT 50

(By Richard Harwood)

Laurence Marcus Stern, reporter, editor and author, died of a probable heart attack yesterday while jogging at Martha's Vineyard, Mass.

He was 50 years old.

Stern, an assistant managing editor of The Washington Post, was vacationing with old friends—Ward Just, John Newhouse, Jonathan Randal and Jim Hoagland. They played tennis yesterday and then Stern and Newhouse went jogging.

As they were running, Stern bent over, grabbed his ankle and said he had been stung by a bee. He collapsed. Newhouse gave mouth-to-mouth resuscitation. It didn't work. Stern was taken to Martha's Vineyard Hospital, but he was dead when he arrived.

Stern had been a writer and editor for The Post since 1952, winning awards and cutting a wide swath in both American and international journalism.

Benjamin Bradlee, executive editor of The Post, issued this statement:

"His paper and his friends will be a long time getting over the loss of Larry Stern. He was a world class journalist. He wrote like a dream, with grace and precision. His commitment to excellence, to his staff, to his friends and to The Washington Post will be an example for all of us."

Stern was a newspaper child. His father, Augustus (Gus) Stern, worked in Washington for many years as a copy editor for various local newspapers, the last being The Post.

Larry Stern followed his father. He served in the Army after World War II and got a taste of journalism working for the military newspaper, The Stars and Stripes.

Thereafter he was educated at the University of Missouri and the New School for Social Research in New York. He worked briefly for the former United States Information Agency and joined The Post in 1952 as a reporter on the metropolitan staff.

He took off in that business like a great running back—national reporter, national editor, foreign correspondent, editor of Style

and, finally, assistant managing editor for national news.

He wrote a much-admired book, "The Wrong Horse," which dealt with the tragedy of Cyprus, and he contributed to several other books. He wrote magazine articles and, even as an editor responsible for a large staff, constantly, looked for opportunities to write. He found them frequently.

Stern had another, informal, function at The Post. He was a bridge between this country and journalists from around the world. They sought him out always—Vietnamese, Englishmen, Frenchmen, Turks, Greeks. That was a tribute to his international understanding and to his personality.

His career had an interesting progression. He won many awards writing about politics and corruption in the Washington metropolitan area. He moved then into the national arena and was singularly successful in dealing with the social and political issues of American life. But in the last years of his life, it was really international questions that absorbed his interest and energies.

He became early in the '70s, The Post's first "Dulles Airport correspondent," available day or night to fly anywhere in the world for the big story. The job took him to Vietnam, Cambodia, and Laos for almost two years, where he observed in combat the collapse of the American effort. He covered the war in Cyprus, reported from the Middle East, from Italy, from London, from Paris, from Greece.

British journalists intrigued him most of all. Among them, his friends were legion. He admired, especially, the Insight team of the Sunday Times of London and set up his own Insight unit at The Post in the late 1960s. There was an "Insight" project at the top of his list when he died yesterday.

Stern, one of his subordinate editors said yesterday, was "something of an enigma. It became something of a newsroom conceit, after Larry had had a dialogue with a colleague, to say, 'I don't know what he said. I don't speak Zen.' This never detracted from the fact that Larry knew exactly what a news article should say and how it should be said."

One reporter on the national staff of The Post who had worked for Stern for several years volunteered this observation:

"When Larry Stern was working on the national staff as a reporter, you could feel the whole atmosphere change. He was a reporter who made a difference—not only because of what he contributed to the paper under his own byline but because of the standard he set for everyone around him. Other reporters found themselves writing with more life and crispness because he was there doing it—pushing the rest of us."

There was a certain disorganization about his life. He made too many luncheon dates on the same day. He loved many women. Budgets never enthralled him. His checkbook was not often tidy. It was a legend at The Post that Stern mumbled ambiguous instructions, might or might not show up for this meeting or that and probably would forget where he had parked his car.

But when it came to the job, to getting things done, he had no superior. He could produce instant and rather profound work—books, newspaper series, essays.

The honors his own profession gave him were impressive—the George Polk Memorial Award, the American Political Science Association Award, the Headliners Club Award, the Newspaper Guild Award, the fellowship of the Carnegie Endowment for International Peace. He was proud, for reasons his friends never knew, of having been one of the inventors of a game called "Influence," a political version of Monopoly.

His children, Catherine O'Brien, Marcus Gunther, and Christopher, shared that pride.

One of Stern's friends responded to his death with a fragment from a poem:

Oh, I have slipped the surly bonds of earth.
And danced the skies on laughter's silvered wings.
Sunward I've climbed and joined the tumbling mirth
Of sunsplit clouds, and done a hundred things you've not dreamed of . . . .
And while with silent, lifting mind I've trod,
The high untrespassed sanctity of space,
Put out my hand and touched the face of God.●

WORLD ADMINISTRATIVE RADIO CONFERENCE

● Mr. GOLDWATER. Mr. President, on several occasions I have addressed the Senate on the World Administrative Radio Conference (WARC) to be convened in Geneva, Switzerland, on September 24, 1979. The decision made at WARC must be ratified by the Senate.

In addition to the study done by the Congressional Research Service, which was included in the RECORD on July 12, 1979, the Committee on Commerce, Science and Transportation contracted with Arthur D. Little, Inc. (ADL) for further assistance in analyzing the prospects for U.S. proposals at WARC.

That report is now available and I request that it be printed in the RECORD following my remarks. Unfortunately, it confirms my fears that the United States is going to have a difficult time at the conference and our future national telecommunications needs may suffer as a result.

I am hopeful that the U.S. delegation at WARC is fully prepared for the opposition that some of our proposals will encounter.

The report follows:

AN ANALYSIS OF PROBABLE WORLDWIDE REACTIONS TO UNITED STATES PROPOSALS TO THE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

I. BACKGROUND

During early July of 1979 the Minority Staff of the Subcommittee on Communications of the Senate Committee on Commerce, Science and Transportation contacted Arthur D. Little, Inc. (ADL) expressing concerns regarding United States preparations for the World Administrative Radio Conference to be convened at ITU Headquarters in Geneva, Switzerland for a period of ten weeks commencing on September 24, 1979.

In these early discussions, it was indicated to ADL that there is a need to identify those key WARC–79 issues where U.S. proposals for international radio frequency reallocation may encounter difficulty at the Conference and where it may be desirable for the U.S. delegation to prepare alternate proposals or back-up negotiating positions.

ADL assistance was requested in identifying those U.S. proposals for frequency reassignment where significant opposition to the U.S. position might be expected from other areas of the world so that the Senate could recommend additional preparatory work by the U.S. delegation and its advisors prior to the delegation's departure for WARC and the commencement of technical working group sessions. To this end, the Committee entered into a contract with ADL on July 15, 1979. This report represents the results of our analysis on the matter.

It should be pointed out that ADL's assignment on this task was merely to identify the likely positions to be taken by other countries, or regions, on these key issues and to indicate the reasons for which those positions might be taken. It was considered beyond the scope of the project for ADL to evaluate on a technical basis the U.S. proposals or to recommend alternate proposals and possible back-up negotiating strategies. However, in the course of our deliberations, a few alternate approaches on some of the individual issues were developed and, where appropriate, they will be suggested in our report for consideration by the Committee.

II. APPROACH

Due to the limited budget and time available to perform this analysis it was decided, in concurrence with the Sub-committee staff, to limit the evaluation to ten major issue "areas," specifically those which are generally regarded as the most controversial and those which could have significant impact—favorable or unfavorable—on the U.S. radio communication industry and on users of radio communications services in the U.S. Although we actually considered 14 issues, four of these are highly related in that they deal with the proposed allocation of HF channels to Amateur Radio services.

To assist in our selection of the key issues to be evaluated, the ADL study team reviewed four pieces of government-furnished documentation:

1. The Final Report and Order on FCC Docket 20271 in the matter of "An Inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunications Union to consider revision of the International Radio Regulations" adopted December 5, 1978 and released December 28, 1978.

2. Official U.S. Proposals to the ITU World Administrative Radio Conference (Geneva, 1979) dated 31 January 1979, Documents No. 40–E through 50–E.

3. Congressional Research Service Study "The World Administrative Radio Conference of 1979: U.S. Preparations and Prospects" forwarded to Senators Barry Goldwater and Harrison Schmitt by Library of Congress CRS letter of June 29, 1979.

4. U.S. State Department Correspondence and Enclosure forwarded to Senator Barry Goldwater on February 13, 1979 by Douglas J. Bennett, Jr. Assistant Secretary for Congressional Relations.

Following this review and the selection of ten (10) key issue areas, they were reviewed with the Sub-Committee staff for concurrence.

Thereafter, we drew upon the personal experience of four key ADL industry experts, who have carried out recent in-country interview research in the leading telecommunications countries of the world, to portray the likely positions that would be taken by these nations on the selected issues and to identify the principal reasons why such positions would be taken. We also carried out a program of literature research to obtain position statements on WARC–79 that had been presented publicly by telecommunications officials of some of the leading countries that will be most active in WARC–79 negotiations. At the outset of this evaluation, it was decided that the ADL study team would not interview conference delegates or other parties involved in preparations for WARC—except to raise questions of a clarifying or procedural nature—in order to provide a completely objective, detached analysis.

In our joint working sessions within ADL, we then drew conclusions as to which issues were likely to be approved by WARC and which were likely to be disapproved by WARC and for which other alternate proposals would be offered by opposing, sponsoring nations.

The selection of individual countries for this evaluation was based on direct prior knowledge by members of the ADL team and our perception of those countries as leaders or "chief influencers" at the Con-

ference. The remaining nations of the world were considered in groups on a regional basis. Table 1 presents a list of the countries and regional areas evaluated by ADL in this analysis.

TABLE 1.—Countries, regions evaluated by ADL for WARC–79 analysis

Canada, Brazil, Andean countries, other Latin America, United Kingdom, Germany, France, other Western Europe, USSR and Eastern Bloc countries, Africa, Saudi Arabia, Egypt, other Middle Eastern countries, India, PRC, South Asia (inc. Australia, Micronesia), Japan.

III. KEY ISSUES ON U.S. PROPOSALS TO WARC–79

From our review of the documentation provided to us by the Sub-Committee Staff and our evaluation of the U.S. proposals to WARC, the ADL study team has concluded that the following fourteen (14) issues will be the more controversial and the outcome of these will have significant impact on the U.S. radio communications industry and U.S. radio operations of all kinds.

1. The proposed sharing of HF Shortwave Broadcast services with Fixed HF services at frequencies that are presently assigned exclusively to Fixed HF service.

2. A proposed increase in exclusive Amateur Radio service allocations at frequencies currently shared with Fixed Mobile and Radionavigation HF services.

3. A proposed increase in the exclusive Amateur Radio Service allocation between 3.5–3.9 MHz (the so-called 80-meter band) in Region 2, contrasted to the current situation wherein the 3.5–4.0 MHz band is shared with Fixed Radio services.

4. A proposed reassignment of 100 KHz of spectrum each in the 10, 18, and 25 MHz bands to Amateur Radio service from Fixed and Mobile services.

5. The proposed exclusive assignment to Amateur Radio services in Regions 1 and 3 from 7.1–7.25 MHz to bring those regions into alignment with Region 2.

6. The proposed reassignment of various frequencies in the 3–27.5 MHz band from HF Fixed services to HF International Broadcast services.

7. The proposed splitting of the 4.438–4.650 MHz band between HF Maritime services (4.38–4.5 MHz) and HF Fixed and Mobile services (4.5–4.65 MHz) contrasted to the current situation wherein the lower half of this band is shared among the three services.

8. The proposed sharing of the VHF–UHF spectrum between 470–890 MHz in Region 2 among Broadcast and Land Mobile services compared to the current situation wherein this frequency range (with the exception of 608–614 MHz assigned to Radio Astronomy) is assigned to Broadcasting on a primary basis.

9. The proposed reallocation to Fixed Satellite services on a primary basis from Fixed Point-to-Point services of selected frequencies in the 2, 3 and 6 GHz bands as follows:

1.850–2.250 GHz Satellite Down-Links.

3.400–3.700 GHz Satellite Down-Links.

6.425–7.115 GHz Satellite Up-Links.

10. The proposed splitting in Region 2 of the 12.5–13.25 GHz band between Fixed Satellite and Broadcast Satellite services, contrasted to the current allocation wherein this band is shared by Fixed Satellite and Mobile services.

11. The proposed new allocation to Mobile Satellite services of frequencies in the 7–8 GHz, 20.2–21.2 GHz and 30–31 GHz bands.

12. The proposed assignment of selected SHF–EHF channels for use in earth-sensing and space research applications.

13. The proposed assignment of frequencies above 30 GHz to advanced and experimental radio services.

14. The proposed assignment of a channel in the 2.45 GHz band for future Solar Power Satellite applications.

IV. DISCUSSION OF 14 KEY WARC–79 ISSUES

On the following pages each of the fourteen (14) key issues identified earlier in this report will be discussed individually. In each case, we briefly describe the U.S. proposal, comment on the major technical or political forces that are likely to affect the outcome of the proposal, indicate the probable outcome on a country-by-country or region-by-region basis giving the reasons for the expected positions to be taken by each, and estimate the probable outcome of each in the WARC–79 technical working groups, in the technical committees or in the plenary sessions where final votes on each matter will be cast.

While this analysis does not predict hard-and-fast results, it does attempt to make reasonable estimates of the positions to be taken by other members of ITU on these matters, based on our experience with those countries and regions and our understanding of their attitudes, priorities and uses of radio services.

In the Appendix to this report, a summary table is prepared indicating our expectations of the voting outcome on each of the fourteen issues in question.

In summary, it appears that the U.S. will see favorable action on five of the issues:

The split of HF frequencies between Fixed HF service and HF Maritime service,

The sharing of the VHF–UHF spectrum between 470–890 MHz by Broadcast and Land Mobile service,

The allocation for mobile satellite services,

The allocation of SHF–EHF channels for passive earth-sensing and space research, and

The allocation of channels above 30 GHz for advanced and experimental services.

Issue No. 1

Description

The sharing of HF channels by Fixed HF Services and HF Shortwave Broadcast services contrasted to the current exclusive assignment to Fixed HF at the following frequencies: 5900–5950 KHz, 7300–7350 KHz, 9375–9500 KHz, and 9775–9825 KHz.

Comment

It is likely that this proposal will be supported only by nations using extensive HF broadcast service or countries having manufacturers of HF broadcast equipment.

This proposal will receive opposition from both developed and developing countries wanting to protect in-country fixed HF services.

Some third world countries may oppose this proposal on "political" grounds, viewing it as a frequency-grab by the U.S.

Probable Outcome

It appears likely that both Eastern and Western Europe countries will oppose this proposal with the possible exception of the U.K.

Most Latin America countries will probably oppose this proposal on the grounds that there are an adequate number of HF broadcast channels presently available and because they will want to protect fixed HF allocations.

All African countries will very likely oppose this item to protect fixed HF service allocations due to their heavy commitment to these services.

Middle Eastern Countries may not see a need for additional HF broadcast channels and could remain neutral on this issue.

All South Asia countries (including India) will not see a need for additional HF broadcast channels and will very likely join others in opposing this proposal on these grounds.

Canada will probably support this proposal on the grounds that it will obviate the need for out-of-band operation. They will also support the proposed power limitations and recommendations for conversion to single sideband (SSB).

The P.R.C. would probably view this proposal as a "frequency grab" by the U.S. and, on the grounds that they have relatively modest HF broadcast requirements, and have extensive Fixed HF networks, will undoubtedly oppose this proposal.

Conclusion

It appears that this proposal will receive very little support from within Region 2 or other parts of the world and will very likely not prevail at WARC–79.

Issue No. 2

Description

Increase in exclusive allocations for Amateur Service as opposed to the current situation wherein Amateur Service shares spectrum with Fixed HF, Mobile HF and Radio navigation services.

This particularly applies in the 1860–1900 KHz region where Amateur service now shares 1860–2000 KHz with Fixed service, Mobile and Radionavigation.

Comment

We should recognize that Amateur Service is not allowed in many authoritarian countries, many of which also have strong vested interests in HF fixed service.

The 1800–2000 KHz band is not currently congested with Amateur requirements outside the U.S.

Opponents will argue that Amateurs are receiving adequate uncontested spectrum above 30 MHz.

This proposal may be viewed as buttressing the MF AM broadcast proposal by the U.S. as a means to develop support from countries sympathetic to that requirement.

Probable Outcome

Support can be expected from Canada, Japan, U.K., Brazil and India.

Opposition can be expected from the rest of the world except Western Europe.

Western European countries will very likely be neutral on this issue.

Conclusion

This proposal will very likely be defeated because of insufficient demand for Amateur service outside the U.S. and because a very large majority of the ITU member countries will want to protect Fixed HF/MF service allocations. The sheer number of opposition votes will affect the outcome of this matter.

Issue No. 3

Description

Increase in the exclusive HF Amateur allocation between 3.5–3.9 MHz (the so-called 80 meter band) in Region 2 contrasted to the present situation wherein the 3.5–4.0 MHz band is shared by Amateur, Fixed and Mobile services.

Comment

Although this is only a Region 2 issue, other regions will be concerned due to the precedence aspects of this matter.

Amateur service is not allowed in some authoritarian, Region 2 countries.

Demand for Amateur Service in this spectrum area is not heavy in Region 2 outside of North America.

Many developing Latin America countries will want to protect allocations for Fixed and Mobile services at this frequency.

Probable Outcome

In Region 2, there will probably be support from Canada and Brazil.

Mexico will probably oppose this proposal due to its heavy commitment to Fixed HF service in its infrastructure.

The Andean countries and remainder of Latin America will very likely oppose this proposal.

The remainder of the developed free-world countries will probably remain neutral on this issue.

The communist countries and developing countries of Africa and South Asia will very likely register opposition to this proposal.

Conclusion

Because of the sheer number of opposition votes in Region 2 and in the remainder of the world and because of our inability to muster strong support from otherwise neutral countries, it appears that this proposal will be defeated at WARC.

Issue No. 4

Description

Reassignment of 100 KHz in spectrum from Fixed and Mobile Services in the 10, 18 and 25 MHz bands to Amateur Services.

Comment

This assignment of spectrum to Amateur Radio services will very likely be opposed by both developed and developing nations of the world that have very little amateur service demand and who will wish to protect allocations to Fixed and Mobile HF services for which they have significant demand.

Probable Outcome

Support for this proposal may be expected from Japan, Australia, and New Zealand.

Opposition will very likely be evidenced by all the remaining areas of the world.

Conclusion

The U.S. proposal in this area will very likely be defeated at WARC–70 by the sheer number of opposing "votes."

Issue No. 5

Description

Assign spectrum currently allocated to Broadcast service in Region 1 and 3 to exclusive Amateur use in order to realign those regions with the current Region 2 assignment at 7.1–7.25 MHz, leaving Broadcast service the adjoining space at 7.25–7.3 MHz.

Comment

This rationalization of the 40-meter band is one area where the entire Amateur radio community could benefit.

Such realignment could eliminate the considerable interference problems that currently exist on a worldwide basis between Amateurs and HF Broadcasters.

This proposal could be viewed as "politically desirable" to put the entire world on a consistent, non-interfering basis between the two services.

Probable Outcome

Support for this proposal could be obtained among the majority of Free World and uncommitted developing countries with the exception of Western Europe countries and some of their traditional "friends."

Opposition to this proposal will very likely come from the USSR, Eastern Bloc countries and their "friends," from Western European countries and their traditional allies, as well as from P.R.C.

Conclusion

The outcome of this proposal is still in doubt and will very likely be decided on a close vote and will depend on the U.S. ability to sell the worldwide standardization, non-interference argument. A U.S. "win" on this issue is quite possible.

Issue No. 6

Description

Reassignment of a number of channels in the 3–27.5 MHz from HF Fixed Service to HF International Broadcast Service.

Comment

Specific areas where this proposal will be most controversial:

1. At 6 MHz, where 50 KHz is proposed as Exclusive International Broadcast as opposed to the current Fixed HF service assignment and where 50 KHz is proposed to be shared between International Broadcast and Fixed service, contrasted to the current exclusive assignment to Fixed service.

2. Between 7.3–7.5 MHz where it is proposed that these channels be reassigned to exclusive International Broadcast from its current Fixed Service assignment.

3. Between 7.5–7.55 MHz where it is proposed that International Broadcast and Fixed Service share this spectrum, contrasted to the current assignment to Fixed HF service.

4. Between 9.375–9.5 MHz and between 9.775–9.825 MHz where it is proposed that spectrum be reassigned exclusively to International Broadcast from its current Fixed HF service assignment.

This proposal also includes provisions for transmitter power limitation and for conversion to single sideband (SSB) operation by 1995.

Probable Outcome

This proposal will very likely be supported by NATO countries including the U.K. and Canada and, similarly, may be supported by Japan.

Opposition to this proposal can be expected by countries ruled by authoritarian governments who wish to limit international broadcast activity and by developing countries that have a heavy commitment to Fixed HF service. This constitutes the majority of the countries participating in ITU.

Conclusion

We can foresee support for this proposal from a maximum of 15 countries, therefore, it will very likely be defeated at WARC–79.

Issue No. 7

Description

Splitting of the current Fixed HF service assignment between HF Fixed and HF Maritime service as follows:

4.438–4.5 MHz to Maritime Service.

4.5–4.65 MHz to Fixed Service.

Comment

This proposal will very likely be supported by OPEC countries and by nations who are heavily dependent on maritime shipping and defense operations.

Opponents who favor fixed HF services may argue that this requirement will be diminished somewhat by the prospective emergence of INMARSAT as an operational system.

Probable Outcome

Support for this proposal will undoubtedly come from the U.K. and most other Western European countries; from Brazil, Venezuela, Mexico, Canada and possibly Argentina in Region 2; from Egypt and other North African and Middle Eastern OPEC countries; from Japan, the P.R.C. and the USSR. It should be noted that the USSR generally tends to favor shared allocations, particularly between mobile and fixed services for reasons of flexibility.

It is expected that Eastern Bloc European countries will remain neutral on this issue to establish a negotiating position on other issues.

Opposition to this proposal will very likely come from Central and Southern African countries with the possible exception of Nigeria; from South Asian countries, including India and all Micronesia and from the other Latin American countries not mentioned above as supporters.

Conclusion

It is likely that the world maritime leaders may succeed in swinging a favorable vote on this issue but only after considerable debate and negotiation. It is observed that the U.S. delegation may want to trade off other less popular, controversial HF issues to gain acceptance on this matter.

Issue No. 8

Description

Sharing of the UHF spectrum in the 470–890 MHz area in Region 2 between Land Mobile and Broadcast services, compared to the current situation wherein this is assigned on a primary basis to Broadcast Services.

Comment

Although this is basically a Region 2 issue, nations in other regions can be expected to vote on the matter due to the precedence setting aspects of the issue.

The proposal permits regional coordination such as is being carried out, at present, between the U.S. and Canada and Mexico.

Power restrictions on land mobile and broadcast operations in this band can be used to offset arguments raised by nations who are concerned about across-the-border propaganda broadcasting.

If an unfavorable outcome is experienced in this area, the U.S. could "footnote" the regulations and continue to operate on a regional-coordination basis.

Probable Outcome

Within Region 2 the only strong support will probably come from Brazil where land mobile operations are increasing congestion and where UHF broadcast frequencies are not as crucial.

The remaining Latin American countries will undoubtedly remain neutral since they have less congestion and demand among land mobile services.

Mexico and Canada will undoubtedly support the proposal in principle but may have counter-proposals for specific frequency assignments for the two services.

In Western Europe much of this band is unavailable for mobile services due to NATO assignments. That region also has heavy demand for broadcast channels as well as for land mobile service where considerable congestion exists. Therefore, counterproposals from European countries may be expected in this general area.

Australia and Japan will probably support this area.

The remaining countries of the world will either remain neutral to this proposal or will oppose it on "political grounds."

Conclusion

It appears that a plenary session vote on this issue could be favorable to U.S. interests, although specific splitting proposals of other nations could prevail. If, however, the conference vote turns out to be adverse to U.S. interests, footnoting of the regulations can be employed by the U.S. to accommodate regional coordination.

Issue No. 9

Description

The provision of fixed satellite services on a primary basis at 2, 3 and 6 GHz together with Fixed point-to-point and Mobile services currently assigned to operate in the same area, with these services to operate here on a secondary basis. The specific frequencies where this fixed satellite proposal applies are:

1.850–2.200 GHz Space-to-earth down links.

3.4–3.7 GHz Space-to-earth down links.

6.425–7.115 GHz Ground-to-space up links.

Comment

This proposal is technically very complicated and will be confusing to WARC attendees, as presently written. A more detailed (proposed) channel allocation plan is needed to identify corresponding up and down-link channels.

The 2 GHz down-link aspects of the proposal will result in considerable interference with existing terrestrial microwave systems.

Terrestrial microwave systems can co-exist with up-links at 6.427–7.115 GHz.

Coordination between fixed terrestrial sys-

tems and satellite down links will be very difficult.

This proposal is most important only to the U.S. because of heavy usage and congestion among domestic systems.

The two-octave frequency range of earth station antennas implied by this proposal appears to violate the interests of low-cost earth station proponents in the U.S. and of U.S. space communications policy on this matter as well as to the interests of other nations who have interest in relatively simple, low-cost earth stations.

Most opposition to this proposal will come from nations with heavy investment in fixed terrestrial point-to-point microwave systems and from nations desiring low-cost earth stations.

Probable Outcome

Support for this proposal could possibly come from such countries as India, Australia, Japan, Indonesia, and Malaysia. We expect that there will probably be fewer than 10 supporting votes for the present proposal.

Canada will probably remain neutral on this issue.

Opposition to this proposal will undoubtedly come from all African nations, from Latin American countries, from both Eastern and Western European countries, from Middle Eastern countries who fail to see the need for additional frequencies for satellite services, and from the P.R.C. who prefer to operate fixed satellite service in the 10–11 GHz region.

Conclusion

The U.S. will probably experience an unfavorable reaction to this proposal and may alternatively want to propose this allocation on a secondary basis in Region 2 only, where coordination with other countries on a case-by-case basis is possible.

Issue No. 10

Description

The split of the 11.7–12.75 GHz spectrum in Region 2 between Fixed Satellite and Broadcast Satellite services as follows:

11.7–12.2 GHz Fixed Satellite, space-to-earth.

12.2–12.5 GHz Broadcasting Satellite.

12.5–12.7 GHz Broadcasting Satellite.

12.7–12.75 GHz Fixed Satellite earth-to-space.

12.75–13.25 GHz Fixed Satellite earth-to-space (all Regions).

Comment

This proposal will have support from broadcast satellite proponents who are relatively few in number throughout the world and will be opposed by authoritarian countries who may be concerned about the flow of propaganda information into their countries.

Some support from "marginal" countries, who tend to favor broadcast satellites for education purposes, can probably be obtained by stressing the fact that the importation of information can be controlled at earth stations or distribution points.

The proposal has the favorable technological argument of bringing Region 2 into alignment with the rest of the world in this area.

Probable Outcome

Within Region 2, the proposal will probably be opposed by Latin American countries for emotional propaganda reasons and by Canada because the down-link proposals will interfere with a planned terrestrial microwave network.

Elsewhere in the world, support can be expected from the more "democratic" nations such as Western Europe (except Holland), Japan, India and Australia.

Otherwise, opposition can probably be expected from the USSR and Eastern Bloc countries, from Africa, from Middle Eastern countries and from South Asia.

Conclusion

This proposal will undoubtedly be defeated within Region 2 as political reasoning overcomes sound, rational, technical argument. The rest of the world can therefore be expected to follow the pattern of Region 2, since the matter is moot to them—i.e., they already have broadcasting and fixed satellite service either sharing or splitting these frequencies.

Issue No. 11

Description

The addition of Mobile Satellite service on a primary basis in the bands 7.25–7.75 GHz and 7.9–8.4 GHz and deletion of terrestrial fixed and mobile services from the 7.9–7.975 GHz band. Also the provision of mobile satellite services in the 20.2–21.2 GHz and 30–31 GHz bands.

Comment

The principal applications for mobile satellite services will be in the highly sophisticated countries where advanced mobile communications services are likely to develop.

Within the U.S., the DOD has allocations for its military satellite communications programs at 7–8 GHz.

It will be difficult to defend these allocations on technical or system economic grounds and the lesser developed countries may argue that such an allocation is premature for this reason.

There appears to be less controversy at the higher frequencies because there is little likelihood that operational systems will be implemented in those bands during the next 20 years.

Probable Outcome

Canada will probably oppose the 7–8 GHz portion of the U.S. proposal (except for the military portion of the allocation) because of its conflict with terrestrial microwave, however it will probably support the proposals at the higher frequencies.

Western European countries will probably not oppose these proposals and NATO countries will very likely support them.

Japan will undoubtedly support the proposals and it is likely that the USSR and Eastern Bloc countries will also support it.

Third World and developing countries and P.R.C. will very likely remain neutral on this issue and argue that making such allocations at this time is premature.

Conclusion

Because of the lack of strong, organized opposition to these proposals, we can expect that they will probably be approved by WARC with some modifications by working committees en route.

Issue No. 12

Description

The addition of passive earth exploration and space research services to the SHF–EHF bands as follows:

4.2–4.4 GHz—adding to aeronautical radionavigation services.

10.6–10.7 GHz—adding to Fixed, Radiolocation, Mobile (except.

18.6–18.8 GHz—Aeronautical Mobile) and Radio Astronomy services.

In all of these proposals, power limits for terrestrial stations of other services are proposed to protect passive services.

Comment

Although there appears to be little opposition to "progress" in this area, recognition must be given to concerns over the control of data collected by passive satellite sensors on the part of authoritarian countries.

Probable Outcome

Support for this proposal can be expected from Western European countries, from the USSR and PRC, from India and from Canada and Brazil in Region 2.

Other nations will undoubtedly remain neutral or give lukewarm support to the proposal.

Conclusion

This proposal will very likely to be approved by WARC because of the strong support of world leaders. However this outcome will only occur if the confidence of other nations is established and they are assured that cooperation in the control of collected data will occur.

Issue No. 13

Description

Proposed allocation of spectrum between 30–40 GHz for advanced and experimental services in the following areas:

Fixed Satellite.
Mobile Satellite.
Standard Frequency Satellite.
Space Research.
Earth Exploration Satellite (Passive).
Radio Astronomy.
Mobile Service.
Radionavigation.
Radiolocation.
Fixed Radio Service.

Comment

Although it may be premature to make allocations for such services in this frequency region at this time, current allocations do exist so that the concept of allocating this portion of the spectrum has been accepted.

Probable Outcome

Very little opposition to this proposal can be expected because most nations do not believe that there is a likelihood that requirements will develop for specific services in this area during the next 20 years. It is possible that certain nations could unexpectedly voice opposition to this U.S. proposal as a "bargaining" tool to win support for other proposals. However, it appears that such opposition would be spotty and disorganized.

Conclusion

U.S. proposals for the region above 30 GHz are very likely to prevail at WARC.

Issue No. 14

Description

The allocation of 2.45 GHz for the wireless transmission of energy from space to earth for the Solar Power Satellite (SPS) program, provided that such use does not cause harmful interference in adjoining bands for Radiolocation, Amateur, Fixed and Mobile services.

Comment

The outcome of this issue is likely to be decided on emotional, rather than technical, grounds.

Very little supporting argument on technical grounds can be developed that will offset emotional concerns.

Probable Outcome

This appears to be strictly a U.S. proposal with no strong support likely from any other nation at the conference.

Opponents will effectively argue that worldwide allocation for this service is premature at this time.

Conclusion

This issue will very likely see results at WARC that are unfavorable to the U.S. proposal.

APPENDIX A

SUMMARY OF PROBABLE REACTIONS TO U.S. PROPOSALS TO WARC 1979

[Legend: O=Oppose—S=Support—N=Neutral]

	Share fixed HF with shortwave broadcast	Increased exclusive HF amateur vs. share fixed	Increased region 2 exclusive HF amateur 3.5–3.9 MHz	Reassign to amateur at 10, 18.25 MHz from fixed/ mobile	Region 1 and 3 exclusive amateur 7.1–7.25 MHz	Reassign fixed HF to international broadcast	Split HF fixed with maritime	Region 2 share 470–890 MHz broadcast/ mobile	Reassign to fixed satellite 2.3.6 GHz from fixed point-to-point	Split 12.5–13.25 GHz fixed/ broadcast	Mobile satellite allocation	Earth-sensing space res. SHF–EHF	Advanced and exper. services >30 GHz	Solar power satellite 2.45 GHz
Canada	S	S	S	O	S	S	S	S	S	O	O	S	S	O
Brazil	O	S	S	O	S	O	S	S	O	O	N	S	N	O
Andean countries	O	O	O	O	S	O	O	S	O	O	N	N	N	O
Other Latin America	O	O	O	O	S	O	S	N–O	O	S–O	N	N	N	O
United Kingdom	O	S	S	O	S	S	S	O	O	S	S	S	S	O
Germany	O	N	N	O	O	S	S	S	O	S	S	S	S	O
France	S	N	N	O	O	S	S	O	O	S	S	S	S	O
Other Western Europe	O	N	N	O	O	S	S–N	O	O	S	N–S	S	N–S	O
U.S.S.R. and Eastern bloc	O	O	O	O	O	O	S–N	N–O	O	O	S	S–N	N–S	O
Africa	O	O	O	O	N–S	O	O	N–O	O	O	N	N	N	O
Saudi Arabia	N	O	N	O	N–S	O	S	N	O	O	N	N–S	N	O
Egypt	N	O	N	O	N–S	O	S	N	O	O	N	N–S	N	O
Other Middle Eastern countries	N	O	N	O	N–S	O	S–N	N	O	O	N	N	N	O
India	O	S	S	O	S	N	O	S	N–S	S	N	N–S	N	O
PRC	O	O	O	O	O	O	S	N	N–O	O	N	S	N	O
South Asia (Micronesia Australia	O	O	O	O	N	O	O	S	N–S	N–O	N	N	N	O
Japan	S	S	S	S	S	S	S	S	S	S	S	S	S	O

Source: Arthur D. Little, Inc., estimates.

FTC FRANCHISE DISCLOSURE RULE

● Mr. NELSON. Mr. President, recently, the Select Committee on Small Business conducted a hearing to review the Federal Trade Commission's proposed "franchise disclosure rule." That rule, now scheduled to take effect on October 21, 1979, will require "franchisors," as defined in the rule, to disclose to prospective franchisees certain basic business information.

In the July issue of Photo Marketing, Sheldon London, the director of Government Relations for the Photo Marketing Association, provided an excellent summary of the rule's requirements. There has been a great deal of confusion concerning what types of businesses may be covered, and what disclosures would be required if coverage exists. The committee found Mr. London's overview very useful.

As a result of the committee's efforts, the FTC announced on July 24 that it had narrowed the scope of coverage to exclude the typical wholesale/retail distribution system.

I ask that the article be printed in the RECORD.

The article follows:

UNCLE SAM WON'T DO IT ALL FOR YOU

(By Sheldon London)

Eight years after initiating a rule-making proceeding, the Federal Trade Commission has published the Franchise Rule which will become effective on July 21, 1979.

The popularity of franchising over the last two decades is a well documented phenomenon. A recent U.S. Department of Commerce study indicates that franchising sales of goods and services of nearly a half-million outlets will exceed $300 billion in 1979.

The Federal Trade Commission issued the Rule in response to widespread evidence of deception and unfair practices in connection with the sale of franchises. The agency concluded that prospective franchisees lack essential and reliable information about businesses in which they are asked to invest their resources. The Rule is designed to deal with this deficiency by requiring franchisors to furnish prospective franchisees with information about the franchisor, the franchised business, and the terms of the franchise agreement.

These disclosures, which are detailed below, together with additional information if claims have been made about actual or potential earnings, must be provided to the prospective franchisee at the first meeting with the franchisor or not less than 10 days prior to the execution of a contract or payment of consideration on a franchise. The Rule is only applicable to franchise relationships established after July 21, 1979.

There are two categories of franchise relationships: (1) "Package" or "Business Format" franchises, and (2) "Product" franchises, which will be subject to disclosure requirements. Let us look at the elements that are required for each of these two different types of franchises.

PACKAGE FORMAT

The three elements which must be met under this category are that:

The franchisee "operates under" the trademark or trade name of the franchisor and meets the franchisor's quality standards:

The franchisor exerts or has authority to exert a "significant degree of control" over the franchisee's "method of operation" or in the alternative, that the franchisor gives "significant assistance" to the franchisee in the latter's method of operation; and

The franchisee must pay to the franchisor or an affiliated person at least $500 over the first six months of the operating franchise.

PRODUCT FRANCHISES

This second type of franchise under the Rule also has three elements. These are:

The franchisee sells goods or services identified by the franchisors' trademark;

The franchisor has a significant degree of control over the franchisee's method of operation or in the alternative, gives the franchisee significant assistance in the method of operation; and

The franchisee is required to pay the franchisor or his affiliate at least $500 within the first six months of the franchise.

EXEMPTIONS

These are some significant exemptions under the Rule, and they include:

"Fractional franchises," where the franchisee has been in the business for more than two years and the franchise represents no more than 20 percent of his sales;

Leased departments, in which an independent retailer leases space in the store of a large retailer;

Purely verbal agreements;

Relationships where less than $500 is paid by the franchisee.

Membership in retailer-owned cooperatives which wholesale goods or furnish services primarily to their member retailers.

DISCLOSURE DOCUMENT

The major innovation of this Rule is the required disclosures. The Rule specifies that the disclosure document contain information on tne following 20 subjects:

Identifying information about the franchisor; business experience of the franchisor's directors and key executives; the franchisor's business experience; litigation history of the franchisor and its directors and key executives; bankruptcy history of the franchisor and its directors and key executives; description of the franchise; money required to be paid by the franchisee to obtain or commence the franchise operation; continuing expenses to the franchisee in operating the franchise business that are payable in whole or in part to the franchisor; a list of persons who are either the franchisor or any of its affiliates, with whom the franchisee is required or advised to do business; realty, personality, services, etc. which the franchisee is required to purchase, lease or rent, and a list of any persons from whom such transactions must be made; description of consideration paid (such as royalties, commissions, etc.) by third parties to the franchisor or any of its affiliates as a result of a franchisee's purchase from such third parties; description of any franchisor assistance in financing the purchase of a franchise; restrictions placed on a franchisee's conduct of its business; required personal participation by the franchisee; termination, cancellation and renewal of the franchise; statistical information about the number of franchises and their rate of terminations; franchisor's right to select or approve a site for franchise; training programs for the franchisee; celebrity involvement with the franchise; financial information about the franchisor.

SUBSTANTIATING EARNINGS

As indicated earlier, there are strict rules requiring substantiation by the franchisor of earnings, representations about actual or potential sales, income, or profits of existing or prospective franchisees if this information is given. Where it is provided, this information must meet three criteria:

There is a reasonable basis for the representation;

The representation has been prepared in accordance with generally accepted accounting principles; and

The franchisor has evidence to substantiate every representation and such evidence is available to the prospective franchisee or to the Federal Trade Commission upon reasonable demand.

STATE LAWS

The FTC is seeking to create a minimum federal standard of disclosure which would be applicable to all franchise offerings. Thus, the FTC Rule will preempt state and local laws to the extent that these laws are in conflict, but the Commission has determined that state or local laws which either are consistent with the Rule or, even if inconsistent, which would provide protection to prospective franchisees equal to or greater than that imposed by the Rule, would be permissible.

Fifteen states have enacted legislation requiring presale disclosure. Another 11 states have developed substantive rules for the regulation of franchising and four states have enacted laws specifically designed to regulate non-franchise business opportunities.

THE UFOC

The Uniform Franchise Offering Circular (UFOC) was created by the Midwest Securities Commissioners Association, Inc., and is in use by all states with franchise disclosure requirements. The FTC will permit franchisors to use the UFOC format in lieu of the disclosure document which was described above, containing the 20 subject areas.

A model UFOC Circular is available from Photo Marketing Association's Washington Office.

SANCTIONS

When the Rule becomes effective, it will be considered an unfair or deceptive act or practice within the meaning of Section 5 of the Federal Trade Commission Act for any franchiser to:

Fail to furnish prospective franchisees, within time frames established by the Rule, with a disclosure document containing information on 20 different subjects relating to the franchisor, the franchise business and the terms of the franchise agreement.

Make any representations about the actual or potential sales, income, or profits of existing or prospective franchises except in the manner set forth in the Rule.

Make any claim or representation (such as in advertising or oral statements by salespersons) which is inconsistent with the information required to be disclosed by the Rule.

Fails to furnish prospective franchisees, within the time frames established by the Rule, with copies of the franchisor's standard forms of franchise agreements and copies of the final agreements to be signed by the parties.

Fail to return to prospective franchisees any funds or deposits (such as down-payments) identified as refundable in the disclosure document.

Violators are subject to civil penalty actions brought by the commission of up to $10,000 per violation. ●

TV AND SALT II DEBATE

● Mr. JAVITS. Mr. President, a corollary issue that has arisen respecting Senate debate on the question of SALT II is whether or not the Senate floor debate should be televised live. A number of Senators already have expressed themselves on this question, and the Foreign Relations Committee has considered the arguments for and against live television coverage of the SALT debate.

In the interest of keeping our colleagues informed on this issue, I wish to print in the RECORD a resolution adopted at the recent annual meeting of the American Federation of Television and Radio Artists, which has its headquarters in New York City. AFTRA, like so many elements of the media, supports in its resolution live television broadcasts of the debate.

A text of the AFTRA resolution follows.

LIVE COVERAGE OF SALT II DEBATE

Be it resolved, that this 1979 AFTRA Convention believe that since the Senate's debates of the Salt II treaty are vital to the lives of the American people, and that the people are thus entitled to the fullest possible information about the treaty and the debates, it follows that Americans are entitled to observe the course of those debates in live broadcast form; and

Be it further resolved, that the National Executive Secretary be directed to call upon officers of the United States Senate to authorize such live coverage so the American people will not be denied their just participation in these historic debates.

Approved July 15, 1979.

HOMER CAPEHART

● Mr. BAYH. Mr. President, from time to time, each of us is touched in some way by truly unique individuals; people who leave a lasting impression that we carry with us throughout our careers.

Homer E. Capehart, the distinguished former Senator from my home State of Indiana was such a person. He was what I would call a self-made man who possessed a keen business sense as well as being highly skilled in the fine art of politics.

Mr. President, I was deeply saddened yesterday to learn that Homer Capehart passed away in Indianapolis at the age of 82. For 18 years, from 1945 until 1963, Senator Capehart served the people of Indiana in this august body with dedication and distinction. His hard work enabled him to eventually rise to the position of chairman of the Banking and Currency Committee where he had a significant influence on legislation pending in the Senate and the issues of the day.

Senator Capehart was the son of a tenant farmer, and remained active in farming throughout his retirement, having managed farms in Daviess and Hendricks Counties, Ind. Indeed, he learned about business the hard way by going into business with little more than his dreams and wits. In 1928, he founded the Capehart Corp. which was the first of a number of successful business ventures Mr. Capehart was to engage himself in over the years. In later life, he attended to his varied investments with a careful eye.

Homer Capehart was a true patriot, and was the first volunteer for World War I from Daviess County, Ind. It was at this early time when he began to develop his keen political sense, which eventually carried him through three statewide elections. I know first hand of Senator Capehart's skill because he was my opponent when I was a young State legislator seeking to come to Washington in 1962. It was a tough campaign, and although we strongly disagreed on some issues and the solutions to some problems, we maintained a mutual respect for each other.

I know all of my colleagues will join me in extending our deepest sympathy to Senator Capehart's wife, Irma, and to his son and daughter, Earl and Patricia. ●

SALT II RATIFICATION: THE MEASURE OF THE SENATE

● Mr. CRANSTON. Mr. President, at the time we adjourned for the August recess, hearings had been actively under way for several weeks before the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee with respect to SALT. Those hearings, I believe, demonstrate that the opponents and critics of the SALT II Treaty have been unable to establish that there are any basic flaws in the treaty.

For example, the issue of verification—which a few months ago appeared to be the key issue upon which the critics of SALT II would focus—has, for all practical purposes, vanished. An adamant opponent of the treaty, who is one of the most astute and knowledgeable members of the Intelligence Committee—Senator BARRY GOLDWATER—has announced publicly that he is satisfied that SALT II presents no significant verification problem.

Faced with this inability to find any serious flaws in the SALT II Treaty, opponents have shifted their attack.

The major new issue now being linked to ratification is the amount of our defense spending on both strategic and conventional forces. Senators NUNN, JACKSON, and others have called for a real increase in defense spending of 5 percent a year for each of the next 5 years. Former Secretary of State Kissinger has called for an "obligatory commitment" to an increase in the defense budget, as well as a commitment to proceed with the M–X missile and multiple point basing system.

I welcome a responsible and thorough examination of our defense spending with respect both to conventional and strategic forces. But I question the wisdom of, and oppose the effort to, condition an affirmative vote on the SALT II Treaty upon any "obligatory commitment" or arbitrary 5 percent yearly real increase in defense spending. Both the SALT II Treaty and the issue of defense spending must be examined on their separate, individual merits. To an extent, the two are linked—just as conventional and strategic spending are linked, or defense and nondefense spending are linked. But arbitrary linkage of arms expenditures with arms control serves neither the cause of national security through arms control nor the cause of national defense through arms expenditures.

A second issue critics of SALT II now are focusing on is the theoretical vulnerability of one leg of our triad of strategic forces—our ICBM's. Current strategy

holds that even if one or two legs of the triad is destroyed, our surviving nuclear forces would be more than adequate to inflict unacceptable death and destruction upon the Soviet Union. Our retaliatory capability, therefore, acts as deterrent to a nuclear offensive by the Soviet Union. The opponents of SALT argue, however, that even the appearance of a Soviet threat to any part of our Triad is unacceptable. Perception of vulnerability, they contend, is as important as actual vulnerability. They argue that if the Soviets perceive vulnerability, they will try to exploit it in various theater encounters with the United States. Therefore, they conclude, the United States must make all legs of the Triad—and, in particular, our ICBM's—invulnerable to any possible Soviet first-strike, or the so-called surgical strike, even a theoretical one.

Leading proponents of this theory—particularly the theory that perception of vulnerability is important—are Mr. Nitze and Mr. Kissinger. Mr. Kissinger, it should be noted, supports SALT provided we increase defense spending and take steps to eliminate this perceived ICBM vulnerability. The Pentagon, the State Department, and the President appear to believe that by the early to mid-1980's the United States will be vulnerable to a Soviet surprise attack that could wipe out at least 90 percent of our ICBM's. They seem to have concluded that this perceived vulnerability must be corrected or it will be "exploited" by the Soviet Union.

Mr. President, during the August recess, a provocative and informative article entitled "The Doomsday Debate—'Shall We Attack America?'," sought to address the fundamental issue that is involved here. That article is a substantive analysis of the so-called surgical or first-strike doctrine. The authors point out that nothing in Soviet military literature or military doctrine envisions a possible Soviet first strike against U.S. ICBM's. The possibility of such a theoretical strike has been raised—and promoted—only by Americans, not by Russians. Even our NATO allies do not share this view.

Mr. President, because of its import and the fact that it was published during the August recess, I ask that the full text of the article, "The Doomsday Debate—'Shall We Attack America?'," written by Robert G. Kaiser and Walter Pincus in the Washington Post for Sunday, August 12, 1979, be printed in the RECORD.

The article follows:

THE DOOMSDAY DEBATE: "SHALL WE ATTACK AMERICA?"

(By Robert G. Kaiser and Walter Pincus)

Will the United States soon be vulnerable to a sudden thermonuclear attack by the Soviet Union that could wipe out America's land-based missile force in a single blow? Yes, reply most of the experts—even the president of the United States. The 1980s will be perilous for America because of this "vulnerability," according to Henry A. Kissinger and many others.

A seemingly simple mathematical fact leads to this gloomy forecast. By the early 1980s the Soviets will have enough accurate warheads on their land-based rockets to target two bombs on every American missile silo while still holding in reserve most of their offensive forces. Theoretically, this would give the Soviets high confidence of "killing" 90 percent of the American silos.

In the past, America has relied on its "triad" of strategic forces—the combination of land-based missiles, submarine-based missiles and bombers—to insure survival of an adequate strategic force. If two or even one of those systems survived, that would be adequate to destroy the Soviet Union, according to the theory.

In a time of steadily increasing Soviet forces, however, the original "triad" theory has fallen victim to a new argument. Simply stated, the new theory is that even the *appearance* of a Soviet strategic advantage over one of the three elements of the "triad" would be dangerous. "Perceptions" about vulnerability are just as important as reality, according to this theory; the Soviets or other nations could misinterpret this perception as a genuine sign of American weakness. This is a theory devised and promoted entirely by Americans.

However, the most important question about vulnerability has not been asked: How would the Russians see it? The Soviet military literature contains no analysis of a possible Soviet first strike against U.S. land missiles. Then how might Soviet military planners exploit "vulnerability" five years from now, when their theoretical advantage will be greatest?

It is Aug. 10, 1984. The new Soviet leadership is finally in place in the Kremlin. The long bickering that followed Leonoid Brezhnev's death in his sleep in late 1983 produced a showdown between the so-called *Mir* ("Peace") and *Cil* ("Strength") factions in the Politburo. This longstanding split has never been publicly revealed, but it has been the crucial division in Soviet politics since the early 1970s. Brezhnev led the "Peace" faction, and it has now been beaten. The new general secretary of the Communist Party is Vladimir Ivanov, 63, a resourceful politician who ran the Ukraine for several years. The outside world knows nothing of Ivanov's plans or policies.

In fact they are ominous. His secret platform in the just-completed leadership struggle was simple: The time has come for the ultimate showdown with the imperialists. The Soviet economy is slipping badly, Ivanov argued; oil is running out; the people are restless and hungry for consumer goods; the non-Russian nationalities are threatening rebellion. Most serious, the comrades who run the Red Army are upset by the latest developments in the imperialist camp—the new American MX missile, the stationing in Europe of new ballistic and cruise missiles aimed at the Motherland of socialism, and much more. This may be the last chance to win the ultimate showdown, so we must move now. That is what Ivanov and his colleagues argued, and they won.

Soon after taking power Ivanov had called together the seven-man team under Col. Lev Perishtein that had long been responsible for the Soviet Union's most sophisticated strategic thinking. Ivanov asked Perishtein and his group to produce a crash study on how the Soviet Union could initiate and win a nuclear showdown with the capitalist camp. Ivanov told Perishtein he was especially interested in the concept of the "window of vulnerability" that he had read about in the Politburo's private translations of American publications.

On this sticky August afternoon Perishtein assembled his group in the Kremlin's wood-paneled situation room, four stories below the ground. He brought with him all six of his team, including Vladimir Kuznetsov, an apparatchik who had worked for almost two decades on strategic issues on the secretariat of the Central Committee. Perishtein was particularly proud of Kuznetsov, who was his own devil's advocate, a man steeped in strategic lore whose job it was to argue against whatever course of action the colonel himself chose to argue.

Ivanov was both excited and a little nervous about this encounter. Excited because he really did hope Perishtein could produce a workable plan. Nervous because although he had won the power struggle, the "Peace" faction was still well represented on the Politburo, and he wasn't sure he could command a majority for an aggressive policy. On this day he had invited only four colleagues to the situation room—four men who were utterly loyal to him, though only one, Marshal Nikolai Antonov, his new minister of defense, had expert knowledge of strategic matters.

The other three were former regional party secretaries like Ivanov, all of whom he had brought to Moscow in the last few months: Fyodr Trepotkin from Leningrad, Alexei Stepanov from Minsk, Archil Shevshadze from Tbilisi. All were smart; all were tough; all had helped Ivanov to power.

The room was cool, unlike Red Square that sunny afternoon. Perishtein and his group sat on one side of the long meeting table covered wih green felt and dotted with bottles of Narzan mineral water. Ivanov and his four colleagues sat across from the experts. Ivanov nodded to Perishtein to begin the briefing. This is what he said:

"First, comrades, a warning. You have put before us an unprecedented task. No power has ever used thermonuclear weapons. (I skip over the imperialists' atomic bombing of Japan, with which you are all familiar.) Also, the attack suggested by the general secretary will require launching 350 of our rockets almost simultaneously, an unprecedented feat.

"Nevertheless," Perishtein went on, "Comrade Ivanov has indicated he hopes to pursue this course. I intend to present our best thinking on how it could be done. We are encouraged by the extensive American literature on this subject, particularly analyses by the most determined imperialist warmongers, who are obviously convinced that we could succeed with a surprise attack.

"Let me add at the outset," Perishtein said, "that, as usual, Comrade Kuznetsov disagrees with the thrust of my briefing. He will offer his dissent when I have finished.

"Let me outline our analysis of how a surprise attack could be launched against the imperialist camp. First, we must strike without provocation, when the imperialists believe our relations are on a sound, peaceful footing. It might be advisable to pick a moment when the Bolshoi Ballet or the Moscow Circus is touring the United States.

"There can be no hint of what we plan. They are watching us intensely by satellite, and they are listening in on our communications. Need I recall the embarrassing revelations in the imperialist press some years ago of conversations picked up from Comrade Brezhnev's limousine telephone as he drove to his dacha? We must assume capitalist agents are well placed in our country, though we are confident they are not in our strategic rocket forces' chain of command.

"Our first aim must be to prevent America from going on any alert. With no alert we have a good chance of destroying all of their Minuteman and Titan missiles, at least half of their missile-carrying submarines and more than half of their bombers, which we would catch in port or on airfields.

"No matter what we do, you should keep in mind that the Americans' aggressive policies lead them to maintain much larger submarine missile and long-range bomber forces on alert, even in peaceful times, than we do. For example, we believe that more than 100 of their bombers can be put in the air, aimed at our homeland, within 15–30 minutes of an order to do so.

"Even without an order from the presi-

dent, the notoriously reckless commanders of the U.S. Strategic Air Command can more than double this number by raising the level of alert. And American naval commanders can quickly add to the number of missile-carrying submarines at sea. In peaceful times, we calculate that the Americans usually have 350 submarine missiles at sea, carrying about 3,000 warheads. With an alert these numbers would rise."

At this point Kuznetsov, the devil's advocate, quietly interrupted his boss. "One point of information," he said. "To prevent the Americans from going on alert, we cannot go on alert. We must leave 80 percent or more of our submarines in port, where they usually are. We cannot move any bombers, including our Backfires, from their normal bases or otherwise change their behavior. We cannot evacuate any civilians. It may even be impossible for all of our leadership cadre to take advantage of the shelters that have been built for us."

"Quite right," Col. Perlshtein agreed. "But we do retain the element of surprise. To continue: The objective of this attack would be to eliminate the American land-based missiles and all of the missile-carrying submarines and bombers that would remain unalerted at the time of the strike.

"To do this we would propose firing 350 to 400 of our best long-range rockets, 200 RS20s (the one the Americans call the SS18) and 150 to 200 RS18s (the SS19). These would carry 2,450 to 2,800 warheads, each with explosive power of more than 500,000 tons of TNT. This would enable us to aim two warheads from two different rockets at each of America's 1,054 missile silos, and would give us a healthy margin to compensate for possible misfirings and to attack submarine and bomber bases."

Ivanov perked up as Perlshtein completed his description of the attack. "What was that about misfirings?" he asked. His question prompted a remark from Marshal Antonov.

"Comrade Perlshtein," Antonov said, "I think you should describe some of the technical challenges involved here."

"I was just coming to that," Perlshtein replied briskly. "As I said at the outset, we have been asked to describe an attack that no one has ever attempted. By its nature it is not something we can practice. Thus we will face a number of unique 'technical challenges,' to use Marshal Antonov's expression. Let me outline the principal ones.

"To be successful, this attack must be timed with a precision that neither we nor the Americans have ever attempted. Our warheads must land within seconds of each other—to be precise, within 20 to 40 seconds of each other—on each target, each of which is at least 10,000 kilometers (6,000 miles) from our missile silos. To guarantee the destruction of each silo we attack, we will want to achieve two explosions: one at ground level, one several hundred meters in the air. If the warheads arrive at their target more than about 20 seconds apart, the effects of the explosion of the first will probably disable the second as it arrives.

"To achieve this precision at the targets, each of our rockets will have its own, precise instant of launch. Each rocket will travel a unique flight path, each over a precise and unique distance, as will each of our warheads. As you know, our missiles are based in silos that stretch across about 1,600 kilometers [1,000 miles] across our country. Naturally, our command communications to launch the hundreds of rockets in this maneuver will have to be perfected."

Ivanov perked up again. "What has happened in the past when our people have tried something of this kind?" he asked.

"We have never tried anything of this kind," Perlshtein responded crisply. "But we do have an advantage over the Americans in these matters. We have tested our missiles from operational silos, so we know how they will work in a real attack."

"How many have we tested at one time?" Ivanov asked.

"Usually one at a time," Perlshtein replied. "Never more than 10."

"But what about the misfirings you mentioned?" Ivanov asked.

"That is another matter," Perlshtein said. "We know from experience that some rockets will fail to ignite, fail to stick to their course, or fail to go off on time. For this reason we will fire more rockets than we think we need—a margin of safety, if you will."

"Another point of information," Kuznetsov interjected. "Col. Perlshtein has told you that some rockets—we estimate 10 percent, by the way—will misfire. Unfortunately, we cannot predict which rockets these will be. But all our rockets must be targeted in advance. This means the targets of those rockets that misfire will not be hit, or will be hit with only one warhead. But we will not know which targets these might be, so we will not know where to target the extra missiles we plan to fire to provide the 'margin of safety.' In summary, we have to acknowledge that we will miss some targets."

"Thank you, comrade," Perlshtein remarked. "Let me continue.

"Obviously, our attack must be based on the assumption that our rockets and warheads are now as accurate as even the Americans' best. We believe they are. Also, because our warheads are bigger than the Americans', we can be more confident they will actually destroy the U.S. silos, because they will have such enormous explosive power. As you know, we now believe we can hit any target in America within a margin of error of 300 meters [about 1,000 feet].

"Before Comrade Kuznetsov offers another point of information, let me explain one small problem regarding accuracy. This is a matter that has never been discussed by even the Americans in public, but our intelligence has discovered that the Americans refer to the problem as 'bias.'

"As some of you may know, during our rocket tests we have always had some difficulty hitting the planned target, particularly in early phases of testing. Our mathematicians tell us there are geodetic anomalies that can distort the flight path of a missile or a warhead. That means a flight path over the ocean will not be the same as a flight path over mountain ranges with high iron-ore content, to give an example. Of course you all remember that the earth is not a perfect sphere but a slightly distorted one. This too can influence flight paths.

"We have compensated for this by adjusting our targeting mechanisms. Now, when we fire our rocket systems from west to east, we can hit targets with the anticipated accuracy. Some pessimists among our scientists believe that when we fire missiles over the North Pole at the United States, we will discover that our computations no longer apply, that new factors we have never experienced will distort our flight paths. Obviously we cannot test this hypothesis."

"What do the optimists say?" Ivanov asked.

"They don't think these factors could take us far off target, and that the large explosive power of our warheads should compensate for whatever error occurs," Perlshtein said.

"A point of information," Kuznetsov interjected. "I think the Americans use the word 'bias' precisely because it is an irrational, unpredictable factor. In the end our mathematicians could not explain the constant and consistent error in our targeting systems that our test flights revealed. We have just made an arbitrary compensation in our aiming. We don't know why we always went off target before."

This exchange elicited the first comment from Trepotkin, the former party boss from Leningrad. Had he the gift of candor, Trepotkin would already have admitted that this entire meeting was quite astounding. Instead he asked Perlshtein a question:

"I'm not sure I understand," he said. "Is Comrade Kuznetsov saying that we won't be able to hit the targets?"

"No, no," Perlshtein replied. "Comrade Kuznetsov is saying there is some possibility—some unmeasurable possibility—that we won't hit the target with each warhead."

"We might miss the targets," Kuznetsov said in a low voice. Perlshtein ignored him.

"While we're talking about targets," Marshal Antonov commented, "perhaps you should discuss what the Amercians have been doing to protect their missile silos."

"I was just coming to that," Perlshtein replied. "The Americans have recently completed what they call the 'hardening' of their Minuteman silos. This involves building thick barriers of concrete and steel around each silo. The Americans claim these silos can withstand pressures of 2,000 pounds per square inch. If true, this would mean they have good protection against anything but an almost perfect direct hit. Unfortunately, the atmospheric test ban treaty prevents us—and the Americans—from knowing exactly how strong these hardened silos might be. We can't test a real silo with a real bomb in normal conditions. It seems possible the silos are only half as strong as we think."

"Or twice as strong," Kuznetsov observed.

"Let me continue," Perlshtein said. "Of course this attack will not occur in a vacuum. We have also studied the political environment. Specifically, we have considered how the American president might react.

"We conclude that American satellites will detect our first barrage of 100 or more rockets as soon as they have taken off. Infrared detectors on satellites that hover in space 25,000 miles above our territory provide that information, and it is impossible for us to eliminate those satellites. That information will go through military channels to the White House, and it is supposed to reach the president almost instantly. But, as Dr. Kissinger and others have noted, it may not be easy to find the president at once.

"But we must assume he would get word of the attack within minutes. At first he will probably question the report, since he will see no provocation for an attack. Indeed, for the same reason the American military might withhold the information for further checking before passing it to the president. But this initial confusion could not last more than five minutes or so, because the Americans will soon detect our second and third barrages, and their radar will begin confirming what their satellites have told them already.

"As you know, the American system is poorly designed. The president alone can order a nuclear attack. But we assume he would inevitably consult with his ministers and perhaps some members of Congress. He would also have to flee at once to the airplane set aside for his use as a command post during an attack. We assume the president would also try at once to contact you, Comrade Ivanov, on the hot line. All these things take time. We have high confidence that the southernmost missile silos would be destroyed by the time the president could satisfy himself that he knew what was going on. I am talking of a period about 30 minutes after the initial launches.

"This is the crucial moment. By our calculation it will take another 30 minutes to complete our attack. The president will realize what we are doing. He will also realize that we have avoided attacking any major city, even Washington. The Americans have done studies on this kind of attack and they know that it will cause minor losses—perhaps 10 million people, perhaps 20 million."

Ivanov started at this last observation. He recalled the Great Patriotic War [World War

II], when the Soviet Union was largely laid waste and 20 million people were killed. "Are you saying that 20 million dead is a minor loss?" he asked.

"Only by standards of nuclear war," Perlshtein replied. "We calculate that by targeting the American population, we could easily kill 150 million. The president knows this too. He will see it is a minor attack.

"To continue. The president will have to realize that if he retaliates with his remaining forces—the bombers that have escaped our attack and the missiles on submarines—he will use up most of his remaining weapons and can only strike at our cities and industry. Without land-based rockets, he won't have weapons of sufficient accuracy to fire at our remaining land-based force.

"But this is a horrible option for the president. If he exercises it, he knows that we will retaliate, and both our countries will be destroyed. But if he holds back and tries to negotiate, he can save his country—maybe even save the world. American presidents are romantics. We assume he will opt for negotiation, which of course will amount to surrender. And I might add, this is just what many American experts have predicted.

"We assume he will opt for negotiations," Kuznetsov interjected, "because we have to assume so. Otherwise our attack will fail. We would lose our country if the president decided to retaliate instead."

"Yes, yes," Perlshtein replied. "That is a hypothetical possibility."

Perlshtein put down his notebook and opened a bottle of Narzan. The bubbly water spilled into his tumbler. While he took a drink Marshal Antonov scribbled a note and passed it to Ivanov. The general secretary read it and turned to Perlshtein:

"I would like Marshal Antonov to ask a few questions. Marshal?"

"First let me say that Col. Perishtein has done his usual fine job. Then let me ask some questions. First, colonel, as you know, if we saw an American attack coming at our missile silos, we would immediately launch our rockets, so they would not be in their holes when the American warheads arrived. Why wouldn't the Americans do the same thing? I know they have written about this idea as something called 'Launch Under Attack.' I remember my friend Harold Brown threatening to do just that."

"I am grateful you raised that point," Perlshtein replied. "Our people are dubious that the Americans are well-enough organized to launch under attack. Remember, they will be caught completely by surprise. And although I grant they have written and talked about this possibility, we have seen no sign that they have adopted it as a strategy."

"But what if they only began to launch their missiles after the first of ours had landed?" Antonov asked. "Couldn't they still fire off more than half of their land-based rockets before we could destroy them?"

"That is a hypothetical possibility," Perlshtein replied.

"On another matter," Antonov said, "during this attack, what happens to America's bombers in Europe and on their aircraft carriers—what we call the forward-based systems in SALT talks? Don't we know that at least 200 of them are on 15-minute alert, and can carry their nuclear weapons to our homeland in less than an hour?"

"We have two options," Perlshtein replied. "We could target those bombers with our medium-range missiles, wiping them out simultaneously with our attack on the American missiles. But this would mean destroying much of Western Europe, so we rejected that idea. No, we must assume that the president would be as reluctant to use these weapons as any of his others."

"Let me ask about the number of American missiles that might survive our attack," Antonov went on. "I gathered earlier that we assume that even if our attack goes very well indeed, we would miss 10 percent—about 100 missiles. Is that right?"

"Right," Perlshtein replied.

"And how did we arrive at that figure?"

"It's a mathematical probability, marshal. Our people say it is the sort of failure rate we could expect."

"Could it be 20 percent, or 30?"

"I don't know how to answer that, marshal. Ten percent is a hunch. Twenty percent could be another hunch."

"You mentioned that some American bombers would take off before we could destroy them on the ground. Wouldn't some of these bombers be the newly fitted type that can carry 20 of the most accurate cruise missiles? Wouldn't all of them at least carry potent bombs? What would happen to them?"

"Again, marshal, we have to assume that the president would decide not to use those weapons," Perlshtein replied.

"You'd also have to assume that there are no Dr. Strangeloves—wasn't that the name?" Kuznetsov interjected. "I mean, you have to assume that none of those American pilots would take it upon themselves to retaliate against the Soviet Union."

"Americans usually obey orders," Perlshtein replied.

"I should ask the same question about the Americans' submarines. You said, I believe, that there would be more than 20 of them hidden at sea during and after our attack, with more than 3,000 warheads?"

"Again," Perlshtein said, "we have to assume the president won't try to use them."

Perlshtein sat down and opened another bottle of Narzan, nodding toward Kuznetsov as he did so. The man from the Central Committee took the cue. He shuffled his notes and began to speak.

"My assignment, comrades, is to argue the weaknesses in the briefing you have just heard. Speaking frankly, I'm not certain that you need to hear any more arguments against this idea, but please permit me to add one or two new points, and then to summarize what Marshal Antonov has referred to as the technical challenges.

"All of us are familiar with the consequences of conventional warfare on a nation. The general secretary has already recalled the sufferings of our Motherland 40 years ago, from which we are still recovering. I would remind the group that we are talking about something quite different. Perhaps this is something I am especially well placed to discuss. On Comrade Khrushchev's instructions, I was present in July 1962 when we detonated the largest hydrogen bomb ever exploded—about 50 megatons.

Mr. CRANSTON. Mr. President, this month the final hearings on SALT will be held and, in all probability, the SALT II treaty will be reported by October 1 to the full Senate. I hope that during the remainder of these hearings attention is directed to several essential issues raised in the foregoing article by Messrs. Pincus and Kaiser. Some of these issues are:

First. The wisdom of tying defense expenditures to arms control: SALT II and defense spending are both important parts of our national security policy. Thus, each should be evaluated on the contribution it makes to our national defense independent of the other. After all, none of the defense challenges we face will be easier to solve without SALT; in fact, they will be harder to solve without SALT.

Second. The actual need for the MX and its effect on arms stability inasmuch as such a counter-force weapon will make the Russian ICBM force totally vulnerable: (Soviet ICBM's constitute 70 percent of their strategic forces; our ICBM's constitute only 30 percent of American strategic forces.)

Third. The need for a multiple aim point system or mobile missiles—whether it be the new MX "racetrack" basing mode, making the Minuteman III missiles mobile, or otherwise: If the United States makes its ICBM's mobile, what choice do the Soviets have other than to make their ICBM's mobile? And what will that do to verification?

Fourth. What is the real risk to the United States of the appearance or perception of a Soviet strategic force advantage or a Soviet capacity to engage in a strategic "surgical" strike or first strike? In fact, does perception of Soviet or U.S. strategic power affect the outcome of conflicts between Soviet and U.S. interests in other areas? Was this true in Iran? Or Angola? Or Afghanistan? Or in the Chinese-Vietnamese war? The list could go on. But I question the validity of this perception argument, both from a review of past United States-Soviet encounters and from a consideration of possible future encounters.

Fifth. Is the ICBM vulnerability a real or a mythical possibility? What are the realistic possibilities of the Soviets ever either conducting such a surgical first strike or being able to use the capacity to conduct such a first strike to their advantage in other areas of United States-Soviet conflicting interests?

The entire SALT debate to date, it seems to me, has tended to ignore the nature of these things called "strategic weapons." The fact is they are nuclear weapons of unprecedented and unimaginable power for death and destruction. The fact is that the human race has never possessed such means of self-destruction and nuclear contamination of all life on Earth. The application of conventional theories of war and defense to nuclear weapons appears to be an absurdity at worst, and highly dangerous and questionable at best.

As I listened to the low-keyed testimony of Mr. Nitze, Dr. Kissinger, and others about the prospects of limited nuclear war and the exchange of a first-strike by the Russians and a counter-strike by the United States, I noticed the lack of attention given to the scope of destruction and the magnitude of death involved. Nuclear weapons are new and unprecedented scientific creations, yet we continue to apply traditional and shopworn concepts of geo-politics and diplomacy in an effort to solve this unique problem: The actual capacity of two antagonistic nations to destroy each other as functioning societies. How, then, can anyone subscribe to a doctrine of "limited" nuclear war? Once the first nuclear warhead is launched, how likely is it, really, that there will be some stopping point short of holocaust? I believe the only sound doctrine is one of preventing any nuclear exchange.

This fundamental weakness in the "limited" war or surgical strike doctrine of the opponents and critics of SALT II

was the subject of an editorial in the New York Times for August 15, 1979, entitled "Arms Control Out of Control." Because this editorial also was published during the August recess, and because of the substantive import of the editorial, I ask that it be printed in full in the RECORD.

The editorial follows:

ARMS CONTROL OUT OF CONTROL

Whatever becomes of the second arms limitation treaty with the Soviet Union, one thing is now clear: it will not significantly limit arms.

It is better than nothing. The pressure for new weapons would be even greater without the treaty. But a decade of so-called arms control has contained neither the costs nor the risks of the nuclear arms race.

It has become fashionable to blame this on the Russians. While the United States has supposedly practiced weapons restraint, they are said to have built bigger and better nuclear arms—not violating past agreements but corrupting their spirit. That, however, is a debatable proposition. More obviously to blame for the buildup are the rapid changes in strategic technology and theory. Both have outrun diplomacy.

SALT I, for example, prescribed a limit on the number of missile launchers at the very time that both powers were making that number irrelevant by packing ever greater numbers of warheads into each one. Limiting the vehicles, because they were easily counted, turned out to be a crude and ultimately ineffective way of limiting their cargo.

More usefully, SALT I seemed at least to prohibit any effective defense. By outlawing antimissile missiles, it tried to guarantee that war would destroy both nations, no matter which fired first. The desired effect was to keep tens of millions of Russians and Americans hostage, a grander version of the primitive idea a generation ago that they send each other several thousand of their most respected citizens to discourage attack. But there has now appeared a new theory that even well-buried missiles might soon be vulnerable to a surprise attack that deprives the victim of the power to retaliate massively. A possibly overwhelming offense has thus been redefined as a useful defense.

And that doctrine, called counterforce, is fast eroding the fundamental concept of arms control—that weapons could be safely limited so long as nuclear war means certain suicide. In theory, at least, it seemed pointless to keep adding or perfecting weapons if there was no profit in ever using them. If war means the end of civilization, why waste money to make the end more luxurious? This concept no longer applies, many strategists contend, because Moscow rejected it. The Russians are said to be preparing not for suicide but for a war they could win. They don't even need such a war, it is said; the mere capacity to wage it would make them politically supreme.

But that, too, may be unfair to the Russians. There are in fact many Americans who hanker after precisely such a limited-war capacity. They think it is immoral to hold 100 million civilians hostage, and in any case dangerous to leave a President with no choice of waging war except at the price of national destruction. They want to be able to fight, or at least threaten, some nuclear war, more or less confined to so-called military targets. If this ambition prevails, there will be no end to the ambition for ever-better weapons and defenses. Any doctrine of limited nuclear war will have to mean virtually unlimited preparation for it.

And that is where SALT II, if ratified, and its attendant weapons build-up would lead—unless SALT III finally arrests the trend. It won't arrest the trend unless Moscow and Washington first recognize their failures and recommit themselves to the goal of genuine arms control. They need to prohibit weapons systems that keep alive the possibility of limited nuclear war. They need to reaffirm that they will leave their populations forever hostage to any nuclear exchange. There is no more morality—and much less practicality—in the idea that half a population might be saved, if the other half is regarded as expendable.

Mr. President, I submit that the foregoing article on Russian consideration of a nuclear first strike against our ICBM's, and the foregoing editorial concerning the present status of the SALT process, demonstrate that in the SALT debate to date we have yet to focus upon and appreciate the magnitude of the problem created by the capacity of nuclear arms for death and destruction. It may be too late to achieve any sort of meaningful nuclear arms limitation in SALT II, but it is not too late for this Senate to insist that SALT III result in a meaningful nuclear arms reduction agreement. To me, that is now the essential issue—not whether this Senate ratifies SALT II, but whether in the process of ratifying SALT II we can establish the essential foundation for SALT III. That foundation must be built on a doctrine of preventing any nuclear war. The doctrine of limited nuclear war espoused by the critics and opponents of SALT II must be rejected: any such doctrine means virtually unlimited preparation for such an impossible and unacceptable event.

The treatymaking power—and responsibility—is vested both in the President and the Senate. I submit that in negotiating and signing SALT II the executive branch of Government may not have achieved any genuine arms control but it has taken a modest and essential step toward that goal. It is now up to this Senate, and each Member of this Senate, to ratify that modest but essential step and to require the executive branch to proceed to genuine arms control in SALT III.

That is the task remaining before us. I believe that the merit of the Senate as an institution will be measured by whether the Senate meets that task. And I believe that the merit of each of us as Senators will be so measured.●

PROPOSED LONDON CONFERENCE ON ZIMBABWE

○ Mr. BAUCUS. Mr. President, I wish to applaud the diplomatic efforts which have led to the proposed London Conference on Zimbabwe. As all the world is painfully aware, Zimbabwe has been wrenched apart by civil turmoil for many years. There have been times when the prospect for a fair and permanent end to that country's upheaval have looked grim indeed. There have been times of bitter disappointment and hostile accusation. There have been times when an escalation of the bloody and divisive civil war seemed the only gloomy outcome possible. It is an unfortunate truth that the steady deteriorating situation in Zimbabwe has led much of the world to nearly despair of a peaceful situation.

But now there is reason to hope. Mr. President, today a solution is possible. The recent Commonwealth Conference held in Lusaka, Zambia, resulted in a dramatic and encouraging about-face. All the disputing parties are understandably weary of the bitter civil war and have agreed to meet in London on September 10 to try to resolve some very profound differences. While there is no guarantee they will be completely successful, it is encouraging that all the participants are eager and willing to accept the challenge of negotiating in the spirit of compromise.

The London Conference will bring together the three crucial negotiating parties: the Patriotic Front; Bishop Muzorewa's Internal Settlement Government; and Great Britain. Bringing these three together represents a unification which can bear forth the fruit of peace so long hoped for.

But make no mistake about it, participants have a difficult task ahead of them. Among the many crucial areas confronting the negotiators is the fundamental necessity of bringing about genuine black majority rule in Zimbabwe. This rule involves drafting a new constitution which allows for free and democratic elections. At the same time, the participants know that it is essential that the safety of the minority in Zimbabwe be protected as well.

Accordingly, I believe the U.S. Government, as well as other nations, should not interfere in the proceedings of the London Conference. Truly, this is a matter of world concern, but it is a problem these parties must resolve within themselves. At present, they are best able to find the means for black and white to live together. Still, I think I speak for my colleagues in expressing my enthusiastic support of the Conference.

Zimbabwe is on a new and promising road to peace. Without a new constitution and subsequent election of a black majority government however, Zimbabwe is sure to suffer economic chaos and increasing isolation from the rest of the global community. There is reason for concern, and there is reason to encourage and expect a fruitful and positive conference in London on September 10.●

THERE'S NO SUCH THING AS WAGE STABILITY

● Mr. DOLE. Mr. President, next month the Council on Wage and Price Stability is expected to raise the percentage pay increase that it deems consistent with the administration's wage-price guidelines. Since the Council now has a standard of 7 percent and inflation is pushing past 13 percent for this year, it is admirable that the Government should consider allowing American workers to make up a bit of what they will lose to inflation this year. If the administration had an effective anti-inflation program, perhaps they would be so generous as to allow wage earners to break even with inflation.

Of course, many salaries are going up more than the wage guidelines suggest, and many taxpayers will keep pace with inflation this year. At least they will

believe that they have. But these taxpayers will not have reckoned with the U.S. Treasury which is going to make certain that they will not maintain their earning power. Many citizens were dismayed that last year Congress voted an income-tax cut but at the same time raised social security taxes. They should be more dismayed to know that every year they keep pace with inflation, they pay more taxes.

This is so because the tax brackets, the zero bracket amount, and the personal exemption are set in fixed dollar terms. Every year the real value of those dollar terms declines, and individuals with modest earning power end up paying taxes at rates originally designed for upper incomes. In periods of inflation, our progressive tax structure automatically increases the tax burden through "bracket creep." That is why the concept of wage stability has little meaning for our citizens. Wage increases which match inflation cannot protect the taxpayer's purchasing power because his tax burden will automatically increase.

Mr. President, this is unfair and unnecessary. It is deceptive for the Government to encourage the belief that wages can really keep up with inflation when there is a tax penalty for doing so. There is a simple cure for this injustice. The Senator from Kansas has introduced legislation which would adjust the tax brackets, zero bracket, and personal exemption to reflect the increase in the consumer price index for the previous year. These adjustments, which are easy to make, would guarantee that tax rates correspond to real income, not to the nominal dollar value of inflated income. It would not stop the Government from raising or lowering taxes, but it would compel the Government to tell the people exactly what it is doing.

Mr. President, our rate of inflation is unacceptable, and the Senator from Kansas will do everything in his power to return the Nation to the path of economic stability. But so long as our Government fails to get a grip on inflation, it is unjust for that same Government to benefit from its failure and receive automatic increases in revenues. Indexing the income tax for inflation would keep the Government honest and would be the most meaningful tax reform that Congress could undertake. The Senator from Kansas urges that Congress and the administration adopt indexing of the income tax in recognition of the Government's obligation to play fair with our citizens. It may even restore some meaning to the concept of wage stability.●

OVERSIGHT HEARINGS OF THE SMALL BUSINESS ADMINISTRATION

● Mr. NELSON. Mr. President, the Senate Select Committee on Small Business has planned an extensive series of oversight hearings on the Small Business Administration and its programs. Various Senators have agreed to chair these hearings.

Mr. President, I ask that a table showing the date, place, time, subject matter, and chairing Senator be printed in the RECORD.

Mr. President, it should be noted that these hearings are subject to change. More detailed information may be obtained by calling the committee offices at 224–5179.

The schedule follows:

Date, time, Senator, issue, and place:

September 7, 9:30, Huddleston, Energy, 424 Russell.

September 11, 9:00, Huddleston, Energy, 424 Russell.

September 12, Sasser, 501, 502 Local Development Company Program, 424 Russell.

September 18, Baucus, SBA Loan Oversight, 424 Russell.

September 19, 9:00–11:00, Baucus, SBA Loan Oversight (Losses in 7(a) program), 5302 Dirksen.

September 20 or week of September 24? Culver?, SBA Mgt. Assistance, 424 Russell.

September 25, Stewart, Export Assistance, 424 Russell.

September 26, Huddleston, Energy, 424 Russell.

September 27, Stewart, Health Care, 424 Russell.

September 28, Levin, Export Assistance.

October 2, 9:30–11:30, Huddleston, Mission SBA Advocacy, 424 Russell.

October 3, Huddleston, Mission SBA Advocacy, 424 Russell.

October 3, Morgan, Export, 457 Russell.

October 4, Morgan, Procurement.

October 4, Stewart, SBA Mission, 424 Russell.

October 5, Morgan, Procurement, 424 Russell.

October 16, Morgan/Pressler, Media concentration, 424 Russell.

October 17, Morgan/Pressler, Media concentration, 424 Russell.

October 18, Levin/Weicker, Privacy, 424 Russell.

October 19, Levin/Weicker, Privacy, 424 Russell.

October 23, Stewart, Economic Policy, 424 Russell.

October 24, Stewart, Economic Policy, 424 Russell.

October 25, Stewart, Economic Policy, 424 Russell.

October 26, 8:30–10:30, Baucus, Economic Policy Capital Formation.

October 27, 9:30, Huddleston, Energy, 424 Russell.

Week of November 12, 9:30, Nelson, SBA Surety Bond GAO Analysis, 424 Russell.●

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair will advise the Senator none at this time.

CONCLUSION OF MORNING BUSINESS

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

FEDERAL COURTS IMPROVEMENT ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate now proceed to the consideration of Calendar Order 324, S. 1477.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar Order No. 324, S. 1477, a bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments.

ORDER TO RESUME CONSIDERATION OF S. 1477 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of the orders for the recognition of the two leaders or their designees tomorrow the Senate then resume consideration of the pending bill.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in tomorrow at 9:30 a.m. The two leaders will be recognized under the standing order, and then the Senate will proceed to the consideration of S. 1477, Calendar 324.

There will be rollcall votes in connection with that measure. The bill is under a time agreement. Mr. BUMPERS has an amendment which I believe will consume 4 hours. How much of those 4 hours will be required remains to be seen. But rollcall votes will undoubtedly occur on tomorrow.

I would hope that the Senate could complete action by 3:30 p.m. tomorrow.

RECESS UNTIL 9:30 A.M.

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 the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 7:04 p.m., the Senate recessed until Friday, September 7, 1979, at 9:30 a.m.