# HOUSE OF REPRESENTATIVES—*Thursday, December 13, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

"As with gladness men of old
Did the guiding star behold;
As with joy they hailed its light,
Leading onward, beaming bright;
So, most gracious Lord, may we
Evermore be led to Thee."

—WM. DIX.

During these holy days, O Lord, lead us in the paths of truth and of peace, and may all Your creation, wherever they may be, experience the gifts of love and of hope. In the name of the Prince of Peace, we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## CONTAINING INFLATION

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, the new year will not be a happy one on the inflation front, unless we in Congress get serious about the problem. I call your attention to an article in the December 11 Washington Post, in which the chief economist of Salomon Bros.' investment banking firm predicts still higher inflation in 1980 than the double-digit rate we are now experiencing.

But yet, I and others have been unable to generate even a serious discussion about one important thing Congress can do: give the President the authority to impose mandatory wage and price controls.

People will sacrifice to fight inflation, if they feel the sacrifices are shared. Mandatory wage and price controls are one way, perhaps the only way, to assure that the burdens of fighting inflation are equitably distributed. I urge the leadership of the House to recognize this and endorse enactment of standby Presidential authority to impose these controls.

## SUPPORT FOR THE PRESIDENT'S DEFENSE POLICY STATEMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I commend the President for his defense policy statement that he laid out yesterday in his speech. The keystone of our national security is still military strength. This is well pointed out by the President. We all know that the situation in Iran shows a need for a strong and a secure and a united America.

The President's program is a five-point program. It first improves our strategic forces, assuring deterrence. Second, it upgrades our forces in NATO. Third, it modernizes our naval forces. Fourth, it strengthens the rapid deployment capabilities to meet our responsibilities outside of NATO and, fifth, and I think very important, is the extremely critical area of manpower, recruiting and retaining an effective force of skilled and experienced military personnel, since our military security depends upon the abilities, the training, and the dedication of the people who are in our Armed Services.

Mr. Speaker, I hope that Congress will give its full support to the President's five-point plan for national security.

Mr. Speaker, as the President well stated, a prerequisite to the enjoyment of progress in the areas of jobs, housing, education, and health is to assure peace for this Nation. This can be done only through a secure United States.

## U.S.-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS VII

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, in an earlier 1-minute speech I listed some of the reasons why the Soviet Navy is no match for our own. Today I will add to that list.

Not only is our Navy already larger in number of major surface combatants, but that advantage will grow over the coming decade as our fleet of warships will increase by 34 percent to some 223 ships.

The Russian Navy must maneuver through narrow choke points, many of which are controlled by Western powers, to reach the high seas. They have only three major, ice-free naval bases and repair yards, while the United States operates more than 40 bases and yards along thousands of miles of our own open-ocean coastline as well as overseas.

The Soviets cannot sustain deployed combat operations outside their own contiguous seas because their smaller ships lack staying power and have too few support ships for services and auxiliary tasks. Their navy has only 1 large fleet support ship for every 42 major combatants, while the U.S. Navy maintains a ratio of 1 to 15.

The Russian Navy cannot compare to ours in air cover or reconnaissance capability. We have more than 5 times as many naval aircraft and 10 times as many aircraft aboard ships.

The Russians are only now building their first nuclear-powered surface ship, while the U.S. Navy already operates 11.

The Russians keep only 15 percent of their ballistic missile submarines on patrol, while 55 percent of ours are normally on station.

The United States has an unmatched ASW capability based on an elaborate system of sea bottom, ship-towed, and aircraft, dropped listening devices to track comparatively noisy Russian submarines.

It is not surprising that our naval leaders freely admit that they would rather command the United States than the Soviet fleet.

## WINDFALL PROFIT TAX EXEMPTIONS

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, today I am introducing legislation which calls for an exemption from the windfall profit tax of 1,000 barrels per day for the independent producers and royalty owners. I offered similar legislation earlier when this was considered in the House. It was disposed of in the Committee on Rules by a vote of 7 to 7. The measure was not permitted to be heard on the House floor.

Mr. Speaker, since that time similar legislation has passed in the other body. The reason for my introduction of this legislation at this time is to get as many sponsors as possible so the House conferees will know that there is strong support for this position in the House and among House Members.

Mr. Speaker, I would like to point out that the independents drill approximately 90 percent of the exploratory wells in this country. Over the past 5 years the U.S. Bureau of Census has pointed out that independents have reinvested 105 percent of their revenues. In other words, they have been investing more than they have been making in the production of new energy which will help to solve the energy crisis.

## PERSONAL EXPLANATION

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, during the session of Thursday, December 6, I was not present to respond to several votes because of committee related work.

□ This symbol represents the time of day during the House Proceedings, e.g., □ 1407 is 2:07 p.m.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Had I been here, I would have been recorded as follows:

On rollcall No. 709, to prohibit funding for medical assistance for abortions, except when the life of a mother is in danger, I would have voted "aye."

On rollcall No. 708, which would have amended the foregoing to also permit medical assistance to terminate a pregnancy resulting from rape or incest, I would have voted "no."

On rollcall No. 710, that sought to convert the financing mechanism for CHAP, from an entitlement to fixed authorizations subject to the annual appropriation process, I would have voted "aye."

## HELPING JAPAN REDUCE ITS DEPENDENCE ON IRANIAN OIL

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, although European allies have expressed some support for the U.S. economic actions against Iran in an effort to win release of the American hostages, Japan has not only refused such support but has used the American cutoff of Iranian oil imports to build up its own reserves.

Mr. Speaker, I would like to suggest to the American people that there are ways that they could help Japan reduce its dependence upon Iranian oil. About 2.5 percent of the Japanese gross national product results from the sale of cars, televisions, stereos, cameras, and other consumer products shipped to and sold in the United States. If we assume that the manufacture of those products requires on average about the same amount of energy as other aspects of the Japanese economy, then that would amount to about 67 million barrels of oil a year or roughly one-third of the amount that Japan imported from Iran last year.

Mr. Speaker, it is bad politics for the oil-importing countries to be undercutting each other in dealing with the OPEC cartel and it is particularly irresponsible when an important principle of international law is at stake as is the case in the current crisis. The moguls who run the giant Japanese corporations might find it is bad economics as well if American consumers decide to send them a message by discontinuing the purchase of Japanese products. I think they should do just that.

## U.S. POSITION REGARDING IRAN

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, today marks the 40th day in captivity for the U.S. hostages in Iran.

Time is running out and the patience of the American people is wearing thin.

While the administration has moved in a positive and measured way in assembling the support of the world community, now is the time to step-up our efforts.

Each day we delay only increases the prospects that military force will be the ultimate—and almost certainly tragic—solution to this crisis.

We should immediately begin proceedings at the United Nations toward a world economic boycott of Iran.

The tragic plight of those 50 Americans demands that we do no less.

I would hope, Mr. Speaker, that we would receive the enthusiastic support in this effort of all of our allies, including Japan.

If we are to provide a major share of the free world's defense, we should expect its unqualified support in our moment of great distress.

□ 1010

## UNITED STATES TO SPEND MORE DEFENDING EUROPE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, after much effort, the administration has finally convinced the Europeans to let us spend more of our money defending them. We will spend $5 billion on new missiles and they will spend one-tenth of that.

Am I the only one who thinks this is crazy? Why should American taxpayers keep these countries on military welfare, when they have more money and stronger economies than we do?

Western Europe does need stronger defenses against potential Soviet aggression, but is that not the Europeans' responsibility? We had to browbeat some of these countries into accepting our help. Apparently they would rather have Americans be the targets of Soviet missiles instead of their own people. But they still want our protection, free of charge.

A prominent defense analyst told me that we spend over half of our military budget on NATO, in direct and indirect expenditures. I doubt if the American taxpayer wants us to continue this policy.

America needs a much stronger defense, with laser and particle beam ABM's, and fewer SALT agreements for example. But more Government spending—even defense spending—will only weaken us. Let us allow well-off Europeans to pay for their own defense, and devote more of our resources to the defense of America and Americans. Let us stop being the suckers of the Western World.

## TOO LITTLE, TOO LATE?

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, the Iranian crisis, as painful as it is, has had at least one beneficial aspect. It has focused the attention of the administration on our need to be strong and to have the national will to use that strength.

Yesterday the President made a speech calling for increased spending for defense. I am glad that, at long last, the President has reached an understanding of our defense needs that Republicans have had all along.

Throughout his Presidential campaign of 1975–76, Jimmy Carter pledged to cut defense spending by as much as $7 billion. While the majority in Congress applauded, Republicans told him this was suicidal. He responded by refusing to build the B–1 and the neutron bomb. He cut back our fleet.

So, here we are, more than 1,000 days after his inauguration, finally getting from him a message we should have had 3 years ago. Let us hope the Democrats in Congress also wake up.

The Iranian crisis is but the most dramatic—and not the only—example of how we are going to suffer for 3 years of irresponsible administration defense policies. If tyrants see us act like pushovers, they will treat us like pushovers.

Let us support the President in this crisis. But let us also tell the truth about what his tragically weak defense policies have done to this country. He has given us too little. I pray his newfound policy is not too late.

## FORTY DAYS AND FORTY NIGHTS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I think it was Noah that talked about 40 days and 40 nights that the world was to be destroyed and would start all over again.

These hostages have been in custody for 40 days and 40 nights.

Another biblical quotation, I think it was Isaiah, says, "How long, O Lord, how long?"

I say to the Members here, how would you like to be confined to these quarters for 40 days and 40 nights? You would blow your tops. "How long, O Lord, how long?"

Let us take some affirmative action. I think the President is right. I am not talking about military intervention or dropping the bomb, but I am so sick of watching these media events of those great unwashed masses waving their arms like this every time the TV camera is on. We do not know what they do in the meantime, but we know they do not work.

Let us put a complete, total embargo, on food, medical supplies, equipment and parts, to drive them to the point where our hostages are released.

## APPLAUDING ADMINISTRATION'S DECISION TO REDUCE SIZE OF IRANIAN DIPLOMATIC CORPS

(Mr. COURTER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, I applaud the administration's decision to reduce the size of the Iranian diplomatic corps in the United States as another means of expressing our outrage toward the actions of Iran's Revolutionary Council headed by the Ayatollah Khomeini. It must be remembered that members of the Iranian diplomatic corps took part in pro-Khomeini demonstrations at the outset of this crisis and I believe that we should have given thought to expelling them at that time.

Furthermore, I was stunned by a report on last night's "CBS Evening News" by diplomatic correspondent Marvin Kalb that the United States had hard information through credible intelligence sources that members of the PLO are in our Embassy in Tehran and are involved in securing it against any potential American rescue effort. Mr. Kalb cited the mining of the compound and interrogation of hostages as major functions of their mission. As a result of this report I understand that the Khomeini regime has threatened to expel CBS News from Iran.

Should this report prove to be accurate it would reinforce my position that the PLO is a terrorist group and that we should have no dealings with it or force Israel to, until they abandon terrorism as a means of political expression.

## A TRIBUTE TO HAROLD K. MILKS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, our Nation lost a remarkable journalist with the passing yesterday of Harold K. Milks, longtime foreign correspondent for the Associated Press and more recently managing editor and Latin affairs editor of the Arizona Republic in Phoenix.

Mr. Milks' career as a newsman spanned half a century.

He served the Associated Press in the Far East, Moscow, Madrid, and in Havana, Cuba, where he was AP bureau chief when Fidel Castro came to power in 1959.

Harold Milks—known as Heine to his close friends in journalism—was totally honest, very direct, completely professional, totally dedicated to collecting and disseminating the news no matter what the burden or difficulty.

He was completely empathetic with the needs and problems of his fellow citizens.

Harold Milks will be missed in journalism and in his community.

Those of us who came to know and respect his byline will always treasure his highly principled and professional lifetime contribution to his country and his fellow citizens.

## TAX ON SOCIAL SECURITY BENEFITS

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and to extend his remarks and include extraneous matter.)

Mr. KOSTMAYER. Mr. Speaker, the Advisory Council on Social Security, established to study the social security system, recently issued its report. One of their recommendations would make one-half of all social security benefits taxable.

I believe that the Congress must act to reduce the social security tax burden on American workers, and the Council has made some valuable suggestions which can do that as well as stabilizing the social security trust fund. Congress needs to study most of these proposals carefully and deliberately.

But, while many of the Council's recommendations are worth considering, the proposed tax is not. The harm such a tax could cause would be tremendous. If enacted, such a tax could devastate the lives of so many dependent upon this limited income. Recipients receive little enough from social security now. Can Congress seriously consider reducing that income even further?

Mr. Speaker, in recent years, rising prices have made what once seemed to be sufficient retirement savings terribly inadequate. The rising cost of food, energy and health care have depleted the savings of millions of retired Americans. Instead of a comfortable retirement, they now face the almost hopeless task of trying to decide whether they can afford to eat, heat or stay healthy.

We must let senior citizens know that Congress will not tax their benefits. It is unfair to anyone who depends on that check. For years, Americans have been guaranteed a secure income because they contributed to the system. We cannot now rob them of that little security.

## PROVIDING FOR CONSIDERATION OF H.R. 5860, CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 505 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 505

*Resolved*, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 7, rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1020

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that, I yield myself such time as I may consume.

Mr. Speaker, this is an ordinary open rule, with 2 hours of general debate. I know of no controversy whatsoever on the rule, and, therefore, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that I agree with the statement just made by the gentleman from Missouri (Mr. BOLLING) about this rule. It is a completely open rule.

I would like to point out that there has been some misinformation about this bill printed in the morning papers, and I think we ought to be aware of that. One of the morning papers indicates that the bill will be considered under a parliamentary procedure allowing the introduction of amendments that have been printed in the CONGRESSIONAL RECORD. That is not true. They do not have to be printed in the CONGRESSIONAL RECORD.

As the gentleman from Missouri has indicated, this is a completely open rule. Yesterday, before the Committee on Rules, we heard testimony about the Chrysler problem, as did the Committee on Banking, Finance and Urban Affairs, but as of yesterday when we were hearing testimony on this bill, the committee was still in the process of putting it together.

We granted a rule that would permit the committee to print in the RECORD a completely new bill, if the Members thought it was necessary, to make such changes as they thought necessary, and the bill appeared in the CONGRESSIONAL RECORD as of last night.

There have been some changes made, and I think it is well that we point them out very quickly. There have been some concerns that have been cleared up by the recent changes in the revised edition to this very important piece of legislation.

For example, on the makeup of the Chrysler Corporation Loan Guarantee Board, this section now sets up a five-member Board to administer the program. The Secretary of the Treasury will chair the Board. The Board will also consist of the Chairman of the Federal Reserve Board, the Comptroller Gen-

eral, and the Secretaries of Transportation and Labor. This is new.

The financing plan now must include at least $1.830 billion of "nonfederally guaranteed assistance" which may come from several sources.

Let me say that in section 4(b) there have been some changes. Section 4(b) provides that the deferral of stock dividends not be counted against the $1.830 of non-Federal contributions.

Section 4(c) details the following amounts the various groups must contribute to this amount: $400 million from unionized employees of Chrysler.

Mr. Speaker, let me hasten to point out that this does not spell out, contrary to the reports in the morning papers, how this $400 million is to be raised. There are only 100,000 workers of Chrysler, and if we were to fairly apportion this amount among the employees of Chrysler, this would mean $4,000 per employee.

Now, certainly the union is not going to assess the employees of Chrysler $4,000 each to raise this $400 million. I would think that instead of doing that, they would go back and renegotiate their contract and have some sort of a wage freeze for a given period of time.

There has been some talk of 18 months rather than the 3-year period that was talked about in the Lugar bill.

Speaking about that new contract, we are talking about a $1.5 billion guaranteed loan by the taxpayers of this country; $1.3 billion of that amount could be used just for increased benefits for Chrysler workers during the next 3 years. As I pointed out yesterday before the Committee on Rules, I certainly want to see Chrysler become a viable corporation, employing these people, producing products, and permitting the many sales agencies throughout the country to continue in business. But how can they possibly continue in business if $1.3 billion of the $1.5 billion is going to be used up just in increased benefits for Chrysler workers under their new contract?

The unions have already pointed out that they do not want any kind of a wage freeze. They say, "We want it all or nothing." That is what they have said: "We want it all or nothing."

I am here to tell the Members that I do not believe I can support that "all or nothing" approach, just on a fairness basis. I want to support something, as I mentioned, to keep Chrysler viable.

How in the name of good sense can we say to the taxpayer out there, the man who makes $4, $5, or $6 an hour—yes, the industrial worker's average is $7.50 in this Nation—that we have to dig deeper in our pockets for a guarantee to guarantee a $15-an-hour wage to Chrysler employees? I do not think that would be quite fair, and I do not think the taxpayers would think that would be quite fair.

So somebody has to give something along these lines if they are going to expect that laboring man who makes $5 and $6 an hour to dig deeper in his pocket to come up with the money for this loan guarantee.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am pleased to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

I did have a couple of questions, but our friend, the chairman of the Committee on Rules, the esteemed gentleman from Missouri (Mr. BOLLING), referred to this as an "ordinary open rule." The gentleman in the well referred to it as a "completely open rule." So I suppose that would mean we can offer germane amendments.

I notice that the committee, on page 2, lines 13 and 14 of the rule, did put in the caveat about failure to comply with the provisions of clause 7, rule 16, and all points of order are waived.

Mr. LATTA. There are three waivers in the bill. I am going to get to that and explain it.

Mr. ASHBROOK. Mr. Speaker, I suppose that is because we have some moving target when the Chrysler dealers are calling in and saying, "We don't know anything about the bill you are talking about." I unedrstand the bill is being written now, so I assume the waiver is necessary because the leadership probably is not even sure at this point what bill will come before us next Tuesday.

Mr. LATTA. Mr. Speaker, I think that is one of the reasons, as I explained earlier, why the Committee on Rules granted a completely open rule, subject to all germane amendments, because the bill is in the process of being written. I believe that it should be written in committee and that we should not have to write this legislation on the floor of the House.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I adhere to everything the gentleman said, particularly as it relates to the wage freeze, and particularly since Mr. Fraser seems to have moved from a position of open cooperation to a position of getting what he wants for the union.

Mr. LATTA. To be completely accurate, let me note there has been a concession. There was $200 million to be raised from the unions, and that has been changed to $400 million.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the chairman of the committee.

Mr. BOLLING. Mr. Speaker, I would say that the comment is not really pertinent to the rule, referring to the comment of the gentleman from Ohio, because this waiver is to something that has been around for quite a long time. The waiver is to the committee amendment that came out of committee, so this has nothing to do with some prospective amendment.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, let me first comment, before I yield, and say that I agree with what the gentleman from Missouri (Mr. BOLLING) just said on the waivers themselves, and I will be glad to explain the waivers.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman now yield?

Mr. LATTA. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, I want to express my support for the rule. I sincerely hope not only that the rule will pass but that we will have a thorough discussion of this issue. It is extremely important to our country. With all the economic problems we are faced with, we must see the importance of not creating problems in the unemployment field.

Mr. Speaker, I rise to urge the adoption of this rule so that we can proceed with the consideration of this very important bill, H.R. 5860, the "Chrysler Corporation Loan Guarantee Act."

Mr. Lee Iacocca, the chairman of the board of the Chrysler Corp., has said that it is imperative for the Congress to act this year on the issue of providing Federal assistance to this company. To let the issue drag beyond this time would, in essence, sentence Chrysler to shutting down by Valentine's Day. A Department of Transportation study concurs in that the company needs the assistance this year.

We are coming close to the end of this first session, and so the time left to consider this issue in a meaningful manner becomes very relevant.

For some of us, the outcome of this bill will affect our districts dramatically. However, there is much more at stake than just the impact upon certain localities. The future of the Chrysler Corp. will have serious consequences upon the entire Nation in terms of its unemployment, the economy, the balance of trade, and our national response to our energy problems.

Mr. Speaker, there are many aspects attached to the question of providing Federal loan guarantees to Chrysler. With the passage of this rule, we will have the needed opportunity to examine them in depth, and we will be able to do so in a relevant time frame.

I once again strongly urge my colleagues to adopt this rule.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Michigan (Mr. BROOMFIELD) for his comments.

Let me say that I hope we do not get too far away from the issue, in the direction, for instance, of having this Congress or this Government telling Chrysler what color cars to manufacture. For example, somebody said yesterday, "Until they get out of the red, maybe they ought to produce all red cars, and when they get in the black, then they ought to produce all black cars." I do not think we ought to go quite that far.

□ 1030

But let me proceed with some of the other requirements under this revised piece of legislation.

From U.S. banks must come $500 million; $150 million from foreign banks and other creditors; $300 million from the sale of Chrysler assets; $250 million from the State and local governments; $180 million from suppliers and dealers; and $50 million from the sale of additional equity.

So we have an involvement here of quite a few agencies, including State and local government.

I am sure that the bill itself will be completely discussed when we get into the general debate on this bill, but let me just point out one other thing that troubled me about the earlier version of this legislation. I think that they pretty well cure this objection in this substitute. Subsection (b) of section 8 also requires that the U.S. Government have first priority for debts arising under guarantees in the event of bankruptcy or before. Priority may be waived with respect to State and local governments that lend to Chrysler.

It may also be waived with respect to suppliers of Chrysler, up to $100,000 per supplier. This is taking care of the little suppliers but not the big ones. It may only provide that the U.S. Government and the suppliers will have an equal position. This is new, and I think it is an improvement over the legislation as it came before us in the Committee on Rules.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman's yielding.

Mr. Speaker, I take this time just to express my personal appreciation to the gentleman in the well, and specifically to the gentleman from Missouri (Mr. BOLLING), on the cooperation that he has given to all sides on the subject of this particular rule.

I think it behooves us, from our experience in the House, that we should be the first to recognize, as the gentleman from Michigan (Mr. BROOMFIELD) has said, that this is a bill of magnitude and of importance, and the committee should have the right to work its will; and, therefore, the open rule.

On the other hand, I think with this open rule we will be proposing, we hope, meaningful amendments that do indeed have an obligation not to be detrimental or dilatory to the progress of this legislation. We have a responsibility in this Congress up or down to give Chrysler and their families and employees a decision. I pledged to the Committee on Rules and to the gentleman from Pennsylvania (Mr. MOORHEAD) my cooperation in this regard. We hope, though, we will have a thorough discussion of the problems involved, and I thank the Committee on Rules for their decision.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Pennsylvania, the chairman of the subcommittee.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I want to say to the ranking minority member on the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. STANTON), that he has been cooperative in every way, that I agree with him that we should have a vote up or down on this legislation.

The worst thing that could happen to the reputation of this institution is if we fail to take action because of dilatory tactics. It would be better to have a clear vote down rather than have it just dribble out and no action taken. Naturally, I hope the vote will be yes, but I know that when the gentleman from Ohio says that he will not engage in dilatory tactics, I rely on him completley because I have never known the gentleman from Ohio to be anything less than a complete keeper of his word.

Mr. LATTA. I thank the gentleman for his comments, and I also thank him for supplying me with a copy of this revised edition, as he said he would, before it was printed in the RECORD.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to rise in support of this completely open rule. If we have a few more open rules like this, it may become a tradition to let the House work its will. One never knows what will happen around here. It is getting toward Christmas, and perhaps the charity of the majority leadership allowed this.

But I honestly believe that the reason we have an open rule is that nobody knows what bill is going to be considered next week. I am glad to hear about all of the cooperation on both sides of our aisle and across the Capitol in the other body. Everybody is cooperating with everybody. But the bill was being written in the hall outside the Committee on Rules as we met yesterday. This morning we have a completely new substitute amendment from the gentleman from Pennsylvania which is in the RECORD. The gentleman from Ohio (Mr. LATTA) must have stayed up all night studying the latest version, because he seems to know more about it than the daily press in Washington, and who knows, with negotiations over a long weekend, we may have yet another bill next week.

I only bring out this interesting legislative history because Richard Nixon used to say that in politics timing is everything. Of course, his timing got a little off at one point. But here we are, being told that this is a momentous decision legislatively, that we may set an historic precedent for the country by bailing out big business.

I have as many Chrysler workers and dealers in my district as anybody else and I am concerned about their future. But I am concerned, as the gentleman from Ohio (Mr. ASHBROOK) said, that we are getting calls on the phone saying, "Vote for the bill," and there is no bill.

So I am glad now to have something before us in written form. I would suggest to the leadership that if it is so important to know what we are voting on, they might want to put this off until a time when the House can fully understand what it is we are voting on.

I will listen to the debate today. I understand next Tuesday is to be the amendment stage. But I also understand the other body is so ensnarled in difficulties on other matters that this bill may never be acted upon before Christmas. Surely, it is an important issue, and maybe we ought to treat it as such legislatively rather than writing bills in the halls.

Mr. LATTA. The gentleman has mentioned some of the press reports on this compromise. I would like to clarify fully one other one that I ran across this morning. It said the compromise would require the United Auto Workers and other unions to defer $400 million in new wage increases and other benefits. That is not exactly the way the substitute is written. It just says $400 million, and it does not specify that the wage increases have to be deferred. That is something that bothers me. I wish that this statement were correct.

There are just a couple of other things that I would like to mention that the bill does not do and, hopefully, during the 5-minute rule we will do something about it.

One of the reasons that Chrysler is in the condition it is in today is because of Government regulations. That is one of the reasons that people are resisting buying new cars, because they have got $1,000 or better attached to the price of every new car caused by excessive Government regulation. The prices are now out of sight, in part because of regulations that I think are absolutely unnecessary, and we ought to take a look at it. If we do not do anything about it, we ought to blame ourselves for part of the condition that Chrysler finds itself in. So hopefully something will be done about some of these unnecessary governmental regulations that are heaped on these automobile makers. The costs are ultimately being picked up by the purchasers of new automobiles.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I think the gentleman has brought out an important point. I would like to make one other point.

As the gentleman knows, I am going to support the Chrysler Corp. bailout. To me, the issue here is not really Chrysler. The issue is what is happening to the basic industries of this Nation.

We very quietly, without much notice, in our economic development assistance bills, bailed out almost every single steel company in the United States, and they are still amongst the most inefficient in the entire world. Chrysler is now before

us. Ford is going to lose over $1 billion in their domestic sales. What we are really talking about is that there is no investment climate, no reason to invest in American industry. We, in the Congress, through our tax policies and through our regulatory policies have exported more jobs. We have literally, through regulation and through investment tax policies, put our jobs and our businesses on freighters and sent them across the sea. I think that is the tragedy. Chrysler is not the issue. Chrysler is the symptom of the issue. I hope that Congress will wake up to the fact that Chrysler Corp. is here in front of us today not because of bad management, not specifically because of OPEC, but because of the fact that every American basic industry in this country is starved for investment capital.

Mr. LATTA. I thank the gentleman for his very important statement.

Mr. Speaker, there is one other thing that I would like to mention that this bill contains that I do not like and I hope is removed. Chrysler has some obsolescent plants that ought to be shut down. They have some procedures that ought to be changed. We should not mandate in this legislation that they keep these plants open. I think that the sponsore of the legislation know whereof I speak.

Let me just mention one, the Dodge main plant in Detroit. As I understand it, here was a plant which employed several thousand employees and is now down to something like 2,600. Chrysler says it is obsolete and it ought to be closed. That is management speaking. We do not want anything in this bill that is going to say you have to keep it open regardless. And then if they close it down, do you realize there is reported to be a provision in this legislation—unless it has been changed—providing if they close it down then the company that opens it up gets loan guarantees under this bill. That is wrong, and I think we ought to take it out.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin, the chairman of the Committee on Banking, Finance and Urban Affairs.

□ 1040

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin.

Mr. REUSS. I appreciate the gentleman yielding on this point.

If the bill contained what the gentleman, who apparently reads editorials in the Washington Post, suggests that it did, it would indeed.

Mr. LATTA. Occasionally.

Mr. REUSS. It could be an abomination and ought to be stamped out. Happily, the bill does not contain that at all.

There is nothing in the bill which suggests that one single obsolescent plant or facility be kept in being.

What is in the bill is the mandate that those who are making up the plan for Chrysler concentrate on energy-saving things, not energy-wasting things.

I can assure the gentleman there is nothing in it such as he describes, and if there were, it should be exorcised.

Mr. LATTA. I would agree with the gentleman completely.

Let me say we will examine it very closely to make absolutely certain that language is not still in this legislation that is presented to us.

One other thing that I mentioned yesterday in the Committee on Rules, and I think it is most important. That is that Chrysler Corp. has a contract with the Department of Defense to produce the XM–1 tank. This is a very modern tank. The Department of Defense needs this tank. So we have got to keep that in mind in considering this piece of legislation.

In conclusion, let me say to the people who are interested in the waivers, they are really technical waivers. I will mention them very quickly. First, there is a waiver of the Budget Act requirement that an authorization bill be reported by May 15 preceding the beginning of the fiscal year it becomes effective.

In this case the bill was not reported until December 6, 1979.

The Committee on the Budget decided by a vote of 14 to 1 to recommend the budget waiver, and the Committee on Rules agreed.

Second, there is a technical waiver of clause 7, rule XIII. This is a rule requiring each committee report include—

> * * * an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year . . .

In this case the committee followed the acceptable practice of adopting the Congressional Budget Office cost estimate as its own. Unfortunately, the Congress Budget Office cost estimate in this report only covers this fiscal year and the next 4 years rather than the next 5 years, as required in the rule.

This means that there is a technical violation of clause 7, rule XIII, which is cured by the waiver in the rule.

The third waiver is of the germaneness rule. The committee substitute includes a definition of the term "borrower," which is considerably broader than the original bill.

Without the waiver provided in the rule, the committee amendment would be subject to a point of order for failure to comply with the germaneness rule.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Speaker, I urge the adoption of the rule on H.R. 5860, which provides for Government loan guarantees to the Chrysler Corp.

I can understand the skepticism of some of my colleagues about this company's bid for Federal aid. Initially, I shared such doubts, and only gradually became convinced that a rescue plan could work.

This is an open rule and there should be little controversy regarding the procedural aspect of this issue. Nevertheless, the entire Chrysler matter is of such consequence that it deserves serious discussion. I hope the House will adopt a compromise plan to be proposed by my colleagues from Pennsylvania (Mr. MOORHEAD) and Connecticut (Mr. MCKINNEY), which requires Chrysler to obtain $1.83 billion of financing from specific non-Federal sources before it can draw on $1.5 billion of Federal loan guarantees.

A refusal to provide adequate assistance to Chrysler will certainly lead to the company's collapse. Insolvency could come within weeks. Once bankrupt, the company in my view has virtually no prospect of surviving: There is a big difference between being willing to ride on a bankrupt railroad and deciding to purchase a car from a company you do not expect to stay in business. In this case, I am virtually certain the result of Chrysler's bankruptcy would be liquidation.

The impact of Chrysler failure would obviously be devastating for Detroit and other areas where company facilities are located. Substantial costs would fall on the general taxpayer as well: The requirements of unemployment insurance and other Federal transfer payments along with reduced tax receipts are expected to amount to $1 billion in 1980 and $1.5 billion in 1981. In addition, the Federal Government would be responsible for approximately $1 billion to cover certain unfunded pension liabilities which, in all likelihood, would have to be provided from general tax revenues.

The loss of Chrysler would further leave only three domestic auto manufacturers. I realize, of course, that part of the viability of our economic system rests on the assumption that inefficient companies will go out of business. But competition is also an essential element of our free enterprise economy. If Chrysler can be turned around, the competitiveness of this industry will be enhanced.

On balance, providing Federal loan guarantees to Chrysler is a good public policy if the prospects for repayment of the loans are strong. I consider this result likely, if the plan is structured properly.

I see these conditions as essential:

First. That the company obtain a significant portion of its financing in the form of new equity, rather than debt;

Second. That the financing package require substantial commitments and concessions from those groups with a direct stake in the company's future;

Third. That a broad employee stock ownership plan be established, to strengthen incentives to improve operations at Chrysler and assure that workers will share in the company's success.

All of these requirements are met by the Moorhead-McKinney substitute, in a

rescue plan that I think will work. I urge the adoption of the rule permitting its consideration by the House.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, it would be best for the American people if the Chrysler bailout bill did not come to the floor.

The fact that we are discussing the Chrysler bailout, I believe, is nothing more than an endorsement of old worn-out economic ideas. I believe the whole discussion that will ensue with the Chrysler bailout will be nothing more than discussing Government interventionism at its worst.

There will be no discussion; there generally has been no discussion on whether or not we should have a market economy versus an interventionist economy. The discussion generally has only been which form of interventionism we shall have, in which way should we assist the companies, in which way should we give clout to the unions. This has been the only discussion.

Hardly ever does the subject come up on whether or not we should even be manipulating the marketplace and controlling the marketplace.

By rejecting the rule and rejecting the notion that we should discuss the Chrysler bailout, it would at least put us online and say there is another alternative other than the Government; the Congress, and the agencies dealing with problems of this sort.

If we would stop and listen and slow up the tide of interventionism, at least we could consider the fact that maybe we the Government are the cause and not the solution.

There is no question in my mind that we create the Chryslers. By failing Chrysler, we do nothing but endorse all those policies in one form or the other that brought the Chrysler problem to our doorstep. It was said by some in the discussion many times in the Committee on Banking, Finance and Urban Affairs, as an argument against the bailout, that this is a new precedent, and they were anxious not to establish a new precedent. They argued that we should not establish something new.

I would like to take a slightly different view from this. In contrast I think it is precisely because it has been the precedent that we should not discuss nor grant the bailout. The precedent has been well established for we have already guaranteed over $400 billion worth of loans. That is the problem. It cannot be the solution.

It was said in the Committee on Banking, Finance and Urban Affairs that another loan, another billion dollars, would not make much difference. What is another billion-dollar bailout when we have already guaranteed $400 billion? There is a lot of truth to this.

The $1 billion in addition probably does not make much difference.

An analogy that was used by one witness was: It is like another cigarette. If you are a heavy smoker, and you smoke three packs of cigarettes a day, and you are on your way to developing a lung cancer; if you skip one cigarette, or one pack, it probably does not make much difference.

But we do know that the perpetual use of cigarettes and the abuse of one's body with cigarettes will cause lung cancer. It is this way in the economy.

The abuse of the monetary system, the abuse of the economic system by guaranteeing loans, will eventually bring a downfall of the economy.

So in this sense it is a bad thing to do, not because it is new and different, but precisely because it is an old and wornout idea. It is the old idea that Government has a responsibility, has a need, to do things.

The information is now available to us to show that the interventionism, the interfering in the marketplace, the manipulating for the benefit of special interest by the Government is the problem and cannot be the solution. I think there is a strong message here. There is a strong message here that the economic foundation in this Nation is in a shambles and if not rebuilt we will soon suffer the consequences.

Monetary and fiscal restraints along with detaxing and deregulation of the economy must replace our suicidal persistence in the policies of inflation, overregulation, overtaxation, and credit preemption through guaranteed loans. If we do not, we will soon see that the Chrysler tragedy will seem minor compared to the pervasive national tragedy that will occur when the national Government's bankruptcy becomes obvious to all of us.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in support of the rule.

It is one of those rare occasions when I am in complete agreement with my colleague, the gentleman from Maryland (Mr. BAUMAN) we do have a wide-open rule and I interpret that to mean that this House realizes the importance of acting on this situation in an expeditious manner.

The other options that might be open for Chrysler are just unthinkable. Bankruptcy would be an unthinkable option to pursue.

I would like to say that while I support the rule, I want to add that I have some concerns, which I will spell out later on, but the gravity of the situation overweighs my concerns. In my opinion, this is not the time to lay blame. This is not the time to blame the Government or to blame Chrysler or to blame the workers. This is a time for a strong bipartisan effort to find a solution to this very, very serious problem. If we do not, then I think we will have a catastrophic impact on our economy for the next decade.

□ 1050

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Speaker, I think the Members of Congress in the forthcoming exercise on the Chrysler bailout should be aware that this is not a normal procedure even for the chaotic operations that take place in this Congress. We are dealing with a substitute that was never considered by any committee of this House. The bill that we considered in committee never got adequate consideration.

Every Member of this Congress should know that there was no string of economists that came to testify about what the impact of this kind of program would be on the economy. There were no financiers that came to say what the pros and cons of this would be. There were no industrialists that came to testify whether this would help or hurt American industry.

This Congress is absolutely blind on every one of those subjects except for two economists that were called by the minority. These economists were called on short notice, without adequate time to prepare. Their testimony would have been much more extensive than it was had the circumstances been different. They both testified Chrysler will not make it with or without the bailout.

This legislation has been railroaded through this Congress. The Committee on Rules should certainly be commended for the courage that it demonstrated in giving an open rule, because clearly the intention was that this matter was going to come before the House on a closed rule.

I would say to my colleagues you are being snookered, Members of Congress, and you are being snookered in a way that it is going to be damaging to our economy and our ability to compete, and American industry is truly in trouble. We are getting ready to invest billions of dollars of long-term industrial capital which is in short supply in a failing corporation with impacts on the economy that are not described or known to any Member of this Congress, based on any kind of committee activity. My colleagues certainly should be forewarned that what they are being asked to do in this matter cannot make any kind of sense at all.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I am happy to yield to the gentleman.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for yielding and commend him for the good work he has done on this problem. We might come down eventually on different sides of the fence, but let me just commend the gentleman for the work he has done and the amount of information he has given the Members. I, for one Member of Congress, appreciate it.

Mr. KELLY. I thank the gentleman.

So in closing, let me just say this: No Member of Congress can come and cast any vote on this legislation with a feeling of confidence that some of his colleagues have adequately examined this question, because the substitute that we are going to be voting on today was not even published until this morning.

Mr. LATTA. Mr. Speaker, I would just like to take this time to call the attention of my friend from Wisconsin, the chairman of the committee, to the definition section of this bill on the subject that we discussed earlier.

(1) the term "borrower" means the Chrysler Corporation, any of its subsidaries or affiliates, or any other entity the Secretary may designate from time to time which borrows funds for the benefits or use of the Corporation or which—

(A) produces transportation or energy equipment which meets the goal of lessening the dependence of the United States on petroleum;

(B) provides employment in areas where the Chrysler Corporation has or plans to discontinue operations; and

(C) utilizes facilities presently owned by the Chrysler Corporation;

Hopefully they will tighten up those definitions sections and what I mentioned will not come to pass.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to my friend from Wisconsin.

Mr. REUSS. I appreciate the gentleman yielding. Of course, the whole bill speaks everywhere of efficient operation. It would be simply unthinkable that the Board would validate a proposal, however meritorious it may sound, to produce things in an inefficient plant. So it really could not be clearer that the use of inefficient plants is prohibited under the terms of the act.

The SPEAKER pro tempore. All the gentleman's time has expired.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 5, not voting 37, as follows:

[Roll No. 726]

YEAS—391

| | | |
|---|---|---|
| Abdnor | Applegate | Bailey |
| Addabbo | Archer | Baldus |
| Akaka | Ashbrook | Barnard |
| Albosta | Ashley | Barnes |
| Alexander | Aspin | Bauman |
| Anderson, Calif. | Atkinson | Beard, R.I. |
| | AuCoin | Beard, Tenn. |
| Annunzio | Badham | Bedell |
| Anthony | Bafalis | Beilenson |
| Benjamin | Fowler | Marriott |
| Bennett | Frenzel | Martin |
| Bereuter | Frost | Mathis |
| Bethune | Fuqua | Matsui |
| Bevill | Garcia | Mavroules |
| Biaggi | Gaydos | Mazzoli |
| Bingham | Gephardt | Mica |
| Blanchard | Giaimo | Mikulski |
| Boggs | Gilman | Miller, Calif. |
| Boland | Gingrich | Miller, Ohio |
| Bolling | Ginn | Mineta |
| Boner | Glickman | Minish |
| Bonior | Goldwater | Mitchell, Md. |
| Bonker | Gonzalez | Mitchell, N.Y. |
| Bouquard | Goodling | Moakley |
| Bowen | Gore | Moffett |
| Brademas | Gradison | Mollohan |
| Breaux | Gramm | Montgomery |
| Brinkley | Grassley | Moore |
| Brodhead | Gray | Moorhead, Calif. |
| Brooks | Green | |
| Broomfield | Grisham | Moorhead, Pa. |
| Brown, Calif. | Guarini | Mottl |
| Brown, Ohio | Gudger | Murphy, N.Y. |
| Broyhill | Guyer | Murphy, Pa. |
| Buchanan | Hall, Ohio | Murtha |
| Burgener | Hall, Tex. | Myers, Ind. |
| Burlison | Hamilton | Myers, Pa. |
| Burton, Phillip | Hammer-schmidt | Natcher |
| Butler | | Neal |
| Byron | Hance | Nedzi |
| Campbell | Hansen | Nelson |
| Carney | Harkin | Nolan |
| Carr | Harris | Nowak |
| Carter | Harsha | O'Brien |
| Chappell | Hawkins | Oakar |
| Cheney | Heckler | Oberstar |
| Chisholm | Hefner | Obey |
| Clausen | Heftel | Ottinger |
| Clay | Hightower | Panetta |
| Cleveland | Hillis | Pashayan |
| Clinger | Hinson | Patten |
| Coleman | Holland | Patterson |
| Collins, Ill. | Holt | Pease |
| Conable | Holtzman | Pepper |
| Conte | Hopkins | Perkins |
| Conyers | Horton | Petri |
| Corcoran | Howard | Peyser |
| Corman | Hubbard | Pickle |
| Cotter | Huckaby | Preyer |
| Coughlin | Hughes | Price |
| Courter | Hutto | Pritchard |
| Crane, Daniel | Hyde | Pursell |
| D'Amours | Ichord | Quayle |
| Daniel, Dan | Ireland | Quillen |
| Daniel, R. W. | Jacobs | Rahall |
| Danielson | Jeffords | Railsback |
| Dannemeyer | Jeffries | Rangel |
| Daschle | Jenrette | Ratchford |
| Davis, Mich. | Johnson, Calif. | Regula |
| Davis, S.C. | Johnson, Colo. | Reuss |
| de la Garza | Jones, N.C. | Rhodes |
| Deckard | Jones, Okla. | Richmond |
| Derrick | Jones, Tenn. | Rinaldo |
| Derwinski | Kastenmeier | Ritter |
| Devine | Kazen | Roberts |
| Dickinson | Kelly | Robinson |
| Dicks | Kemp | Rodino |
| Diggs | Kildee | Roe |
| Dingell | Kindness | Rose |
| Dodd | Kogovsek | Rosenthal |
| Donnelly | Kostmayer | Roth |
| Dornan | Kramer | Rousselot |
| Dougherty | LaFalce | Roybal |
| Downey | Lagomarsino | Royer |
| Drinan | Latta | Rudd |
| Duncan, Oreg. | Leach, Iowa | Sabo |
| Duncan, Tenn. | Leach, La. | Santini |
| Early | Leath, Tex. | Satterfield |
| Edgar | Lederer | Sawyer |
| Edwards, Ala. | Lee | Scheuer |
| Edwards, Okla. | Lehman | Schroeder |
| Emery | Leland | Schulze |
| English | Lent | Sebelius |
| Erdahl | Levitas | Seiberling |
| Erlenborn | Livingston | Sensenbrenner |
| Ertel | Lloyd | Shannon |
| Evans, Del. | Loeffler | Sharp |
| Evans, Ind. | Long, La. | Shelby |
| Fary | Long, Md. | Shumway |
| Fascell | Lott | Shuster |
| Fazio | Lowry | Skelton |
| Fenwick | Lujan | Slack |
| Ferraro | Luken | Smith, Iowa |
| Findley | Lundine | Smith, Nebr. |
| Fish | Lungren | Snowe |
| Fisher | McClory | Snyder |
| Fithian | McDade | Solomon |
| Flippo | McHugh | Spellman |
| Florio | McKinney | Spence |
| Foley | Madigan | St Germain |
| Ford, Mich. | Maguire | Stack |
| Ford, Tenn. | Markey | Staggers |
| Forsythe | Marks | Stangeland |
| Fountain | Marlenee | Stanton |
| Steed | Vander Jagt | Wilson, C. H. |
| Stenholm | Vanik | Wilson, Tex. |
| Stewart | Vento | Winn |
| Stockman | Volkmer | Wirth |
| Stratton | Walgren | Wolff |
| Studds | Walker | Wolpe |
| Stump | Wampler | Wright |
| Swift | Watkins | Wyatt |
| Synar | Waxman | Wydler |
| Tauke | Weaver | Wylie |
| Taylor | White | Yates |
| Thomas | Whitehurst | Yatron |
| Thompson | Whitley | Young, Fla. |
| Traxler | Whittaker | Young, Mo. |
| Trible | Whitten | Zablocki |
| Udall | Williams, Mont. | Zeferetti |
| Ullman | Williams, Ohio | |
| Van Deerlin | Wilson, Bob | |

NAYS—5

| | | |
|---|---|---|
| Collins, Tex. | Gibbons | Paul |
| Evans, Ga. | McDonald | |

NOT VOTING—37

| | | |
|---|---|---|
| Ambro | Flood | Nichols |
| Anderson, Ill. | Hagedorn | Rostenkowski |
| Andrews, N.C. | Hanley | Runnels |
| Andrews, N. Dak. | Hollenbeck | Russo |
| | Jenkins | Simon |
| Burton, John | Lewis | Solarz |
| Cavanaugh | McCloskey | Stark |
| Coelho | McCormack | Stokes |
| Crane, Philip | McEwen | Symms |
| Dellums | McKay | Treen |
| Dixon | Mattox | Weiss |
| Eckhardt | Michel | Young, Alaska |
| Edwards, Calif. | Murphy, Ill. | |

□ 1110

The Clerk announced the following pairs:

Mr. Hanley with Mr. Andrews of North Carolina.

Mr. Ambro with Mr. Hollenbeck.

Mr. Russo with Mr. Symms.

Mr. Rostenkowski with Mr. Young of Alaska.

Mr. McCormack with Mr. McCloskey.

Mr. John L. Burton with Mr. Michel.

Mr. Edwards of California with Mr. Cavanaugh.

Mr. Stokes with Mr. Anderson of Illinois.

Mr. Runnels with Mr. Eckhardt.

Mr. Simon with Mr. Flood.

Mr. Dellums with Mr. Lewis.

Mr. Murphy of Illinois with Mr. Mattox.

Mr. McKay with Mr. McEwen.

Mr. Stark with Mr. Philip M. Crane.

Mr. Nichols with Mr. Andrews of North Dakota.

Mr. Weiss with Mr. Jenkins.

Mr. Solarz with Mr. Hagedorn.

Mr. Coelho with Mr. Dixon.

Mr. DANNEMEYER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5860, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule,

the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 1 hour, and the gentleman from Ohio (Mr. STANTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, this legislation involving the Chrysler Corp. has made me go through a lot of thought processes. I am a strong believer in the free enterprise system, and I believe that the freedom to make profits also includes the freedom to fail. But as I continued to study this situation, I became convinced that this legislation is in the national interest. I decided early in the game that I was not elected to vote on the basis of some economic theology but to deal practically and pragmatically with problems as they came along. Principles, of course, do matter and should shape our judgment, but stubborn adherence to an ideological principle is often the enemy of sensible action, action in this case involving the livelihoods of several hundred thousand people.

Several key issues quickly emerged as our examination proceeded: No. 1, why was the company in trouble? Was it just bad management, poor decisions in the past, a poor product? Or was it chiefly something bigger that was outside the company itself? No. 2, was reorganization under the bankruptcy laws a solution? No. 3, would a Federal loan guarantee really do the trick? That is, could the company emerge from its present period of troubles and become again a profitable, viable enterprise? And if so, what was the right amount, the right amount of Federal aid, and, equally important, non-Federal aid from those with an economic stake in the corporation? What was the balance of potential costs and benefits to the Nation's taxpayers? And how well would the Federal interest be protected?

Finally, to what degree would this assistance for Chrysler be regarded as a precedent for an endless series of cases to follow?

Mr. Chairman, I have satisfied myself on all of these points. The company's troubles are chiefly the result of the world energy problem which has radically transformed the market for automobiles. The whole industry is going through an enormously expensive alteration of its entire product line in the direction of fuel efficiency—mandated by legislation, but now mandated even more by the marketplace.

Chrysler is the smallest of the Big Three, though still the 10th largest corporation in the Nation. Mr. Chairman, the Chrysler Corp. simply could not cope with this burden in the shortrun. The slump in the market this year turned the problem into a crisis.

I do not absolve Chrysler management of all past mistakes, but I am persuaded that they are not the root of the problem.

Second, now that the package of Federal and non-Federal assistance is upward of $3 billion, I believe this corporation can make it. By late next year they will have an entire new line of small front-wheel-drive cars that will be competitive not only in the U.S. market but, according to objective testimony from the Transportation Research Center of the Department of Transportation, quite probably in foreign markets as well. This capacity will be badly needed in light of the shift in the marketplace. General Motors and Ford will not be able to meet the demand for genuinely fuel-efficient cars for the next couple of years. Unless the automobile market undergoes a deep and prolonged collapse, Chrysler has a very good probability of returning to profitability. Its cash gap between now and 1982 can be met with this package.

Third, your committee concluded that bankruptcy reorganization was no solution for Chrysler. The automobile is not like any other purchase that the ordinary citizen makes, but rather it is a major investment.

□ 1120

There must be assurance not only of warranty protection and service but also of used-car value.

The average person on the street does not distinguish between a chapter 11 reorganization in bankruptcy and ordinary bankruptcy and liquidation which is what he is familiar with.

The testimony before our subcommittee was predominantly to the effect that the mere announcement of bankruptcy would ruin the market for Chrysler cars. In addition, while bankruptcy can help in dealing with old debt, it does not by itself provide the means for raising the vast amounts of new capital that this and other auto producers must have to transform their product line.

Next, I am persuaded that this is a sound deal for the taxpayers. The Treasury's conservative estimate was that a collapse of Chrysler would cost the budget $2.75 billion in the 2-year period 1980–81 for both increased outlays and reduced revenues. The loan guarantee in this bill is for a maximum of $1.5 billion. Of course, if the company returns to profitability, as I expect it will, the loans will be repaid and there will be no cost to the taxpayers. There will even be a small profit from the loan guarantee fees as there was in the Lockheed case. The guaranteed loans, furthermore, will be fully secured and the Treasury will come first among the company's creditors if the worst happened. This priority will be made even tighter in the substitute bill which I will be offering and will discuss shortly.

Finally, the question of precedent. This bill does not open the way to some new wave of Federal assistance for industry at large. For one thing, it is purposely drafted to be what I call mean and nasty—so much so as to make any other company in difficulty think a long time before asking for Federal help. Equally important, the problems of the automobile industry are truly unusual if not unique. This is the only major industry having to completely remake its products because of the energy crisis, at a capital cost over 5 years of $80 billion. The bill before us represents a tailored solution to a special problem, not a general new policy.

I will conclude, Mr. Chairman, by touching briefly upon the substitute bill that I will be offering when we go under the 5-minute rule next week. It is printed in the RECORD of yesterday that we received this morning.

Let me say first, and emphatically, that the substitute follows the same basic line of approach as H.R. 5860, the committee bill. There is no radical difference. It is being offered, quite frankly, in light of developments in the other body and in the interest of obtaining legislation that can be passed by both Houses, and passed quickly.

Under both bills there is an authorization of $1.5 billion in Federal loan guarantees together with an absolute requirement of a large package of cash assistance from non-Federal sources—$1.5 billion in the committee bill and $1.83 billion in the substitute. No Federal guarantees can be issued until firm commitments are in hand for all of these non-Federal funds. They will come mainly from those with an economic stake in the company's survival—employees, dealers, suppliers, banks and other lenders, State and local governments. Some funds will come from sale of new stock and some from sale assets of the company that are not vital to its profitability as a producer of automobiles.

This is the basic approach of the bill. The substitute differs from the committee bill in only a few major respects.

First, it requires a larger contribution from the company's workers—and the bill limits it to union members who are employees. The substitute specifies that this contribution must be $400 million, which includes the estimated $203 million value of the concessions that Chrysler already has received because its new labor contract is less liberal than those of General Motors and Ford. The contributions of the others with a stake in the company are also specified in more detail, as are the target amounts for sale of stock and sale of assets, all adding up to an additional $1.43 billion beyond the union contribution. That makes $1.83 billion in non-Federal contributions and a total of $3.33 billion, an even safer cushion than the $3 billion of the committee bill.

Second, the substitute would have the program administered, instead of by the Secretary of the Treasury alone as in the committee bill, by a five-person board. The Secretary of the Treasury would be the chairman. The other members would be the Chairman of the Federal Reserve Board, the Comptroller General and the Secretaries of Transportation and Labor.

Another significant difference is the tightening of the U.S. priority as a creditor and the requirement of full collateral for the loans, with no waivers. The only exceptions to U.S. priority are in the case of loans from State or local governments

and small suppliers with claims up to $100,000.

There are other, lesser changes, which I will describe when the substitute is offered next week. To repeat, the most important change is the requirement of a larger contribution from the company's workers. I believe that this is reasonable because their stake—their jobs—is perhaps the greatest of anyone.

Mr. Chairman, I began by saying that I had doubts as this Chrysler episode began. I have resolved these doubts in my own mind and I have no hesitation whatsoever in recommending the prompt enactment of this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the majority of witnesses and the majority of time on this bill in committee was held before the Economic and Stabilization Subcommittee. On our side of the aisle and representing the minority on that subcommittee is the gentleman who will next speak, the very distinguished gentleman from the State of Connecticut (Mr. McKINNEY).

Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, if most House Members feel as though they have had a crash course in the automotive industry over these past few weeks, then BILL MOORHEAD, JIM BLANCHARD, and I qualify for our master's degree. Since early August I have had the opportunity to learn more about automobile engineering, automotive industry economics and demographics and other related topics than I ever wanted to know.

I did not feel totally uninformed when this issue was first discussed as a possible issue for the Economic Stabilization Subcommittee. Before coming to Congress most of my business experience came from automotive-related endeavors. I spent a good part of 1975 and 1976 as a member of the House Automobile Task Force investigating many of the problems which are directly related to Chrysler's request for Federal loan guarantee assistance. In all honesty I can say to my colleagues that initially I was opposed to any Federal assistance to Chrysler on philosophical grounds.

Today I still have some reservations about supporting this type of legislation, but I feel this assistance is more beneficial to the welfare of the American people than would be the failure of the Chrysler Corp. A great many of our constituents have formed an opinion on this issue without full knowledge of the impact that our inaction would have. In numerous cases this awareness has been gained only after the question has been brought to them on a personal basis.

There are 19,000 companies which are suppliers to the Chrysler Corp.—the vast majority of which are small businesses. The $8 billion of business volume that they do with Chrysler may be a small part of our GNP but for many of those companies it may represent the difference between success and failure and for their employees, the difference between a job or welfare. We can also imagine the impact on the dealers if they are forced to go out of business and, on another level, the impact on thousands of local banks which have made business loans to these dealers and suppliers.

These loans are not made to Chrysler; they are not secured by a plant in Detroit. The bank's security is the showroom and service equipment on Main Street. The members of the Banking Committee are very concerned about the high cost of housing in this country and the severe shortage of mortgage money for homebuyers. In my opinion, the problems these thousands of dealers and many thousands of Chrysler suppliers would have in paying off their business loans would further exacerbate the problems local banks are having in this period of unusually high interest rates and capital shortages.

In the Banking Committee report on H.R. 5860, I inserted additional views that were endorsed also by my two Republican colleagues who joined me in voting for the bill, CHALMERS WYLIE and TOM EVANS. Those views stated in some detail the depth of the study made by the Banking Committee into the nature of Chrysler's financial problems and also the efforts that were made to find some alternative form of assistance from the private sector. My conclusion is that there is no logical or reasonable alternative to a Federal loan guarantee. For the benefit of those Members who have not seen the report I shall repeat these views:

The decision to support this legislation was made after many hours of deliberation. There is a natural reluctance to interject the Federal government into the affairs of the business community to any greater extent than it is involved already. Philosophically speaking, the granting of Federal assistance to a specific company is abhorrent as the rejection of a basic element of the free enterprise system. But looking at this situation from a theoretical perspective ignores the realities that are involved and it was these realities that convinced us that there is a need for Congress to act.

The bill reported by the Committee is not perfect. We have reservations about the effectiveness of some elements of the Administration's proposal and there is much that needs to be done by the other participants to the financial plan to demonstrate an actual sacrifice. If the U.S. government is going to put taxpayers money at risk to help the Chrysler Corporation, there must be evidence that all of the other parties with an economic interest in a healthy Chrysler have made a total commitment to the success of this plan prior to our involvement.

The basic problem facing Chrysler is the inability to generate, internally or from outside private sources, sufficient operating capital to complete a program to downsize its fleet and put small, fuel efficient lines of cars into production. The difficulty in raising this capital can be attributed to three primary causes: changes in consumer auto buying patterns caused by OPEC actions, poor management decisions made 5–6 years ago and the heavy cost burden of meeting government regulations. Any one, or all, of these problems could probably be handled by Chrysler without government help over a normal period of time, but that time is not available.

Chrysler's management in the early 1970's failed to recognize the long-term impact of the OPEC embargo. When the company's program to meet federal fund efficiency and emission standards was launched belatedly a major portion of the funding for the development and production of these new models was expected to come from sales of Chrysler's larger cars and its truck and van lines. Higher world oil prices, the Iranian situation and the domestic recession combined earlier this year to cause an abrupt and radical change in America's car-buying habits. Big cars could not be given away and small cars brought premium prices.

This change in trends, which appears to be long-term in nature, will be a major reason why Chrysler expects to lose approximately $1 billion this year. In addition, the company's share of the auto market which has been above 12 percent in eight of the last 10 years has slipped below 10 percent at this time. Throughout the auto industry the only positive note is the strong demand for subcompact and compact cars.

The domestic producers are dependent on imported small models, such as GM's Opel, Ford's Fiesta, and Chrysler's Champ or Colt. These cars are made in Japan or Germany; they have a six month waiting list for delivery; and, they contribute little to our economy. The irony of the situation is that Chrysler has the brightest outlook among the Big 3 for the production of the type of compact car best suited for the American market in the 1980's. GM's production capability for its "x-body" cars is at its limit. Additional capacity is not available in less than two years and then only with a huge capital investment that GM does not intend to make. Ford will introduce subcompact models by 1981, but it does not intend to break into the compact market until 1985. Chrysler, however, can produce domestically 500,000 units of 4-cylinder front wheel drive, fuel efficient compact cars by 1981 and upwards of 800,000 units by 1982. This production can be achieved only if Chrysler can continue to pay for retooling and other production changes that have progressed to within a year of actual production of these models. If Chrysler is unable to obtain the necessary funding, the only source capable of meeting that demand would be imports and it is estimated this would increase the balance of payments deficit by $3 billion by 1982.

The logical question to ask at this point is why won't Chrysler's creditors advance the necessary capital? Given the "Catch-22" nature of this situation, the logical answer is that the risk is too great. Banks loans to Chrysler have been classified by federal regulators, which limits the ability of the banks to extend further credit to the company. Also, the loan officer passing judgment on Chrysler is concerned about his bank's stockholder liability and not about any of the non-business considerations that have to be weighed by the Members of Congress.

Another source of capital would be the possibility of a merger or takeover. Chrysler does not represent an attractive opportunity to foreign car manufacturers for a variety of reasons. Perhaps the most fundamental is the cost of manufacturing an automobile. In most foreign countries the manufacturer is subsidized by his government, labor costs are much lower and there is no need to meet the stringent federal regulations imposed in this country. With only a few exceptions there are no large cars, as Americans know them, being produced so there is no problem adapting to size preferences. If a foreign manufacturer were to acquire Chrysler, it would be competing with itself rather than improving its market.

There are other considerations for foreign manufacturers to avoid offering financial help. Volkswagen currently sells 300,000 4-cylinder engines to Chrysler. These engines are desperately needed by VW and it would willingly terminate its contract with

Chrysler. The German manufacturer would gladly put those engines into VW Rabbits which it could sell more profitably to Americans. In Japan, Mitsubishi which manufactures most of the subcompact and compact cars imported by the Chrysler Corporation is eager to develop its own distribution system in this country, but not if it involves the acquisition of Chrysler's manufacturing and assembly facilities.

Domestically the prospect of merger is presently non-existent. Antitrust considerations preclude either GM or Ford from talking to Chrysler and no other company is interested in investing in the problems of the automobile industry.

The conclusion, then, was that conventional sources of capital were not available to Chrysler. Since the issue facing Congress could be defined as should the Federal government extend assistance to this private corporation and what form and size should that assistance take, it was necessary to examine fully the options available and to weigh the implications of offering that aid.

Our study of these options began with the assumption that no Federal loans or guarantees would be given to Chrysler. A number of analyses of Chrysler's financial condition have been made—some of three months duration and at least one for more than two years. The analysts have all concluded that without a massive infusion of capital, Chrysler is faced with bankruptcy, most likely within three months. What impact that action would have on Chrysler's future, its employees and the communities and regions where the plants are located has been the subject of some dispute. In our opinion, there is no "best case" solution if Chrysler files for bankruptcy protection. There will only be varying degrees of "worst case" scenarios.

First, we should look at what bankruptcy or reorganization under the law offers in the Chrysler framework. There have been large companies that have filed for bankruptcy and have undergone liquidation or in some cases they have survived after court-supervised reorganization. The major differences in this instance are that there has never been a similar case where the entity was a manufacturer of a major product as well as the national distributor of that product. When W. T. Grant or Food Fair Stores or Robert Hall were forced to close their doors, there were other chains willing and able to sell the products they had carried. The circumstances are not quite the same in the automobile industry.

Perhaps the most unique factor to be considered is the importance of consumer confidence to such a corporation. Among the forty witnesses who came before the Committee during the nine days of hearings were representatives of Chrysler's dealers and a panel of bankruptcy experts. The dealers placed special emphasis on the psychologically devasting impact that bankruptcy would have on their business. It was estimated that 80 percent of the 4700 Chrysler dealers would be forced to close their doors within two weeks of a bankruptcy petition being filed. These dealers did not expect that they would reopen the next month selling Ford or GM cars or a new import line: those franchises have already been taken. Their employees would not be absorbed in any volume by other dealers and the vast majority of the 150,000 employees of Chrysler dealerships would add to the increasing number of unemployed Americans.

The dealers also expressed to us the opinion that bankruptcy would be self-defeating since the Chrysler dealerships would not be there to service the millions of cars already on the road. Some might argue that reorganization differs from bankruptcy but the dealers argued very strongly that the man in the street does not understand the difference. If the media say the company is going to court, their sales will disappear, their bank credit will dry up and if under reorganization the court were to order the disposition of Chrysler Financial Corporation, the last source of funding for car inventories will be gone.

The outlook for suppliers to Chrysler is likewise bleak under either bankruptcy or reorganization. Last year aproximately 17,000 companies, mostly small businesses, did $8 billion in orders with Chrysler. Since the auto maker has been much more dependent on outside sources for its parts and components, there would be very little shifting of this business for Chrysler to any other car manufacturer. It is likely that thousands of jobs would be lost and many of these companies would be forced to declare bankruptcy themselves.

The third area of impact to consider concerns the Chrysler Corporation itself. Bankruptcy (without Federal aid) would bring the company's production to a halt since credit lines would cease to be available. The greatest effect of this shutdown would be regional. Chrysler has facilities in seven states but the impact would reach far beyond the midwest. Although there are only 4,500 Chrysler employees in Delaware, for example, the impact on that state's economy could have a devastating impact. One analysis estimates that unemployment compensation, lost wages and lost purchasing power would cost the state economy almost one billion dollars. In metropolitan Detroit Chrysler employs 74,000 people and pays them nearly $2.4 billion annually in direct and indirect wages. The loss of this income flowing through Detroit's economy would bring the city to its knees and similarly severe repercussions would be seen in many other cities. Several states would be in dangerous financial straits from lost tax revenues and unexpectedly large demands on their unemployment compensation funds.

Much has been said about the use of "worst case" statistics to generate support for Chrysler. That may have been a valid objection if some reasonable assurance could be given that the risk of the "worse case" scenario developing was not so great. We have studied all of the information that has been made available to the Banking Committee. After listening to the many witnesses testify about the technical problems of the automobile industry and its suppliers and dealers; about the economic and social impact on cities and states around the country, and; about the practical and psychological impact of the bankruptcy laws, there is a need for Federal assistance to the Chrysler Corporation.

When Congress revised the bankruptcy laws, three areas were delineated which were considered necessary for development if a debtor were to succeed in its efforts toward reorganization. These were, first, the ability to attract and to hold skilled management; second, the ability to obtain credit; and, third, the corporation's ability to project to the public an image of vitality. In our opinion, Chrysler is engaged in an out-of-court reorganization that with government assistance has a much more realistic chance of success. In reaching this decision we agree with Benjamin Weintraub, a bankruptcy law expert, who testified before the Committee:

Paradoxically, if this out-of-court plan fails because many of the assumptions are not realized, there is always the alternative of Chapter 11.

However, if a Chapter 11 petition is filed, it will never be known what would have happened if the loan guarantee request had been granted.

After the decision to extend Federal assistance was made it was necessary to determine how much was needed and how it should be Chrysler's financial collapse. This factor limits the type of aid that can be given which can be truly effective to loan guarantees or direct loans. Some combination that would involve revision of regulatory standards and tax depreciation schedules could be arranged, but there would be no immediate cash flow, so that was rejected.

Also, the difficulties caused by the heavy costs of the Federal regulatory burden and outdated tax laws are not peculiar to Chrysler. All major industries in this country are faced with the same prospects as Chrysler unless Congress acts on these issues. We urge our colleagues to look at the Chrysler situation and to resolve that this exercise will not be repeated. An initiative such as the "10–5–3" depreciation proposal will do much more to stimulate capital formation than massive loan guarantee programs and regulatory burdens can be eased without losing our direction.

Although there are precedents for direct loans and loan guarantees, any use of a direct Federal loan to Chrysler was precluded by a Minority amendment which we supported. The Administration requested a loan guarantee and has structured its plan requirements around that approach. Also, we do not think that the Federal Government should obtain an equity participation in Chrysler as a result of extending financial assistance. Rather than seeking a means of additional corporate involvement, we should try to remove the government from Chrysler's affairs as soon as the company is financially stable.

Early in our hearings we expressed concern that the plan being discussed by Chrysler and the Treasury Department did not call for sufficient capital to insure viability. The $1.5 billion figure authorized in H.R. 5860 which must be matched with $1.5 billion in commitments from the private sector is a much more realistic figure.

No one can predict what the future holds and we cannot guarantee that this plan will restore Chrysler to profitability. We can say with assurance that there is a much greater probability that the rescue plan will succeed at this funding level and that there is much less risk of taxpayers' money being lost under these circumstances. Also, we can say with certainty that the U.S. Government and the American taxpayers will lose billions of dollars in welfare, unemployment compensation and lost taxes if we do not help Chrysler.

It must be stressed that aid to Chrysler is not going to come only from the Federal Government. In his testimony before the Committee, Treasury Secretary Miller spelled out a number of conditions which must be satisfied before a loan would be guaranteed. He also made reference to the Department's experience in similar financing programs. In that regard we would like to refresh his memory and add a reminder.

This Committee has had much experience with loan guarantee programs, such as the Emergency Loan Guarantee Act specifically tailored for Lockheed and the New York City Loan Guarantee Act. In addition, numerous hearings have been held on loan guarantees and how to structure them. Conditions attached to the guarantees, we realize, are unique to each situation. In the case of the Chrysler legislation the Banking Committee has tried to permit the Secretary of the Treasury to have some flexibility in drawing together the various parties with an interest in Chrysler's economic health. In granting this flexibility to the Secretary we hope that it is understood that the Congress is not abdicating its responsibility to protect the taxpayers' interests. The Secretary's actions, Chrysler's actions and the efforts of all other interested parties will be monitored closely for compliance with our intent.

There is a great deal that can be said about the Chrysler Corporation and this

legislation. The problem is much more complex than most people believe. Unfortunately academic theories about the free enterprise system do not provide the practical solutions needed in the real world. Our support for H.R. 5860 is based on meeting such a need. There are a number of conditions which we would like to see the Secretary include before loan guarantees are given. We think that there should be additional liquidation of nonessential assets such as stock in foreign operations; there should be firm commitments from the major creditors for new capital; there should be more in the way of "hard" contributions from the employees either as cash or in wage reductions; there should be protection against the loan guarantees going to foreign corporations in the event of a merger; and, there should be adequate protection for the taxpayers' interests vis-a-vis other creditors. The Secretary should have it understood that the U.S. government will be the last party into the agreement and the first one out with its interests securely protected. This may not be very popular with the creditors, but the purpose of this legislation is not to bail out the banks or the stockholders. Nor is it intended to open the Treasury to raids by other corporations.

We support this loan guarantee to Chrysler because we are confronted with a unique situation with national dimensions. Chrysler's survival is important for the continued vitality of our auto industry; Chrysler's ability to produce its new fuel efficient cars is important to our national energy conservation policy and will have a positive impact on our balance of payments. Federal assistance does not absolve Chrysler, for its poor management decisions, but failure to provide Federal aid will punish hundreds of thousands. The Mayor of Detroit said Congress should draw the line to extend help at the point of perceptible negative impact on the national economy. The condition of the national economy is tenuous now. We cannot afford to test its resiliency by refusing this loan guarantee to Chrysler.

When the Committee of the Whole House votes on amendments to the legislation reported by the Banking Committee, it will be asked to consider an amendment in the nature of a substitute offered by Mr. MOORHEAD and cosponsored by myself. This language was drafted after long hours of negotiating and represents a bipartisan compromise to meet the strongest objections and criticisms of H.R. 5860.

For example, the Republican conference held a meeting to discuss the loan guarantee proposal. The major criticisms that I heard of the committee bill were that the authority to make guarantees had been given to the Treasury Secretary, that the U.S. priority was waived on guarantees, that the Chrysler financial plan was not specific, and that the employees' contribution was not high enough.

The amendment which Mr. MOORHEAD will offer as a substitute is an honest attempt to meet those objections. It has been hammered out on a bipartisan basis and in cooperation with some of our colleagues from the other House. Three of the four points have been accepted. We include a board; we specify in line items how the components of the financial plan are to be put together and we remove the waiver authority except for State and local governments and for small suppliers. This last point is one which my friend on the committee, JIM LEACH, offered as an amendment in our committee. I supported him then and had stated that without protection for the U.S. interests, without an agreement that the United States would be the last in, the first out and our interests protected, any loan guarantee proposal could not pass. We have that protection and I urge the bill's passage.

The last criticism of this bill has been a major point of dispute. The question of a reasonable level of participation from the employees has ranged from the level in H.R. 5860 of $200 million in a wage contribution to the level of $1.3 billion in wages and benefits in the Senate bill. As a result of our negotiations we have doubled the level of employee contribution to $400 million and we have raised the ante for some of the other players as well. The level of Federal assistance remains the same, at $1.5 billion, but the nonfederally guaranteed contributions have been increased from $1.5 billion to $1.83 billion, and the total amount provided would be $3.33 billion.

Some may say that we should get additional sacrifices from the employees. I would caution about being so demanding that the end result is detrimental to the company's future prospects. There is a point beyond which the employees or the banks are not willing to go. Many of Chrysler's skilled employees are willing to take what is in effect a wage freeze for 1 year or even 18 months, but to demand that they do so for 3 years is unreasonable to them. I am concerned that if these people leave Chrysler to work in the aerospace industry, who will be left to design any future generations of Chrysler cars? We were very critical of Chrysler's management for laying off engineers during the oil embargo rather than using them to plan for the future. I think that we would make an equally foolish choice for Chrysler's future by taking what would be a politically more acceptable choice now if we put more of a burden on the employees than is contained in this compromise substitute.

I hope that this bill will be debated in an open and fair fashion. I believe that the American people will understand the need to make assistance available to Chrysler if they are given the facts. If they understand that Chrysler's failure will cost them billions in tax dollars and have untold impacts on our economy, an insurance policy of $1.5 billion for Chrysler will be seen as the better alternative.

The reference to insurance brings to mind the matter of pension fund liability which I have not previously addressed. Chrysler has a present pension fund liability insured by ERISA of $1.1 billion. That is not a direct liability to the Treasury. However, the current condition of ERISA reflects a deficit of almost $300 million. If Chrysler's pension funds were dropped on the Pension Benefit Guaranty Corporation, there is no denying that every company now paying a premium to the PBGC under ERISA would be forced to increase its premium substantially to meet that additional burden. There is no way of denying that that premium increase would be a "Chrysler" tax on all businesses covered by ERISA.

The way Congress should look at this proposed loan guarantee is the way any businessman should approach the problem: on the bottom line, what will it cost if we do not? The cost if we do not act begins at more than $2.5 billion for unemployment and keeps on climbing. The cost if we do act may be heavy also, but there is an option not available if we let Chrysler fail. We may be able to save jobs for hundreds of thousands of Americans, we may maintain some competitiveness in our domestic automobile industry; we may improve our energy conservation potential; we may keep our balance of payments deficit from increasing; and, we may be able to retain the confidence of thousands of American businessmen in the democratic system.

My analysis of the Chrysler situation leads me to believe that Federal assistance is necessary. We have a tough bill forcing all of the parties to make sacrifices. With this program Chrysler can succeed, but any other company that tried to get similar assistance would be discouraged by these terms. This is not a bailout: we are protecting a major segment of the American economy and we are not violating any great American traditions. The Moorhead-McKinney amendment goes as far as we can reasonably go to meet the needs of Chrysler while protecting the American taxpayer. I urge its adoption without amendment.

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In closing, Mr. Chairman, I would just remind my colleagues of one thing. We are treating a symptom of the most terrible disease this Nation has. We are, through our economic investment policies and tax policies in the United States, putting basic American industrial capacity and jobs on ships and sending them across the seas.

Mr. Chairman, I hope that this committee and this Member will never again have to ask this Congress to help a major American industry, because with the proper investment incentives and the proper investment climate in the United States of America, this particular action today would not be necessary.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. STEWART).

Mr. STEWART. Mr. Chairman, I rise in support of this piece of legislation to guarantee the loan to Chrysler Corp.

Mr. Chairman, Chrysler's financial plight is a cause of concern to me. I support a guaranteed Government loan to the financially troubled automaker. If the Government does not give some support to the automaker, the company's bankruptcy is imminent and such an action could have an adverse impact on the national economy. To make my point a little clearer, I will describe the impact a Chrysler shutdown would have on my congressional district, as well as the national economy.

There are 22 suppliers with contracts totaling $44,657,265 which directly or indirectly serve the First Congressional District of Illinois. There are 1,569 full-

time employees who work on these contracts. There are three Chrysler/Plymouth/Dodge car and truck dealers in the district. A Chrysler shutdown would directly or indirectly threaten all of these individuals in my congressional district. Some dealers and suppliers might eventually switch to other manufacturers and other contracts, but the immediate prospect of unemployment and financial distress will affect everyone involved.

According to recent statistics given to the Northeast-Midwest Congressional Coalition by the administration, a Chrysler shutdown during the next 2 years would have the following effect on Federal, State, and local governments:

An increase in the Federal budget deficit of $1 billion in 1980 and $1.5 billion in 1981, reflecting reduced revenues and increased costs of unemployment benefits and other Federal transfer payment programs;

Federal liability of $1 billion to cover insured Chrysler pension plans, funded either by general revenues or by a threefold increase in pension plan insurance premiums;

A loss of $500 million in Federal, State, and local income tax revenues; and

A loss of more than $140 million in corporate taxes to the State and local governments.

The impact on the economy would exacerbate the effects of the recession by:

A reduction in GNP of $4 billion in 1980 and $6 billion in 1981;

An immediate loss of at least 100,000 jobs and perhaps a permanent loss to the economy of 200,000 jobs. Potential loss of 38,000 minority jobs located in areas with limited prospects for reemployment;

A loss of $800 million in wages and salaries to black workers amounting to 1 percent of total black income in the United States;

An increase in the foreign trade deficit of $1.5 billion;

Reduction in competition among U.S. auto makers and an increase in market shares of foreign producers; and

Removal of 800,000 small cars from the American production base by 1981.

If we do not want to add fuel to an already troublesome situation, I would urge that my colleagues in the House give their support to the bill to guarantee Government loans to the Chrysler Corporation.

For these reasons, Mr. Chairman, I strongly urge passage of H.R. 5860, loan guarantee for Chrysler Corp.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, let me say to my colleagues in the House that I support this legislation. I will support the Moorhead-McKinney substitute.

As I indicated in the discussion on the rule, I am very, very uncomfortable with this position. Here I am in the well supporting Chrysler Corp., a part of that structure that has ranted and railed against Government spending, a part of that structure that generally opposes CETA programs, food stamps, et cetera. But here I am in support of Chrysler.

This has given me a great deal of concern because of the rather cavalier treatment that Chrysler has accorded to minority businesses up to this point. Out of their total procurement and contracting of over $6 billion a year or more, they have never done in excess of $12 million with minority businesses, and yet I am here supporting Chrysler.

In addition, I, too, have worried about the precedent. I am sorry about the precedent that was set through the Lockheed bailout. Some call this a bailout for Chrysler, but I do not. My concern has primarily been based on the fact that we must do this to help Chrysler. Yet I might point this out: Let any small minority business enterprise make a simple mistake, and it is reported in detail and written up in the press, and Government support is unavailable.

If I have all these bad feelings, why am I supporting Chrysler? Because it is the only sensible and logical thing we can do. We cannot afford to increase unemployment in this country by a half-million people. I am advised by the United Auto Workers that there are already 100,000 auto workers on indefinite lay-offs that are not at all associated with Chrysler. These lay-offs are not associated with this issue.

If we fail to act, we will add another half-million people to the unemployment rolls.

I am supporting this because I think, given the state of our economy, unless we shore up Chrysler, we might well start a ripple effect in this shaky economy which will lead us into a deep recession or possibly a depression. We cannot afford the luxury of seeing our balance of trade increase at a time when our domestic economy is uncertain.

Mr. Chairman, let me say in conclusion that there is one compelling argument why we must support this legislation. By every estimate of every respected economist, each 1 percent of unemployment in this country will cost us $17 billion a year. That is that much more added to welfare, to housing subsidies, and to everything else.

Mr. Chairman, I urge the support of the Members for this legislation.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Chairman, I would like to call the attention of the Members of the House to what we are doing here. What we are getting ready to do is invest and control $8 billion of long-term industrial capital for the benefit of a single corporation. That is what this exercise is about this morning.

We are getting ready to control $8 billion worth of money, and we are going to give it to one corporation based on what we know about this program. So obviously every Member of Congress knows enough about the legislation we are dealing with and about the industry to invest $8 billion.

Now, I say to the Members, "You are going to do this when you know that the only testimony before you, before any House committee or subcommittee of this House, indicates that Chrysler will not make it, either with or without this bailout."

The suggestion by proponents of the legislation is that bankers would go to jail for violating their fiduciary responsibility if they loan money to Chrysler under these conditions. They are saying, "It is all right for you to do it because your reputation in the country for even good sense is suspect. So you can allocate $8 billion and they are not going to put you in jail." This argues that the Members of Congress have no responsibility to the taxpayers and all of the people we represent.

Mr. Chairman, I think that is the proposition that has been put to us. It did not appeal to me. Judging from our record, it probably will appeal to a lot of the Members.

Now, the suggestion was that we should approach this as any other businessman making an investment would. We are going to invest in a company that has clearly indicated that it could not make it. All the investment bankers, all the financiers, and all the industrialists in this Nation have said that this company is a failure, and they say, "We will not loan our money to or invest in Chrysler on a voluntary basis."

So this is the predicate. You are going to allocate this enormous amount of money on the basis of a committee inquiry that is totally inadequate. Every Member of Congress has to recognize that he does not know what he is doing to the degree that is necessary to launch any kind of an investment program such as this.

□ 1150

Why is Chrysler failing? Because Chrysler is paying wages that are totally noncompetitive, because Chrysler has made bad business judgments, and because the new management of Chrysler has granted a pay raise even though Chrysler lost three-quarters of a billion dollars so far this year under the old labor contract. Chrysler's management has now given a new contract that amounts to $1.2 billion, about what you are getting ready to loan them initially, so far as the Government's participation.

I am extremely limited as to time, and I urge every Member of Congress to dig out a "Dear Colleague" letter that I sent you on December 4. It covers every vital point of this legislation. Dig that "Dear Colleague" letter out and read it. I have just 5 minutes and that is not adequate to cover all that is involved. So I urge you to read the "Dear Colleague" letter.

There is a suggestion here that because Chrysler is in trouble you have to do something. It is suggested that Congress start a new welfare program for big corporations because it is going to cost you more if you do not. But let me tell you this: There is not one bit of objective testimony that was presented

to the committee that indicated there are going to be massive layoffs. What they have done is, have some paid honchos on Wall Street do a study on the predicate that Chrysler would totally collapse. But there is no evidence that Chrysler would totally collapse. In other words, they said, "Take a worst case scenario and tell us what would be the impact on the economy." But there is no evidence that the worst case scenario would develop. That is sheer bunk. There is no reason for you to believe it. The evidence is to the contrary from all of the objective testimony.

Much of Chrysler could survive in the open market, but they cannot keep all of the inefficient plants open as they are trying to do. So do not fall for that.

The CHAIRMAN. The time of the gentleman from Florida (Mr. KELLY) has expired.

Mr. STANTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida.

Mr. KELLY. It has been suggested that I lower my voice, but I am excited about being robbed in broad daylight.

The chairman of the subcommittee suggested that Chrysler is in trouble because of the Government. In other words, what he is saying is that Members of this House have so mismanaged the Government that we, by our action, by the laws that we have passed, have killed the 10th largest corporation in the United States of America. There is much to be said for that point of view. This is the expressed view of Chrysler's chairman Iacocca, but I think you have to remember these things: The other companies have survived, the better managed, the more efficient companies. We are being asked to invest in the one that is not efficient.

A major contributing cause for Chrysler's failure to compete is that a Japanese automobile worker produces 40 cars a year. An American automobile production worker produces 25 cars a year. The Japanese automobile worker gets paid $6.50 an hour, and an American automobile production worker, under Chrysler's new contract, will be paid $15.50 per hour. This is clearly why we are losing to foreign competition. Nothing in this bill is going to change any of that. None of the real problems of Chrysler's difficulties are being addressed in this legislation, including Government taxes and regulation. We are simply operating a welfare program for production workers who get paid twice as much as the average production worker in this country, and we are operating a welfare program for a large corporation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman said that I said something to the effect that this was caused by Government. What my words actually were is that the company's troubles are chiefly the result of world energy problems. I then went on to mention the expensive alteration of its product line in the direction of fuel efficiency mandated by legislation but now mandated even more by the marketplace.

So I just want the record to be clear.

Mr. KELLY. I thank the gentleman for clarifying that the Government is at fault.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LUNDINE), the author of one very important section of this legislation.

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 5860, which provides $1.5 billion of Federal loan guarantees to Chrysler.

I do not want to oversimplify this issue. But based on the financial indent that without Federal assistance this company will be bankrupt in a matter of weeks.

It is not the Government's place to prop up, or bailout, unprofitable businesses which have no prospects of ever being competitive. In these cases, the Government should do what it can to smooth the necessary readjustments, but it should not try to postpone the inevitable.

Helping to revive firms that face temporary or potentially surmountable economic difficulties is, however, a major focus of our national economic development programs. The same kind of aid being sought by Chrysler is sought by thousands of small businesses every year, with a lot fewer strings attached in those cases.

Of course, the Chrysler request requires a much larger commitment from the Government than the typical small business, and it cannot be evaluated by the same standards. If we grant the request, I do not believe we have set any precedents that give big ailing companies the right to Government aid. All we have said, I think, is that firms with highly unusual financing needs will be considered on a case-by-case basis.

I believe that with properly structured assistance from the Federal Government, Chrysler will be able to put together the commitments and concessions it must have from private sources to make a rescue effort succeed. In a sense, the Federal guarantee becomes the glue that commitment and sacrifice by each of the various parties with an economic stake in Chrysler. Without this, each group is motivated to wait to see how much the others will do. And as they wait, the company will collapse.

With an adequate financial plan, this company should be able to regain a viable position in the automobile industry. Chrysler has replaced its previous management, and taken a hard look at what it will be able to produce and market. Barring another devastating and prolonged recession, the projections should be achievable.

I cannot promise my colleagues that Chrysler will be able to do all it says and repay its loans: if I could, the company would not be in this position. I believe it is in the national interest to try to preserve the jobs and productive capacity of Chrysler as long as the taxpayers do not face an unreasonable risk. And there are steps we should take to try to keep that risk as low as possible.

The establishment of an employee stock ownership plan with broad participation from all categories of Chrysler employees should help improve the company's performance, and thus reduce the chance that the Government will have to bear the costs of a default. While the pending proposals in the House and the Senate differ considerably in detail, their intent is to require Chrysler employees to take a portion of their compensation in the form of stock.

Both the House and the Senate versions require Chrysler to issue new common stock, which the workers will purchase either directly or indirectly by making further financial concessions. While no one gets anything for nothing, the arrangement is advantageous to both the company and its employees. Chrysler will get an infusion of new capital without incurring more debt at high interest rates; Chrysler workers will realize significant appreciation on their stock if the company succeeds.

Employee ownership plans have helped to revive a number of failing companies largely because of their impact on worker motivation and productivity. Where there are significant opportunities for ownership and participation in the company's decisions, workers can have strong incentives to look for ways to make the company run better.

A survey in the Senate Finance Committee of 1975 employee-owned firms showed that an average sales profits and employment increased dramatically in some cases reversify a decade or more of unsatisfactory business performance.

I would argue, finally, that without a meaningful employee ownership plan, the bailout of Chrysler becomes simply a bailout of its current shareholders. Among the biggest beneficiaries will be the company's executives who now own about one-third of the current outstanding stock. The ESOP's in both the House and Senate bills are both modest attempts to assure that working people whose efforts helped to turn the company around also realize some of the benefits.

With the inclusion of an employee stock ownership plan, the prospects for Chrysler success are enhanced. If we pass a reasonable bill and Chrysler does succeed it will be a positive step toward the reindustrialization of America.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to my distinguished colleague from the great State of Ohio, the Honorable CHALMERS WYLIE.

Mr. WYLIE. Mr. Chairman, I thank my distinguished colleague from the great State of Ohio very much for yielding me this time, and I take the time to evidence my support for a loan guarantee for Chrysler.

I evidence my support as a matter of conscience. I support a loan guarantee to Chrysler because my initial visceral impulse told me that I should. I have seen no evidence to the contrary since I had

that initial visceral impulse of conscience. I say this because on a poll conducted in my district just recently, and which was reported on the front page of the Columbus Dispatch, it says: "Most People Against Bailout by Taxpayers." The question was: Should U.S. taxpayers bail out the Chrysler Corp. by guaranteeing up to $1.5 billion in loans to that firm? Forty-one percent said "yes" and 59 percent said "no." So in a recent poll in my district, most people would not favor my vote in favor of this loan guarantee today.

□ 1200

I have no Chrysler plants in my district, and I have no major suppliers in my district. Most of my mail would say that I should vote against this loan guarantee arrangement today, although I will have to say it is fairly close.

This is one of those times when I honestly feel that the national interest militates in favor of keeping Chrysler going.

Chrysler will almost certainly go into bankruptcy if we do not pass this bill, or unless it is taken over by a foreign corporation.

Bankruptcy, to me, is not a viable option. It would be psychologically devastating to Chrysler and to its suppliers.

Bankruptcy could conservatively result in—and these figures have been mentioned before—$2.75 billion in losses to our economy through unemployment compensation benefits, through welfare benefits; and it would also endanger a $1.5 billion pension program which has been guaranteed by the Federal Government.

If Chrysler goes belly up, the Federal Government will have to pick up that loan guarantee. Bankruptcy would almost certainly put 600,000 people out of work.

Now, much is made of the danger to our free enterprise system and its fine tradition, the finest economic system in the history of man. Of course it is, but our free enterprise system is flexible, and it contemplates Government help to the private sector when the private sector needs help.

We helped Lockheed. That has been mentioned, and it worked. We helped New York City. I hope that works. We have helped farmers. We have helped the housing industry on a continuing basis. We have helped small businesses.

Two weeks ago, we authorized over $3 billion in economic development aid for direct loans and grants and loan guarantee programs for failing small companies.

Another reason why this is within the truest concept of our free enterprise system and why it contemplates exceptions is that Chrysler and other domestic automobile companies are not operating on a level playing field in the finest concepts of the free enterprise system.

In 1977, Volkswagen lost $400 million. The West German Government gave—yes, gave, and they did not ask for a loan guarantee—they gave Volkswagen $1 billion to keep them producing.

Japan makes up Toyota's losses. Mazda has never made money, and has received direct grants from the Japanese Government.

So to talk in terms of competing within our free enterprise system is not being realistic, because Chrysler is competing against other governments. Our private automobile corporations are competing against other governments.

I think we cannot diminish the combined effect, and this has been mentioned before, of Federal regulations and OPEC oil price increases on Chrysler. Federal auto emissions, safety and mileage standards require an enormous amount of capital to implement these programs.

This is a burden not directly borne by competing foreign companies. General Motors and Ford are larger and have been able to sustain the burden so far. This one-two punch of OPEC oil price increases and subsequent Government regulations requiring domestic auto makers to redesign their entire line has left Chrysler with a very serious cash-flow problem, which I think will only be temporary if we help them out with a loan guarantee.

Chrysler made the best tanks made during World War II, and it is still producing the vital XM-1 battle tank.

A foreign takeover of Chrysler would deepen our dependence on foreign governments and could have tremendous negative effects.

I have talked with the President of Toyota of America, and I can tell my colleagues that Toyota is definitely interested in purchasing the best parts of Chrysler.

Other levels of Government have indicated their support.

Gov. James Rhodes of Ohio has lent his support to Chrysler. The State of Ohio is in the process of assembling a $35 million financial assistance package for Chrysler plants in Ohio. I think we must provide this loan guarantee or brace ourselves for some very sad consequences. I honestly feel we have no recourse.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. OAKAR), a member of the committee.

Ms. OAKAR. Mr. Chairman, as a member of the Subcommittee of Economic Stabilization, we have heard many philosophical arguments against this bill. I would just like to bring us down from the clouds of theory to the hard realities of life. I think we should be talking about the human dimensions of this problem. We should be talking about the 500,000 or so people who will face, not a temporary layoff but a permanent job loss.

This has been called the Michigan bill, but it affects every State in the Union.

Let me use my own State of Ohio as an example. In my own State of Ohio there are more than 11,000 workers directly employed by the Chrysler Corp. in 18 facilities across the State with a $303 million payroll. There is no doubt but that most of these workers would have a very hard tme finding equivalent employment if Chrysler went bankrupt. In addition there are almost 2,500 Chrysler suppliers in Ohio. We are second only to Michigan as a supplier state to Chrysler. These 2,500 suppliers employ an equivalent of over 40,000 additional employees. Many of these people would also lose their jobs as their companies collapsed in the wake of a Chrysler failure. I know many will argue that some of these suppliers are big corporations that can take the loss of Chrysler's business.

Perhaps, but in the district that I represent, in Cleveland, Ohio, most of our 184 Chrysler suppliers are very small specialty manufacturers employing 10 to 15 people. Many of these people have written or called me to let me know that a Chrysler failure would mean a failure of their businesses as well. There are also 260 Chrysler dealerships in Ohio employing over 10,000 people. Already some of these dealers are experiencing great difficulty in this time of uncertainty over Chrysler's fate. Some have already gone under. The rest of these dealerships and the jobs that they represent can only be saved if this Congress takes the action it should in guaranteeing these loans.

Chrysler is a major taxpayer in my State. Each year the corporation pays $9.2 million in taxes to Ohio. I ask my colleagues, do you really think that a tax loss of this magnitude will have no effect on our State and on the cities and towns that also depend on Chrysler tax receipts? I think that the loss of this corporation would have disastrous effects on Ohio.

As the only Member of Congress on the National Commission on Unemployment Compensation I am acutely aware of the unemployment consequences of a Chrysler failure. There will be $1.5 billion in unemployment insurance benefits paid in the first year alone. This would have a disastrous effect on the trust funds of various States. The Federal Government will be forced to pick up most of the tab for these benefits.

And there are other hidden costs of a Chrysler shutdown. A major Chrysler facility in my area is the Twinsburg Stamping Plant. It employs 3,600 workers. I was grateful to be able to tour this plant during our committee's deliberations on the Chrysler bill. I spoke to workers and management during my visit. I learned that this plant uses 263,000 tons of steel per year; 25 percent of this steel is purchased from plants in my own city of Cleveland and the other 75 percent from other areas of the country. What happens to Cleveland's and the Nation's steel industry if Chrysler closes its operations? The plant pays a $200,000 electric bill to Ohio Edison each month. What happens to the surplus generating capacity that residential electric consumers will have to pay for if Twinsburg closes?

I believe that there are hundreds, perhaps thousands of these hidden costs that are not taken into account even by the best studies that we have seen. The plain fact is that a Chrysler shutdown will have a disastrous effect on many parts of this Nation. This bill would demand great sacrifices from the participants and I support those sacrifices, but the important point is that this bill would aid Chrysler in preserving those

jobs, that so crucially affect all of us in Ohio and elsewhere in the Nation.

American jobs for Americans.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, every one of us here has a great deal of concern for inflation. Every one of us here has a great deal of concern for unemployment and concern for the problems that Chrysler faces today.

However, one of the characteristics of inflation is the problem with economic calculation; therefore, the margin of error for business management becomes very narrow. Chrysler has suffered from this consequence. Not only that, inflation, that is the creation of credit, is also by all evidence available to us today, the cause of the business cycle and therefore the cause of our unemployment.

For this reason, it seems rather silly for us to look at the problems of the past which were caused by inflation, the credit creation, and seeing the Chryslers before us and then coming before the American people and saying what we need to do is inflate a little bit more.

Claiming if we inflate a little bit more we will take care of the problem and it will go away is a false claim.

□ 1210

I beg to say this bailout legislation is not much different than making the drug addict feel good by giving the drug addict another fix. And as we give the economy another fix with another shot of credit creation, it will feel better for a while, Chrysler will do better maybe for a year, but the fundamentals will not change. The economic environment will not change. The Fords will continue to lose money and other businesses will be threatened.

The argument was proposed before us—before the Committee on Banking, Finance and Urban Affairs—that it will cost nothing. I heard it said frequently from our side, from conservatives who have advocated loan guarantees for various reasons, everything from education to small business loans, that guaranteed loans cost nothing because it does not require an authorization. The truth is we now have subsidized and guaranteed loans of over $400 billion. This is literally inflation and it is costing us plenty.

The cost is not only in the misallocation of capital; that is taking capital away from thriving businesses and giving it to others for noneconomic reasons, and instead giving it to them for political reasons, it is also costing us something in the sense of literally causing inflation. Some say we just guarantee loans and take money from somebody else and, as bad as that may be, there is an additional problem with this, because it does put the pressures on the money markets, and it does literally create new credit.

Not only would we create credit in the future with $1.5 billion of guarantees, but this has a ripple effect through the banking system and can multiply as much as six times. It could literally become $9 billion as it goes through the marketplace. Even if we have a tight monetary policy today, next year, if there is a recession, when the Fed opens up the money doors again, this could mean a lot more money rippling through the banking system.

When Alan Greenspan testified before our committee he addressed this problem. He did confess that maybe the $1 billion or $1.5 billion literally would not make a lot of difference. But the big difference is whether or not we endorse inflation, as a policy that is right and proper and economically sound versus the challenge to what we have been doing for the past 40 or 50 years. When we asked this question of Mr. Greenspan he said:

> Loan guarantees, insofar as the issue of inflation is concerned, are virtually indistinguishable from on-budget financing, and that the major cause of inflation in this country has been an excessive amount of credit preemption, largely in the area of guarantees, which . . . has created excessive monetary growth and is the base of inflation in the system.

Therefore, he does not accept the argument that we just take capital from one and give it to another, but it is a force behind the Federal Reserve system to create new credit. In this system where we allocate credit, where we guarantee loans, where we take the responsibility from the consumer—for all of us here, speak highly of the consumer and we want to do everything possible for the consumer. Yet here is literally an example of how we take the decisionmaking power from the consumer and put it in the hands of the politician and the bureaucrat. We are incapable of knowing the best place to invest money. Only the consumer can decide this by deciding which goods to buy and which goods not to buy.

But it is the consumer that should determine this, and it is the consumer alone who should determine success and failure in the business world.

However, the consumer today will be the victim, the small businessman dealer is going to be the victim, and the working man is going to be the victim of runaway Government intervention unless we change our ways.

The House Banking Committee spent a lot of time this fall considering loan guarantees for the Chrysler Corp. The company is in serious economic trouble because of Government regulations, bad management, and inflation.

The total cost of Government regulations is at least $100 billion a year, and probably much more. This money, spent in economically wasteful ways because of Federal fiat, lowers the standard of living of the average American by decreasing productivity and raising costs.

In the automobile industry's case, the burden has been an especially heavy one. Federal rules that are supposed to mandate safety, cleaner air, and fuel conservation add $700 to the cost of every new car. By 1985, regulations will add an additional $1,000, and if the Department of Transportation orders the dangerous air bag installed, another $600 will be piled on each car's cost.

Because it is smaller than GM or Ford, the research and development burden of complying with these regulations has fallen more heavily on Chrysler.

This burden, combined with a series of bad management decisions, has caused Chrysler's share of the domestic car market to decline from 16.2 percent in 1968 to 7.1 percent last year. For 1979, losses will exceed $1 billion.

The age of inflation encourages bad management, and at the same time shrinks the margin of error. Inflation causes malinvestment and malemployment. It undermines even the well-managed, well-capitalized economy. A shakier firm can get into very serious trouble easily, and Chrysler has.

In an attempt to overcome the bad effects of regulations, inflation, and bad management, Chrysler is asking Congress for $1.5 billion in Federal loan guarantees, and the administration is supporting the request.

If Chrysler were asking relief from regulations, its cause should be championed. If it were seeking to sue the political and bureaucratic scoundrels responsible for so many of the company's problems, it would have an excellent case.

But the firm demands more Government intervention in the economy to counteract the effects of the massive intervention we have now. It may work temporarily for Chrysler—but in the long run, for the company as well as the country, it is a very bad idea.

ECONOMICS

Technically, when the Federal Government guarantees payment of principal and interest on outside loans—whether for New York City, Lockheed, or Chrysler—it need not result in more inflation. Inflation is an increase in the money supply, and if the loan guarantees simply attracted capital from other areas of the economy, there would be no such increase—although the other effects would be very bad indeed.

But given the demands on the capital markets by the Government during 1980—probably over $60 billion plus productive private uses—it is highly unlikely that sufficient private capital will be left to fund the loans Chrysler wants. To fulfill this demand, then, the Federal Reserve will increase the money supply. Because of our fractional reserve banking system, this $1.5 billion will percolate throughout the banking system, possibly creating as much as $9 billion in new money.

The virtual certainty of more inflation makes nonsense of the claim that loan guarantees cost nothing. But there are additional bad effects.

MISALLOCATION OF CREDIT

By misdirecting credit, loan guarantees aid less productive enterprises at the expense of more efficient ones. The free market is a profit-and-loss system. If the threat of loss is removed, much of the incentive that makes the system operate is removed as well. It is just as important that firms which fail to serve the consumer go out of business, as it is that successful ones profit. This insures that investment capital and labor will be

available for new enterprises and for enlarging existing, efficient ones.

Whenever the Federal Government props up an inefficient company like Chrysler, it reduces the economic well being of the entire Nation.

In his testimony before the Banking Committee, where he praised Government regulations, Chrysler Chairman Lee Iacocca said the bailout would establish no precedent, since the Federal Government had already guaranteed over $400 billion in loans. Would another billion and a half make any difference?

Alan Greenspan used the correct analogy in answering that point. Will one more cigarette cause lung cancer in a heavy smoker? Probably not, but enough of them will. The Chrysler bailout would be one more cigarette for an economy already wheezing and coughing from Government control. Enough inflation and credit misallocation will cause a collapse. The heavy smoker must stop now. The Government must stop inflating now. It may already be too late. The more cigarettes we smoke, the more we will insure that it is.

CONSTITUTIONALITY

Not long ago an aide of mine was talking to his counterpart on the staff of a liberal Texas Congressman. "How does RON PAUL stand on (a particular giveaway program then being debated in the House)?" the liberal aide asked. "I imagine," said my assistant, "that Dr. PAUL would say he couldn't recall that function of government being mentioned in the Constitution."

"You mean he actually votes on that basis?" asked the stunned liberal.

Congressmen should take their oath to uphold the Constitution seriously, and nowhere in article I—where the powers of Congress are enumerated—is the authority to bail out large corporations mentioned.

WELFARE

The true beneficiaries of a Chrysler bailout would be the company's creditors and stockholders, as well as its highly paid executives and employees. The bankers and shareholders have been unwilling, not surprisingly, to extend more credit to Chrysler without a Federal guarantee. Employees have been unwilling to hold back on big wage boosts.

When a company gets in trouble, profits decline and so do dividends. Salaries and wages must decline as well, if the firm is to recover. A company cannot pay higher wages while earning less, or it ends up in the bankruptcy courts. This is where Chrysler is headed, of course. In today's inflationary climate, it may be enough for wages and salaries to be frozen, since this means a real reduction. When sales plummet, employees cannot get the giant raises the new Chrysler contract provides.

Every year 6 to 8 thousand businesses go bankrupt (not to mention the 180,000-plus individuals in the same category), but new businesses take their place.

Is it fair to exempt Chrysler from this process simply because it is so big, or to protect employees who earn so much more than the average industrial wage? The typical Chrysler production worker makes $30,000 a year in wages and benefits. Is it right to penalize the Texas union worker making a third that in order to subsidize the more well-to-do Michigan employee?

JOBS

No one wants to see anyone lose his job. But when the giant W. T. Grant Co. went under a few years ago, 70,000 people were thrown out of work. But this was not a permanent job loss. More productive stores hired some; others went into new kinds of work. It would not have made economic sense to have kept this failing firm in business. If we had today's Congress in Henry Ford's day, we would probably still have a host of buggy manufacturers in operation, all subsidized by the taxpayers.

Every job saved by a Chrysler bailout will cost at least one other job elsewhere in the economy, through misallocation of capital. Taking into account that the loans would otherwise go to efficient users of labor and capital, the loss might well be two jobs for every one "saved."

The Federal Government produces nothing. What it gives to an individual, a group, or a company, it must take by force or fraud from others, through taxation, inflation, or credit reallocation. Redistribution of wealth is not only economically counterproductive, it is also immoral, since it violates the natural law of property. Those who produce, the workers and the businessmen, have the right to determine how the fruits of that production should be used.

Wrote the great Ludwig von Mises:

> The source of capital that leads to genuine economic growth must itself be legitimate. Specifically, "expansion of credit cannot form a substitute for capital." The facile expansion of credit through governmental manipulation is spurious and deceptive; there is an illusion of increased wealth rather than the reality. Genuine capital, and thereby genuine economic growth, must come from bona fide savings....
>
> Capital is not a free gift from God or nature. It is the outcome of a prudent restriction of consumption on the part of man....
>
> The Santa Claus fables of the welfare school are characterized by their complete failure to grasp the problems of capital.

We can all sympathize with the plight of Chrysler, or any business or individual in trouble, but bailing out the company at the expense of the American people does not make economic, constitutional, or moral sense.

Under our legal system, all citizens are supposed to enjoy equal protection of the laws. The fact that many laws now in existence violate this principle, for Chrysler and most everyone else, is no justification for making the situation worse.

With the proposed bailout, Congress is acting to save its face, rather than acknowledging the bad laws it has enacted, with congressionally caused inflation, regulations, and taxation.

Until these problems are solved, we will continue to move closer to the failure of the entire economy, not just one big company.

Ford will lose a billion dollars in its North American division for 1979. GM dropped $300 million on its U.S. auto operations for the third quarter of this year alone.

How many more mistakes will be made before Congress recognizes its errors, and decides to legislate according to constitutional and free market principles? The free market is the only real solution to the problems faced by business, labor, and consumers.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the very distinguished chairman of the Committee on Banking, Finance and Urban Affairs the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, it is not an easy decision to come to in this melancholy matter before us. I have heard the two principal opponents of the legislation, our friend Judge KELLY of Florida, and RON PAUL of Texas. They make some valid points.

I fully support the bill. I particularly support the Moorhead-McKinney substitute, which has been explained.

But this is not the clearest case in the world. The arguments to the contrary that have been made have been thoughtful. But I come out clearly in favor of the legislation for the reason that we are now confronted with a situation which we should never have allowed to confront us.

Of all of the sad words of tongue and pen, the saddest of all is "It might have been."

Suppose in 1975 or 1976 the President of the United States had said now, Mr. MOORHEAD, Mr. MCKINNEY, you are a team, and you must go to Detroit and see what is happening in our automobile industry. Get yourself a board with a representative of labor, a representative of the automobile industry, and perhaps Father Hesburgh as chaplain, and go out there and tell the world what you see.

Well, we all know what they would have said. They would have said that OPEC has quintupled oil and gasoline prices, and we are in for a long, lean, twilight period ahead. They would have said if we go on as we have, we are going to be forfeiting our gas-efficient automobile industry to the Volkswagens, the Toyotas, the Datsuns, the Renaults, and the Fiats of the world. They would have said that if we let nature take its course, and let Detroit continue on its gas-guzzling, high-profit-per-unit ways, we are going to be in hock forever to whatever leaders may come out of the sands of the Middle East. They would have pointed out that high imports of oil and compact autos would shatter our balance of trade, weaken the dollar, and add to our inflation by increasing the real cost of all our imports.

Therefore, they would have suggested an action program to the President and the Congress, and to the private sector and labor, which would have used the velvet glove to get General Motors and Ford and Chrysler on a gas-conserving track—by tax credits, by labor guidance, by making financing available if it were needed. They would have also have had ready the mailed fist, if you want to call it that: If GM, Ford, and Chrysler had

not responded, an order for a million fuel-efficient cars could have been given to American Motors. Then we would not be in the position today of confronting the all-but-expiring body of Chrysler.

But what might have been, has not.

So today we are trying to fashion a bill which will concentrate and focus on energy savings. Let Chrysler's plants and Chrysler's workers be the subject of an overall plan, the kind of thing which for some reason we do not do in this country, by the Secretary of the Treasury, by the Secretary of Transportation, by the Secretary of Labor, by the Comptroller to make sure that it is efficient, and by the Federal Reserve to make sure that it is financially sound.

This is precisely what the Moorhead-McKinney substitute mandates. Let the Board put together a plan by Chrysler if it will, by whomever, if it will not, so that efficient plants, and the men and women who now work for Chrysler, and those associated with them, may produce useful, energy-saving equipment that the people of this country need and want.

We are confronted today by a stubborn fact. I hope that, after considering all of the issues, this body will overwhelmingly endorse the Moorhead-McKinney compromise which will come before us. I believe it is sound.

And thereafter, let us change our feckless, unseeing ways, so that we will be able to say "No more Chryslers."

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. BRODHEAD).

□ 1220

Mr. BRODHEAD. Mr. Chairman, there is abundant material available on the Moorhead-McKinney substitute, and I urge my colleagues to study it carefully. But, I think the real issue here is, are we going to turn our backs on 500,000 American workers? Are we going to turn our backs on one of America's great cities, for Detroit surely will be a ruined city if Chrysler Corp. fails? Are we going to turn our backs on the jobs that will be exported if the sales that will be made by the Chrysler Corp. are lost, because some portion of those sales will go overseas, and those jobs will go overseas?

So, look at it, weigh it carefully, but in the end I think Members are going to be faced with a tough decision: Can you turn your backs on 500,000 American workers?

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to associate my remarks with those of the gentleman in the well, our colleague from Michigan (Mr. BRODHEAD).

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. BRODHEAD).

Mr. PHILLIP BURTON. It may be regrettable from a number of points of view that we need this more overt Government intervention to deal with this terrible problem, but I fully share the concern of the gentleman in the well that the plight of the jobless workers, is one that we must deal with. The only remedy before us is the bill at hand, which I intend to support.

I very deeply regret that in the proposed configuration, the Chrysler workers are going to bear the most specific burden in rescuing Chrysler. I think that most inequitable. It may or may not be a prerequisite in getting congressional approval, and congressional approval is an imperative in this situation.

Mr. BRODHEAD. I thank the gentleman for his remarks, and I urge my colleagues to put aside outmoded 19th century concepts and look at the pragmatic facts of the situation, as my colleague from Pennsylvania (Mr. MOORHEAD) stated in his remarks, and be fair and compassionate and reasonable. If we do that, I am confident Members will support this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. ASHLEY), a member of the committee.

Mr. ASHLEY. Mr. Chairman, at the outset I want to say how impressed I have been by the job done by Chairman MOORHEAD, JIM BLANCHARD, STEWART MCKINNEY on the minority side, as well as, of course, BILL STANTON. There have been differences, and significant differences, as well there should have been, considering the fundamental importance of the issues surrounding this legislation. But I take pride in the legislation process from which the bill before us evolved.

During the hearings of the subcommittee chaired by BILL MOORHEAD, the focus was on discussions of policy issues, the key ones, in my opinion, being Chrysler's financial condition, the reasons for the company's financial condition. the inevitability of a bankruptcy without Federal support, and the effect that a bankruptcy of this size would have on the economy.

Initially, it is a fact that bankruptcy is all but a certainty for Chrysler without Federal support. We have confirmed that. We do not know whether it would occur at chapter 7 or chapter 11 of the Chrysler story, but we know that without Federal support bankruptcy is a certainty.

A second important and very practical issue the subcommittee focused on was the certain costs the Federal Government would incur as a result of a Chrysler bankruptcy versus the costs of Federal assistance through credit guarantees.

The effect of a Chrysler shutdown would cost the Federal Government in the next 2 years alone an additional $2.5 billion in unemployment benefits, Federal transfer payments, and reduced revenues.

An additional $1 billion in liability to cover insured Chrysler pension plans would have to be funded either from the general revenues or by a threefold increase in pension plan insurance premiums at a cost to other employers. Furthermore, a Chrysler bankruptcy would result in a loss of over $500 million in Federal, State, and local income tax revenues and of more than $140 million in corporate taxes to State and local governments.

When we weigh the costs of a Chrysler bankruptcy to the American taxpayer—a certain $3 to $4 billion—with the uncertain costs—the possible, contingent liability to the Federal Government if Chrysler goes under even with Federal support—it becomes clear to me from a pragmatic standpoint that the risk of providing assistance to the company is eminently worth taking.

Finally, there are macro- and microeconomic impacts of a Chrysler failure that suggest very strongly that this is not just simply another bankruptcy situation. When we consider the fact that last year the Chrysler Corp. paid over $4 billion in wages and salaries to its employees, an additional $6 billion to its suppliers, and that it employs directly and indirectly between 100,000 and 200,000 factory workers, it is clear that a collapse of the company would have repercussions on the entire U.S. economy and would exacerbate the effects of a recession.

Before we turn our backs on Chrysler, let us keep in mind that a Chrysler failure would result in a reduction of GNP of $4 billion in 1980 and $6 billion in 1981; a $1.5 billion increase in our foreign trade deficit; a reduction in competition among U.S. automakers, removal of 300,000 small cars from the American production base by 1981, and a marked increase in auto market shares of foreign producers; and a loss of 38,000 minority jobs located in areas with limited prospects for reemployment.

Certainly the consequences for our already overburdened economy justify our writing what can only be considered a special bankruptcy act for this very special situation. In the final analysis, that is what we are doing. But, I think that the circumstances warrant this action because, if Chrysler is obliged to go into bankruptcy—which it will without this assistance, we can be sure that the Bankruptcy Act that is on the statute books now will not save the situation.

Mr. STANTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I rise in support of legislation to aid the employees of Chrysler and our Nation's economy.

We will hear a great deal in this debate about loan guarantees, about market shares, about economic concessions, and other terminology that in the final analysis means little to the person on the street.

But we are not talking in this bill about esoteric economic slogans. We are talking about people, and what will happen to hundreds of thousands of people in this country if we let Chrysler miss the chance to again become successful.

I sat through the lengthy hearings which the Banking Committee held on

this very complex matter, and I have learned something about the grim facts in the event of a Chrysler collapse.

For instance, unemployment in this country would probably increase by some 500,000 people in 1980 if Chrysler failed. Federal tax revenues would be reduced by at least $4.5 billion, not to mention the enormous losses which would be sustained by State and local governments. Expenditures for unemployment compensation, welfare, and food stamps would rise by $1 billion.

The Federal Governments would, in the event of a Chrysler collapse, have to contribute almost $1 billion to cover pension shortfalls.

Our balance-of-payments deficit would increase by $2 billion as foreign imports penetrated Chrysler's share of the market.

The negative economic impact on just my State of Delaware would be almost a billion dollars, or about two-thirds greater than my State's budget for the entire year.

In short, I think it is clear that the risks involved in any loan guarantee would pale in comparison to the tremendous costs to Federal, State and local governments if Chrysler were to go under. And in view of the fact that the Federal Government with its excessive regulations has contributed significantly to Chrysler's problems the Federal Government must shoulder some of the responsible for solving these problems.

For instance, Chrysler estimates that research, development and retooling costs needed to meet Federal safety, pollution and fuel-efficiency standards will cost the U.S. auto industry $80 billion over the next 7 years. And since Chrysler is the smallest of the Big Three, their per unit costs of compliance are greatest, some $620 per car as compared to General Motors' figure of $340 per car. This obviously impacts greatly on Chrysler's ability to compete in the marketplace, and further centralizes economic power in this country.

Mr. Chairman, I very much believe that unless Congress moves immediately to reduce the regulatory burden on businesses and consumers in this country, then we are going to have more and more Chryslers on our hands in the future. Ford will lose a billion dollars, I am told, on its North American automobile operations in both 1979 and 1980. General Motors lost an estimated $300 million on their U.S. auto operations in the July–September quarter alone. I have been highly critical of past Chrysler management for being out of touch with both the marketplace and their own work force, but something else also must be wrong with the American automobile industry. All three auto giants cannot have bad managers.

I hope that the House will pass this legislation so that desperately needed help can be provided. But I also hope that this measure will mark the beginning of a serious effort by the Congress to rid this country of unnecessary, unwise, and costly regulations which are strangling the productivity of everything from a mom and pop grocery store to the biggest corporation and in the process costing the American consumer billions in higher prices.

My colleagues, you are going to hear a lot of economic rhetoric from the opponents of this bill.

First, you are going to hear that we are setting a bad precedent. The plain and simple truth is that no precedent, good or bad, is being established because we in the Congress have for years provided the same kind of aid to businesses of all shapes and sizes. At the present time, according to fiscal year 1980 budget figures, there is an estimated $552 billion worth of Federal lending outstanding, including direct loans by the Federal Government, loan guarantees, and loans by Government-sponsored enterprises like the TVA. In addition to Lockheed and New York City which readily come to mind, we have guaranteed $1.4 billion worth of loans for the building of two nuclear reactors by Westinghouse in South Korea.

We have given five steel companies loan guarantees for $365 million. The list goes on and on. There simply is no precedent involved with this legislation. Whatever precedent involved was established long ago before most of us ever got to this Chamber.

Second, you are going to hear that Chrysler is not doing enough. What more do you want them to do and still have a chance of survival? They have sold assets; the union under the compromise will have to make $400 million worth of concessions; the loan guarantee will not be exercised unless Chrysler can find $1.4 billion worth of financing on its own without any Government help. The idea of this legislation is to give Chrysler a reasonable chance to succeed. If you bleed them to death, then some political consciences might feel better, but Chrysler's chances of success will probably go right down the drain.

You are going to hear that the loan is too risky. Yes, there is some risk involved. To me, after listening to the days of hearings which the Banking Committee held, those risks are acceptable. Before we are through with the bill, the taxpayer will be in a priority position if Chrysler folds. More importantly, however, the risks to our country's fragile economy if we do not give aid make any risks associated with this legislation pale by comparison.

Finally, you are going to hear that everything will be all right if we let Chrysler quietly slip into bankruptcy. This, my friends, is the most fallacious argument of all. If Chrysler filed for bankruptcy, any chance of success would be eliminated.

After all, would you buy a car from a company that was bankrupt? I do not think many would. Consumers have no idea if their warranties would be honored. They would worry about future servicing, about the availability of spare parts, and about the value of their cars once they decided to trade them in. Chrysler suppliers would demand cash on the barrelhead. New car sales would simply die.

Mr. Chairman, there is no easy or simple solution to this enormously complex issue. Chrysler must shoulder much of the blame for their own failings. But if we allow Chrysler to collapse, the economic waves it sets off will not be limited just to Chrysler management or its shareholders, or its workers. The tidal wave it sets off will engulf our entire economy and hundreds of thousands of people. The question before this House today should not be "Can we afford aid?" Rather, the question is "Can we afford not to give aid?"

I urge adoption of the loan guarantee package.

□ 1230

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. VENTO), a member of the committee.

Mr. VENTO. Mr. Chairman, I rise in support of the substitute as has been proposed and is in the CONGRESSIONAL RECORD of December 12. I want to pay special credit to the gentleman from Pennsylvania (Mr. MOORHEAD), the gentleman from Michigan (Mr. BLANCHARD), and the gentleman from Connecticut (Mr. MCKINNEY) for their work on this subject. I followed it through the entire process as a member of the subcommittee and the full committee and am pleased to note the amendments and changes that we were able to achieve. As we have become more definitive with regard to the specifics of the legislation, we have answered a lot of the criticism against it.

I might say that the free enterprise system has not really been the same since it left the pen of Adam Smith, and further that the Chrysler Corp., the 10th largest corporation in this country at the bottom line is really worth saving. That system, for all its failings, has provided our society with great benefits, with employment, with products that are useful in our communities. We are going to do a lot of reflection on what is in reality the genesis of the Chrysler Corp.'s present situation.

Let us briefly outline some factors and evaluate them as to their relative importance. There are taxes, there is regulation, and surely there are many factors that contribute to it, but none probably is more important than the unstable supply of oil and the supply of gasoline. Maybe the lack of regulation, maybe the lack of rationing, maybe the lack of rational energy policy in light of the type of cost increases that we face from both OPEC and multinational oil companies really are at the base of the problem. Incidentally, that is what the committee testimony supports.

If in 1973 and again in 1979 our action is only to accommodate those particular types of increases, then I think that we had better prepare ourselves for many changes in the type of society in which we will live in the future, both in terms of the financial institutions and in terms of corporations that try to exist in this particular free enterprise environment. Make no mistake about it, we face a very significant reshuffling of the economic

values in this world under those circumstances and Chrysler's trouble is but a single important manifestation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. EVANS), a member of the committee.

Mr. EVANS of Indiana. Mr. Chairman, without early Federal assistance in the form of loan guarantees, Chrysler faces bankruptcy and probably liquidation. The immediate job loss—counting the company itself, its dealers and its suppliers—would be in excess of 300,000. For various reasons, including location of the workers, Ford and General Motors could at best pick up only a very small portion of these workers. The impact would be heaviest in Detroit and the State of Michigan, but six other States have significant Chrysler facilities, and dealers and suppliers are located in every State. The Treasury's conservative estimate of the direct impact on the Federal budget would be an increase in the deficit by $2.75 billion in calendar years 1980 and 1981 combined, because of both higher outlays and reduced revenues.

With Federal assistance, Chrysler can again become a viable, profitable company. This cannot be guaranteed, of course, particularly if there is a prolonged slump in the automobile market as a whole. But projections by the Treasury and by Booz, Allen & Hamilton show that with a reasonable market share—less than the company itself projects—the company can keep going and return to profitability over the next 4 years. It is completely transforming its product line and will have capacity by next autumn for 1 million small cars annually.

The Chrysler capacity is valuable to the Nation because Ford and GM are selling all the small cars they can make and will not be able to meet this demand for the next several years.

The legislation approved by the Banking Committee authorizes $1.5 billion of Federal loan guarantees. No guarantees can be issued until a package of $1.5 billion additional resources for the company is mobilized, chiefly from those with an economic interest in the health of the corporation including lenders, dealers, suppliers, employees, stockholders, and State and local governments. The $3 billion total resources is enough to meet the company's cash needs through 1983, when it should again be profitable with its new line of cars and trucks.

Chrysler is not a precedent for general Federal aid to industry in general or even to large businesses. The situation is as unusual as Lockheed was, and is being handled on a one-time, pragmatic basis. The automobile industry is a special victim of the energy problem and is the only major industry having to completely remake its product line at enormous capital cost ($80 billion for the industry as a whole). The industry's problem has been worsened by a sudden slump in sales this year, also energy-related, which is the immediate cause of the crisis for Chrysler.

Bankruptcy is not a solution for Chrysler because of its probable impact on consumer confidence. An automobile is not like any other consumer product; there must be assurance not only of service and warranty protection but also of resale or trade-in value. The testimony indicated that bankruptcy for Chrysler would probably be followed by a sharp loss of sales and early liquidation of the company.

If Chrysler returns to profitability, which is a reasonable prospect, the loans will be repaid and there will be no cost to the taxpayer. The Lockheed legislation produced a profit of $30 million for the Treasury from loan guarantee fees.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, we are talking about a $1.5 billion loan guarantee to Chrysler. It will not be lost unless there is a failure of Chrysler, the 10th largest corporation in the Nation. It is my belief that this corporation, with the substitute now offered with the help of our colleague, the gentleman from Michigan (Mr. BLANCHARD), and the other members of the Committee on Banking, Finance and Urban Affairs, can succeed. We really have no alternative unless we are going to throw out thousands of people into a job market which cannot absorb them and let hundreds of local communities, in which Chrysler operates, also go under. I am convinced that with the new management, with labor cooperation, with cooperation from Congress and with the growing support across the country, Chrysler can succeed. We simply cannot afford to abandon the immense reservoir of skills and the productive know-how that Chrysler represents. I ask the Members to support this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. I thank the Chairman, the gentleman from Pennsylvania (Mr. MOORHEAD), for yielding time to me.

Mr. Chairman, the debate that is now in process in this body begins, I think, one of the most important debates that this Congress will have to face in the coming decade, and that is the industrialization of America. At this very moment the Committee on Public Works and Transportation and members of the Committee on Banking, Finance and Urban Affairs are meeting in conference with Members of the Senate to discuss the EDA bill, which in itself contains millions of dollars in Federal loan guarantees.

My friend, the gentleman from Minnesota (Mr. VENTO), indicated that the free enterprise system has not been the same since it left the pen of Adam Smith. I would suggest that I would go a step further and suggest that it was not even in the pen of Adam Smith. The system known as the free enterprise system in this country died to a considerable extent 50 years ago on Black Tuesday, and the Reconstruction Finance Corporation that was established as a result of that demise, I think, indicates that Federal financing can be important and helpful in reconstructing this industrial society.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I rise today to add my voice to the call for a reasonable and responsible approach to the financial crisis of the Chrysler Corp.

This is hardly the first piece of legislation in the 96th Congress on which we have spent our time chasing ghosts and bogeymen. Yet the spectres raised by the opponents of loan guarantees to Chrysler are particularly disturbing, because in their emotional allegations of a Federal bailout, of expensive subsidies and dangerous precedents, we run the risk of turning our backs on the real issues and alternatives of the Chrysler situation.

Take a moment to consider the bogeyman of a Federal bailout for Chrysler. The opponents of this legislation would have us believe that aid to Chrysler is an extremely expensive proposition, even though we are debating $1.5 billion in loan guarantees, payable only if the company defaults, rather than direct loans from the Federal Treasury.

Even more importantly, though, the opponents of this legislation certainly do not tell us about the hidden costs of refusing aid to Chrysler, about the ways in which we will be paying a much larger bill later if we fail to approve this limited aid now. And the projections on the costs of defeating this legislation are extremely sobering.

Just take a brief look at the impact of a Chrysler bankruptcy. The Treasury Department predicts that higher expenditures and reduced revenues from a Chrysler failure would add a whopping $2.75 billion to the Federal deficit during 1980 and 1981. State and local governments would lose over $250 million in tax revenues, and the cost of pension guarantees and unemployment benefits would jump a shocking $3 billion. The impact of bankruptcy would be felt far beyond Detroit or Michigan with as much as one-half percent added to the national unemployment rate and as much as $3 billion added to our trade deficit; $3.6 billion would be lost in wages and salaries to working men and women across the Nation, with minorities and low-income families bearing the greatest portion of that burden.

These figures on the scope of Chrysler's impact are overwhelming on a national scale, but certainly no less sobering when viewed from a local perspective. In my home district in Connecticut, 68 companies do over $30 million of business annually with Chrysler, and may have to lay off as many as 1,000 employees in the event of a Chrysler bank-

ruptcy. These costs will be deeply felt, even without a single Chrysler plant in the district, and they will be duplicated in every district and every corner of the Nation.

Mr. Chairman, the opponents of this bill mislead us when they argue against this legislation, for we will pay more dearly later if we defeat this legislation now. They also deceive us when they raise the spectre of dangerous precedents for Federal intervention at a time when we currently have over $400 billion loan guarantees to business in all sectors of the economy outstanding. There is no question that the Federal Government cannot, and should not, offer aid to all companies in difficult financial straits, but we must examine the Chrysler case on its own merits.

We can hardly afford to go off tilting windmills in the Chrysler issue, especially in these difficult times. To those who would have you vote "no" on the Chrysler legislation, ask them how they would replace the tax revenues we will lose. Ask them how we will pay for the benefits and the services Chrysler's employees will require. Ask them how we will repair the damage to an already faltering economy. And then, when you have found no answers, I urge you to vote in favor of this important legislation.

Mr. STANTON. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. BETHUNE), a member of the committee.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding. I just want to take 10 seconds to say that there are a lot of compromises and substitutes floating around, and I intend to offer a substitute which will be a compromise between the Moorhead and McKinney substitute and the language adopted by the Committee on Banking, Finance and Urban Affairs.

Mr. Chairman, being a Member from the State of Indiana, I have watched the progress of the Chrysler legislation with great interest.

It is apparent to me that the House and Senate are moving toward a consensus concerning this legislation.

The Senate Banking Committee has reported out a bill authored by Senators LUGAR and TSONGAS. The House reported out the Carter proposal. As I understand it now there will be a substitute offered by Congressmen MOORHEAD and MCKINNEY which is a much improved version of the House Banking Committee proposal and indeed encouraging.

Also, the Lugar-Tsongas bill is being modified to exclude the wage freeze.

My purpose today is simply to state my intention to introduce a substitute to the Chrysler bill on Tuesday which will be a modification of the Senate Banking Committee proposal. My substitute will not have a wage freeze but will require an aggregate savings for both management and salaried personnel.

This substitute will offer the Members of this House the opportunity to express their support on what the final ingredients of this important legislation should be.

I will be furnishing Members with a copy of the proposal and supportive information as to reasons why you should support the Quayle substitute rather than the Moorhead-Blanchard substitute.

Mr. BETHUNE. Mr. Chairman, it is very difficult to debate a bill when we do not know exactly what the bill will look like. I am somewhat inhibited but, nevertheless, I want to make a general point or two. I have done some research on this as a member of the committee, and part of my research took me to a catalog of Federal loan guarantee programs which was compiled by the very committee that brings this bill to the floor.

□ 1240

That catalog was prepared in 1977, 2 full years ago. The essence of the study done by the Subcommittee on Economic Stabilization indicates a concern that this Nation is catching the British disease. I would just like to comment on the report and read a few lines from it.

On the first page of the report it says:

> The importance and rapid growth of Federal loan guarantee programs confront the Congress and the Federal executive with 3 major problems. These are:
>
> (1) Most programs are off-budget.
>
> (2) The subsidy embodied in such programs is not explicitly identified.
>
> (3) The economic impacts of the programs are not well defined.

Yet Congress has done nothing to check the phenomenal growth in loan guarantees. The catalog identifies 164 programs, but adds the caveat that, "because of the lack of centralized information, it is probable that these listings are not complete."

Even more startling is the changing nature of loan guarantees where, over time, the Government has assumed greater and greater amounts of risk.

Loan guarantee programs first came into use during the Depression to help families purchase their own homes by giving the banking community the certainty it needed to finance home loans. These loans can be characterized, for the most part, as actuarially sound programs providing relatively small loans to a large number of individuals. The risks are pooled over a large number of loans. Examples of these programs are FHA-insured loans and VA-guaranteed loans.

The second type of loan program evolved from the first, and was directed to mariginal, small borrowers such as students and low-income families seeking a home. These borrowers pose a greater than normal probablity of default or a lack of acceptable collateral. Although this type of program is similar to the first—in that the risks of individual loans are pooled across a large number of loans—the Government bears a portion of the risk.

Most recently, a third class of loan guarantee programs has emerged. This type is made to a large single borrower, or a small group of borrowers running common risks. Examples are Lockheed Corp., New York City, and the plan under consideration today for Chrysler. In this type of program, the risk is borne by the Federal Government and cannot be pooled across different borrowers.

This, the riskiest type of loan guarantees has grown quickly during the last decade. In 1960, there were only $79,000 in outstanding, single-venture loan guarantees. At the end of fiscal year 1976, $3.1 billion were outstanding—almost a 40 thousand-fold increase over the period. Today, there are about $4.85 billion outstanding—where the risk of default cannot be spread among borrowers. Because the size of each loan is large, any default can have a serious budgetary consequence.

Mr. Chairman, on the second page of the catalog it says, "The principal economic objective of loan guarantees is to redirect capital resources." That brings up a second and related issue, that of identifying the economic impact of particular loan guarantee programs.

It says that, "although we can presume from economic theory what the impact of a program might be, it is difficult if not impossible to quantify the impact of any one guarantee program."

I submit that it is difficult to fashion even theoretical knowledge about the impact of a single program. According to the Congressional Budget Office, the Federal Government has no idea how many loans are in default right now. Further, there are no controls to determine whether an outstanding loan guarantee is nearing default.

So, contrary to all of the rhetoric that has been heard here on the floor, no one knows what this program is going to do. They cannot know because we do not know the extent or nature of loan guarantees that have been made previously by the Congress.

Then when we got down to the fine point in the study it said the issue is this:

> As the importance of guarantee programs continues to grow, it will become increasingly imperative for the Congress to establish control over these programs.

Mr. Chairman, it was 2 years ago that the study was done and these issues were raised. Nothing has been done since that time. Not only have we done nothing to get control over loan guarantee programs generally; but here we are today debating a loan guarantee bill and we know not the terms or provisions of the bill. I think it is absolutely a comical circumstance; but I don't think the people will think it is funny when they realize what the Congress has done.

Mr. Chairman, it seems to me clear that we have the cart before the horse here in this Congress and as usual we are yielding to the short-term political pressures.

I started at the beginning by saying we are catching the British disease. The British disease is not an economic malady. The British disease is yielding to short-term economic and political pres-

sures rather than being concerned about the long-term interest of the country.

I would like to submit that we have no bill here because this is a bad proposition. We are entering into an area where we should not be and that is the reason we are having so much trouble drawing a bill. We are trying to take something that we should not even be doing and make legislation out of it.

In Arkansas we call this a sow's ear and you cannot make a silk purse out of a sow's ear. We can go through the amendment process as much as we want next week and we still come up with a sow's ear.

I yield back the balance of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 30 seconds to the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, while we are dealing with the specifics of the serious problem faced by the Chrysler Corp. and in turn by the country at large, it seems significant that we have never had a national policy for dealing with the kind of serious threat to our economy that a Chrysler bankruptcy would present.

We presently have approximately 5 million workers displaced in our economy, an economy faced by continuing problems of recession and inflation. What we are dealing with in the Chrysler situation is the unacceptable prospect of adding some 500,000 workers to this displacement. It is little known that among these 500,000 workers are the largest percentage of blacks and minorities employed in the automobile industry, being paid at a level substantially above the general scale of wages presently paid in the industry.

A national policy is necessary for dealing with situations which have devastating effects not only upon the workers but upon the hundreds of thousands of people who would be affected, families, small businesses, suppliers of goods and services, plus a tax loss of some $500 million dollars per year, including interest.

A national policy would first attempt to identify serious financial displacement in key industries and then develop a formula for the Government to help attack such problems. However, what we are dealing with in the Chrysler situation is one of two alternatives; if Chrysler goes down the drain, reorganization is not possible and nothing can be recovered. The loss of our economy and in human dimensions would be incalculable. As we are a free enterprise nation we must realize that all of our institutions including government are involved in a potential disaster such as this.

About 25 percent of all new car sales in this country now go to foreign made automobiles. Chrysler is producing outstanding fuel efficient cars. It is clear to me that on a competitive basis, with the help Chrysler is presently seeking, the corporation can survive its current crisis. A national policy for grappling with problems in free enterprise today with such potential destructive effects, would enable the Government and industry, in partnership, to anticipate rather than react. A national policy would apply equally to other industries in similar straits rather than on a piecemeal ad hoc basis as we have dealt with Lockheed, Boeing and others and now are dealing with Chrysler. A part of Chrysler's entire production line, to the tune of $600 million annually, is in the production of tanks for our Army. Those who oppose the relief sought by Chrysler have not put forward suggestions for replacing such an enormous loss to our Armed Forces.

I am a firm believer in the free enterprise system, and the creation of a national policy, including the possibility of a Federal corporation designed to deal with such problems.

In the meantime, failure to come to Chrysler's aid at this time will have a ripple effect upon the recession and will push inflation even higher while we attempt to grapple with the hundreds of thousands of people who would be affected by Chrysler's bankruptcy. This loss in human dimensions cannot be measured. What would we have to do to try to reestablish these lives? How much time would it take? How many millions would it cost? We must deal with these questions here and now. Time is of the essence. We must face up to our responsibilities and prevent the human, economic, and social disaster that a Chrysler bankruptcy would present.

I urge, therefore, support of the compromise proposal before us.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, like so many complex 20th-century issues, our vote on loan guarantees to the Chrysler Corp. involves conflicting interests and instincts, including the humanitarian, political, economic, and philosophical.

The human impact is deeply troubling. It is nationwide and hits my own State with devastating force. If Chrysler goes out of existence, 9,223 Missourians will be directly affected. In fact, Chrysler and its representatives estimate that the job loss will be greater in my district than any other Missouri congressional district. Nearly 3,000 people in my district are directly involved in automobile assembly work. In that district, I have stood for election 28 times—most of the time with opposition; and I am sure my colleagues who have also been processed by our electoral machinery are well aware of the political concerns I have over this issue.

After a great deal of reflection, however, I feel I must go to my constituents, Chrysler employees or not, and tell them that what is attractive politically and economically right now could hurt them more in the future. Even though my district will be deeply affected, I cannot and will not trade important economic principles for political expediency. I voted against Lockheed, which was not in my district, and now I shall vote against Chrysler, which is. It is well past time that this Government put every company and corporation, large and small, on notice that they are to look after themselves.

The Congress is about to render a verdict on Chrysler, but only because it is ignoring the verdict long since made: The public and the marketplace have found Chrysler wanting. The public has judged Chrysler products uncompetitive and uneconomic.

Why, then, should the Government subsidize the production of goods that the public has already rejected? Why should the Government, in effect, punish efficient companies by rewarding an inefficient one?

The quintessential purpose of the marketplace is to reward and preserve those companies and businesses that do things best. To subsidize poor management and uncompetitive practices is to turn the logic of the marketplace upside down.

Mr. Chairman, I am well aware that a good deal of sentimental nonsense is said and written about the free enterprise system. Ours is very much a mixed economy and some Government intervention is here to stay. But the capitalist structure remains the foundation of our economy and that foundation will collapse if the Government liquidates the risk and potential for failure, which are as integral to that foundation as the potential for success. Remove the threat of failure and you rob management of its incentive to eliminate waste, boost productivity, cut costs and come up with new ideas and products.

There is growing and justified concern about declining American productivity, the linchpin of our economic troubles. Yet, here this Congress sits, about to reward the kinds of practices that have led this Nation to poor productivity and a lack of competitiveness. It is an absurdity.

In the temptation to bail out Chrysler. I see the growing tendency in this country to try to avoid risk and its consequences. Have we become so unrealistic that we cannot face the rational threat of failure in the marketplace? Where is it law that all must succeed and none fail? That all must be rewarded, regardless of performance?

No economy can remain static. All companies cannot last forever. Economic needs and forces change and flow in new directions. We must change with them—society must adapt or be consigned to historys trash bin. These are commonplace truths and observations, but it is a measure of our headlong flight from reality that we must remind ourselves of them. If Government subsidizes what is moribund, it betrays the past and forfeits the future.

And just what criteria are being used to judge Chrysler's worthiness to be moved to the head of the lending line. Its size? What dimensions are we using to measure it? Its number of employees? Is the Government to bail out only companies with 300,000 employees or more? 200,000 employees? Or 150,000? 1,000? 500? Just how are we determining eligi-

bility for a bailout? I have seen no bill of particulars setting forth how we are to decide if a company is eligible. What is the Congress going to do if companies without number stampede the Government for protection against the vagaries of the marketplace? Where is the cut off point going to be and who is going to decide? These questions should be answered before any loan guarantees are approved, not after.

Furthermore, we are tricking ourselves rather extravagantly with the deception that a loan guarantee does not involve spending any money. This is delusion. Loan guarantees fuel the fires of inflation.

If we guarantee a loan to the Chrysler Corp., we are helping a borrower who is less creditworthy move to the front of the lending line, displacing more worthy prospective borrowers toward the back. Government loan guarantees distort and warp the credit relationships among potential borrowers. Loan guarantees are not free. Alan Greenspan, the respected Ford administration economic adviser, recently told a congressional subcommittee that with respect to inflation, loan guarantees "are virtually indistinguishable from on-budget financing" He said:

A major cause of inflation in this country has been an excessive amount of credit preemption, largely in the area of guarantees, which, because it has crowded out a substantial part of private borrowers and led them to the banks to get additional financing, has created excessive monetary growth and is the base of inflation in the system.

Greenspan predicted flatly that we will have a very difficult time arresting the inflation tearing at our economy unless we get rid of this kind of financing. Greenspan readily acknowledges that, in the amount of dollars, the proposed Chrysler loan guarantee is of minor consequence. But, he asks:

Where are we going from here? . . . we've got to stop solving our problems by federal guarantees. . . . whether it's a billion and a half or somewhat more, it is still small relative to the aggregate amount of credit that is created by the federal government. But this is an area which is relatively new and I find it very difficult to figure out where in the world you draw the line. If you give guarantees to a failing large corporation, on what justification does not one give guarantees to virtually every other corporation in the country?

At the end of 1978, Government loan guarantees totaled $254 billion, Federal loan guarantees have doubled since 1970 and they have multiplied six times since 1950. The Government is guaranteeing all kinds of loans and they have become a grand hodgepodge. The loans do not show up in agency budgets and they generally are not subject to congressional scrutiny on a periodic basis. How, then, are they to be controlled as part of the overall Federal budget process set forth in 1974?

Let me refer again to Mr. Greenspan's perceptive testimony. He not only warned of the inflationary damage brought on by the pressures on American capital markets by loan guarantees; he also cautioned that—

We will be confronted with chronic unemployment at perhaps much higher levels than we're looking at today; and that the instability in the economy which can be created by credit inflation is very broad and very prolonged.

Mr. Chairman this is what I feel compelled to tell the Chrysler employees in my district: That the unemployment and inflationary risks they are running and experiencing now are small, compared to what they will be facing in this country in the future, if this Government does not begin practicing serious economic and financial restraint. We are going to pay a price in this country for the past 30 years of excessive spending and declining productivity. The costs are inevitable; the only question is when we pay. And the longer we procrastinate, the more it's going to hurt. The headlong rush to bail out Chrysler is only one more effort to escape paying our dues.

There are those who argue, quite persuasively, that if Congress does not come through with a loan guarantee for Chrysler and the company collapses, the government will foot immense bills in unemployment compensation, pension benefits, and the like. To that argument I reply: Propping up inefficient operations and distorting our economy are even more costly to the welfare of our people. Why? Because our standard of living reflects how productive we are and how wise we are in our investments. The efficiency of our economy will determine the welfare of our people. Nothing could be more destructive of that welfare than for the Government to undermine the economy by subsidizing unproductive operations.

Am I really saving my constituents' jobs if I vote for a Chrysler loan guarantee, or am I simply postponing the inevitable collapse? Is it not more realistic and compassionate for me to prepare Chrysler employees now for a different future with a different company? Why prolong the agony? Why encourage them to think that this Government can continue indefinitely spending policies that threaten us with economic ruin?

Mr. Chairman, I say all this, fully aware that Chrysler has just cause for complaint for the way Government has imposed its regulatory burdens these last 10 years. It is true that Chrysler has suffered disproportionately from regulatory costs, relative to GM and Ford. Beyond that, Government regulation has ineluctably driven all three major automakers toward more uniform products, to cut costs. This has doubly hurt Chrysler, because its share of the market was relatively small to begin with, necessitating its reliance on model variety and diversity. Government regulation has made Chrysler's dependence on the specialized vehicle market uneconomic. The heavy impact of mistaken and misguided governmental regulations, which I have consistently voted against, has made it especially difficult for me to make my decision on the Chrysler loan guarantees. Governmental actions, I believe, have made it extremely difficult for the U.S. automotive industry to compete successfully with its foreign competitors. Indeed, I believe a good case can be made that the Federal Government is greatly responsible for the relative decline in the quality of U.S. made automobiles in recent years.

Still, even though Chrysler has been victimized by poor Government thinking, that has not been the singular or overriding cause of its decline. Poor management and a lack of foresight have figured prominently in its recessional.

The taxpayers have no ethical, economic, legal, or social obligation to insulate Chrysler from the normal interplay of market forces. Chrysler took its chances in the marketplace like everyone else and it lost. Congress should not conspire to overturn that outcome.

To do so is to thwart the economic laws and imperatives that once made the American economy the strongest and most productive in human history—because this society obeyed those laws and imperatives. If, by the 21st century, the American economy is to be restored to its former health and vigor, we must cleave again to fundamental capitalist principles. To do otherwise is folly.

Mr. CONABLE. Mr. Chairman, like everyone else in this room. I would like to be able to help Chrysler, its subcontractors, and its distribution system, survive. There is reason for this desire in the extent to which the Government, in myriad direct and indirect ways, has itself contributed to Chrysler's difficulties.

But I have two concerns which to date have not been adequately addressed for me to feel I can support this bill. The first is doubt that Chrysler can survive even with the Government guarantee of $1.5 billion in loans. How can we expect this company to recapture its lost share of the domestic auto market from the present domestic competitiveness and the imports after adding $3 billion of debt service, at current interest rates, to its competitive burdens? If we are only taking money from the taxpayers to prolong the agony, what appears at first glance to be a human gesture becomes a wasteful and inhumane charade.

The second concern involves the UAW wage settlement, costing the company $1.3 billion over the next 3 years. This almost equals the amount of the Government guarantee. Chrysler workers are not underpaid by the standards of the average American taxpayer, and since they have the greatest stake in survival of the company, it is not unreasonable to expect some sacrifice on their part as a condition of requiring sacrifice from the taxpayers.

I hope these doubts can be resolved, so that I can support this bill. Otherwise, I must oppose it.

Mr. STANTON. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, this is a bill none of us like because it is a situation none of us like. However, doctrinarianism in the pursuit of truth is just as great a threat to the Ameri-

can economy today as overregulation and overtaxation.

Mr. Chairman, the key issue in murkey problems such as posed by Chrysler is to assure that the United States taxpayers rather than the corporate stockholders are protected. The committee bill in my judgment did not meet this test. Therefore, I felt compelled to vote against it during deliberations of the Committee on Banking, Finance and Urban Affairs. However, with the acceptance by the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Michigan (Mr. BLANCHARD) of my amendment in presenting their substitute, to give the taxpayers first protection in the event of default. I believe this measure should now be supported.

Obviously, giving a priority position to the taxpayers will make Treasury negotiations with bank creditors more difficult. However, without an amendment giving the taxpayers priority rights, Congress would be passing a bank bailout bill instead of Chrysler support act. We would be passing a Federal grant bill instead of a loan guarantee.

Mr. Chairman, no corporation, no matter how politically powerful or economically consequential, should expect Government assistance unless the taxpayer is fully protected. Accordingly, I appreciate the accommodation that the gentleman from Pennsylvania (Mr. MOORHEAD) and the gentleman from Michigan (Mr. BLANCHARD) have made to the concerns I raised in committee and would urge adoption of their substitute bill

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Mr. STANTON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. HILLIS).

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I rise in behalf of this legislation and indicate my strong support for the McKinney-Moorhead substitute.

Mr. Chairman, the financial crisis confronting the Chrysler Corp. faces many of us in this body with a choice among unattractive alternatives.

Like many of my colleagues, I am greatly bothered by the idea of the Government further interfering in the natural forces of the free enterprise system. My record over the years, I believe, clearly documents my faith in and my support of the free enterprise system—a system that has brought this Nation economic greatness.

Further, I do not believe that the committee bill is perfect. I would like to see, for example, much more of a commitment made to the financial recovery of Chrysler by those who have a direct interest in an economically healthy company.

Yet, with these and other reservations, I still believe in and intend to support this bill providing Federal assistance to the Chrysler Corp.

Some may feel that my supporting this bill is predicated upon the fact that my district will be heavily impacted by Chrysler's future. It is true that the success or failure of Chrysler will have a dramatic impact upon my district and all of southeastern Michigan. However, beyond the impact upon any localized economy, there are major national interests also at stake, and these must be seriously considered.

In terms of the impact upon people, the failure of Chrysler will result in the unemployment of close to 600,000 people nationwide because of their direct or indirect relationship to this company for their livelihood. Not all of these people would suffer prolonged unemployment, but hundreds of thousands would.

Some suggest that the unemployment impact would be less dramatic because the other auto manufacturers would simply rehire Chrysler workers. A Department of Transportation study suggests otherwise. The study says that Ford and General Motors already have many laid-off workers who can fill production lines without hiring Chrysler employees. Many of the Ford and GM plants that might experience an increase in demand for their cars are not located in proximity to Chrysler plants. Thus, they would have neither need for nor access to Chrysler employees.

The problem of unemployment would be equally difficult for those employed at Chrysler dealerships and as suppliers.

It is estimated that 80 percent of the 4,700 Chrysler dealers would be forced to close their doors within 2 weeks of filing of a bankruptcy petition. These dealerships could not reopen their doors shortly thereafter selling another line of cars, for those franchises have already been taken. The vast majority of the 150,000 employees could not be absorbed by other dealerships already fully staffed.

For the Chrysler suppliers, the picture would be equally bleak. Last year, approximately 17,000 companies, mostly small businesses, had almost $8 billion in orders from Chrysler. Since Chrysler is more dependent upon outside suppliers than other auto manufacturers, there would be little shifting of business with the failure of Chrysler. Thus, the loss of this business would result in thousands of lost jobs, and the possible failure of many of these companies.

It is difficult to conceive of 600,000 people unemployed and the personal hardships this would cause. I would like to share parts of a letter to the editor of the Oakland Press, a newspaper in my district, describing what the failure of Chrysler would mean to one family. This person, responding to another open letter opposing assistance to Chrysler, wrote:

> Does he seem to think Chrysler Corporation is just a stone-cold board of fancy directors? It happens to be a corporation that employs people. Real people! People who need their jobs for their livelihood. People who happen to pay all the same taxes as he does. . . . I happen to live in Oakland County as he does, and my husband happens to work for Chrysler. If Chrysler goes under, we may also. Then who will pay our taxes and all the other taxes paid by Chrysler employees who will then be forced from their jobs?
>
> My grandfather came to this country, and not one of his family right on down has asked for one penny of welfare. Now we may be forced to, and I'll need every penny I can get. . . .
>
> My husband will never be a rich man working for Chrysler, but we can live in dignity and pride. Think about our side. I'm sure there are thousands of people who could also sign their name to the bottom of this letter.

The writer of this letter brings me to the second aspect of the very real national problem—the national economic effect—which would result if Chrysler were to fail.

A Chrysler shutdown would place the entire economic burden upon the taxpayer. The Secretary of the Treasury estimates that if Chrysler were to fail, it would cost Americans at least $2.75 billion in 1980 and 1981 combined in terms of lost tax revenue and increased unemployment claims and welfare costs.

Beyond this, Chrysler's unfunded pension liability is about $1.1 billion, which greatly exceeds the reserves of the Pension Benefit Guaranty Corp. To honor the claims from retired Chrysler employees, the Corporation would either have to increase the premiums on every employer with a pension plan or else come to the Congress asking for more of the taxpayers' money.

Finally, the energy impact also must be taken into consideration. While much has been said about Chrysler's large cars, according to a Department of Transportation study, the fact is that Chrysler has the brightest outlook among the "Big 3" auto makers for the production of the compact, fuel-efficient cars now being demanded. The other car companies are not prepared to produce such cars in the immediate future.

Chrysler can produce domestically 500,000 four-cylinder, fuel-efficient, compact cars by 1981, and up to 800,000 by 1982, if it can continue to pay for a major retooling and other production changes that are within 1 year of completion. If Chrysler cannot obtain the necessary funding, however, the market will go to foreign producers, with a resulting net loss of $3 billion in the balance of trade to imports.

The social, economic, and energy consequences to our Nation if Chrysler Corp. were to fail are extremely grave. Yet some would recommend that the free market mechanisms be allowed to run their course. If they result in the bankruptcy of Chrysler, then so be it. After all, they argue, other large companies have filed for bankruptcy and have undergone liquidation, or in some cases, have survived after a reorganization.

However, the nature of the automobile market, I believe, makes this an unworkable proposition and commits Chrysler to closing its doors forever, for two reasons.

First, it is questionable whether people will continue to buy Chrysler products if the company were to declare bankruptcy. A car is generally the second largest

purchase a person makes, and a buyer would rightly be concerned about future warranty coverage, the availability of parts and service, and the future resale or trade-in value of the car if a Chrysler product were purchased.

Second, it seems that bankruptcy helps to deal with old debts but it is not very good at raising the new capital needed to complete the downsizing and production of Chrysler's new line of fuel-efficient cars—Chrysler's future.

Mr. Chairman, the problems facing Chrysler today arise from several sources. These include a number of bad management decisions, the effects of the energy shortage and the resultant changes in consumer demand, and the increasing costs of complying with Federal requirements.

There have been internal changes at Chrysler to overcome past management problems. Among these is a new and imaginative management team to lead this company in the 1980's.

To accommodate the changes in consumer tastes because of the energy shortage, Chrysler is involved in a major retooling effort to produce small, fuel-efficient cars, and is a leader among the "Big 3" in this area.

As to the effects of excessive government regulations, this is still an area to which we in the Congress must apply our energies. Many of us have long argued that the present laws must be reconsidered, not in terms of the ultimate goals, but in terms of time and conflicting requirements.

The Federal Government, through its laws and regulations, has been deeply involved in the auto business for 13 years now. Because of the relative size of Chrysler in comparison to Ford and General Motors, the massive cost burdens imposed by these regulations falls heaviest on Chrysler.

To meet the up coming safety, emission, and fuel efficiency standards, it is estimated that the costs per year, over the period of 1978–85, will be $800 million for Chrysler, $1 billion for Ford, and $2 billion for General Motors. This, however, averages to $550 per car for Chrysler as compared to $340 for Ford and $345 for General Motors. The costs and impacts of these regulations are important matters that eventually must be considered.

Mr. Chairman, as I said in the beginning of my remarks, I have some serious reservations about the Banking Committee bill to provide Federal loan guarantees to the Chrysler Corp. However, on the whole, I believe the passage of legislation providing these loan guarantees would be in the best long-term interests of our Nation. I will support it, and I ask my colleagues to support it.

Mr. HILLIS. Mr. Chairman, there are two general misconceptions which have shaped the thinking of those who oppose Federal loan guarantees to the Chrysler Corp. The first misconception is that should Chrysler go bankrupt, its facilities would be purchased by other auto manufacturers, either domestic or foreign. The second misconception is that Chrysler's share of the market will be picked up by Ford and GM thus increasing imports only to a minimal degree.

There are several reasons why many of the Chrysler facilities would not be purchased in the foreseeable future by other auto manufacturers. To begin with, both Ford and GM are unable to sell every car they can produce, particularly the family and intermediate sized cars. Second, both companies are currently having to invest about $180 million each month in order to continue their efforts to meet fuel, safety, and emission requirements. Both companies simply do not have the need for increased production capability or the money to purchase the Chrysler facilities. I have discussed this issue with executives of the Ford Motor Co. and they confirm the fact that they do not have the need or the capital to purchase any of Chrysler's facilities.

The auto industry is an extremely complex system of facilities linked by a delicate transportation network. Due to the geographic location of Ford and GM plants, very few of Chrysler's facilities could be integrated into another transportation network.

The second misconception I mentioned is that Ford and GM will be able to pick up Chrysler's share of the market. Approximately 70 percent of Chrysler's sales are compacts and subcompacts. As we all know, it is in the area of compacts and subcompacts where foreign competition is most severe. Neither GM or Ford is in as good a position as Chrysler to compete against foreign manufacturers in the 1980's. In model year 1981 Chrysler will introduce its "K" model which will be a front-wheel-drive four-cylinder car capable of getting 25 to 30 miles per gallon.

As the chart next to me illustrates, Chrysler has made tremendous gains in fuel economy since 1975. As shown on the chart Chrysler will have a very fuel efficient fleet in 1985, averaging 27.8 miles per gallon. That fleet average is superior to either Ford's or GM's projections. By 1985, Chrysler will become the first manufacturer to produce all front-wheel-drive cars.

A Chrysler failure will increase foreign penetration into the U.S. market since Ford and GM cannot pick up Chrysler's small car sales because they are already producing at capacity—sales of their small cars are up from 1978 levels and GM's "X" cars are already sold out for 1980 model year. Therefore most of Chrysler's small cars will be replaced by imports. Projections for increased imports vary between 200,000 and 250,000 a year. This will increase the balance-of-trade deficit between $1 and $3 billion over the 2 years.

There are those who would oppose any Federal assistance to Chrysler because of the high wages Chrysler employees receive. I represent a congressional district which is highly industrialized. I have had many opportunities to visit different types of factories over the last several years. Most recently I visited the Chrysler transmission plant in Kokomo. I was surprised to note the low labor intensity of the plant. The workers there operated extremely complicated machines. Because of the tremendous skill involved in operating these machines, UAW employees are able to demand and get higher wages than other factory workers.

This is not to say, however, that Chrysler employees should not have a vested stake in the future of the corporation. But what is the appropriate commitment we should require from each employee—a thousand dollars—two thousand? Under the agreement worked out between the administration, the UAW, and Chrysler and which is reflected in the committee's substitute amendment, each employee would give up approximately $4,000 in wages and benefits for a total union contribution of $400 million. To ask any more than that, I think, would be excessive.

There is more than just an element of fairness to union employees involved in a potential wage freeze. Should we force union and management employees to accept unreasonable wage curtailments as a prerequisite to Federal loan guarantees, we have done nothing to insure the future stability of Chrysler. Freezing the wages would cause an exodus of skilled labor and quality management personnel. Take for example the situation in my hometown of Kokomo. The Chrysler transmission plant employs over 4,000 people. Directly across the highway is a GM plant. All of the highly skilled Chrysler employees would move over to the GM plant as soon as possible leaving Chrysler without the requisite skilled employees to keep the plant operating efficiently. Eventually this drain on talent would be reflected in the quality of work.

Another argument expressed against granting the loan guarantees is that the loans will deprive more deserving companies from receiving loans. This argument may be true if our economy is loaned out. In other words, if our economy was such that every dollar available for loans were engaged, there would be some legitimacy for opposing the Federal loans to Chrysler. However, we are not in a position where all of the dollars available through commercial credit channels are engaged or applications pending for engagement. The present high interest rates have had the effect of constricting the Nation's debt supply. By the time Chrysler is in a position to use the loan guarantees there should be plenty of loanable funds available to Chrysler and still meet the demand of all others wishing to obtain credit.

There is one more point I would like to raise. Some Members have opposed assisting Chrysler because, to quote one of the "Dear Colleagues" being circulated, "the Chrysler problem is not merely a freakish aberration, but is symptomatic of an intensifying shakeout of plants, firms and jobs across a broad range of industrial sectors and regions." I agree totally that such a shakeout is occurring. However, I do not believe the manner in which this is occurring is in the Nation's best interest.

The Congress needs to recognize and address the factors which have allowed

imports to lead to the decline of American industries. We need to examine our tax policies and the effects of Federal regulations. We need to address the problems of aging manufacturing facilities. We do not, however, need to allow Chrysler to fail in order to prove a point. I say "save Chrysler" and begin to solve the various problems which have led to its failure and the failure of other companies in other industries.

There are numerous reasons to support Federal loan guarantees. I have only touched on some of the more important reasons. I urge my colleagues to listen carefully to today's debate and work toward passing the best possible legislation to save Chrysler.

Mr. STANTON. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, I have been one of two Members of the entire Michigan delegation in both Houses who have been opposed to this bill on a strong matter of principle. I could not, I am frank to say, have been able to support the original bill turned out of the committee; however, I have had an opportunity now to review the Moorhead-McKinney substitute. I feel that in light of the alternatives, that I can go along with that bill.

I would also urge that if we are going to go along with the bill, do not, for goodness sakes, put amendments on it that will make it almost impossible for Chrysler to survive, because once we go on this bill, we have got a vested interest in their making it, and things such as an absolute wage freeze for 3 years would lose them all their best people and deprive us of the biggest collateral security we could have for making it, and that is their personnel.

I have personally talked with Mr. Joseph Campana, the new director of marketing, and I am convinced that they can make it with some help.

Mr. STANTON. Mr. Chairman, I yield myself one-half minute.

Mr. Chairman, this will be the conclusion on our side of debate here today. We will be continuing debate for 15 minutes on Tuesday next, after which we will get into the amendment process.

Simply let me say, Mr. Chairman, it is my hope sincerely that a final bill, which has not been introduced yet, will be introduced in its final form by the time we start the markup. I am sure that the Members will appreciate this and I would hope the majority will do everything they can to insure that at least when this legislation with all its importance comes before the committee on Tuesday, we will have a bill that the American people can live with and which the Congress can have a chance to vote on.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman has 20 minutes remaining.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I also intend to reserve 15 minutes for continued debate next Tuesday.

In light thereof, I now yield 5 minutes to the gentleman from Michigan (Mr. BLANCHARD), the ranking majority member of the subcommittee.

Mr. BLANCHARD. Mr. Chairman, I thank the chairman, the gentleman from Pennsylvania (Mr. MOORHEAD).

The work by the chairman, the gentleman from Pennsylvania (Mr. MOORHEAD), my colleagues on the Banking Committee, by the ranking member, the gentleman from Connecticut (Mr. MCKINNEY) and others including my dear friends from Michigan, is finally beginning to permit us to deal with the matter of financial assistance to Chrysler on a more intelligent, practical plane than we have heard all fall.

No issue, as most of us know, has been more plagued by slogans, and ostrich-like responses as this very important national issue. In fact, since last fall, all the slogans of "bailout, gas-guzzler, free enterprise, wage freeze," and now we even hear today, "drug addict," have made it very difficult to address the human and financial consequences of our failure to act.

I think my colleagues on both sides of the aisle have very eloquently touched upon all the reasons why it is in the national interest to help Chrysler.

Briefly, of course, the costs will be far greater to the taxpayers if we fail to hlep them than if we do. The jobs involving 500,000 or perhaps to 600,000 people and families are at stake. The health of not only the Detroit area, but other communities as well, in addition to 19,000 suppliers and 5,000 dealers throughout the country is on the line.

Most importantly and most surprising to a lot of people, America's ability to produce fuel-efficient cars will be seriously jeopardized by our failure to help Chrysler.

Let me reiterate what was said earlier. Without Chrysler and its current product line, if they fail, America stands to lose $3 billion just in the balance of trade, because there is not the capacity of the other two domestic automakers to meet the market for the Omni and the Horizon.

I find it ironic that our committee, which would have cranked out synthetic fuel legislation, loan guarantees for synthetic fuel, and then later this fall loan guarantees to the agricultural community to put up Gasohol plants, would now be faced with the argument that what we are doing to help Chrysler is somehow novel. I find it questionable that we can spend all this money on synthetic fuel so we can put it in foreign gas tanks.

I find it rather novel that those who have for years stood here justifying loan guarantees for almost every other industry are questioning now all of a sudden the wisdom of this.

Now, we can debate the reasons for the Chrysler problem. I think it is a lot more complicated than most people realize. I think we could find certainly mismanagement. I think we could find mismanagement the aggravation of government regulations, and I think you can find just plain bad luck.

My best guess is that were it not for OPEC, its formation and its strengthening, Chrysler would not be in here asking for assistance.

I essentially believe that because of the radical shift of oil and the power to decide not only what it will cost by the cartel, but how much will be produced, that essentially we are allowing decisions by a cartel to rearrange or potentially rearrange our economy.

Now, nobody likes this issue. I do not like it. I do not think my friends from Michigan and our friends on the Banking Committee really like this bill or the issue. It is not a question whether we like this. It is a question of what is the best of a lot of difficult alternatives.

Let me just underscore one other thing that our dear colleague, the gentleman from Michigan (Mr. SAWYER), alluded to. A lot of people are going to talk about the British-style bailout. The best way to avoid that is not to try to load this bill up with everybody's little pet projects and not try to design tail fins and engines and decide what the janitors are going to be paid in Highland Park, Mich. I urge you to stick with the Moorhead-McKinney substitute, which by the way is printed in the RECORD and available for all Members, something I am afraid a lot of our amendments that are going to be offered will not be; stick with our substitute.

We are going to find as we move along, by the way, in the next few days that the foes of this measure will give a thousand reasons why we should not help; but if we start looking at their reasons, most of them are attempts to simply avoid—avoid dealing with this issue. They want it to go away. There are days when even I would like it to go away. They want to avoid dealing with it. It is a tough one. We find ourselves increasingly in this town avoiding the tough issues, paralyzing the Government.

My own feeling is that if we deal with this issue, if our colleagues honestly deal with it, and I see the debate here is going to help in that regard, we are going to conclude that it is in the national interest to help the Chrysler Corp. and its tens of thousands of workers and the communities it affects. Once we realize that, and I believe our colleagues will, that we actually have it within our hands to prevent a Chrysler collapse and what will be very real human disaster, that we have the power in our hands, we are going to do something about it. And we are going to do something in the national interest and we are going to do it by backing the Moorhead-McKinney substitute.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman. will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman I rise to associate myself with the remarks of the gentleman in the well and

tell the gentleman that we in the Michigan delegation are very grateful to the gentleman from Connecticut (Mr. McKINNEY) and to the gentleman from Pennsylvania (Mr. MOORHEAD) for fashioning a bipartisan package that we are proud to support.

Moreover, we from Michigan are extremely proud of the gentleman in the well and the fine, professional way in which the gentleman has gone about bringing this bill to the floor. I have never seen a better legislative job since I have been here. We are happy that the gentleman is leading this fight for us.

Mr. Chairman, I cannot express myself too strongly in my support for this bill.

The collapse of the Chrysler Corp. is an eventuality too catastrophic to consider. We would not just lose Chrysler—we would lose $4 billion of our Nation's gross national product; we would lose an estimated 600,000 jobs throughout the Nation, and we would lose an even larger share of our automobile market to foreign imports.

This loss of 600,000 jobs would mean Federal costs of $2.75 billion in the first 2 years alone through lost tax revenue and increased welfare costs, not to mention $1.1 billion in Federal guaranteed pensions.

We are talking about a lot of money, Mr. Chairman, and we are talking about a lot of human suffering.

This bill does not call for a gift or a grant to Chrysler; it does not even call for a Federal loan. All we are asking is that the Federal Government guarantee loans of $1.5 billion, which will enable Chrysler to survive, and save our economy and 600,000 of our citizens from a brutal and unnecessary shock.

The collapse of Chrysler would drastically affect our international trade picture, adding $1.5 billion to our balance-of-payments deficit. It would mean a sharp reduction in competition for the foreign auto makers, who are already flooding the highways with their products.

The direct affect on Michigan alone would be staggering. The State would lose about $200 million a year in direct revenue, and would incur costs of some $230 million in unemployment insurance costs over a 2-year period.

The employment impact goes far beyond the 140,000 Chrysler jobs involved. Suppliers, dealers, and other businesses affected would bring the total to nearly 600,000.

In my own district, which has no Chrysler plants, we have 249 suppliers with contracts totaling nearly $75,000,000 who employ several thousands persons. We have eight Chrysler/Plymouth/Dodge car and truck dealers, with hundreds of employees. We have thousands of retail businesses who depend on these people as customers.

Aside from dollars, Mr. Chairman, we are talking about people. We are talking about people like the Chrysler employee who is 50 years old and has spent his working life on the assembly line. What would he do if Chrysler folds? Who would hire him? We are talking about people with home mortgages to retire, utility bills to pay, groceries and clothing to buy for their families. These people have already seen their dollars eroded by inflation. Do we now want to see their jobs eroded because of congressional inaction?

Mr. Chairman, no philosophical rhetoric about free enterprise or dangerous precedents can save Chrysler or solve its problems. H.R. 5860 is the only thing which can accomplish that, and I plead with my colleagues to support us here today by voting for this bill.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding, and I echo the comments of the gentleman from Michigan (Mr. FORD).

□ 1300

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I would like to join with the gentleman from Michigan (Mr. FORD) in paying tribute to my colleague, the gentleman from Michigan (Mr. BLANCHARD) for the outstanding job he has done. I want to assure the gentleman that we on this side appreciate the part he has played in this bipartisan support.

● Mr. WHITTEN. Mr. Chairman, in view of the time limitation on debate and the desire of my colleagues on the committee to speak, under leave to extend my remarks, I submit substantially what I said in my speech of yesterday, that these facts may be considered in connection with other discussion.

We all recognize the problems which the Nation faces that are symbolized to some degree, by the financial condition of the Chrysler Corp. From reports in the news media, we can see, too, that the Nation itself has an interest, not only in the situation facing Chrysler, its stockholders, and employees, but in any other situation when the industrial productivity of the Nation is endangered—whether it be railroads, a Lockheed type operation, or a city such as New York.

It is comparatively easy for the Government, so far as bookkeeping is concerned, to guarantee a loan. In fact, our country has done that to the point that at the moment, while we can tell what the national debt is, in no place is there any exact figure on what our outstanding obligations are under guarantees, contracts, and treaties. We do know that it is in excess of $500 billion.

I would like to call attention today to the fact that while we recognize the national interest in solving the Chrysler problem, to solve it completely we must look in many directions, and it is my belief that with all due credit to the Congress and to the fine committee chairman and members of the committee involved that we have, I believe that this simply is not a matter that can be handled by the Congress through existing means for a variety of reasons.

I am thoroughly convinced that only by creating a Government corporation—somewhat like the Reconstruction Finance Corporation, which would have the right of information and also the right of inspection, the right of requiring certain commitments, the power to accept mortgages, to assess the value of assets, and the many other things that go with corporations—will the Government be able to adequately deal with Chrysler-type problems in a positive aggressive manner.

Without going into great detail, on November 16, I introduced H.R. 5920 reinstating the Reconstruction Finance Corporation. My remarks discussing this appear in the CONGRESSIONAL RECORD on page 32862 of that date.

My purpose at that time was to call to the attention of the Congress the need for such a corporation with perhaps enlarged authority somewhat along the line of the charter of the Commodity Credit Corporation.

Through my experience with the Reconstruction Finance Corporation in its latter days, the Commodity Credit Corporation, as chairman of the Agriculture Appropriations Subcommittee, and the Export-Import Bank—all of which were designed to be positive solutions to difficult business-economic problems, I am convinced that we can do better than just guarantee another loan—whether it be for Chrysler or any other major U.S. industrial producer.

My purpose today is to urge the appropriate committees to give consideration to this approach because we should not commit the United States on an indefinite basis to the problems faced now by Chrysler, nor should we operate in such matters on the basis of Government guarantees.

I expect to go into this matter more thoroughly at a later date but at this point I urge the Congress to consider this approach in dealing with the Chrysler problem. A loan guarantee by itself is simply not adequate.●

● Mr. SHUMWAY. Mr. Chairman, the legislation initially proposed by the House Banking Committee, on which I serve, to provide the Chrysler Corp. with a $1.5 billion Federal loan guarantee is an entirely inappropriate response to the perceived problem. The Moorhead substitute is fundamentally no better. I cannot support the premise that it is in the public interest for the American taxpayer to be placed in the inherently risky financial position of underwriting Chrysler, and I am most concerned that the already dangerous predeliction of Government to intervene in the private sector will, if this legislation is adopted, be significantly furthered.

There can be no question that the threat of a Chrysler failure is very real. For a number of years, Chrysler's corporate viability has declined as a result of various factors: poor management, Federal regulatory policy, and, recently, the energy crisis. Chrysler's share of the domestic auto market has dropped from 25.7 percent in 1946 and 16.2 percent in 1968 to an estimated 9.1 percent this year. In the past month, Chrysler's share has dropped to 8 percent. For whatever reason, Chrysler is quite simply now a classic example of an aging, increasingly

inefficient corporation that is no longer able to successfully compete in its own industry.

It is apparent that, in the eyes of those who favor this legislation, the very fact of Chrysler's size is sufficient reason for a Federal bailout. Yet in 1978, over 6,000 American businesses failed. It is expected that one out of every two companies established this year will not survive. Most of these surely would survive if the Federal Government provided financial assistance. But, in most of these cases, no such assistance is forthcoming—and none is expected.

Simply stated, the basis of our free enterprise system—the economic system that has provided Americans a standard of living unprecedented in the world—is competition. Businesses have the opportunity and the right to compete successfully and to be rewarded with profits; conversely, businesses judged noncompetitive in the marketplace have the right to fail. It is the free market which determines success and failure; through this process, scarce economic resources are most efficiently and effectively allocated.

Chrysler, as currently structured, has proven its inability to compete in its market—and is now asking the Federal Government to reward it for its inefficiency with a $1.5 billion loan guarantee. Although such guarantees have unfortunately been provided in the past, acquiescence to the Chrysler request would represent one further violation of our economic system. Such an approach, by artificially removing both the risks and benefits of competing in the marketplace, can only lead to a less vigorous and a less enterprising economy. As the former majority leader of the Senate, the Honorable Mike Mansfield, put it during the Penn Central debate:

> I do not believe it is the function of a democratic government to pick up the tab for the failure of (a) private enterprise.

I am extremely concerned with the kind of precedent we will establish if this legislation is adopted. Although it is commonly asserted that no real precedent is involved; that the Federal Government has billions outstanding in loan guarantees, and that we provided such assistance for New York City and for Lockheed, I would argue that, even if justifiable, none of these cases is applicable to Chrysler.

Chrysler has been no more than marginally profitable for a number of years. It has failed to compete adequately with any of its competitors, whether domestic or foreign. Government intervention will be no solution. Nothing the Government can do will change Chrysler's inherent competitive ability. Government cannot improve a company's productivity or the value in the market of its output. Federal assistance cannot insulate Chrysler in the future against the shocks and traumas which may well impact the auto industry.

In the case of Lockheed, of course, the Federal Government was the purchaser of 95 percent of its output; prices, revenues, and most costs were thus controlled. In the case of New York City, all loans are potentially secured by the local tax rolls.

In the case of Chrysler, however, no such conditions prevail. In essence, the legislation before us requires that scarce credit be allocated to Chrysler—a failing concern—on terms more preferential than those available to healthy companies. This is the precedent involved. Do we now expect all other firms in similar conditions to line up before the Federal till? Or should only large firms apply? Where do we draw the line? If we are concerned about the loss of jobs, how can we turn down United States Steel, say, which has just laid off 13,000 workers, or even Ford and GM, where many are unemployed? Certainly, these companies would appear to meet the size criterion.

The consequences of a Chrysler failure may be serious in the short run; the consequences of Federal assistance, if provided, will assuredly be much more severe in the long run as the distinction between the public and private sectors is further blurred. More specifically, the legislation before us as reported by the committee is not well conceived nor well drafted.

The American taxpayer is being asked to underwrite Chrysler to the tune of $1.5 billion. With this kind of investment, two preconditions would seem necessary: First, that those most directly affected by Chrysler's situation have made and will continue to make significant sacrifices; and second, that there be reasonable certainty that the assistance provided will insure that Chrysler is restored to a position of economic viability in the near future.

Unfortunately, neither of these conditions have been met. Chrysler's employees, the majority of whom are represented by the United Auto Workers (UAW), would seem to bear the most direct burden of a Chrysler failure. When faced with the loss of their jobs, most workers can normally be expected to limit substantially their requests for salary increases, and, in fact, to accept a pay reduction if necessary. In this case, however, the normal course of action has been rejected out of hand; Doug Fraser would rather let Chrysler fail than accept a wage freeze. Chrysler and the UAW recently announced agreement on a contract providing for a $1.3 billion increase in wages and benefits over the next 3 years.

This package is so large that the administration's chief inflation fighter, Alfred Kahn, has warned that it exceeds the President's own wage standards. The UAW—even with its new $400 million contribution—would hardly seem to be making the kind of sacrifice one might expect. In fact, I find it rather ironic that of the $1.5 billion Chrysler is requesting from the Federal Government, $1.3 billion may have to be applied just to satisfy UAW wage and benefit requirements. Are the taxpayers expected to guarantee this clearly excessive contract? This would certainly appear to be the case.

Second, it is altogether uncertain whether $1.5 billion in Federal loan guarantees will be sufficient. It is widely asserted by financial experts that such an infusion of funds would, at best, merely defer a Chrysler failure. Even Secretary Miller, the administration's leading supporter of the bill, was unable to assure the committee that Chrysler would survive if such assistance were provided. Perhaps most revealing in this regard is the recent testimony of John McGillicuddy, chairman of Manufacturers Hanover—Chrysler's lead bank—that the private financial community is now unlikely to provide the additional credit required by the legislation before the Federal loan guarantee can take effect. Given the current degree of uncertainty, therefore, it makes little sense for the Federal Government to allocate scarce resources for this extremely risky venture.

Chrysler's market share is steadily declining, losses have become increasingly significant over the past decade (Chrysler now loses about $700 on every vehicle sold), production costs are growing rapidly, and, because of our economic situation and the energy crisis, the future of the entire industry in which it competes is in doubt. Due to inflexibility in dealing with changing market conditions, Chrysler has reached the point where private credit is no longer available—in other words, the market has determined that Chrysler's performance does not warrant the provision of additional credit.

Under these circumstances, the extension of credit by the Federal Government would not seem appropriate. The Government cannot overrule the economic determination of the marketplace; by intervening, it can, however, contribute to an increase in efficiency.

Chrysler has waged an extremely professional lobbying campaign. It has convincingly argued that its problems are temporary, that a one-time loan guarantee will turn the tide, and that its future will be one of success and profitability. It has argued that a corporate failure would not be in the national interest. Unfortunately, however, Chrysler's assumptions as to the nature of its current problems and future performance are questionable—if they were not, sufficient private credit would certainly be available—while the impact of failure is overstated, and the systemic consequences of Federal assistance generally ignored.

Chrysler, by mere virtue of its size, should not be granted special treatment by the Federal Government; treatment unavailable to thousands of other marginal businesses. Not only would this legislation represent a strong precedent in favor of the Federal Government as the "lender of last resort," thus insulating companies from the pressures of the marketplace, it would be an action incompatible with long-term growth, efficiency, and productivity.●

● Mr. PANETTA. Mr. Chairman, I would like to address the issues raised by H.R. 5860 and briefly discuss its very serious implications for our economy and for this Congress. As we all know, we are basically talking about a $1.5 billion loan guarantee for the Chrysler Corp. with a stipulated $400 million contribution from Chrysler's employees.

The first issue I would like to discuss is that of precedent. The proponents of

H.R. 5860 state that there is sufficient precedent for this legislation. Frankly, I do not agree. The problems of Lockheed resulted directly from specific Government actions, and as for small business loans, I do not think you can compare our programs in that area to a proposal to assist the 10th largest corporation in the United States.

Even more important, though, is the precedent this legislation would set for the future. It is becoming increasingly clear—and the debate on this legislation has contributed greatly to this realization—that our economy is entering a new stage of development. Some of our most vital heavy industries are reaching a point where they must retrench and attempt to modernize their facilities and their methods of operation. The steel industry, along with the automobile industry, provides a good example of this problem.

Now, it may well be that this Congress will have to confront this situation and come up with a method of addressing this problem. Indeed, loan guarantees might be a part of such a strategy. But if it is to be done, let it be done in a rational, methodical way. To proceed in a hit-and-miss fashion, and I feel that this legislation can be characterized that way, does not address the heart of the issue.

The next point to be considered relates to the Chrysler Corp. itself. If any point in this debate has developed a consensus, it is that Chrysler has been very poorly managed. Analysts have pointed to a variety of foolish decisions made by the company over the past two decades, but the one that stands out in my mind, and in the minds of many others, is the decision made around the time of the Arab oil embargo to hold off on pursuing the small-car market and to continue pouring resources into large gas-guzzling automobiles. Indeed, while the other major companies were developing the cars that would help them to survive the advent of an energy-short era, Chrysler was firing the very engineers that could have helped them to become competitive in this area.

The argument has been made that Government regulations are the major cause of Chrysler's problems. Chrysler claims that these regulations—in the areas of safety, pollution control, and gas mileage—have a greater effect on Chrysler than on Ford and General Motors because of larger per-unit costs. Frankly, Chrysler does not explain how Volkswagen, with presumably smaller economies of scale, manages to meet these regulations in its American operations. In addition, we are all aware that a very significant portion of these costs were incurred in meeting gasoline-mileage requirements. If Chrysler had not been forced to meet such standards, the company would have disappeared well before this.

In short, we are confronted by a company that is primarily responsible for getting itself into deep financial trouble. That company now wants the Federal Government to bail it out. But are we to sit here and reward financial mismanagement? In fact, would we not be punishing Chrysler's competitors for their effective management? Our economy was not designed to reward mismanagement—indeed, under ideal circumstances, it punishes mismanagement. I do not think we should set the precedent of rewarding it.

A third question we must face is whether we would be making a relatively safe investment. It is hard to believe it, by any stretch of the imagination. The reality is that Chrysler will continue to face very hard times. We are entering a recession, and the automobile industry is going to be hit hard, particularly with our energy problems. Chrysler's financial survival plan, which is supposed to provide proof of the viability of this loan guarantee, is incredibly optimistic. Why on Earth is there any reason to believe that Chrysler's share of the market will increase by 50 percent over the next 5 years. Indeed, Chrysler makes the further prediction that the market will increase by 10 percent over that period of time. On top of these two shaky statements, Chrysler goes on to claim that its new K-body cars will be much more successful to similar products manufactured by its competitors.

All of these things could indeed occur. But I do not expect them to, and it is clear that the private lending sector, including those institutions which regularly make high-risk loans, has grave doubts about such predictions. It appears to me that Chrysler would soon be knocking at our door once again for additional assistance.

Finally, I think we have to consider the future of the automobile industry. The trend in the industry is taking us away from the old dichotomy of American cars and foreign cars. The so-called world car, one that is fuel efficient but that incorporates traditional styling and accessories, represents the future of this industry. But this is a car that will be sold all over the world, and it will require the resources of large multinational companies to produce and market it in a competitive manner. It is very unfortunate, but Chrysler is not in a position to compete in this manner. Even if we help Chrysler now, the company is not likely to survive this new and increasing industry trend. Government intervention at this time would only help to stall the inevitable.

I do not have to point out to my colleagues what is at stake in this debate. I do not think the Chrysler Corp. per se is what most of us are concerned about today. Our obvious concern has to be for the thousands of employees and Chrysler dealers across the country who could be put out of work and out of business if Chrysler went bankrupt. Of course, many of these jobs will be doomed even if Congress does approve this legislation. After all, the company already has plans that include significant layoffs, and it will have to modernize its facilities if it is to have any chance of survival.

Nevertheless, there will be an impact, and in certain areas of the country it will be serious. Again, though, this is going to happen in other industries. The steel industry is currently in the process of scaling down in order to avoid reaching the stage that Chrysler is now approaching. Others will follow. What is our policy to be? I do not think it can be a haphazard, first-come-first-served policy. In its current form, H.R. 5860 is unacceptable on that basis. Instead, let us take a look at new and innovative ideas for addressing the problems of our industrial sector. Only in this way will we truly address the issues raised by this legislation.

To oppose this bill is not to express an insensitivity to the potential for serious unemployment problems. I am very concerned about the personal hardships that many Chrysler employees may face in the months ahead. But in the long run, thousands of employees of other companies may be laid off for the same reasons, and the task that lies ahead is to determine what our long-term approach will be. That issue, not assistance to one ill-managed company, should be the subject of this debate.●

● Mr. PATTERSON. Mr. Chairman, the House of Representatives today will examine emergency legislation providing loan guarantees to the Chrysler Corp. This legislation involves difficult decisions for the Congress; decisions that must be based upon somehow reconciling the philosophical and economic reasons against Federal bailouts for failing private enterprises and the concerns we share for individual workers who are bound to be adversely affected by the collapse of such enterprises.

I have struggled with the need for legislation such as H.R. 5860, as I know many of my colleagues have. It seems particularly frustrating considering that congressional action of this magnitude must be completed so expeditiously that many of us may think the decision to be, more than anything else, an accommodation based upon the urgency of the situation.

An important tenet of our free-enterprise system is the right of the private sector to make and accept decisions and their attendant risks. The choices of the private sector should permit failure as well as success. But as we know, exceptions to the rule arise from time to time.

As much as I do believe that the workings of the private sector should permit failure as well as success, I have come to the conclusion that this legislation should be approved by the Congress. The justification is in part reflected in the following excerpt from the report of the Banking, Finance and Urban Affairs Committee on H.R. 5860:

A CHRYSLER FAILURE—THE IMPACT

Chrysler is the nation's tenth largest corporation. It employs directly about 140,000 persons (some of whom are now on layoff because of the slump in the industry), and its 4,700 dealers employ another 150,000. Chrysler buys more of its parts and components from outside the company than do its two larger competitors (that is, it is less vertically integrated), and its 19,000 suppliers employ an additional approximately 250,000 workers, many of whom depend on Chrysler business. When the families of these workers are added, it is a fair

estimate that some two million Americans would be affected by a collapse of the Chrysler Corporation.

Not all of the workers involved, of course, would suffer prolonged unemployment, but many of them probably would. One important reason, brought out in a thorough study of the employment situation by the Department of Transportation's Transportation Systems Center, is that Chrysler workers for the most part are not in the right places, or do not have the right skills, to be employed by the other automobile companies even if General Motors and Ford were to pick up all of the market formerly served by Chrysler.

Another reason to expect a severe and lasting employment effect for a sizeable number of persons relates to the company's dealers and suppliers. In some states it is impossible for a Chrysler dealer to become a Ford or General Motors dealer in the same location because of geographical restrictions on dealer numbers. In the case of suppliers, the impact would not be limited to small companies. As an example, the testimony disclosed that the Essex division of United Technologies Corporation, in the event of a Chrysler failure, would have to lay off at least 2,000 workers in 16 plants in five states and would close altogether four of these facilities. . . .

The impact of a Chrysler collapse on the national economy can be measured in several ways, though none of them can be precise. Estimates by such sources as Data Resources Incorporated, the Treasury and the Transportation Systems Center all conclude that there would be a perceptible increase in the national unemployment rate and an appreciable reduction in the gross national product. Because foreign automakers will take, according to the testimony, at least 25 percent and probably more of the market now filled by Chrysler products, the nation's balance of payments would suffer by at least $3 billion a year, which is a significant amount with the current account deficit now estimated at less than $10 billion for 1979.

Finally, there is the impact on the Federal budget. Several witnesses used a rule of thumb which relates changes in the national unemployment rate to changes in the Federal budget deficit, and concluded that a Chrysler failure would increase the deficit by $10–11 billion. The Treasury's calculations were far more cautious. Secretary Miller testified that identifiable increases in outlays, chiefly for unemployment compensation, and losses of revenues would amount to $2.75 billion in the calendar years 1980 and 1981 combined.

In addition, Chrysler's unfunded pension liabilities amount to about $1.1 billion, which greatly exceeds the reserves of the Pension Benefit Guaranty Corporation. To make good on claims from retired Chrysler workers, the Corporation would either have to increase the premiums on every employer in the nation with a pension plan, or else request a special appropriation from Congress.

I hasten to add, however, that my decision to support Federal loan guarantees to Chrysler in no way indicates that the Chrysler management decisions that have contributed to the corporation's financial fiasco are absolved. Additionally, I submit that the corporation's claims of financial difficulty due to Federal regulation are overstated.

Within the last 24 hours, we have been advised that the distinguished chairman of the Subcommittee on Economic Stabilization, WILLIAM MOORHEAD, whose subcommittee has jurisdiction over this legislation, will offer a substitute to the committee bill. Upon my examination of the provisions of that substitute, I find that it strengthens in several respects the emergency loan guarantee authorization.

First, I would note that the financial commitment from the private sector, or the non-Federal contribution to Chrysler, would be increased from the original $1.5 billion to $1.83 billion.

Second, concessions from the unions to Chrysler would almost be doubled, for a total of $400 million.

Third, the substitute replaces the existing administration of the loan guarantee program to Chrysler by the Secretary of the Treasury with a five-person Emergency Loan Guarantee Board. The Board will be compromised of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Comptroller General, the Secretary of Transportation and the Secretary of Labor. It would be chaired, however, by the Secretary of the Treasury. This approach is a wise one. Emergency loan guarantees, involving as they do significant decisions affecting the national economy, should be adminstered by a board of national economic policy officials. This was the case, as my colleagues may recall, under the Lockheed loan guarantee program.

Fourth, the Moorhead substitute would further protect the Federal interest by requiring full collateral as security behind the federally guaranteed loans and also by barring any waiver of the No. 1 U.S. position as a creditor except in two limited instances—claims by State and local governments and claims of up to $100,000 by suppliers. Under the committee reported version of H.R. 5860, the Secretary of the Treasury was given the right to waive U.S. priority as a creditor.

Fifth, the Moorhead substitute makes clear that this is, indeed, a one-time Federal bailout by stating that no guarantees can be issued after the end of 1983.

Sixth, the substitute details the amounts that various groups must contribute toward the $1.83 billion of private assistance to Chrysler: $400 million from unionized Chrysler employees; $500 million from U.S. banks; $150 million from foreign banks and other creditors; $300 million from the sale of Chrysler assets; $250 million from State and local governments; $180 million from suppliers and dealers; $50 million from the sale of additional equity.

While these amounts may be revised upon further study by the Board, the employee contribution could not be adjusted. It is clear, however, that all those who have a direct stake in the future of Chrysler would be required to bear some burden as long as the Federal Government issues loan guarantees.

These important revisions to H.R. 5860 take into consideration many of the concerns that Congress and the American public share about special assistance to troubled corporations. Therefore, I intend to support this legislation and urge my colleagues for favorable consideration as well.●

● Mr. BRADEMAS. Mr. Chairman, as the House of Representatives today begins consideration of legislation to provide Federal loan guarantees to Chrysler, I take this time to note that most of the communications I have been receiving from the State of Indiana and from my own congressional district strongly favor such assistance.

For example, last month, the distinguished Governor of Indiana, Otis R. Bowen, M.D.—a Republican, I might add—sent a message to all members of the Indiana delegation strongly favoring such legislation.

In his message of November 28, 1979, Governor Bowen said:

I would urge your support for the President's loan guarantee program—or some variation that would achieve the same purposes—in order to forestall the collapse of Chrysler Corp.

Chrysler's importance to Indiana has been documented on numerous occasions and I need not restate it. A limited form of government assistance seems to be justified in this situation.

Kindest personal regards,

OTIS R. BOWEN, M.D.,
*Governor.*

Two daily newspapers in my congressional district have also, Mr. Chairman, editorially called for passage of the bill.

For example, the Goshen, Ind., News declared:

Efforts to save Chrysler are a gamble worth taking. We can't afford to do otherwise.

The Goshen News noted that Chrysler employs 14,675 people in Indiana with a direct impact in the State from wages and purchases alone of over $1 billion.

I insert the text of the Goshen News editorial of November 20, 1979, entitled, "Chrysler Help Sensible," at this point in the RECORD.

CHRYSLER HELP SENSIBLE

The problem facing the ailing Chrysler Corporation "is not a money problem, it's a people problem." This is how Senator Birch Bayh described it to the Senate Banking Committee during a recent hearing.

The Indiana senator is correct. And many of the people who will be adversely affected by a bankruptcy of Chrysler will be right here in the Goshen area, and in just about every other area of the nation.

Should the goverment bail out Chrysler? The first feeling of most people is "no way." But it's not really that simple, and Congress will debate all aspects of this problem before making a final decision. We think government loan guarantees for Chrysler may be the lesser of two evils.

Two bills currently being considered contain important safeguards for the taxpayer, including requirements that loans be adequately collateralized, a prohibition against payment of dividends, and a preferred position of the government as against other creditors. Before a guarantee is made, there must be reasonable assurance or prospect of repayment. Credit must not otherwise be available.

Bayh has done his homework on what effect a Chrysler collapse would have in Indiana. Chrysler corporation suppliers billing $1 million or more during 1978 including Switches Inc., Goshen, and the Ligonier Rubber Co. Inc. No doubt there are a number of other Goshen area businesses under the $1 million mark in annual dealings with Chrysler.

But the big Indiana losers in a Chrysler collapse would be New Castle and Kokomo. New Castle Forge and Machining has been

making powertrain components for Chrysler autos for over half a century and employs 2,807 people with an annual payroll of $73 million. It provides 11.8 percent of the total employment for all of Henry County. Chrysler plants in Kokomo employ 6,764 people. This is 13.9 percent of the total employment for both Howard and Tipton counties with an annual payroll of $189 million. The second largest Chrysler plant in Indiana is at Indianapolis and there is another big plant at Michigan City.

All told, Chrysler in Indiana employs 14,675 people, pays $410 million in wages, purchases $603 million in supplies for a direct impact by Chrysler on Indiana from wages and purchases alone of over $1 billion. This is not to mention the indirect impact of the jobs which are secondarily dependent on these wages and purchases, probably an additional $2 billion.

As Bayh says, "the issue here is jobs and families, not cold, hard statistics."

The fact remains that Chrysler is in a money bind, partially because of governmental regulations involving the environment and energy. It's true that Chrysler's management misread the market and the energy crunch, but the company has problems competing with GM and Ford in meeting various governmental regulations.

So what happens if the government doesn't help bail out Chrysler? The rest of us help pay for Chrysler workers' public assistance, unemployment benefits, pension fund guarantees and loss of federal revenues. And we'll pay more in local taxes in many of our communities.

Although the principle of a Chrysler bailout isn't what most of us would prefer with our tax dollars, maybe this nation should scale down some of its worldwide credit financing and guarantee some loans for a company that is important to every American, in one way or another. We encourage congressmen to carefully consider the practicality of assistance to Chrysler, even though it may be against their basic governmental principles. The collapse of Chrysler would be felt in many areas of this nation, certainly in Indiana and Michigan, and more specifically right here in Goshen. Efforts to save Chrysler is a gamble worth taking. We can't afford to do otherwise.

I should also here cite, Mr. Chairman, an editorial of November 24, 1979, entitled "Chrysler in Indiana," published in the LaPorte, Ind., Herald-Argus which also points to the great impact of Chrysler on the economy of Indiana.

The editorial follows:

[From LaPorte (Ind.) Herald-Argus, Nov. 24, 1979]

CHRYSLER IN INDIANA

Perhaps our days are numbered in the unconstrained use of the automobile. Two and three dollar-a-gallon gasoline and mere mention of a $1-a-gallon tax on gasoline is enough to pose an assault on our lifestyle with the automobile.

But it makes us think twice about the shift to more shared-ride transportation as we peruse the statistics bandied about by Indiana U.S. Sen. Birch Bayh as he testified in Washington before the Senate Banking Committee on the economic impact of a Chrysler closing in Indiana.

We're not alone, of course. Michigan, the seat of the automobile manufacturing industry, would suffer devastating results from a bankrupt Chrysler Corp. But next to Michigan, Chrysler's active involvement is greater in Indiana than in any other state in the Union.

The significance of active manufacturing production in any given area is best exemplified by the fact that Chrysler employs nearly 15,000 workers in Indiana, pays $410 million each year in wages in this state, and purchases more than $600 million annually in supplies from Indiana firms, not to overlook more than $8 million in state and local taxes paid in Indiana by Chrysler in 1978.

Forget Chrysler itself for a moment. That company buys from more than 50 other Indiana companies which produce automotive products. New Castle Forge and Machining, as one example, has been producing for Chrysler during all of its 54 years of existence.

A good share of the 2,600 employees in that plant work on Chrysler products. The company employs 12 percent of the total work force in Henry County, and generates a $73-million-a-year payroll, thanks in large part to Chrysler. And the same can be said for several other plants, corporately divorced from the Chrysler Corp., which depend primarily upon Chrysler for their annual output.

This is not to say that these same automotive parts and accessories plants do not produce for other automotive and satellite companies in the vehicular industry, but Chrysler does buy from some 50 Indiana manufacturing plants.

The automotive and transportation industries are sure to change in years to come. Other types of more economical private vehicles and public conveyances must be manufactured, and we hope that Chrysler and other automobile and truck builders will figure prominently in that conversion.

But those Chrysler figures clearly show the dependence we have on the automobile making industry.

Sen. Bayh put it appropriately: "I believe curing the patient is much cheaper than allowing the patient to die."

I note as well, Mr. Chairman, that both the management and employees at the Chrysler plant in Michigan City, Ind., have advised me that their annual payroll of $5 million and the continued employment of 300 persons depend on approval of this legislation.

To make this point more generally, Mr. Chairman, Chrysler purchases an estimated $30 million annually from businesses in the Third Congressional District of Indiana, including $18.6 million from the Bendix Corp. in South Bend.

For all these reasons, Mr. Chairman, it is clear that my own congressional district and my own home State of Indiana have a very important stake in the passage of this legislation.

And for all these reasons, Mr. Chairman—and provided that the bill provides adequate protection for the American taxpayer, as the amendment to be offered by Mr. MOORHEAD of Pennsylvania and Mr. MCKINNEY of Connecticut does—I will support this legislation.●

The CHAIRMAN. All time has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., had come to no resolution thereon.

## GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on December 12, 1979, the President approved and signed bills of the House of the following titles:

H.R. 3354. An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; and

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross.

## ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT OF 1979

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3282, with Mr. BENJAMIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, December 3, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Asbestos School Hazard Detection and Control Act of 1979".

FINDINGS AND PURPOSES

SEC. 2 (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and

by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health, Education, and Welfare and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbesos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in non-commercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Health, Education, and Welfare to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

(3) provide scientific, technical and financial assistance to local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

TASK FORCE

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as "Task Force"). The Task Force shall be composed of nine members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

(A) One representative of the Office of Education, recommended by the Commissioner of Education.

(B) One representative of the National Cancer Institute.

(C) One representative of the Environmental Protection Agency, recommended by the Adminisrtator of such agency.

(D) One representative of the National Institute of Environmental Health Sciences.

(E) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(F) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Health, Education, and Welfare to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

STATE PLAN

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports

described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the three-year period beginning on the effective date of this act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this act. Grants may be made under this section only during the three-year period beginning on the effective date of this act.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing; and

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1977.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Local educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

SEC. 6. (a)(1) There is established within the Department of Health, Education, and Welfare an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the three-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1977.

(d) During each of the four calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

STANDARDS AND SAFETY PROCEDURES

SEC. 7. (a)(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducing such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Atterney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

EMPLOYEE PROTECTION

SEC. 9. No local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

RETAINED RIGHTS

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

DEFINITIONS

SEC. 11. For purposes of this Act—

(1) the term "asbestos" mean—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) The term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Health, Education, and Welfare, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1980, and for the two succeeding fiscal years, a total of not more than $30,000,000; and

(B) for the asbestos hazards control loan program under section 6, not more than $100,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414 of the General Education Provisions Act.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

EFFECTIVE DATE

SEC. 13. The provisions of this Act shall take effect on the date of the enactment of this Act or on October 1, 1979, whichever date occurs later.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GOODLING: Beginning on page 28, strike out line 23 and all that follows through page 55, line 6, and insert in lieu thereof the following new text:

That the General Education Provisions Act is amended by adding after section 426 the following new section:

"ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

"SEC. 426A. (a) Each State which administers, through a State board or agency, an applicable program to assist elementary or secondary education in such State may distribute to local educational agencies within the State information describing—

"(1) any health hazards proven to be associated with the presence of asbestos fibers in nonworkplace environments such as schools;

"(2) procedures recommended by the Administrator of the Environmental Protection Agency (or by scientific and medical experts of the State if no procedures have been recommended by such Administrator) for conducting testing to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency; and

"(3) the availability of funds under this section to assist the local educational agencies to carry out the activities described in subsection (c) of this section.

"(b)(1) During each of the first four fiscal years beginning after the date of the enactment of this Act, each State referred to in subsection (a) of this section may reserve for the activities described in subsection (c) of this section not more than 1 percent of the funds available to such State for such fiscal year by appropriations made after the date of enactment of this Act for applicable programs to assist elementary or secondary education (including funds made available to local educational agencies through the State). In carrying out the first sentence of this paragraph in any fiscal year, the State shall not reserve, from funds available to carry out any such applicable program for which funds are specifically made available to the State, more than 5 percent of the funds available for that program.

"(2) The State may make the funds reserved under paragraph (1) of this subsection available (in such amounts as the State determines to be appropriate) to each local educational agency within the State—

"(A) which has conducted asbestos testing, in accordance with the procedures referred to in subsection (a)(2) of this section; and

"(B) which has under its jurisdiction school buildings containing asbestos materials which pose imminent health hazards to persons using such buildings (as determined by the State after reviewing the results of such testing).

The State shall make determinations under subparagraph (B) of this paragraph in accordance with applicable standards established by the Administrator of the Environmental Protection Agency.

"(3) Any State which makes funds reserved under this section available for activities described in subsection (c) shall establish auditing procedures satisfactory to the Commissioner to ensure that asbestos detection activities are carried out in substantial conformity with procedures recommended by the Administrator of the Environmental Protection Agency and that the projects described in subsection (c)(1)(B) are carried out in the manner recommended by scientific or medical experts of the State after consultation with appropriate officers or employees of the Environmental Protection Agency. Each State shall make available to the Commissioner the results of the audits conducted under this paragraph.

"(c)(1) Funds reserved by a State, through a State board or agency, under subsection (b) may be used to—

"(A) reimburse the local educational agencies described in subsection (b)(2) of this section for the costs of any asbestos detection activities undertaken by them in accordance with subsection (a)(2) of this section; and

"(B) assist the local educational agencies to carry out projects to—

"(i) contain or remove asbestos materials from school buildings identified as posing imminent health hazards to persons using such buildings;

"(ii) replace the asbestos materials removed from such buildings with other appropriate building materials; and

"(iii) make repairs considered necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under clause (i).

Projects referred to in subparagraph (B) of this subsection shall be carried out in the manner recommended by scientific or medical experts of the State after consultation with appropriate officers or employees of the Environmental Protection Agency.

"(2) Funds reserved under this section may be used to reimburse local educational agencies for the costs of any activities described in paragraph (1) undertaken after December 31, 1976. No such funds shall be made available to reimburse local educational agencies for activities undertaken before the date on which funds may be reserved under this section unless the State involved receives assurances from the local educational agency seeking such reimbursement that—

"(A) any asbestos detection activities conducted by such agency were carried out in substantial conformity with the procedures referred to in subsection (a)(2); and

"(B) any projects described in paragraph (1)(B) were carried out in substantial conformity with the procedures recommended by appropriate State officials under paragraph (1) of this subsection.

"(d) The Secretary of Health, Education, and Welfare, after consultation with the Administrator of the Environmental Protection Agency, the head of the Occupational Safety and Health Administration, and with other appropriate Federal officials, shall provide technical advice and assistance to States to assist them in carrying out the activities described in subsection (a) and (c)(2) of this section.

"(e) Appropriate officials at the Bureau of Indian Affairs of the Department of the Interior and the Office of Overseas Schools of the Department of Defense who are responsible for the administration of elementary and secondary schools under the jurisdiction of such agencies shall carry out a program to—

"(1) conduct asbestos testing, in accordance with procedures recommended by the Administrator of the Environmental Protection Agency, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agencies; and

"(2) contain or remove asbestos materials from school buildings identified by such testing as posing imminent health hazards to persons using such buildings, and replace the asbestos materials so removed with other appropriate building materials.

The program under this subsection shall be completed not later than September 30, 1983.

"(f) For purposes of this section—

"(1) the term 'local educational agency' means—

"(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

"(B) the governing authority of any elementary or secondary school (as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

"(2) the term 'school buildings' means—

"(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

"(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

"(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

"(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.".

Amend the title so as to read: "To amend the General Education Provisions Act to permit certain State education funds to be used for projects to detect and remedy asbestos-related health hazards in elementary and secondary schools.".

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, there is no question that every member of the committee is very much interested in the health and safety of children. That is what this legislation is all about.

The question comes then as to how we can best insure the health and safety of children as it relates to an asbestos problem. It is my belief that if we are seriously going to do more than just hoodwink those in the field of education back home, we are going to have to do more than just pass a piece of authorizing legislation.

When I was back in the field, educators used to become very confused because they would read the paper and they would see that the House or the Senate or both passed a piece of legislation and they would get all excited about this piece of legislation; but then they really never understood what happened to that legislation. Those of us, of course, who are here in the Committee of the Whole know—and I guess we have all had this experience—that even on set-asides we may discover next year that they did not do anything about it downtown or that the Committee on Appropriations did not go along with what we recommended.

It was not until I came to the Congress that I realized that there is authorization, there is appropriation, there is deferral, and there is rescission. It is all of these things that confuse the people back home. We pass legislation, and we can go back and say, "Well, in the House we passed it" or "The Senate passed it."

Then we can say, "It was the Appropriations Committee that didn't do anything about it" or "It was the executive branch that decided not to spend the money."

What I am saying is that there is a way for us to look out for the health and safety of children as it relates to asbestos, and this is more than just a fishing license for our committee to go to the pool of appropriations and drop our fishing line and our fishing hook into that pool and come up with nothing more probably than a snail darter, if even that—but then we would have to throw that back because that is illegal to catch.

Our committee bill is fine. There is only one problem with it. It does not assure anybody anything as far as financial help is concerned. The earliest this bill could possibly bring forth any money to any school district, as I see it, would be in October of 1981, probably later than October; it would be more like January or February of 1982 actually because, first of all, let us say that we pass the committee bill as it presently exists. That means we can go to the Committee on Appropriations, but that does not mean they have to act.

First of all, we have to hope that the Senate would pass this bill before May 15. That is very unlikely. With all the important legislation that is before the Senate, I do not believe they would get to this bill before May 15. That would mean that nothing would be available in October of 1980.

However, if my substitute were adopted and we got off this continuing resolution and got into an actual appropriation for 1980, we could have this money ready by October 1, 1980. There is no way—and I am sure I will probably receive arguments on this—realistically, there is positively no way that could happen with the committee bill.

Let us look at the appropriations. My chairman and I, along with the rest of the committee, just went through a battle trying to prevent a 5-cent-per-meal reduction in the national school lunch program because OMB and the executive branch thought this was a good place to cut. The Committee on the Budget, as a matter of fact, went along with that thinking, and it has been a battle trying to save that. So we know that going to the Committee on Appropriations is going to be a real problem.

Second, from time to time we have another problem.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GOODLING) has expired.

(By unanimous consent, Mr. GOODLING was allowed to proceed for 5 additional minutes.)

□ 1310

Mr. GOODLING. Mr. Chairman, over a period of years the Federal Government has had a tendency of mandating things and then not coming up with any finances to help the people who have been mandated to do something. One of those areas is compliance legislation for barrier removal for the handicapped—section 504 of the Rehabilitation Act of 1973. After a period of years, they finally went along with $25 million. Barrier removal in colleges alone is estimated to cost much more than one-half billion dollars. But in the budget for 1981, OMB has left that blank. No money for barrier removal.

The only point I am trying to make is that if we pass the committee bill, go before the Appropriations Committee, and if we can get the Senate to act in time, then all we are doing is holding out a false promise that "Here is something good for you." But they are never going to realize it because of the pressures of today regarding the need for a balanced budget. We know the committee's action and we know what OMB is saying and we know what the executive branch is saying.

Let me very quickly, then, review what I would like to do with my substitute to make sure there is money available as quickly as possible to do the best job for the health and safety of youngsters. With my substitute, each State may distribute to LEA's information on asbestos health hazards in schools, procedures recommended by EPA for detection, availability of funds to assist LEA's to carry out detection and removal activities.

It could begin, as I explained before, in October 1980, providing we get the Labor-HEW fiscal year 1980 appropriation, rather than a continuing resolution. One percent of the total Federal dollars in certain categories of education would go for this purpose.

If you want to work against this bill, then you have to get into the tear-jerking business, because the first thing you have to say is, "Oh, but you are taking something away from the handicapped." Well, we are talking about 1 percent of $5 billion that we are going to take away from programs. If that does not succeed, then you have to say, "Oh, but look what you are doing to the disadvantaged." Well, I will be the first to admit that we are talking about taking up to 1 percent from those programs. One percent, that is all, if they need 1 percent, to do something about the health and welfare of children.

We always say in education that there is not much use of talking about educating youngsters unless you are sure about their health and safety, their nutrition, or their general well-being. Otherwise, it is just an exercise in futility.

So we are saying, "Yes, you would have to give up 1 percent, 1 percent in order to try to guarantee health and safety for youngsters."

So I would hope that we would carefully consider a substitute that would not just hold out a promise that "We are thinking about you, we are talking about you," but a substitute that would actually send money back to do the job.

Let me do a little comparison. With my substitute, we do not expand the budget. But we do provide up to $50 million each year for 4 years to help rid the schools of the asbestos hazard. On the other hand, the committee bill would initially cost $30 million. Then the loan provision would cost over $300 million.

Second, my substitute affords that policy for relief without a separate appropriation bill. I think that is very important. The committee bill, of course, risks that whole business, as I said before, of going fishing into that appropriation pool.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GOODLING) has expired.

(By unanimous consent, Mr. GOODLING was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, this is where I think the hoodwinking comes in. We do not want to promise by legislating something that we cannot deliver. We can deliver this aid without increasing the bureaucracy. Funding decisions would be decentralized. We do not need another bureaucracy. EPA is in this business. EPA has already established regulations in September. EPA has already said they are going to mandate action. They are already involved in this. Let us not duplicate what they are doing. Let us use the money wisely.

Again, I cannot overemphasize the fact that if we approve the substitute amendment and we get off the continuing resolution, we can deliver money, not promises, and we can deliver it by October 1 of 1980.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, first let me state that the gentleman from Pennsylvania (Mr. GOODLING) was quite factual, but he withheld some of the most pertinent facts insofar as his substitute is concerned and the effect it will have in providing money at an early date.

His substitute does provide that the cost shall not exceed more than 1 percent of the aggregate. What constitutes the aggregate is title I, ESEA, where we are presently spending a little over $3 billion. I think we are all conscious today that title I is very much under-funded. Most of the title I money today is being expended in the elementary schools and very little in the high schools. There is a lot of complaint throughout America about the reading scores in the high schools, and that is because of the inadequacy of title I funds for the disadvantaged.

Then the other programs that are affected are title IV of ESEA, which encompasses the library resources and the innovative programs where we have an expenditure of about $360 million. Then for the handicapped we have $900 million, and for vocational education, about $680 million, enough money to take care of about 20 percent of the demands of the vocational schools throughout America.

Here we have a total of about a little over $5 billion, and the gentleman's amendment provides that the program shall not cost more than 1 percent of the aggregate of $5 billion or not more than 5 percent of any one program. For the handicapped or for title I, ESEA, or for library resources and the innovative programs or vocational education, as much as 5 percent could be taken away from any one of these programs, in his substitute, when they are very much underfunded today.

The gentleman from Pennsylvania (Mr.

GOODLING) states that, assuming certain facts, we can get money right away. I think the Members of the Congress realize that it is most likely that we may not get an appropriation bill at all the next fiscal year and we will have to go under a continuing resolution. That is because of the abortion issue.

In addition, all of these programs are advance funded. We would not get any money under the Goodling substitute until, in all probability 1981–82, 2 years in the future. I would hope that we could vote down the Goodling substitute so that the Congress can make an appropriation of $100 million this year to remove the dangerous asbestos fibers existing in many of the classrooms throughout America where the local communities do not have the resources.

□ 1320

It is generally known that the program that we are advocating here is very reasonable, very modest, $100 million a year for 3 years for removal, and $30 million for 3 years for detection purposes for the States.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 5 additional minutes.)

Mr. PERKINS. So it is much better, it seems to me, to appropriate the money so that the schools can get the immediate benefits from this program, instead of making them wait until school year 1981.

Now, the gentleman from Pennsylvania (Mr. GOODLING) was honest in his statement, but I say again it is very unlikely that we will get an appropriation bill this year. It is much better to go the route of the committee bill than it is to take the money away from these other programs that are presently underfunded.

Now he says that it does not amount to much, but I say to this body if we took 5 percent away from vocational education or title I or the library program or the handicapped program, we would be doing considerable damage to any of these programs.

Now, between 1979 and 1980, the increase in appropriations for all of the Federal elementary and secondary education programs was only 4.2 percent. This means that with an inflation rate of 13 percent the schools are being asked to cut back by 8 or 9 percent in their programs.

Then the Goodling substitute comes along and says that a State can cut back another 5 percent in any one program to pay for this asbestos program.

I want to say to the members of the committee that this is an unfair solution, trying to deal with this asbestos problem.

It would be my hope, Mr. Chairman, that the members of the committee would vote against this substitute, because, as I have stated, it will delay any action, and the schools may not receive any funding until the fall of 1981.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

The latest effective date for distributing funds under my substitute would be October 1, 1981.

The committee bill would not be effective in providing funds in all probability before October 1981. Then the Department needs 6 months to establish the bureaucracy and regulations.

Mr. PERKINS. I would say to the gentleman, we have a supplemental yet to come, and it would be my hope that the Senate would act at an early date so that we could get this bill funded early next year, by February or March, by the time the supplemental goes through.

Mr. GOODLING. Would not the supplemental also have another abortion fight?

Mr. PERKINS. Under the gentleman's substitute, money would be taken from programs that have already been funded. In addition, all of these programs are advance funded, so I say to the gentleman from Pennsylvania, his intentions are good, but his substitute would completely delay the effectiveness of this program.

Mr. GOODLING. Mr. Chairman, being realistic, is there any possible scenario where the committee bill has much chance of getting any funding before fiscal year 1981?

Mr. PERKINS. Well, the gentleman knows that it is difficult to get money today for new programs, but I firmly believe that, considering the seriousness of the program, the health and welfare of the children of the Nation, and the fact that EPA has already proposed regulations which are up for comment at the present time, that the Committee on Appropriations, when we go before them and ask them for an appropriation, will respond forthwith. That is my best judgment.

Mr. GOODLING. Will they do better than they did with providing funds for removing architectural barriers for the handicapped under section 504?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(At the request of Mr. GOODLING and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. If the gentleman will continue to yield, I thought I heard the gentleman say that States could take, with my substitute, another 5 percent after the 1 percent. I want to make sure it is known that the maximum that could come out of the combined State-administered programs is 1 percent and no more than 5 percent from any one program. The total amount may not exceed 1 percent.

Mr. PERKINS. That is correct, or 5 percent from any one program. I thought I stated that and reiterated that.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Goodling substitute.

I think the gentleman from Pennsylvania has made some excellent points in support of his substitute: the fact that it would not require any separate authorization, separate appropriation process, the establishment of a new bureaucracy to administer, as would the basic bill before us, H.R. 3282.

A good deal of the discussion in the last few minutes has been about timing and how soon we can get help to local school districts for this problem.

It seems as though the proponents of this legislation take the view that there is some sort of a fast track where the Senate is going to take it up quickly, is going to act in time under the Budget Act so that an appropriation would be authorized for fiscal year 1981 and possibly even get money in a supplemental appropriation for part of fiscal 1980.

They are assuming apparently that the President will sign the bill and they take all of these possibilities in the very best light and say they might get a little money to the school districts a little earlier than would the Goodling substitute, viewed in the very worst light.

I think if we look at these two provisions, the bill as reported by the committee and the Goodling substitute, realistically instead of one in the most favorable and the other in the worst light, the Goodling substitute is far superior.

The Goodling substitute, I think, could be enacted and signed by the President.

The bill before us does not have the support of the administration. I am not saying that the Goodling substitute does either, but the bill before us has been commented on by the Secretary of HEW, Patricia Harris, and she says:

> We believe that basic responsibility for removing hazardous asbestos materials in schools and other public buildings is a State and local one and that the correct Federal role is one of leadership and guidance for State and local governments.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I want to make sure that everybody understands that the White House does not support either the committee bill or my substitute. In reference to the various education groups, we must realize that they are thinking that they will get both. Whenever you get contacted by an educational agency or some special group that has an interest in this money, I do not blame them for saying, "Do not support my substitute," because they think that they will get everything.

I think the gentleman and I know that we are living in a real world. A new spending program is not going to happen. It just will not happen. The Committee on Appropriations, OMB, and everybody else, the Committee on the Budget, are just not going to permit new programs and additional expenditures.

□ 1330

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield.

Mr. ASHBROOK. I thank my colleague and want to, in addition to commending him for his statement and expressing my support for the substitute, I want to say I think he stated something that is rather unique. I am really glad that HEW, after all of these years, has found something they think is truly

a local responsibility. Maybe that augurs well for the future and our new Secretary of HEW.

Again, I thank my colleague for yielding.

Mr. ERLENBORN. I thank the gentleman for his contribution. I think the gentleman is eminently correct. It is quite refreshing to have the Secretary of HEW who is able to recognize the fact that there is a State and local responsibility for some of the problems that face us.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the chairman.

Mr. PERKINS. Let me say to my distinguished colleague that in the letter he is quoting, December 6, 1979, addressed to me, we have a paragraph there that states:

> We oppose the Goodling substitute because it would set a dangerous precedent by diverting funds already authorized and appropriated for other educational purposes. Most States and school districts have completed plans for spending their FY 1980 funds during the current school year. Allowing schools to use funds for new and additional purposes would create disruptions in educational programs and force cutbacks in needed education services. We cannot support the diversion of funds away from children with special educational needs who are the intended beneficiaries of the categorical programs authorized by the Elementary and Secondary Education Act of 1965.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. GOODLING and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Let me say that I thank the chairman for his contribution. He has accurately read the portion of the letter.

I would just point out that Mr. GOODLING himself a minute ago tried to make it quite clear that the administration supported neither the pending bill nor the Goodling substitute.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman.

Mr. GOODLING. Mr. Chairman, I merely wanted to point out that if there are any school districts that are planning on spending their 1980 money, and have everything all lined up, they had better make sure that it is a continuing resolution kind of thing that they are doing and that they are not planning on any additional funding. They just better be planning on that continuing resolution. The Secretary of HEW has just missed a few lines there that she should have talked about. There is no question that is the only thing they can be planning for, and that planning has not started, I will assure the gentleman.

Mr. ERLENBORN. I thank the gentleman for his contribution. I think it is an interesting speculation as to whether we will get a basic appropriation bill for fiscal 1980 for HEW-Labor. I think it also is, as far as I know, not settled—maybe I could be corrected by a Member here who knows the answer—but now we have a new, separate Department of Education and they probably will not be in the HEW appropriation bill because there is no HEW any longer. Possibly we might have a separate appropriation bill for education with this new setup, and then it will not get embroiled in this abortion controversy. If that scenario should take effect, then we should have no need for any delay in fiscal 1981 and funds under the Goodling substitute could be made available without further action or any worry about a continuing resolution. As I say, I am not certain that is the way it is going to happen, but I do know there will not be an HEW appropriation for fiscal 1981 because there is no longer any HEW.

I hope the Goodling substitute will be adopted.

Mr. DRINAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. Our consideration of this legislation today brings to mind the haunting testimony before a Senate subcommittee in 1970 of Dr. Irving Selikoff:

> You may wonder why asbestos workers walk backwards. They don't always. It is only going upstairs. They are so short of breath that after two steps, they have to sit down. It is easier to go up a flight of stairs backwards.

Dr. Selikoff heads the department of environmental health at Mount Sinai, and is the country's leading expert on the health effects of asbestos. He and other researchers have established that inhaling and ingesting asbestos significantly increases the risk of cancer in the lung, esophagus, stomach, colon, and chest cavity. Asbestos also interacts with other carcinogens to escalate the cancer hazard: tobacco smokers exposed to asbestos face up to 100 times the normal risk of lung cancer.

Asbestos tends to break down into a fine dust of tiny fibers that float in the air and are easily transported by clothing. These fibers endanger not only those who work directly with asbestos, but also their families, people who live near asbestos plants, and people who work near its application or removal without actually touching it.

We are only now beginning to fully realize the dreadful effects of workers' exposure to asbestos. We must act to prevent similar debilitation in an entire generation of school children.

Children are more susceptible than adults to certain environmental cancers due to their rapid growth rates. And the long latency period of asbestos-induced cancers—15 to 35 years—means that children exposed to asbestos have a higher chance of developing cancer than adults do.

This bill would grant school districts and private schools funds to detect asbestos hazards, and then long-term, interest-free loans to correct them. The need for this program is clear. In my home state of Massachusetts, for example, over 11 percent of the schools contain sprayed asbestos. The cost of correcting this problem is staggering. Newton North High School, a school in my district that was completed 5 years ago at a cost of $20 million, has severe contamination that might require $6 million to eliminate.

This bill would help not only the school districts and private schools that cannot now afford to correct their asbestos problems, but would also compensate the districts and schools that have taken the leadership on this issue and have acted to reduce the danger of asbestos during the past 3 years.

Mr. Chairman, the National Cancer Institute estimates that 18 percent of future cancer cases will be due to asbestos. We can mitigate this frightening prospect by enacting the Asbestos School Hazard Detection and Control Act. I urge my colleagues' support for this important bill, unamended.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I am happy to yield.

Mr. GOODLING. I would ask my colleague, would he not agree that this bill will do nothing for students; it is the appropriations to this bill that will help students. That is the only thing I am trying to bring to the attention of my colleagues.

Mr. DRINAN. I appreciate the gentleman's comments in that I, too, want the appropriation bill and that I am inclined to agree with the chairman that the best way is to go forward as the committee bill mandates.

Mr. GOODLING. If I may make one other comment, if the gentleman will yield further, the gentleman talked about those who have gone ahead and done it on their own. My substitute does have a retroactive provision to January of 1977

Mr. DRINAN. As does the committee bill, and I thank the gentleman for his remarks.

Mr. ERDAHL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today we have the option of passing an authorization bill which basically is a hunting license to go out and look for some hard to find Federal funds, or we have the opportunity of passing the Goodling substitute. The Goodling substitute will provide school districts with some needed funds in dealing with, as the gentleman from Massachusetts has just pointed out, a very serious problem in our society. The asbestos threat is real.

Mr. Chairman, I think voting for the Goodling substitute for this bill ought to be one of the easiest votes we make this session.

What are the advantages of the Goodling substitute?

First of all, it would permit the States to use Federal funds to attack the problem of asbestos hazards in schools in the same manner as the committee-reported bill.

Second, unlike the committee-reported bill, it would assure that funds would actually be made available for that purpose.

Third, unlike the committee-reported bill, it would require no new Federal appropriations and, accordingly, would not add to our problems in trying to control the Federal budget.

Fourth, unlike the committee bill, it

would require no Federal bureaucracy, no new Federal bureaucracy, and no additional Federal employees, and require no additional Federal bureaucrats.

We are all aware of the mood in the country, in the administration and in this Congress to hold down Federal spending and to eliminate or pull back on Federal regulations and the bureaucracy.

Finally, its impact upon Federal funds in any State would be so slight and so limited with respect to any particular program, and so completely in the control of the State, that it would not detract from the effort we are making to assist education.

So here we have an ingenious and attractive proposal for attacking a real and particular problem without adding new additional Federal programs, without adding new additional Federal costs, without adding to the bureaucracy and the redtape. At the same time, since the authorization in the committee bill does not insure funding, this substitute would be more certain in accomplishing the intended purpose. About that purpose I do not think there is any disagreement at all.

Accordingly, it is difficult for me to understand how any Member can oppose this.

□ 1340

I congratulate my colleague from Pennsylvania on his responsible efforts to deal with the asbestos problem, and urge adoption of the Goodling substitute.

Mr. HINSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Goodling substitute.

Mr. Chairman, I support the Goodling substitute. I feel that it substantially improves the original bill. There was a section in the original bill which allowed the Secretary to assess the businesses that mined and produced asbestos, or sold products that were manufactured with it. That was removed in committee. I think that removed a major objection to the bill.

The Goodling substitute removes the remaining objections and creates no new bureaucracy. It allows elementary and secondary funds to be used for the purposes of detection.

Most importantly, it is nonduplicative. It dovetails very neatly into EPA asbestos detection programs, and I believe deserves the consideration of the House. It preserves the purpose of the bill and allows us to get at the basis of the problem that we all seek to solve, namely, the identification and removal of asbestos from our childrens' schools. The substitute amendment is a good one, and I think it ought to be adopted.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have also studied this legislation rather carefully, H.R. 3282, and observed that it is more modest in its scope than was originally contemplated; that it would be desirable to enact it if the Federal budget were balanced and we had the money. Nevertheless, it is worth noting that while the committee's findings drift off into areas that little is known about, such as minimum exposure, no-effect levels and the like, the bill itself does not otherwise relate to or depend on these scientific controversies, but reaches only to the more obviously hazardous conditions. For that, I want to commend its authors.

It does not propose to remove every detectable trace of asbestos from any school, but differentiates only against that which is loose, flaky, or friable, and thus more likely to create a serious exposure problem. On this point, could I ask the gentleman from California (Mr. MILLER) the principal author of the legislation, whether it is correct that his legislation seeks to help remove the more serious friable and damaged asbestos situations, and does not seek to remove all asbestos as, for example, in forms where it may be protected from flaking by suitable plastering or paintings?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, the gentleman's statement is in fact correct. The legislation only goes to that asbestos which is determined to be an imminent health hazard because of its condition. As the gentleman pointed out, flaking and friable and falling down due to damage from weather or water. But, where it is far from students or cemented over or enclosed in tiles, or partitions, again in that case the bill does not direct itself to that, so it does draw the distinction the gentleman is concerned about.

Mr. MARTIN. I thank the gentleman. That, of course, does not mean that it will result in the elusive goal of zero exposure or zero risk, but rather the legislation will tacitly acknowledge that relatively low exposure to airborne asbestos fibers does not pose a significant risk sufficient to warrant a major and expensive program to eliminate any detectable trace. Is that correct?

Mr. MILLER of California. The legislation certainly acknowledges that there is in fact background atmospheric levels of asbestos which come from other environmental factors such as automobile brake linings, and other factors which this legislation cannot speak to and has no control over, and recognizes that may continue to exist even with the passage of this legislation.

Mr. MARTIN. In other words then, it is not the purpose of this legislation to seek to frighten school boards about the presence of low but barely detectable exposure to 1 or even 4 fibers per liter of air inhaled?

Mr. MILLER of California. The intent is just the opposite, to try to provide the means by which school boards can make rational determinations as to levels of asbestos in a school, rather than to respond to the hysteria of somebody who discovers asbestos is in fact present when it is no health hazard at all. We try to draw that distinction with the detection fund.

Mr. MARTIN. I thank the gentleman. I think that it is important that we make this kind of distinction. I think it also must be borne in mind that we believe that once this exposure is reduced, there would still be some exposure to ambient asbestos, or perhaps to asbestos from some source that is out of the way or plastered over, that is painted over when this would produce an element of risk that is relatively low in comparison to the risk of exposure that would still remain, and certainly be experienced there in the same school from airborne particles from other sources such as fiberglas and other minerals. In fact, we cannot be sure that the moneys invested such as on page 42 of the bill will result in a zero risk either. Nevertheless, it is important to have fireproofing available to the schools as a relative choice between great risk on the one hand and rather remote risk on the other.

There is here a need to help remove the more hazardous asbestos exposure, and to encourage school authorities to undertake the responsibility that is properly theirs to maintain the school premises so as to avoid any undue carcinogenic risk to their pupils.

Another point I want to raise with the gentleman from California is this:

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent Mr. MARTIN was allowed to proceed for 3 additional minutes.)

Mr. MARTIN. If I could further raise a question with the gentleman from California to clarify that it is not expected or intended in this legislation that air sampling, X-ray diffraction, and other costly yet highly sensitive techniques would be paid for or required.

Mr. MILLER of California. That would depend upon the detection procedures. We know in some cases the conduct and the content of asbestos in the building materials is readily known through architecture plans or elsewhere, and our common sense would tell us that asbestos in that condition, in that content, should be removed. In other cases, school boards and local agencies may make the determination that they want to go into the more sophisticated efforts at detection. I think we have to leave that to the school boards to make those determinations because those are their children, it is their school, it is their budget.

Mr. MARTIN. The fact that it is not required——

Mr. MILLER of California. It is not required.

Mr. MARTIN (continuing). Or recommended under this legislation——

Mr. MILLER of California. No, that is for local determination.

Mr. MARTIN. I would say to the gentleman that I have reviewed a document prepared by the Environmental Protection Agency regarding asbestos in school buildings, a guidance document, which the gentleman and his staff or the committee may be very familiar with. It sets out the preparations the EPA would recommend. It does not include a requirement of air sampling. In fact, it raises questions as to whether that really tells us anything if the air sample is conducted when school is not in session or is conducted in such a way as to invite damage to asbestos as a way of spitting the school administration. What they set forth is a series of steps to conduct an asbestos control program which would include inspecting for friable material; which would include sampling that fri-

able material to determine what in fact is in it. It would include analysis of these bulk samples, and then would lead to an exposure assessment upon which would be based the corrective action. This assessment would take into account the percentage of asbestos in the sample, friability, its condition, whether it was water-damaged, whether it was accessible to students to damage. I would ask the gentleman whether, in his mind, this is what would be contemplated, this kind of approach.

□ 1350

Mr. MILLER of California. Mr. Chairman, both the legislation which I have offered and the Goodling substitute speak to and anticipate the incorporation of this kind of plan for the methodical proceeding forward of the detection of asbestos, and that is the kind of plan we hope would be incorporated. The problem with that plan in and of itself is, one, school districts are not doing it, so now we are considering promulgating EPA as mandatory, or else that they follow that plan. The concern is that the schools say in most of the comments that come back that, even if we did it, we do not have the money to do it.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARTIN was allowed to proceed for 2 additional minutes.)

Mr. MARTIN. I yield further to the gentleman from California.

Mr. MILLER of Califronia. That is the kind of procedure that is anticipated by both pieces of legislation.

Mr. MARTIN. Finally, there is one phrase in the legislation that concerns me because it is not entirely clear what is meant. That is the use of phrases like "imminent danger" and "imminent hazard." What does the adjective there mean? Does imminent mean that it is ready to take place or impending as used in the law dealing with acute toxicity? Does it mean that there is an imminent health condition? I do not think that is what is intended. I think it may refer to imminent exposure. While it is known that the health results of that would delayed, it is not well understood.

On page 51, lines 16 through 23, the bill defines "imminent hazard" to mean conditions of asbestos that are friable or easily damaged, which we have already addressed, which could result in the dispersal of asbestos fibers into the school environment. I guess my basic point here is to ask the gentleman again, what is meant here to describe conditions that would result in a recognizably serious health risk at higher probable dose levels than the lowest levels that are capable of detection?

Mr. MILLER of California. The gentleman's last sentence is, in fact, correct that there are certain conditions of repair and exposure that will in fact, due to the length of time of the stay and proximity of the students, impose greater hazard onto the students than other conditions. This is a distinguishing factor, and it will be determined by a panel made up of people in the industry, by people in the scientific community and in education, to detemine exactly what that is. If in fact that does not exist, you will not be able to get a loan from the Federal Government for the purposes of that removal.

Mr. MARTIN. Again I want to thank the gentleman and the House for their patience. The questions that have been raised here have been subject to considerable controversy, and I think clarification will be very helpful for the implementation of the act.

Mr. KRAMER. Mr. Chairman, I move to strike the last word. Mr. Chairman, I rise in support of the Goodling substitute amendment. I do not think any of us argue with the intention of the sponsors of this bill. No one wants to see schoolchildren and teachers exposed to health hazards, but the bill establishes authority in one agency, HEW, for the inspection, detection, and the mitigation of asbestos hazards, even though another agency, as other speakers have pointed out, the EPA, has already underway an inspection and detection program and is providing technical assistance on mitigation procedures. In spite of the nominal mention in the legislation of interagency cooperation, I think that the argument is a sound one that this is clear duplication, overlap, and really regulatory overkill. It is going to result in confusion, I think, rather than clarification.

The bill authorizes the Secretary of HEW to set standards for safety and quality control. There are clearly technical issues involved here which I think more appropriately lie with agencies such as the Environmental Protection Agency, which traditionally conducts tests of this kind for environmental hazards as part of its activities. I think we are really getting the HEW bureaucracy into an area that, despite their widespread umbrella, is one that even for them is new and requires technical expertise that is simply not available to them.

What is the Environmental Protection Agency already doing? They began a voluntary inspection and detection program in March of this year. They have provided substantial guidelines, documentation, and technical assistance to school districts. There are a number of documents that other people have alluded to. There are three of them right here. Part 1 and part 2 of their guidelines describe in some detail how to treat asbestos conditions in schools, and there is also a booklet with school asbestos program questions and answer. So, EPA is already well into this thing, and now to put HEW in it from the beginning is simply going to mean the reinvention of the wheel.

I would hope that with the new initiative that EPA is undertaking in that they have given notice now of proposed rulemaking to make mandatory school inspections for asbestos hazards, it seems to me that we are going to insure that we have inspection and detection in our schools.

This notice states that—

EPA is continuing a health effects review of asbestos. The extent of exposure to asbestos in schools will be estimated using results of the reports now being submitted to EPA. The Agency will combine this exposure and health information to estimate the human health risk due to exposure to asbestos in schools.

EPA has already identified many of the important issues associated with this problem and in this notice has solicited comments on such questions as the most effective manner of making an exposure assessment, the method for identifying asbestos and quantifying its presence, and the potential risks to workers and the environment during the removal, transportation, and disposal processes.

The bill's provisions requiring HEW to duplicate these technical efforts will only confuse and delay the process which EPA has already had underway for nearly a year.

In order to avoid having two agencies doing half a job, let us at least stick with the one that has already started it.

In that regard, Mr. Chairman, I think that we can, indeed, scrutinize the problem. We can provide assistance for the problem and at the same time keep the American public from having to have a new layer of Government imposed upon them, something I think that certainly is unnecessary at this particular point in time. I hope that the members of the committee will support the Goodling substitute.

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Goodling substitute.

Mr. Chairman, the substitute would allow States and localities the option of using up to 1 percent of their Federal elementary and secondary education funds for identifying and removing asbestos hazards. The substitute does not provide any additional funds to detect or remove asbestos hazards. It merely gives State and local public officials and school administrators a most difficult choice: They can continued full funding for the essential title I educational programs for disadvantaged children or they can divert funds to protecting the health of students, teachers, and school personnel—but not both.

As we all know, school budgets are already tight enough, without further burdening them with the full costs of identifying and removing asbestos hazards. These costs are substantial. In testimony earlier this year, the excutive director of the division of school buildings of the New York City Board of Education, Anthony Smith, estimated that the cost of removing or controlling asbestos hazards in New York City schools would be between $35 and $48 million.

Title I funding benefits the poor and the handicapped, and the diversion of these funds—even for such a crucially important program as the reduction of asbestos hazards—would undermine the title I program. In addition, by allowing school districts to decide whether or not to engage in their own asbestos inspection and control programs, the substitute guts the committee bill which provides effective coordination and control provisions.

Mr. Chairman, the risks of asbestos exposure in our schools must be eliminated and I believe the committee bill provides a sensible, effective method for

doing so. I urge my colleagues to defeat the substitute.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. Chairman, we have a choice between the committee bill, which is the careful product of months of hearings, and the Goodling substitute. The real question is whether or not this body wants to do something about the removal of a very potentially hazardous material, asbestos, from the schools of this Nation where it poses an imminent health hazard to students and school personnel. It has been suggested that all you have to do is vote for the Goodling substitute for money to readily flow, without any delay, to local school districts. If such unused money were available in the school budget of local districts between their local revenues and Federal revenues, I would suggest to you that school districts would start the program of removal of this hazardous material. But their budgets are so tight that many districts have not been able to initiate detection programs even where they have been placed on the alert as to the potential hazard. The Goodling substitute is purely pretense. Its proponents would have us vote for this legislation and then tell everybody we are terribly concerned about the problem. That just will not wash because the money will not flow under the Goodling approach. There will not be any money to meet the serious asbestos problem.

Somehow, all of a sudden this afternoon, the appropriations procedure has become repugnant to some Members of this House. Nearly every piece of authorizing legislation that we pass goes through the Committee on Appropriations. We do not allow the Army to spend money without going through Appropriations. We do not allow school districts to spend it without the Committee on Appropriations having the final say. That is part of the checks and balances of this House. But now, some of the very same people who oppose entitlements because they circumvent the Appropriations Committee want to make an end run around that committee in order to look like they are terribly concerned about the problem. But they do not want to put their money where their mouths are. This problem requires money to solve. It costs a great deal of money to detect and to remove and to replace and repair the asbestos.

□ 1400

Let us look closely at the committee bill, because it is fiscally very restrained. In this age of tight budgets, in this age of concern over Federal expenditures, we have told these school districts that we will make a loan to them, a loan which they must match 50–50, if they can show that it is an imminent asbestos hazard. They must repay 100 percent of that money to the Federal Government.

Mr. Chairman, I think that is a reasonable approach. I think it is very clear that if you want to take care of the problem, you must go with the committee bill. To do otherwise is to confuse local agencies. You must understand there is no rhyme or reason how the so-called money under the Goodling substitute could ever get to those schools or those school districts which are in need.

Mr. Chairman, I have a potential in a number of schools which I represent which may have an asbestos problem and other Members undoubtedly have the same problem. They get no title I money. They get very little vocational money. The libraries are already being closed down.

Now, what does that have to do with their asbestos money? Other districts may get a great amount of title I but have no asbestos problem. The Goodling approach would just not direct the money to the problem. As a matter of fact, nothing would be available under the Goodling substitute because no school district is going to cut down their already stark education programs by diverting funds to asbestos control. And the Congress ought not ask them to make that choice.

Mr. Chairman, the committee spent months taking medical evidence, holding evidentiary hearings with the agencies like EPA, HEW, and the National Institute for Environmental Health Sciences which are involved in this program, and from others concerned with the health risks. It is true that other programs have been started. EPA has started a voluntary program for which, Mr. Chairman, very few people volunteered. Now, EPA is contemplating a mandated inspection program.

Most of the people who have written back on those proposed EPA regulations have said that they could not do it because the money simply is not available to correct whatever hazards they discover.

I want to point out that there is no mandate in the program established in H.R. 3282. If the school district wants to ignore the problem, we do not intervene. The gentleman from Pennsylvania (Mr. GOODLING) has suggested here we are mandating this program, but that is simply not the case.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. It is strictly voluntary. You can either get in the program or you cannot. You either determine that you have the problem or you do not. We are not going to force this loan on any school district.

Mr. Chairman, it is also suggested that the bureaucracy in the committee bill is much greater than the bureaucracy in the Goodling substitute. In fact, that is not so. The Goodling bill actually goes beyond the committee bill concerning paperwork and bureaucracy because the local districts on a project by project basis must consult with the medical experts of the State, after consultation with the appropriate officers and employees of the Environmental Protection Agency. We have a simplified application procedure utilizing established Federal granting processes.

Mr. Chairman, we do have an interagency task force. Why do we have an interagency task force? Because the problem is an interagency problem. We thought we would put the people together who know about the problem and see if we could come up with a rational, reasonable solution with the least expenditure of dollars possible.

During the Second World War, millions of people worked to help this country in the shipyards, in the defense industries. Millions of them worked around asbestos. Now we find out that we, in fact, set a time bomb, that 30 years later, due to the latency period, we find that many of these people have complications of the lungs, the respiratory system and, in many cases, cancer.

Now, do we want to set the time bomb ticking for this generation of schoolchildren?

Let me tell you something, Mr. Chairman, it will not happen after they worked in the shipyard for 30 or 40 years, and now they are 70 and they find out they have a cancer or a lung ailment.

Mr. Chairman, these are young children, aged 4, 5, 6, 7 years old, high school students. When they are 40 years old, in the prime of their life, because of the time they spent in these schools under these conditions, they may, in fact, now be stricken with cancer or other respiratory ailments. We have a chance to direct Federal money as tightly as possible to those schools which have a very severe problem, not to spread it willy-nilly across the country as would do the Goodling substitute.

In fact, under the Goodling substitute I think you could provide remodeling money. How do you keep track, once they can divert 1 or 5 percent? How does the school make a determination to divert education funds when they have children waiting in line to get into classes for the disadvantaged and the handicapped? When they are shutting down libraries? That is what you are talking about under the substitute as a diversion of existing money. We are talking about money which has already been appropriated. Now we are going to tell the Committee on Appropriations, "We do not really mean to spend the money that way, we have come up with a new plan."

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PERKINS, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. MILLER of California. I will be delighted to yield to my chairman.

Mr. PERKINS. Mr. Chairman, I want to thank the gentleman for yielding. I think we should make it perfectly clear to the members of the committee that if we do not have an HEW appropriations bill this year that the Goodling substitute will not go into effect until 2 years from this past September, until the commencement of the school year, 1981. I think the gentleman from Pennsylvania will agree to that. Assuming we do not have an HEW appropriations bill this

year. There is a good likelihood, in my judgment, that we will not have an appropriations bill this year because of the abortion issue, that we will go on a continuing resolution.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I would be delighted to yield.

Mr. GOODLING. I would just like to respond. I said that over and over again that there is that possibility. That is also true of the committee bill. The only possible way is 1981 but that means then about 6 months later because then you have to get the bureaucracy and everything involved in setting up this proposal and then the regulations. You know, we are both saying the same thing.

Mr. MILLER of California. I think that under the committee bill the appropriation could be made available in a supplemental. The abortion language, as I understand it, has never been attached to a supplemental in this House.

Mr. GOODLING. Mr. Chairman, would the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. The supplemental would have to be approved after the Senate acted. The Senate is talking about higher education, they are talking about arts and humanities. All those things they are going to try to do before May 15. Therefore, if they do not get it finished before May 15 that is all down the drain also.

Mr. Chairman, everyone wants to do the same thing. We want to help children. I think it is just a matter of how can we get the dollars the quickest.

Mr. MILLER of California. I would certainly respond by returning to my initial premise, that under the substitute the dollars will not be there. School districts cannot reduce essential education programs. Moreover, many school districts may have a serious problem that far exceeds any moneys that they would receive under these Federal programs. It is a question of usurping the funds of existing programs. It is a terrible precedent, and it will not remove one particle of asbestos from a classroom anywhere in America. I urge defeat of the substitute.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, first of all, let me respond to several things that have been said. The gentleman from New York said that the Goodling substitute guts the bill. There could be nothing further from the truth. The substitute only deals with the source of the funds, not the objective of the bill. The objective of both the committee bill and my substitute is the same. It only deals with the source of the funds.

As I mentioned, the supplemental appropriation process we are talking about is predicated on the assumption that the Senate would pass the legislation before May 15, which I do not foresee. They have indicated in private conversation it would be difficult to get to it.

Second, my colleague on one point said we are not mandating anything in the bill. At another point the gentleman said EPA is mandating a program. We may as well talk about mandating because that is the direction in which we are definitely going, not through the legislation but through EPA's mandate. I am trying to get funds there more quickly without the redtape, without all of the additional people involved. I am suggesting that we use the EPA system and that we avoid duplicating the efforts of EPA which is presently involved in this whole thing.

□ 1410

Mr. Chairman, let me just conclude by saying, as I said once before, passing this legislation will do nothing, and I repeat, will do nothing to improve the health and safety of children. Appropriations is the name of the game.

I just feel we have a much better chance with the substitute of reaching our objective.

One other point I have to make. My colleague said that, well, his district does not get Federal education money. It has nothing to do with which district gets Federal education money. It is 1 percent of the Federal education dollars that goes to the State. The State appropriates it where it is needed. It has nothing to do with which schools receive the money or which district does not. The substitute allows the States to put the money where it is needed. That is what my substitute says.

So I hope that we really consider the fact that we do not want to hoodwink people by giving them the impression that we have passed meaningful legislation, when in reality all that we have done is to give a hunting license for appropriations.

Appropriations is the name of the game.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words.

I yield to my former chairman, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding.

Let me respond to the gentleman from Pennsylvania (Mr. GOODLING) by stating that the gentleman's substitute in all likelihood will not be effective until October 1981. The committee bill could provide funds next summer, in the fall of 1980, and that is what we expect. I feel that we will have an appropriation.

I do not think that the members of the committee should forget that we are taking funds here from the ongoing programs, taking funds from the handicapped, the disadvantaged, from the library resources.

I am fearful that with the underfunding of most of these programs at the present time, that in certain schools that do not have the resources we can disrupt the whole title I program.

Mr. HEFTEL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I think one thing that has to be observed about the proposal of the gentleman from Pennsylvania (Mr. GOODLING) that is disturbing to many of us is that the choice to be exercised here by the gentleman's amendment is not a choice by local school officials based on their own intimate knowledge of their needs and priorities in their school district. It is a choice made by somebody in the State capitol with respect to whether or not any of the funds going into the State can be used for these purposes. To suggest that this is leaving a choice to the people is a cruel hoax, because it is leaving the choice to the State capitol. In my State, we do not like the choices on what to do with our money in individual districts made at the State capitol. Our local school boards make those decisions for us.

For that reason, as well as the others stated, we would have to oppose the effect of the Goodling amendment, because it transfers for the first time control to the State capitols over the use of these funds which now go directly to local school districts. I think it is a very bad precedent for us to set, no matter how worthy the objectives sought, to take away or dismantle a system that has gone to distributing money to local school districts and replace it with State agency discretion instead of local discretion.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

There were two statements that were made, not quite correctly, and I wanted to be sure to correct them. All these programs we are talking about are administered by the State, where this 1 percent would come from. They are not administered by anybody else. They are administered by the State.

The second comment I would make is that I am sure that the State would be in a better position than Washington, D.C., to make these decisions.

Mr. PERKINS. Mr. Chairman, if the gentleman will yield further, on the formula it goes to the local level; I am sure the gentleman from Pennsylvania will agree to that readily. On the formula, it goes to the local level.

Mr. GOODLING. It goes through the State.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. HEFTEL. I would be delighted to yield.

Mr. FORD of Michigan. Mr. Chairman, the gentleman has been on the committee working with these formulas long enough to know that the State does not administer these programs. It is a conduit, pure and simple, that acts even with less discretion on the money than a bank.

The State exercises no discretion on how the funds are used or which school

district gets the funds, because the formula down at the county level determines where the money will ultimately end up after it gets into the State. No State agency can redirect title I funds after they get into that State.

The CHAIRMAN. The time of the gentleman from Hawaii (Mr. HEFTEL) has expired.

(By unanimous consent, Mr. HEFTEL was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, the committee should be applauded for having isolated the problem of asbestos poisoning in our schoolrooms. We would not now want to compromise that approach by confusing it with any other educational programs.

It is a loan program for the States which will have to be repaid. Thus, the States can target on the specific problems of asbestos poisoning in the schoolrooms.

In Hawaii we have now found that 40 percent of our schools have contamination at levels of 2 to 50 percent.

We want a loan program in which we do not have to compete with other educational programs.

The Federal Government loan program is the perfect solution to the problem of how to best assist the States.

I hope that the amendment will be defeated and that the bill would pass.

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Goodling amendment.

Mr. Chairman, the legislation presently before the House addresses an important and pressing problem that affects every State in the Nation: asbestos in our schools. Every day hundreds of thousands, perhaps millions, of school-age children are being exposed to particles of asbestos dust. These particles of dust, so fine that their detection takes the use of sophisticated equipment, have been proven to lead to the development of cancer.

There is no dispute that legislation to remove this hazard is badly needed. This body is going to produce a bill to address this problem. Where there are differences between us is as to how we should go about accomplishing the detection and removal of the asbestos material in the schools. Because I believe the Goodling substitute offers the most effective and least expensive means of accomplishing this, I urge its adoption as a substitute to H.R. 3282.

The Goodling substitute will place the asbestos removal effort on the fast track. There will be no need to wait until the bureaucracy to administer the program is in place. Under the substitute, there will be no bureaucracy. Not a single Federal employee would have to be hired. There will be no need to wait for regulations to be issued to govern the operation of the program. No regulations will be needed for the effort to get started. The control of the program will be in the hands of the State authorities, not Washington bureaucrats. There will also be no need to wait for the appropriation of funds. The substitute calls for no new Federal appropriation, not one dime. Existing education funds—in amounts so small as not to disturb existing federally supported education programs—will simply be shifted to fund the effort.

I have to commend my colleague from Pennsylvania in the strongest terms—he has come up with an effective, sure-fire way to address a major problem without furthering the problem of deficit Federal spending. I urge my colleagues to join me in supporting the substitute to the bill.

Mr. COLEMAN. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, first of all, let me say that it is really not a loan program. There is no way we can say it is a loan program. It is interest free and does not have to be repaid for 20 years. Therefore, it is a grant program. It is not a loan program, because it is the taxpayers who are, in fact, paying to borrow that money which is to be used over the 20-year period on an interest-free basis.

Second, when you say that the State is a conduit through which this money passes, it is really interesting to me. As a superintendent, it was the State of Pennsylvania who determined whether my ESEA programs could get off the ground or whether they could not get off the ground, whether in fact they would be approved or whether they were not approved. We never had a visit from anybody from Washington, D.C.

Just let me again reiterate that even in the worst case, neither of us could provide money before October 1981. There is no question in my mind that the committee bill could not deliver any money before that time. There is a possibility that my proposal could.

Even if the committee bill becomes effective on October 1, 1981, HEW must then set up the bureaucracy. They must then set up the regulations and that could be even 6 more months down the line before all that was done and this assumes that the Appropriations Committee has acted favorably and that the appropriations process is not tied up in the abortion dispute.

So I would hope that we would give careful consideration to the substitute so that we can actually help children, not just pass legislation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. PERKINS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce that this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 727]

| | | |
|---|---|---|
| Abdnor | Derrick | Hubbard |
| Addabbo | Derwinski | Huckaby |
| Akaka | Devine | Hughes |
| Albosta | Dickinson | Hutto |
| Ambro | Dicks | Hyde |
| Anderson, Calif. | Diggs | Ichord |
| Andrews, N.C. | Dixon | Ireland |
| Annunzio | Dodd | Jacobs |
| Anthony | Donnelly | Jeffries |
| Applegate | Dornan | Jenrette |
| Ashbrook | Dougherty | Johnson, Calif. |
| Ashley | Downey | Johnson, Colo. |
| Aspin | Drinan | Jones, N.C. |
| Atkinson | Duncan, Oreg. | Jones, Okla. |
| AuCoin | Duncan, Tenn. | Jones, Tenn. |
| Bafalis | Early | Kastenmeier |
| Bailey | Edgar | Kazen |
| Baldus | Edwards, Ala. | Kelly |
| Barnard | Edwards, Okla. | Kemp |
| Barnes | Emery | Kildee |
| Bauman | English | Kindness |
| Beard, R.I. | Erdahl | Kogovsek |
| Beard, Tenn. | Erlenborn | Kostmayer |
| Bedell | Ertel | Kramer |
| Beilenson | Evans, Del. | LaFalce |
| Benjamin | Evans, Ga. | Lagomarsino |
| Bennett | Evans, Ind. | Latta |
| Bereuter | Fary | Leach, Iowa |
| Bethune | Fascell | Leach, La. |
| Bevill | Fazio | Leath, Tex. |
| Biaggi | Fenwick | Lederer |
| Bingham | Ferraro | Lee |
| Blanchard | Findley | Lehman |
| Boggs | Fish | Leland |
| Boland | Fisher | Lent |
| Bolling | Fithian | Levitas |
| Boner | Flippo | Lewis |
| Bonker | Florio | Livingston |
| Bouquard | Ford, Mich. | Lloyd |
| Bowen | Forsythe | Loeffler |
| Brademas | Fountain | Long, La. |
| Breaux | Fowler | Long, Md. |
| Brinkley | Frenzel | Lott |
| Brodhead | Frost | Lowry |
| Brooks | Fuqua | Lujan |
| Broomfield | Garcia | Luken |
| Brown, Calif. | Gaydos | Lungren |
| Brown, Ohio | Gephardt | McClory |
| Broyhill | Giaimo | McCormack |
| Buchanan | Gilman | McDade |
| Burgener | Gingrich | McHugh |
| Burlison | Ginn | McKinney |
| Burton, Phillip | Glickman | Madigan |
| Butler | Goldwater | Maguire |
| Byron | Gonzalez | Markey |
| Carney | Goodling | Marks |
| Carr | Gore | Marlenee |
| Carter | Gradison | Marriott |
| Cavanaugh | Gramm | Martin |
| Chappell | Grassley | Mathis |
| Cheney | Green | Matsui |
| Chisholm | Grisham | Mattox |
| Clausen | Gudger | Mavroules |
| Clay | Guyer | Mazzoli |
| Cleveland | Hall, Ohio | Mica |
| Clinger | Hall, Tex. | Mikulski |
| Coleman | Hamilton | Miller, Calif. |
| Collins, Ill. | Hammer-schmidt | Miller, Ohio |
| Collins, Tex. | Hance | Mineta |
| Conable | Hansen | Minish |
| Conte | Harkin | Mitchell, Md. |
| Conyers | Harris | Mitchell, N.Y. |
| Corcoran | Harsha | Moakley |
| Corman | Hawkins | Moffett |
| Cotter | Heckler | Mollohan |
| Coughlin | Hefner | Montgomery |
| Courter | Heftel | Moore |
| Crane, Daniel | Hightower | Moorhead, Calif. |
| Daniel, Dan | Hillis | Mottl |
| Daniel, R. W. | Hinson | Murphy, Pa. |
| Danielson | Holland | Murtha |
| Dannemeyer | Hollenbeck | Myers, Ind. |
| Daschle | Holt | Myers, Pa. |
| Davis, Mich. | Holtzman | Natcher |
| Davis, S.C. | Hopkins | Neal |
| de la Garza | Horton | Nedzi |
| Deckard | Howard | Nelson |

| | | |
|---|---|---|
| Nolan | Roybal | Tauke |
| Nowak | Royer | Taylor |
| O'Brien | Rudd | Thomas |
| Oakar | Runnels | Thompson |
| Oberstar | Sabo | Traxler |
| Obey | Satterfield | Trible |
| Ottinger | Sawyer | Udall |
| Panetta | Schroeder | Ullman |
| Pashayan | Schulze | Van Deerlin |
| Patten | Sebelius | Vander Jagt |
| Patterson | Seiberling | Vanik |
| Paul | Sensenbrenner | Vento |
| Pease | Shannon | Volkmer |
| Pepper | Sharp | Walgren |
| Perkins | Shelby | Walker |
| Petri | Shumway | Wampler |
| Peyser | Shuster | Watkins |
| Pickle | Simon | White |
| Preyer | Skelton | Whitehurst |
| Price | Slack | Whitley |
| Pritchard | Smith, Iowa | Whittaker |
| Pursell | Smith, Nebr. | Whitten |
| Quillen | Snowe | Williams, Mont. |
| Rahall | Snyder | Williams, Ohio |
| Railsback | Solomon | Wilson, Bob |
| Rangel | Spellman | Wilson, Tex. |
| Ratchford | St Germain | Winn |
| Regula | Stack | Wirth |
| Reuss | Staggers | Wolff |
| Rhodes | Stangeland | Wolpe |
| Richmond | Stanton | Wright |
| Rinaldo | Steed | Wyatt |
| Ritter | Stewart | Wydler |
| Roberts | Stockman | Wylie |
| Robinson | Stokes | Yates |
| Rodino | Stratton | Yatron |
| Roe | Studds | Young, Alaska |
| Rosenthal | Stump | Young, Fla. |
| Roth | Swift | Zablocki |
| Rousselot | Synar | Zeferetti |

□ 1430

The CHAIRMAN. Three hundred and eighty-one Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Kentucky (Mr. PERKINS) for a recorded vote.

Does the gentleman from Kentucky insist on his demand?

Mr. PERKINS. Yes, Mr. Chairman.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for the vote.

The vote was taken by electronic device, and there were—ayes 133, noes 262, not voting 38, as follows:

[Roll No. 728]

AYES—133

| | | |
|---|---|---|
| Abdnor | Erlenborn | Lent |
| Archer | Evans, Del. | Livingston |
| Ashbrook | Fenwick | Loeffler |
| Bafalis | Findley | Long, Md. |
| Bauman | Fountain | Lott |
| Beard, Tenn. | Fowler | Lujan |
| Bethune | Frenzel | Lungren |
| Bouquard | Gingrich | McClory |
| Brinkley | Glickman | McDade |
| Brooks | Goodling | McDonald |
| Broomfield | Gradison | Marriott |
| Brown, Ohio | Grassley | Martin |
| Broyhill | Grisham | Miller, Ohio |
| Burgener | Guyer | Mitchell, N.Y. |
| Butler | Hammer-schmidt | Montgomery |
| Byron | | Moore |
| Cheney | Hansen | Moorhead, Calif. |
| Cleveland | Harsha | |
| Coleman | Hillis | Myers, Ind. |
| Collins, Tex. | Hinson | O'Brien |
| Conable | Holt | Pashayan |
| Corcoran | Hyde | Petri |
| Courter | Ichord | Quayle |
| Crane, Daniel | Jacobs | Quillen |
| Daniel, Dan | Jeffries | Railsback |
| Daniel, R. W. | Johnson, Colo. | Rhodes |
| Dannemeyer | Jones, Tenn. | Ritter |
| Deckard | Kelly | Robinson |
| Derwinski | Kindness | Roth |
| Devine | Kramer | Rousselot |
| Dickinson | LaFalce | Rudd |
| Duncan, Tenn. | Lagomarsino | Runnels |
| Emery | Latta | Satterfield |
| Erdahl | Lee | Sawyer |
| Schulze | Stanton | Walgren |
| Sebelius | Stenholm | Walker |
| Sensenbrenner | Stockman | Wampler |
| Shelby | Stratton | Whitehurst |
| Shumway | Stump | Whittaker |
| Shuster | Tauke | Wilson, Bob |
| Skelton | Taylor | Winn |
| Snowe | Trible | Wydler |
| Snyder | Ullman | Wylie |
| Solomon | Vander Jagt | Young, Alaska |
| Stangeland | Volkmer | Young, Fla. |

NOES—262

| | | |
|---|---|---|
| Addabbo | Fithian | Moffett |
| Akaka | Flippo | Mollohan |
| Albosta | Florio | Moorhead, Pa. |
| Ambro | Foley | Mottl |
| Anderson, Calif. | Ford, Mich. | Murphy, Pa. |
| | Ford, Tenn. | Murtha |
| Andrews, N.C. | Forsythe | Myers, Pa. |
| Annunzio | Frost | Natcher |
| Anthony | Fuqua | Neal |
| Applegate | Garcia | Nedzi |
| Ashley | Gaydos | Nelson |
| Aspin | Gephardt | Nolan |
| Atkinson | Giaimo | Nowak |
| AuCoin | Gibbons | Oakar |
| Bailey | Gilman | Oberstar |
| Baldus | Ginn | Obey |
| Barnard | Goldwater | Ottinger |
| Barnes | Gonzalez | Panetta |
| Beard, R.I. | Gore | Patten |
| Bedell | Gramm | Patterson |
| Beilenson | Gray | Pease |
| Benjamin | Green | Pepper |
| Bennett | Guarini | Perkins |
| Bereuter | Gudger | Peyser |
| Bevill | Hall, Ohio | Pickle |
| Biaggi | Hall, Tex. | Preyer |
| Bingham | Hamilton | Price |
| Blanchard | Hance | Pritchard |
| Boggs | Harkin | Pursell |
| Boland | Harris | Rahall |
| Bolling | Hawkins | Rangel |
| Boner | Heckler | Ratchford |
| Bonior | Hefner | Regula |
| Bowen | Heftel | Reuss |
| Brademas | Hightower | Richmond |
| Breaux | Holland | Rinaldo |
| Brodhead | Hollenbeck | Roberts |
| Brown, Calif. | Holtzman | Rodino |
| Buchanan | Hopkins | Roe |
| Burlison | Horton | Rosenthal |
| Burton, Phillip | Howard | Roybal |
| Carney | Hubbard | Royer |
| Carr | Huckaby | Sabo |
| Carter | Hughes | Santini |
| Cavanaugh | Hutto | Scheuer |
| Chappell | Ireland | Schroeder |
| Chisholm | Jenrette | Seiberling |
| Clausen | Johnson, Calif. | Shannon |
| Clay | Jones, N.C. | Sharp |
| Clinger | Jones, Okla. | Simon |
| Collins, Ill. | Kastenmeier | Slack |
| Conte | Kazen | Smith, Iowa |
| Conyers | Kemp | Smith, Nebr. |
| Corman | Kildee | Spellman |
| Cotter | Kogovsek | St Germain |
| Coughlin | Kostmayer | Stack |
| D'Amours | Leach, Iowa | Staggers |
| Danielson | Leach, La. | Steed |
| Daschle | Leath, Tex. | Stewart |
| Davis, Mich. | Lederer | Stokes |
| Davis, S.C. | Lehman | Studds |
| de la Garza | Leland | Swift |
| Derrick | Levitas | Synar |
| Dicks | Lewis | Thomas |
| Diggs | Lloyd | Thompson |
| Dixon | Long, La. | Traxler |
| Dodd | Lowry | Udall |
| Donnelly | Luken | Van Deerlin |
| Dornan | McCormack | Vanik |
| Dougherty | McHugh | Vento |
| Downey | McKinney | Watkins |
| Drinan | Madigan | Weaver |
| Duncan, Oreg. | Maguire | White |
| Early | Markey | Whitley |
| Eckhardt | Marks | Whitten |
| Edgar | Marlenee | Williams, Mont. |
| Edwards, Ala. | Mathis | Williams, Ohio |
| Edwards, Okla. | Matsui | Wilson, Tex. |
| English | Mattox | Wirth |
| Ertel | Mavroules | Wolff |
| Evans, Ga. | Mazzoli | Wolpe |
| Evans, Ind. | Mica | Wright |
| Fary | Mikulski | Wyatt |
| Fascell | Miller, Calif. | Yates |
| Fazio | Mineta | Yatron |
| Ferraro | Minish | Zablocki |
| Fish | Mitchell, Md. | Zeferetti |
| Fisher | Moakley | |

NOT VOTING—38

| | | |
|---|---|---|
| Alexander | Andrews, N. Dak. | Badham |
| Anderson, Ill. | | Bonker |
| Burton, John | Jenkins | Rostenkowski |
| Campbell | Lundine | Russo |
| Coelho | McCloskey | Solarz |
| Crane, Philip | McEwen | Spence |
| Dellums | McKay | Stark |
| Dingell | Michel | Symms |
| Edwards, Calif. | Murphy, Ill. | Treen |
| Flood | Murphy, N.Y. | Waxman |
| Hagedorn | Nichols | Weiss |
| Hanley | Paul | Wilson, C. H. |
| Jeffords | Rose | Young, Mo. |

□ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Hanley against.

Mr. Philip M. Crane for, with Mr. Young of Missouri against.

Mr. Hagedorn for, with Mr. Russo against.

Mr. Michel for, with Mr. Rostenkowski against.

Mr. Paul for, with Mr. Murphy of New York against.

Mr. Symms for, with Mr. John L. Burton against.

Mrs. SMITH of Nebraska changed her vote from "aye" to "no."

Mr. GLICKMAN changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. PERKINS. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. I thank the gentleman for yielding.

I want to congratulate the gentleman, and I support the bill.

Mr. Chairman, I rise in support of H.R. 3282.

From my work on the cancer issue as a member of the Health and Environment and Oversight and Investigations Subcommittees of the Commerce Committee, I am convinced that deteriorating ceilings in thousands of our Nation's schools pose a serious, long-term health threat to our Nation's vast, exposed school population. I believe this legislation is necessary to reduce the danger that thousands of today's students will face 20 to 30 years from now.

We know a good deal about the serious hazards posed by asbestos. Through the work of Dr. Irving Selikoff of Mount Sinai Hospital in New York, we know that even small amounts of asbestos fibers brought home on the clothing of asbestos workers can lead to cancer in their wives and children many years later.

We know that the majority of scientists believe that there is no known safe threshold for exposure to any carcinogen and that unnecessary exposures to these substances ought to be eliminated.

We will therefore be doing our children and their teachers, who may be exposed to asbestos for a good part of the day, 5 days a week, for 9 months of a year, a grave disservice if we do not pass this bill.

Without Federal support for the effort to locate schools with asbestos problems, and a coordinated program with uniform standards for testing and removal or

control, it is likely that school districts will cut existing programs to do the job. Because cancer does not kill until 10 to 40 years after exposure, it is too easy to pretend that exposures are not a problem. Certainly, if we were talking about an epidemic of botulism in our schools, we would not hesitate to act. But the particular nature of cancer should not lead us to put our heads in the sand and pretend that there is no connection between our failure to act and deaths that we will not see immediately. Our action, or our inaction, will still be critical to whether thousands of American schoolchildren live long and healthy lives or contact the agony of cancer.

It is incumbent upon us, if we are to be responsible public officials, to provide the small amount of money that will protect our schoolchildren, our Nation's future. This is properly a Federal responsibility.

The school population is particularly vulnerable to exposures from cancer-causing agents such as asbestos. The cancers that may be caused by exposures early in life will appear at a much earlier age than the exposures of those in Navy shipyards who worked with asbestos during World War II who are now in their fifties and sixties. And if these schoolchildren develop cancer in their thirties and forties the costs to society will be much greater.

I believe that this legislation aimed at preventing unnecessary cancer risks among our schoolchildren is a sound investment in preventive medicine.

In economic terms, this effort will reduce the cost to the Nation of lost productivity and extended health care. But more important, knowing what we know about the peril of asbestos, in human terms, we owe it to our children to spare them from this kind of unnecessary threat to their futures.

Mr. PERKINS. Mr. Chairman, I yield to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the bill before us today, H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979.

Asbestos is a known carcinogen. It causes cancer primarily in the lungs but can also affect other organs.

Children in our Nation's schools are a captive audience. We, as legislators and our colleagues in the State capitols, require that children spend a minimum of 10 years of their lives in school. We, as legislators also must assume the responsibility for insuring the health and safety of our children.

The problem of asbestos in our Nation's schools is a national problem. I applaud Chairman PERKINS and my colleague from California (Mr. MILLER) for introducing this legislation.

The problem of asbestos, however, is not insurmountable. I would like to share with you our experience in New York City. At first we were told that asbestos was in as many as 300 to 400 of our schools and would cost upward of $40 to $50 million to contain.

Through a competent, professional testing and analysis program of the type which the legislation will enable other jurisdictions to carry out, the board of education has surveyed almost 1,400 facilities. They now know that efforts to remove or contain asbestos will have to be undertaken in about 175 sites.

To date, the school system has only expended $3 million to provide for the most extreme problems. Estimated costs of the total abatement project will not exceed $15 million, and will most likely run about $13 million.

There is currently no Federal assistance to help schools meet this serious and unanticipated problem. Therefore, I urge my colleagues to support this legislation which will give school systems the incentive they need to do a thorough assessment of their individual needs and the ability to borrow the funds to correct problems that do exist. It establishes a reasonable, cautious, and fair approach to ridding our schools of a potentially severe health hazard.

● Mr. MOAKLEY. Mr. Chairman, I rise in strong support for H.R. 3282, the Asbestos School Hazard Detection and Control Act.

I would first like to commend the gentleman from California (Mr. MILLER) and the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), for their fine work in bringing this important issue to the House floor.

The health hazards of asbestos cannot be denied. This substance has been linked to a number of illnesses, including cancer of the lung, esophagus, stomach, and colon. The risks of children to asbestos are even greater due to their increased rate of cell multiplication, respiration, and physical activity.

Unfortunately, asbestos was widely used in schools between 1940 and 1972 for fire proofing, insulation, soundproofing, and even decoration. Today, some of this asbestos material is deteriorating and fibers are being released into the air of school buildings; being inhaled by schoolchildren and employees.

In Massachusetts, 11.3 percent of the schools were found to contain sprayed asbestos material. Of the 138 schools containing asbestos, officials said that 27 were potentially hazardous enough to warrant immediate action. The Massachusetts Legislature has deemed this problem serious enough to establish a special investigatory commission.

It is painfully obvious the Congress must address this problem.

The legislation we are now considering will provide Federal assistance, predominantly repayable loans, to help elementary and secondary schools to identify and control hazardous asbestos conditions. Recipients of these Federal grants and loans must match the money 50–50 and all loans must be repaid to the Federal Government.

I believe the House must pass this legislation in its present form, so the States can begin to address this serious threat to the health of our Nation's schoolchildren.●

● Mr. OTTINGER. Mr. Chairman, as an original cosponsor of the Asbestos School Hazard Detection and Control Act of 1979, I rise in strong support of H.R. 3282 now under consideration and urge my colleagues to join me in supporting this important bill.

Medical evidence has established a strong link of exposure to absestos fibers with chronic or terminal diseases, principally asbestosis and cancer. School buildings constructed between 1946 and 1972 were built with extensive use of asbestos for insulation, decoration, and for accoustical purposes. Approximately 15 percent of the schools in the country contain asbestos. Many of these are in New York.

Fortunately the problem of asbestos exposure in schools is a problem that can be solved. However, the procedures to remove or contain the asbestos are costly and many school districts are finding that the impact on their budgets is potentially devastating.

There is currently no Federal assistance to help schools meet this unanticipated problem. This bill establishes a program to help school districts identify and control the exposure of schoolchildren and school personnel to asbestos. It is a modest yet responsive program.

H.R. 3282 authorizes grants to local education agencies and private schools for inspection of school facilities to determine the presence of hazardous asbestos materials. These grants could pay up to 50 percent of the project's costs. However, the Federal share could be increased to up to 100 percent if HEW determines that an applicant has limited financial resources and would otherwise be unable to participate in the program. The bill also provides that grants may be made retroactively to reimburse districts and private schools for activities conducted after January 1, 1977, as long as these activities were conducted in a manner that substantially conforms to HEW standards.

In addition, H.R. 3282 authorizes long-term, interest-free loans to local educational agencies and private schools for containing or removing asbestos-containing materials which pose an imminent health and safety hazard. As in the grant program, the bill provides that the loans could pay for up to 50 percent of the costs of projects and can be made retroactively.

I understand that a substitute bill will be offered to allow State and local education authorities the option of using up to 1 percent of their Federal elementary and secondary education funds for the purposes of detection and/or removal of asbestos. I oppose this amendment. No school administrator or public official should have to choose between spending funds for essential educational programs of safeguarding the health of schoolchildren and employees.

Similar legislation has been introduced in the Senate by Senator STAFFORD, Senator MOYNIHAN, Senator CRANSTON, Senator KENNEDY, and Senator BRADLEY. I urge my colleagues to approve this bill today so that there will be time for the Senate to act and the bill to be signed into law early next year. This will hopefully allow States to pro-

ceed with the detection programs so that repairs can be made during the summer of 1980.●

● Mr. BIAGGI. Mr. Chairman, I rise in support of the bill before us here, H.R. 3282, the Asbestos School Hazard Detection and Control Act which originated from our Education and Labor Committee.

As the ranking New York member on this committee, I wish to echo the concerns which many of us heard through the deliberations we held on this legislation. Those sentiments are these: Recent scientific evidence has established a dangerously strong link between exposure to asbestos and many serious diseases, such as certain types of cancer and respiratory ailments.

Our concern has been even more increased because of the fact that this flaking asbestos material (called "friable" in the language of the experts) is present in many of this Nation's elementary and secondary schools. Hundreds of thousands of children are being exposed to this potential danger on a daily basis. Therefore, it is imperative that we act to approve this bill which would give States and local educational agencies scientific, technical and financial assistance to detect and remove the presence of friable asbestos in our schools.

In sum, this bill authorizes $30 million for fiscal year 1980 through fiscal year 1982 for grants to local educational agencies and private schools to conduct detection programs for the presence of asbestos in their buildings. These grants will provide up to 50 percent of the funding, with an option to fund up to 100 percent if HEW determines that the applicant has limited financial resources and otherwise, would not be able to conduct an inspection program.

There is also a loan program in this bill which authorizes up to $100 million per year from fiscal year 1980 through fiscal year 1982 which provides interest-free loans to schools, both public and private, to assist them in removing asbestos-containing materials. As in the grant program, these loans will pay for up to 50 percent of the costs. I bring to the attention of my colleagues that every penny of these loans will be repaid to the Federal Government. It is a small, temporary investment for us to make in the short run, for the benefit of better health for our Nation's children in the long run.

I am also proud to note that my own State of New York has been a pioneer in bringing national attention to bear on the asbestos problem. A model program is currently being operated in New York City schools which will serve as an example of how asbestos control can economically and efficiently be carried out by local educational agencies.

This bill is of critical importance not only to the schools of this Nation, but more importantly, to our most valuable asset as a nation—our children. In this final month of the International Year of the Child, let us commit ourselves to assuring that the future leaders of this Nation will grow to be healthy and productive adults. I urge that my colleagues join me in support of this vital piece of legislation.●

● Mr. DOWNEY. Mr. Chairman, I rise to express my strong support for the Asbestos School Hazard Detection and Control Act of 1979.

I have a special interest in this bill. Three years ago a veteran of World War II came to me for help. He was dying of lung cancer and traced the beginning of his disease to exposure to asbestos while working on a Navy ship.

Months later, this same conclusion was reluctantly reached by the Veterans' Administration, and while I was pleased to have helped him, it was only the start of my own investigation into the widespread use of asbestos and the horrifying result of asbestos poisoning.

As a cosponsor of this measure, I am acutely aware of the need to check every public building and to repair or demolish any surface improperly employing asbestos as a fire retardant. Twenty of the one hundred and forty school districts in Suffolk County have already requested health department tests for asbestos fibers. Forty percent of those already tested have been identified as "potentially hazardous," 3 in my own district, and 120 more school districts still must be tested.

One fiber, lodged in lung tissue, can develop into a malignancy 20 years from now. Surely, the Asbestos School Hazard Detection and Control Act represents preventive medicine at its best. I only hope we are not too late.

I urge my colleagues to join with me to make the schools of our Nation safe. Twenty years from now I do not want to learn of high incidence of lung cancer in today's schoolchildren as a result of our inaction today.●

● Mr. CARTER. Mr. Chairman, as we consider H.R. 3282, the proposed Asbestos School Hazard Detection and Control Act of 1979, I would like to take this opportunity to urge my colleagues to support legislation to help alleviate the serious problem of asbestos in schools.

Hearings held earlier this year before the Education and Labor Committee's Subcommittee on Elementary, Secondary, and Vocational Education, along with several independent studies confirm the serious danger posed by the widespread use of asbestos for decorative, fireproofing, insulation, and acoustical purposes in schools nationwide.

Inhalation of the small asbestos fibers, released into the air from deteriorating asbestos products, poorly installed asbestos, or vandalized objects made with asbestos, has been statistically linked to a variety of diseases, including lung cancer, mesothelioma, asbestosis, and various gastrointestinal cancers.

While asbestos is currently regulated in the workplace, it is not in nonindustrial situations such as schools, where it is apparently so prevalent that the magnitude of the problem has been difficult to assess.

It is equally difficult to assess the asbestos threat in terms of when and how it can affect the health of the child because of the disparity in degree of exposure to asbestos and the long latency period that characterizes asbestos-related diseases.

In a recent lecture addressing asbestos and other environmental hazards, Dr. Irving Selikoff, the director of the environmental science laboratory at New York's Mount Sinai Hospital and a nationally known authority on asbestos-related disease, put the problem we face in perspective:

> American society has decided to follow a path of control rather than outright banning. We are willing to tolerate some disease, but as little as is humanly possible. If we control vigorously, we can be very successful. . . . Control is very complicated . . . it requires an extraordinary commitment.

The legislation before us is a limited but necessary step in overcoming the dangers presented by the use of asbestos in our schools. It encourages investigation and provides the means to determine the depth of the immediate problem facing a school district: Is the asbestos used presenting a serious health hazard? It also provides assistance, in the form of loans, to schools that must correct an asbestos problem, by sealing the asbestos, eliminating it, or other structural changes.

In view of the potential hazards asbestos presents in schools, it is incumbent that we take any reasonable precaution to protect the health and well-being of our schoolchildren. Legislation of this nature represents a fulfillment of that obligation.●

● Mrs. CHISHOLM. Mr. Chairman, I rise in support of this legislation, which I believe to be vital in assuring that our children are adequately protected from the debilitating effects of exposure to dangerous levels of asbestos. Asbestos building materials were frequently used in schools built between 1946 and 1972. Currently, we have no way of knowing the effects that this material is presently having on our school age population and there is not available data that measures the incidence of asbestos in schools. A program of asbestos detection leading to expedient remedial measures is urgently needed so that we may all rest easy with the knowledge that our children's health and safety is not being compromised by the effects of asbestos fibers.

I compliment the Committee on Education and Labor for the coordinated systematic approach that they have taken with the asbestos problem. Federal financial assistance to local educational agencies and private schools in the form of grants for inspection of school facilities and interest free loans for activities to control the problem are sorely needed, particularly at a time when many school budgets are facing serious restraints.

I urge my colleagues to join me in support of this worthy and necessary legislation. As this International Year of the Child comes to a close, the passage of this legislation can be a small, but significant measure to protect the health of American children.●

● Mr. LUKEN. Mr. Chairman, the link between asbestos exposure and cancer is well known; cancer can occur some 20 to 30 years after exposure. Thus, the

presence of asbestos in our schools is a serious problem requiring immediate action. The bill before Congress today would provide funds for asbestos testing by local school districts, as well as make available interest-free loans for removal and replacement of any dangerous materials found in the schools.

The situation in my district, in Cincinnati, is by all accounts, potentially critical.

Inquiries into the local activities have revealed that visual inspections, but no chemical or laboratory testing, has been conducted. Cincinnati School Board, State bureau of health, and Federal Environment Protection Agency officials all agree that it is extremely difficult to detect the presence of asbestos visually. It is virtually impossible to determine the level or percentage of asbestos present, or estimate the potential danger, without sophisticated laboratory tests.

Passage of the bill pending today, H.R. 3282, is imperative. This bill would make it possible for Cincinnati's financially burdened school district, and others in a similar position, to do the testing necessary to detect dangerous situations and give them the ability to quickly correct them.●

● Mr. COTTER. Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act, which I sponsored along with 47 of my colleagues. This bill will establish a limited Federal matching grant and loan program for the detection and removal of asbestos materials which pose serious health hazards to millions of schoolchildren and school personnel as a result of cancer-causing asbestos fibers.

Asbestos was used in schools built from 1946 to 1973, when it was banned by the Environmental Protection Agency. Authorities claim that thousands of schools across the country contain asbestos materials. When such structures age or are damaged, asbestos fibers are released into the air. The asbestos dust, buoyant enough to float in still air, can only be seen through an electron microscope.

Medical experts agree that inhalation of asbestos fibers can be linked to the development of cancer of the lung, mesothelioms, asbestosis, and gastrointestinal cancer. Such diseases can take up to 30 years to develop into detectable maladies. The Department of Health, Education, and Welfare estimates that asbestos may figure in 10 to 15 percent of all cancer deaths in the United States each year.

We must act immediately to defuse the environmental time bomb which is set to go off in our schoolchildren decades from now.

We have a very serious problem in my own district. City officials in Hartford, Conn., were informed earlier this year that two schools have excessive and unsafe levels of asbestos in sprayed-on fireproofing. The Hartford City Council was asked to appropriate $500,000 just to remove asbestos from one elementary school.

A preliminary survey by the State department of education located 13 schools in Connecticut with asbestos problems. It will cost an estimated $7 million to remove this hazard.

While the Environmental Protection Agency is providing technical assistance to States and localities to meet this hazard, I do not believe this assistance is sufficient to permit local and State governments to deal immediately with the situation. And, we cannot permit our schoolchildren to be exposed to asbestos fibers for even 1 more year. We must act now, by approving H.R. 3282, to eliminate this health hazard in our school buildings.

I urge you to support H.R. 3282, without amendment. The substitute being offered by our colleague, Mr. GOODLING, is an attempt to gut the bill as reported by the Education and Labor Committee. If it were adopted, local school districts and private schools would receive absolutely no assistance in detecting and removing asbestos hazards. It would also set a very dangerous precedent for the use of title I funds. I oppose its adoption, and advise any colleague who is truly committed to dealing with this very serious threat to the health of the Nation's schoolchildren to do likewise.●

● Mr. AKAKA. Mr. Chairman, I rise today in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act. The State of Hawaii recently commissioned a survey of the classrooms on Oahu and discovered 1.3 million square feet of classrooms with asbestos of high level—5 percent or greater. An estimated $20 million is needed for removal costs. Since medical evidence links exposure to asbestos fibers with various types of cancer and other diseases, I feel that it is essential for the Federal Government to assist local educational agencies and private schools identify and control asbestos hazards before the health of millions of schoolchildren is seriously affected.●

● Mr. HEFTEL. Mr. Chairman, I strongly support H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. This important legislation will provide our Nation's schools with urgently needed assistance to detect and remove hazardous asbestos conditions. Over the past several years we have become painfully aware of the widespread prevalence of asbestos in building construction. The daily exposure of as many as 2 million schoolchildren to asbestos fibers which were widely used in school construction for over three decades is especially disturbing.

In my own State of Hawaii, preliminary analyses have shown that 64 of the 159 schools on the Island of Oahu have ceiling asbestos in concentrations from 2 to 50 percent. On the neighbor islands, asbestos concentration in ceilings ranges up to 60 percent. We cannot continue to permit our children to be exposed to these intolerable conditions. Reports from the medical and scientific community clearly indicate that there is no safe level of inhalation of asbestos. Such inhalation has been directly linked to increased rates of cancer and other chronic or fatal diseases, and we must act now to protect our children from further exposure.

As we debate this issue, the walls and halls of close to 15 percent of our country's schools are deteriorating and emitting hazardous asbestos fibers into the lungs of schoolchildren. Prompt congressional passage of H.R. 3282 will enable States to proceed with detection programs so that appropriate controls and repairs can be made during the 1980 summer recess. Corrective measures taken now will reward our Nation with healthier citizens and will be cost effective in holding down future Federal health expenditures for treatment of asbestos-related diseases.

Some Members may argue that existing EPA programs are adequate to provide elementary and secondary schools with technical assistance to address the asbestos program. The fact that only 1 percent of school districts responded to a voluntary survey of the problem gives us a clear understanding of the ineffectiveness of the EPA efforts. States have been dragging their feet on this vital issue—half of the States do not have any asbestos program and only six States have inspected more than 20 percent of their schools.

This lack of responsiveness has made EPA recognize that they need to strengthen their asbestos control efforts. Currently under consideration is a rulemaking which will force schools to identify and remedy the asbestos hazard. If this regulation is adopted, H.R. 3282 will provide appropriate Federal financial aid.

The grants for detection and the loans for removal of asbestos in schools provided by H.R. 3282 will provide States with necessary funding and incentive to control school asbestos hazards. The sum of $30 million in Federal grants and $300 million in loans over a 3-year period that will be repaid is not too high a price to pay to insure that our children are not unnecessarily exposed to health hazards. The payback is a healthier America and lower Federal outlays for diseases caused by asbestos fibers.

H.R. 3283 also requires HEW to develop standards and procedures for the detection and abatement of asbestos in schools. These guidelines are necessary to assure that proper safety precautions are taken during removal activities. Careless corrective actions may cause health hazards to those doing the work and even increase the health risk in the classrooms and hallways.

H.R. 3282 is a carefully thought out bill which provides appropriate Federal assistance and incentives to schools to tackle the asbestos problem. I want to commend the author of the bill, Mr. MILLER, and the manager of the bill, Chairman PERKINS, for their diligent efforts to bring this vital concern to the attention of Congress and the rest of the Nation. The time for action is now; we must no longer delay protective measures to insure the health of our Nation's schoolchildren. Thank you.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act. As a cosponsor of this legislation, I believe the programs established by this bill will assist educational institutions in detecting and removing the health hazard presented by asbestos material.

Until recently exposure to asbestos was generally considered an occupational health hazard for asbestos workers. However, it has been learned that asbestos containing materials have been used for fireproofing and insulation in all types of buildings. The building environment can be contaminated by the release of asbestos materials and individuals exposed to this contamination could develop cancer. It is unfortunate that the detection of asbestos-related diseases is difficult since the latency period between exposure and appearance of the disease is between 20 to 30 years.

Since these materials are found in school buildings, I am concerned with the exposure of schoolchildren to asbestos. The New Jersey Department of Education conducted surveys of public schools to ascertain the usage as well as the extent of deteriorated asbestos in schools. In this survey, it was found that approximately 16 percent of the schools were in need of corrective measures. The problem was so extreme in some districts that corrective action has already been undertaken.

Since it is already well-established that asbestos presents a health hazard, the modest federal program proposed under H.R. 3282 is a sound investment for future generations. The provisions of this legislation develop a program that responds to the need for information and guidance to deal with this difficult situation. States receiving aid must provide a 50 percent match and the loans must be completely repaid to the Federal Government.

Mr. GOODLING contends that his amendment offers a more prudent method in approaching this problem. I wholeheartedly disagree with this contention. The amendment would eliminate authorizations and instead permit states to use 1 percent—but not more than 5 percent—of their Federal education funds to assist in the detection and removal of asbestos materials. I believe the amendment to be counter-productive in that it sets poor precedent for educational policy. It will divert funds intended for handicapped and disadvantaged children to asbestos control. These programs can ill-afford a diversion of their already limited funds. Asbestos is a health hazard and today we have the opportunity to prevent further tragic health consequences. I urge my colleagues to reject the Goodling amendment and support the proposal as reported by the Education and Labor Committee.●

Mr. WEISS. Mr. Chairman, I strongly support H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. This important legislation creates a systematic Federal program for identifying and eliminating hazardous asbestos conditions in elementary and secondary schools throughout the country.

Chronic and terminal diseases such as lung, esophageal, stomach and colon cancers have been definitely linked in medical tests to asbestos exposure. As bestosis, an irreversible and progressively disabling lung disease, is likewise conclusively linked to the substance from which it derives its name.

Various ameliorative actions to limit exposure to asbestos in workplace settings have already been taken by the Environmental Protection Administration and the Occupational Safety and Health Administration. Despite these most commendable Federal initiatives, no program or regulations currently exist to protect children in school buildings where asbestos materials are a distinct danger to health.

Asbestos, particularly in its sprayed form, is quite common on schools built between 1946 and 1972. Expert witnesses appearing before the Education and Labor Committee pointed out that sprayed material has the greatest potential for contamination since it may not adhere securely to the subsurface and may deteriorate rapidly. This form of asbestos is also the most friable, and it is likely to release dangerous fibers following only minor disturbances.

Potentially harmful levels of contamination already exist in some schools in different parts of the Nation. In New York City, for example, all 1,400 public schools have been surveyed by three city agencies, with the result that nearly 200 have been found to include asbestos-containing material.

Methods for controlling or removing asbestos hazards in school are available, but these procedures are very expensive. Estimates of the cost for removal and replacement of asbestos presented to our subcommittee range from $2 to $12 per square foot. Encapsulation and enclosure have meanwhile been estimated to cost between 20 cents and $5 per square foot. About $15 million will have to be spent if New York City is to abate its school asbestos hazard, according to survey estimates.

Although the fiscal consequences of this proposed legislation are significant, the results of our failure to authorize removal of a known carcinogen would be disastrous. Millions of schoolchildren throughout the country face a daily risk of exposure to a potentially fatal substance.

The health hazards for school-age children are particularly acute since they are likely to outlive the 10–40-year incubation period for asbestos-related diseases.

Local school budgets cannot absorb the costs involved in a comprehensive asbestos-control program. Some districts do have some capability to meet at least part of the program costs, however, so the legislation before us today includes a matching requirement of 50 percent Federal funds and 50 percent State or local funds. Loans offered under the proposed program to schools by the Federal Government are interest-free and are payable within 20 years.

I strongly oppose any attempt to permit the States to divert up to 1 percent of their Federal education funds for an asbestos-control program. Money which has already been appropriated for specific and essential education purposes must not be used for other projects.

I strongly urge my colleagues to approve the Asbestos School Hazard Detection and Control Act of 1979. This is a critical problem that will not solve itself. Indeed, it will worsen in the years ahead. Asbestos hazards exist in literally hundreds of school districts around the country. The legislation before us today addresses this situation effectively and comprehensively. Again, I strongly urge its passage.

● Mr. DODD. Mr. Chairman, I rise in support of H.R. 3282, "The Asbestos School Hazard Detection and Control Act" and ask my colleagues to join me in supporting passage of this legislation today.

As my good friend and colleague, Representative MILLER, has pointed out, it has been well established that the inhalation of asbestos fibers has been linked to causing cancer, and other serious diseases. We also know that over a 25-year period asbestos materials were used in the construction of our schools and in many cases, where there has been deterioration of the materials, pose a serious health hazard to students and staff.

H.R. 3282 provides a program of grants and loans for the inspection of schools to detect, remove, or replace hazardous materials where necessary. This is a sound, reasonable and cost-effective approach. The bill authorizes a total of $30 million for fiscal year 1980 through fiscal year 1982 for grants to local educational agencies and private schools for inspections and $100 million per year for loans for containing or removing hazardous materials. Compared to the cost of treatments for cancer and other asbestos-related diseases—where treatment exists at all—and compared to the inestimable cost in terms of human suffering and loss of life, the cost of this legislation is negligible. This is clearly a case where an ounce of prevention is worth a pound of cure and, again, in many cases, we have no cure to fit into the equation at all.

Although some areas of the Nation are more adversely affected by the asbestos-exposure-in-schools hazard than others, all of us are confronted with the larger problem of asbestos exposure in general. We are all aware of the public outcry over the announcement that most of the hair dryers we use pose a potential health hazard through exposure to asbestos particles. My own commitment to addressing this problem was originally generated by my concern for the health of the workers at the Navy shipyard in my district in Groton, Conn. It is well known that the shipyards are among the heaviest users of asbestos, and the Department of Health, Education, and Welfare has reported that an estimated 11 million Americans have been exposed to asbestos at significant levels in the past 30 years and that up to 50 percent of that number may die of lung cancer and related diseases.

Over the past several years, I have supported the efforts of the Connecticut Department of Health, and others, in the State who have been working to establish a screening clinic in Groton. To date we have been unsuccessful in securing a grant for this purpose. I will continue working with, and supporting the efforts of, the State of Connecticut to bring about such a program at the earliest possible time.

I am taking this opportunity to bring this larger issue of asbestos exposure to your attention because it is my hope that the positive action I anticipate this body taking today will be—by way of taking the first step in addressing this problem in the schools—an indication of the Congress readiness to take whatever other

actions may be deemed necessary in the future to address this larger problem.

A number of my colleagues, such as Representatives MILLER, FENWICK, BEARD, and the members of the House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education and the Subcommittee on Labor Standards as well as Senator HARRISON WILLIAMS and the Senate Human Resources Committee have been working very hard to address this problem. We know there are serious health problems attendant to inhalation of significant amounts of asbestos fibers, and we know that there are many people who have been heavily exposed. This is a problem that will not go away, and I look forward to this House having the opportunity to consider legislation which will provide guidance and leadership in this area during this Congress.

I believe that in supporting H.R. 3282 we will be assuming a responsible position in providing for the inspection and detection of hazardous asbestos conditions in our schools and, as a result, will assist in providing a national focus and greater awareness of the larger problem that awaits our further action and consideration.

I strongly urge my colleagues to join me in supporting H.R. 3282.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FARY) having assumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes, pursuant to House Resolution 366, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ERLENBORN moves to recommit the bill, H.R. 3282, to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 336, nays 63, not voting 34, as follows:

[Roll No. 729]

YEAS—336

| | | |
|---|---|---|
| Abdnor | Derwinski | Hinson |
| Addabbo | Dicks | Holland |
| Akaka | Diggs | Hollenbeck |
| Albosta | Dixon | Holt |
| Alexander | Dodd | Holtzman |
| Ambro | Donnelly | Hopkins |
| Anderson, Calif. | Dornan | Horton |
| | Dougherty | Howard |
| Andrews, N.C. | Downey | Hubbard |
| Annunzio | Drinan | Huckaby |
| Anthony | Duncan, Oreg. | Hughes |
| Ashley | Duncan, Tenn. | Hyde |
| Aspin | Early | Ireland |
| Atkinson | Eckhardt | Jenrette |
| AuCoin | Edgar | Johnson, Calif. |
| Bafalis | Edwards, Ala. | Johnson, Colo. |
| Bailey | Emery | Jones, Tenn |
| Baldus | English | Kastenmeier |
| Barnes | Erdahl | Kazen |
| Beard, R.I. | Ertel | Kemp |
| Beard, Tenn. | Evans, Del. | Kildee |
| Bedell | Evans, Ind. | Kogovsek |
| Beilenson | Fary | Kostmayer |
| Benjamin | Fascell | LaFalce |
| Bennett | Fazio | Lagomarsino |
| Bereuter | Fenwick | Leach, Iowa |
| Bethune | Ferraro | Leach, La. |
| Bevill | Findley | Lederer |
| Biaggi | Fish | Lee |
| Bingham | Fisher | Lehman |
| Blanchard | Fithian | Leland |
| Boggs | Flippo | Lent |
| Boland | Florio | Levitas |
| Bolling | Foley | Lewis |
| Boner | Ford, Mich. | Livingston |
| Bonior | Ford, Tenn. | Lloyd |
| Bonker | Forsythe | Loeffler |
| Bouquard | Fowler | Long, La. |
| Bowen | Frenzel | Long, Md. |
| Brademas | Frost | Lott |
| Breaux | Fuqua | Lowry |
| Brinkley | Garcia | Luken |
| Brodhead | Gaydos | Lungren |
| Brooks | Gephardt | McClory |
| Brown, Calif. | Giaimo | McCormack |
| Broyhill | Gibbons | McDade |
| Buchanan | Gilman | McHugh |
| Burgener | Gingrich | McKinney |
| Burton, Phillip | Ginn | Madigan |
| Byron | Goldwater | Maguire |
| Carney | Gonzalez | Markey |
| Carr | Goodling | Marks |
| Carter | Gore | Marlenee |
| Cavanaugh | Gradison | Marriott |
| Chappell | Gramm | Martin |
| Chisholm | Grassley | Mathis |
| Clausen | Gray | Matsui |
| Clay | Green | Mattox |
| Clinger | Grisham | Mavroules |
| Coleman | Guarini | Mazzoli |
| Collins, Ill. | Gudger | Mica |
| Conte | Guyer | Mikulski |
| Conyers | Hall, Ohio | Miller, Calif. |
| Corman | Hamilton | Mineta |
| Cotter | Hammer-schmidt | Minish |
| Coughlin | | Mitchell, Md. |
| Courter | Harkin | Mitchell, N.Y. |
| D'Amours | Harris | Moakley |
| Danielson | Harsha | Moffett |
| Daschle | Hawkins | Mollohan |
| Davis, Mich. | Heckler | Montgomery |
| Davis, S.C. | Hefner | Moore |
| de la Garza | Heftel | Moorhead, Calif. |
| Deckard | Hightower | |
| Derrick | Hillis | Moorhead, Pa. |
| Mottl | Rinaldo | Tauke |
| Murphy, Pa. | Ritter | Thomas |
| Murtha | Roberts | Thompson |
| Myers, Ind. | Rodino | Traxler |
| Myers, Pa. | Roe | Udall |
| Natcher | Rosenthal | Van Deerlin |
| Neal | Roth | Vanik |
| Nedzi | Roybal | Vento |
| Nelson | Royer | Walgren |
| Nolan | Sabo | Walker |
| Nowak | Sawyer | Wampler |
| Oakar | Scheuer | Watkins |
| Oberstar | Schroeder | Waxman |
| Obey | Schulze | Weaver |
| Ottinger | Sebelius | White |
| Panetta | Seiberling | Whitehurst |
| Pashayan | Sensenbrenner | Whitley |
| Patten | Shannon | Whittaker |
| Patterson | Sharp | Whitten |
| Pepper | Shelby | Williams, Mont. |
| Perkins | Simon | Williams, Ohio |
| Petri | Skelton | Wilson, Bob |
| Peyser | Slack | Wilson, C. H. |
| Pickle | Smith, Iowa | Wilson, Tex. |
| Preyer | Smith, Nebr. | Winn |
| Price | Snowe | Wirth |
| Pritchard | Solomon | Wolff |
| Pursell | Spellman | Wolpe |
| Quayle | St Germain | Wright |
| Quillen | Stack | Wyatt |
| Rahall | Staggers | Wydler |
| Railsback | Stanton | Wylie |
| Rangel | Stewart | Yates |
| Ratchford | Stokes | Yatron |
| Regula | Stratton | Young, Alaska |
| Reuss | Studds | Young, Mo. |
| Rhodes | Swift | Zablocki |
| Richmond | Synar | Zeferetti |

NAYS—63

| | | |
|---|---|---|
| Archer | Evans, Ga. | Paul |
| Ashbrook | Fountain | Pease |
| Barnard | Glickman | Robinson |
| Bauman | Hall, Tex. | Rousselot |
| Broomfield | Hance | Rudd |
| Brown, Ohio | Hansen | Runnels |
| Burlison | Hutto | Santini |
| Butler | Ichord | Satterfield |
| Cheney | Jacobs | Shumway |
| Cleveland | Jeffries | Shuster |
| Collins, Tex. | Jones, N.C. | Snyder |
| Conable | Jones, Okla. | Stangeland |
| Corcoran | Kelly | Steed |
| Crane, Daniel | Kindness | Stenholm |
| Daniel, Dan | Kramer | Stockman |
| Daniel, R. W. | Latta | Stump |
| Dannemeyer | Leath, Tex. | Taylor |
| Devine | Lujan | Trible |
| Dickinson | McDonald | Ullman |
| Edwards, Okla. | Miller, Ohio | Vander Jagt |
| Erlenborn | O'Brien | Volkmer |

NOT VOTING—34

| | | |
|---|---|---|
| Anderson, Ill. | Flood | Nichols |
| Andrews, N. Dak. | Hagedorn | Rose |
| | Hanley | Rostenkowski |
| Applegate | Jeffords | Russo |
| Badham | Jenkins | Solarz |
| Burton, John | Lundine | Spence |
| Campbell | McCloskey | Stark |
| Coelho | McEwen | Symms |
| Crane, Philip | McKay | Treen |
| Dellums | Michel | Weiss |
| Dingell | Murphy, Ill. | Young, Fla. |
| Edwards, Calif. | Murphy, N.Y. | |

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Hanley for, with Mr. Philip M. Crane against.

Mr. Hagedorn for, with Mr. Symms against.

Until further notice:

Mr. Russo with Mr. Spence.

Mr. Rostenkowski with Mr. Young of Florida.

Mr. John L. Burton with Mr. Jeffords.

Mr. Dingell with Mr. Andrews of North Dakota.

Mr. Edwards of California with Mr. Badham.

Mr. McKay with Mr. Campbell.

Mr. Murphy of New York with Mr. Michel.

Mr. Rose with Mr. Jenkins.

Mr. Weiss with Mr. Stark.

Mr. Nichols with Mr. Solarz.

Mr. Murphy of Illinois with Mr. McCloskey.

Mr. Dellums with Mr. Anderson of Illinois.

Mr. Lundine with Mr. McEwen.

Mr. Applegate with Mr. Coelho.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CONFERENCE REPORT ON S. 673, DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUHORIZATION ACT OF 1980

Mr. PRICE submitted the following conference report and statement on the Senate bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980:

CONFERENCE REPORT (H. REPT. No. 96–702)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

### TITLE I—NATIONAL SECURITY PROGRAMS

#### OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy) as follows:

(1) For the defense inertial confinement fusion program, a total of $125,090,000, allocated as follows:

(A) For glass laser experiments, $44,200,000.

(B) For gas laser experiments, $29,300,000.

(C) For electron and particle beam experiments, $12,200,000.

(D) For supporting research and experiments, $38,300,000.

(E) For personnel, $1,090,000.

(2) For the naval reactor development program, a total of $241,367,000, allocated as follows:

(A) For the naval reactor development program, $232,600,000.

(B) For personnel, $8,767,000.

(3) For weapons activities, a total of $1,455,241,000, allocated as follows:

(A) For research and development, $421,143,000.

(B) For weapons testing, $236,000,000.

(C) For production and surveillance, $761,000,000.

(D) For personnel, $37,098,000.

(4) For verification and control technology (including personnel), $36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs, a total of $357,748,000, allocated as follows:

(A) For production reactor expenses, $180,300,000.

(B) For the processing of nuclear materials, $82,400,000.

(C) For supporting services, $67,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington.

(D) For fluorinel processing of nonproduction fuels and related activities, $21,390,000.

(E) For advanced isotope separation research, $5,000,000.

(F) For personnel, $944,000.

(6) For defense waste management (including $1,691,000 for personnel), $215,991,000.

(7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

#### PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80–PE&D–1, plant engineering and design, $3,500,000.

(2) For naval reactors development:

Project 80–AE–1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80–GPP–1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80–AE–4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80–AE–5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $4,000,000.

Project 80–AE–6, utilities and equipment restoration, replacement and upgrade, various locations, $39,400,000.

Project 80–AE–8, advanced size reduction facility, Rocky Flats Plant, Golden, Colorado, $10,000,000.

Project 80–AE–9, new polymer production facility, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80–AE–10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80–AE–11, Pershing II warhead production facilities, various locations, $5,000,000.

Project 80–GPP–1, general plant projects, $25,400,000.

Project 80–PE&D–1, plant engineering and design, $3,600,000.

Project 71–9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77–11–c, 8'' Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project 78–16–d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 78–18–d, Steam plant improvements, Y–12 plant, Oak Ridge, Tennessee, an additional sum of $15,500,000, for a total project authorization of $25,500,000.

Project 79–7–b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79–7–c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $14,000,000, for a total project authorization of $19,000,000.

Project 79–7–l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79–7–n, utility system restoration, Y–12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79–7–o, univeral pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of

(4) For materials production:

Project 80–AE–2, replace obolete processing $3,900,000, for a total project authorization of $7,400,000.

facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80–AE–3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $23,500,000.

Project 80–GPP–1, general plant projects, $15,000,000.

Project 80–PE&D–1, plant engineering and design, $3,400,000.

Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $50,400,000, for a total project authorization of $115,400,000.

Project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79–7–i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80–GPP–1, general plant projects, $8,880,000.

Project 80–PE&D–1, plant engineering and design, $8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77–13–f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A–E, land lease acquisition and long-lead procurement), an additional sum of $22,000,000, for a total project authorization of $90,000,000.

Project 75–1–c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

(6) For capital equipment not related to construction—

(A) for inertial confinement fusion, $10,100,000;

(B) for naval reactors development, $15,800,000;

(C) for weapons activities, $104,164,000;

(D) for verification and control technology, $1,060,000;

(E) for materials production, $35,000,000;

(F) for defense waste management, $12,000,000; and

(G) for nuclear materials security and safeguards, $3,400,000.

### TITLE II—GENERAL PROVISIONS

#### REPROGRAMMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from

the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary is authorized to carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of such construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of such project is revised due to unforeseen cost variations and the revised cost of such project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of any construction project which is authorized by section 102 of this Act, or which is in support of the national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent (1) the amount authorized for such project, or (2) the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to Congress, such project may not be started or additional obligations incurred in connection with such project, as the case may be, unless a period of 30 days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or unless each such committee before the expiration of such period has notified the Secretary that such committee has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

FUND TRANSFER AUTHORITY

SEC. 205. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which such funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 206. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

(c) This section shall apply only with respect to design for construction projects begun after October 1, 1980.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 207. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform such planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that such design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose.

MANAGEMENT OF NATIONAL WEAPONS LABORATORIES

SEC. 212. (a) It is the sense of Congress that—

(1) the nuclear weapons laboratories (the Los Alamos Scientific Laboratory, Los Alamos, New Mexico, the Lawrence Livermore Laboratory, Livermore, California, and the Sandia Laboratories, Albuquerque, New Mexico, and Livermore, California) are unique national assets which must retain their primary defense focus and strive to sustain this Nation's world pre-eminence in the area of nuclear systems technology;

(2) the long standing contractual arrangements between the Federal Government and the University of California for the administration of the Los Alamos Scientific Laboratory and the Lawrence Livermore Laboratory have served the Nation well and should continue as long as the national interest is being served; and

(3) the recent efforts by some individuals within the University of California system to influence the roles and missions of the Lawrence Livermore Laboratory and the Los Alamos Laboratory have been disruptive and may prove to be counterproductive to the national interest.

(b) As soon as practicable, but not later than February 1, 1980, the Secretary shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W-7405-ENG-36 and W-7405-ENG-48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(c) The Secretary shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (b). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor would be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(d)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

WASTE ISOLATION PILOT PLANT, DELAWARE BASIN, NEW MEXICO

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast

New Mexico (project 77–13–f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other provision of law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defense Programs, for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns. The consultation and cooperation required by this paragraph shall be carried out as provided in paragraph (2).

(2) The Secretary shall seek to enter into a written agreement with the appropriate officials of the State of New Mexico, as provided by the laws of the State of New Mexico, not later than September 30, 1980, setting forth the procedures under which the consultation and cooperation required by paragraph (1) shall be carried out. Such procedures shall include as a minimum—

(A) the right of the State of New Mexico to comment on, and make recommendations with regard to, the public health and safety aspects of such project before the occurrence of certain key events identified in the agreement;

(B) procedures, including specific time frames, for the Secretary to receive, consider, resolve, and act upon comments and recommendations made by the State of New Mexico; and

(C) procedures for the Secretary and the appropriate officials of the State of New Mexico to periodically review, amend, or modify the agreement.

(3) As soon as practicable after the date on which the agreement referred to in paragraph (2) is entered into by the Secretary and the appropriate officials of the State of New Mexico, but not more than 15 days after such date, the Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives copies of such agreement, and a period of 45 days shall elapse while Congress is in session before such agreement becomes effective unless the Committees on Armed Services of the Senate and the House of Representatives, in writing, waive any portion of such 45-day period. The Secretary shall prompty notify such committees of any amendment or modification made to such agreement under paragraph (2)(C).

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

MELVIN PRICE,
CHAS. H. WILSON,
DAN DANIEL,
BOB STUMP,
BOB WILSON,
MARJORIE S. HOLT,
R. DANIEL,
*Managers on the Part of the House.*

HENRY M. JACKSON,
JOHN C. STENNIS,
GARY HART,
J. J. EXON,
CARL LEVIN,
BILL COHEN,
JOHN TOWER,
STROM THURMOND,
*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

## DISCUSSION OF MATTERS BEFORE THE CONFERENCE COMMITTEE

Legislation to authorize appropriations for the national security programs and functions of the Department of Energy (DOE) for fiscal year 1980 was contained in the Senate bill, S. 673, and in the House bill, H.R. 2603. The Senate bill was passed and sent to the House. After passage of the House bill (H.R. 2603), the bill S. 673 was called up and amended by striking all language after the enacting clause and inserting in lieu thereof the provisions of H.R. 2603 as passed by the House.

## TITLE I—NATIONAL SECURITY PROGRAMS

### SUMMARY OF CONFERENCE ACTION

Title I authorizes the appropriation of funds for operating expenses for plant and capital equipment expenses for fiscal year 1980.

### OPERATING EXPENSES

The Senate bill authorized appropriations for operating expenses for seven Department of Energy (DOE) defense programs within Title I and Title II. Title I contained the weapons activities, verification and control technology, materials production, and defense waste management programs. Title II contained the inertial confinement fusion, naval reactors, and nuclear materials security and safeguards programs. The House amendment included all seven programs within Title I, and they are so included in the conference report.

The Senate bill authorized a total amount for each major program. The House amendment authorized various amounts for subprograms. The conference report specifies program and subprogram amounts.

The President requested total authorizations of $2,394.364 million for operating expenses for fiscal year 1980. The Senate bill provided authorizations totaling $2,438.174 million. The House amendment provided a total of $2,470.723 million for this purpose. The conferees agreed to authorizations in the total amount of $2,475.464 million for operating expenses for fiscal year 1980. Programs which were in disagreement and resolved by the Committee of Conference are discussed in detail subsequently in this statement.

### PLANT AND CAPITAL EQUIPMENT

The President requested a total of $689.624 million in new authorizations for plant and capital equipment for fiscal year 1980. The Senate bill provided new authorizations totaling $591.924 million. The House amendment provided a total of $532.204 for this purpose. The conferees agreed to new authorizations for plant and capital equipment which total $578.504 million. Items which were in disagreement and resolved by the Committee of Conference are discussed in detail subsequently in this statement.

### TOTALS

The President's authorization request for DOE defense programs, including letter requests received subsequent to the submission of the budget, was for a total of $3,083.988 million for fiscal year 1980. The Senate bill provided total authorizations of $3,030.098 million. The House amendment provided total authorizations of $3,002.927 million.

The conferees agreed to authorizations which total $3,053.968 million. The conference action is set forth in the following tables.

DEPARTMENT OF ENERGY, NATIONAL SECURITY PROGRAMS—RECONCILIATION OF REQUEST TO CONFERENCE ACTION

OPERATING EXPENSES

[In millions of dollars]

| Item | DOE authorization request | Conference action |
|---|---|---|
| nertial confinement fusion: | | |
| Glass laser experiments | 40.400 | 44.200 |
| Gas laser experiments | 25.900 | 29.300 |
| Electron and particle beam experiments | 10.100 | 12.200 |
| Other supporting research and experiments | 31.400 | 38.300 |
| Personnel | 1.090 | 1.090 |
| Total, operating expenses | 108.890 | 125.090 |
| Naval reactors development | 160.100 | 160.100 |
| Surface ship propulsion | 55.600 | 55.600 |
| Supporting research and development | 16.900 | 16.900 |
| Personnel | 8.767 | 8.767 |
| Total, operating expenses | 241.367 | 241.367 |

| Item | DOE authorization request | Conference action |
|---|---|---|
| Weapons activities: | | |
| Research and development | 421.143 | 421.143 |
| Testing | 198.000 | 236.000 |
| Production and surveillance | 732.000 | 761.000 |
| Personnel | 37.098 | 37.098 |
| Total, operating expenses | 1,388.241 | 1,455.241 |
| Verification and control technology: | | |
| Program expenses | 35.040 | 35.040 |
| Personnel | 1,760 | 1,760 |
| Total, operating expenses | 36.800 | 36.800 |
| Materials production: | | |
| Production reactor operations | 170.800 | 180.300 |
| Processing of nuclear materials | 77.200 | 82.400 |
| Supporting services | 55.714 | 67.714 |
| Fluorinel reprocessing | 21.390 | 21.390 |
| Advanced isotope separation research | 0 | 5.000 |
| Personnel | 0.944 | 0.944 |
| Total, operating expenses | 326.048 | 357.748 |
| Defense waste management: | | |
| Interim waste management | 125.851 | 125.851 |
| Long-term waste management | 94.449 | 74.449 |
| Terminal storage (WIPP) | 20.800 | 14.000 |
| Transportation research and development | 5.000 | 0 |
| Decontamination and decommissioning | 2.000 | 0 |
| Personnel | 1.691 | 1.691 |
| Total, operating expenses | 249.791 | 215.991 |
| Nuclear materials security and safeguards: | | |
| Program expenses | 39.667 | 39.667 |
| Personnel | 3.560 | 3.560 |
| Total, operating expenses | 43.227 | 43.227 |
| Total | 2,394.364 | 2,475.464 |

PLANT AND CAPITAL EQUIPMENT

[In millions of dollars]

| Project No. | Item | DOE authorization request | Conference action |
|---|---|---|---|
| | Inertial confinement fusion: | | |
| 80-PE & D-1 | Plant engineering and design | 1.5 | 3.5 |
| 80-AE-11 | ICF target fabrication facility, Los Alamos Scientific Lab, New Mexico. | 0 | 0 |
| 80-AE-12 | ICF target fabrication facility, Lawrence Livermore Lab, California. | 0 | 0 |
| 75-3-b | High energy laser facility, Los Alamos Scientific Lab, New Mexico. | 8.0 | 0 |
| | Naval reactors development: | | |
| 80-AE-1 | Fluids and corrosion test facilities upgrading, various locations. | 17.9 | 17.9 |
| 80-GPP-1 | General plant projects | 3.3 | 3.3 |
| | Weapons activities: | | |
| 80-GPP-1 | General plant projects, various locations | 25.4 | 25.4 |
| 80-PE & D-1 | Plant engineering and design, various locations | 3.6 | 3.6 |
| 80-AE-4 | Addition to computer facility, Sandia Laboratories, Livermore, Calif. | 2.8 | 2.8 |
| 80-AE-5 | Ground launched cruise missile (GLCM) warhead production facilities, various locations. | 7.0 | 4.0 |
| 80-AE-6 | Utilities and equipment restoration, replacement and upgrade, various locations. | 69.3 | 39.4 |
| 80-AE-7 | Relocate water towers, Mound facility, Miamisburg, Ohio. | 1.4 | 0 |
| 80-AE-8 | Advanced size reduction facility, Rocky Flats Plant, Golden, Colo. | 10.0 | 10.0 |
| 80-AE-9 | New polymer production facility, Bendix Plant, Kansas City, Mo. | 1.4 | 1.4 |
| 80-AE-10 | Additional loading facilities, Savannah River Plant, Aiken, S.C. | 3.5 | 3.5 |
| 80-AE-11 | Pershing II warhead facilities, various locations<br>*Letter request dated June 20, 1979 | *5.0 | 5.0 |
| 79-7-b | Fire protection improvements, Los Alamos Scientific Lab, New Mexico. | 2.5 | 2.5 |
| 79-7-c | Proton Storage ring, Los Alamos Scientific Lab, New Mexico. | 16.1 | 14.0 |
| 79-7-l | Systems research and development lab, Sandia Laboratories, Albuquerque, N. Mex. | 12.0 | 12.0 |
| 79-7-n | Utility systems restoration, Y-12 Plant, Oak Ridge, Tenn. | 15.8 | 15.8 |
| 79-7-o | Universal pilot plant, Pantex Plant, Amarillo, Tex. | 3.9 | 3.9 |
| 78-18-d | Steam plant improvements, Y-12 Plant, Oak Ridge, Tenn.<br>*Supplemental request submitted May 15, 1979 | *15.5 | 15.5 |
| 78-16-d | Weapons safeguards, various locations | 2.0 | 2.0 |
| 78-16-g | Radioactive liquid waste improvement, Los Alamos Scientific Lab, New Mexico. | 6.2 | 6.2 |
| 77-11-c | 8-in artillery fired atomic projectile (AFAP) production facilities, various locations. | 4.6 | 4.6 |
| 71-9 | Fire, safety, and adequacy of operating conditions projects, various locations. | 7.0 | 7.0 |
| | Materials production: | | |
| 80-GPP-1 | General plant projects | 15.0 | 15.0 |
| 80-PE & D-1 | Plant engineering and design | 3.4 | 3.4 |
| 80-AE-2 | Replace obsolete processing facilities, HB line, Savannah River, S.C. | 19.0 | 19.0 |
| 80-AE-3 | Steam generation facilities, Idaho Chemical Processing Plant, Idaho. | 23.5 | 23.5 |
| 79-7-h | Utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho. | 5.5 | 0 |
| 79-7-i | Transmission and distribution systems upgrading, Richland, Wash. | 7.0 | 7.0 |
| 78-18-e | Environmental, safety and security improvements to waste management and materials processing facilities, Richland, Wash. | 11.5 | 11.5 |
| 77-13-a | Fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho. | 84.4 | 50.4 |
| | Defense waste management: | | |
| 80-GPP-1 | General plant projects | 8.88 | 8.88 |
| 80-PE & D-1 | Plant engineering and design | 21.32 | 8.0 |
| 77-13-f | Waste isolation pilot plant, Delaware Basin, southeast New Mexico (A-E) land lease acquisition and long lead procurement. | 55.0 | 22.0 |
| 75-1-c | New waste calcining facility, Idaho Falls, Idaho<br>*Letter request dated Nov. 6, 1979 | *25.0 | 25.0 |
| | Total, plant construction | 509.70 | 396.98 |
| | Capital equipment not related to construction: | | |
| | Inertial confinement fusion | 8.5 | 10.1 |
| | Naval reactors development | 15.8 | 15.8 |
| | Weapons activities | 104.164 | 104.164 |
| | Verification and control technology | 1.060 | 1.060 |
| | Materials production | 35.0 | 35.0 |
| | Defense waste management | 12.0 | 12.0 |
| | Nuclear materials security and safeguards | 3.4 | 3.4 |
| | Total, capital equipment | 179.924 | 181.524 |
| | Grand total | 3,083.988 | 3,053.968 |

## ITEMS FOR SPECIAL COMMENT

### INERTIAL CONFINEMENT FUSION

The conferees view the recent application for the "lead laboratory" approach to the inertial confinement fusion program with approval as a device to more effectively use research and development funds. The Congress has authorized and appropriated hundreds of millions of dollars and made large investments in buildings and equipment in support of the inertial confinement fusion program. The conferees believe that it is now incumbent upon the Department of Energy to maintain a level of effort, after inflation is taken into consideration, which will allow the capabilities of the facilities now under development to be fully exploited. To this end, the conferees approved authorizations for operating funds for glass laser, gas laser and electron beam experiments and for supporting research which total $16.1 million above the amount requested in order to offset the effects of inflation.

Within the funds authorized to be appropriated for "operating expenses" and for "capital equipment" for the Inertial Confinement Fusion program, the conferees have provided $8.0 million for such supporting research and experiments at the National Laser User Facility (NLUF) at the Laboratory for Laser Energetics in Rochester, New York, which the Assistant Secretary for Defense Programs finds appropriate to support the national glass laser program.

The conferees, in agreeing not to increase the authorization for the High Energy Laser Facility, ANTARES, at this time, want to make clear that this action does not represent a lack of support for the ANTARES project. To the contrary, the conferees feel that the investment made in ANTARES to date is well justified and that the project should be completed in a manner to competently demonstrate the potential utility of the carbon dioxide and other gas lasers as drivers of fusion power. In that regard, the conferees were advised that as a result of the delays in funding the currently estimated construction cost of $62.5 million needs to be reevaluated. Some reduction in scope may be possible, but the conferees feel that the scope should not be reduced to the point where the facility cannot serve its intended purpose. The conferees will make the ANTARES project an item of special emphasis during hearings on the fiscal year 1981 budget and the Department should be prepared to discuss precisely where this project is going. The conferees will expect the Department to have reanalyzed the scope of this project and, if necessary, a revised total estimated cost to bring the ANTARES project to fruition.

### MATERIALS PRODUCTION

The conferees agreed that the amounts requested for nuclear materials production were insufficient to sustain a cost effective program during the next fiscal year. The Senate added $17.8 million in order to maintain three production reactors in operation at the Savannah River Plant. The House amendment added $31.7 million above the request in order to maintain the Savannah River Plant reactors in full operation, to process the resultant nuclear materials, to maintain the only heavy water facility in the United States, and earmarked $15.0 million to prepare the PUREX chemical processing plant in Richland, Washington, to resume operations. In view of the requirements for weapons grade materials, the conferees adopted the position of the House.

According to testimony presented to both the Senate and the House Armed Services Committees, the production of weapons grade plutonium could seriously limit planned and approved weapons production programs starting in the early 1980's. One option under consideration by the Department of Energy to solve this problem is to convert the "N" reactor at Richland, Washington, from the production of fuel grade plutonium to weapons grade plutonium. The conferees consider this option highly desirable and have agreed to the authorization of $15 million to begin the startup of the PUREX plant at Richland, Washington. The PUREX plant (Plutonium-uranium-extraction) is needed to process the plutonium from the irradiated fuel elements. The conferees expect to see the necessary costs budgeted in fiscal year 1981 to continue the conversion of the "N" reactor to the production of weapons grade plutonium and to prepare the PUREX plant for processing during fiscal year 1983.

### WEAPONS ACTIVITIES

The conferees are mindful of the commitment by the government to improved strategic and theater nuclear weapons. These weapons include the M-X, TRIDENT, ALCM, GLCM, Lance, Pershing II, artillery shells, and other systems which will require the development and production of warheads in increased numbers and at increased rates. These systems are considered to be crucial to the strategic deterrent power of the United States and to the collective deterrent power of the NATO alliance. While there is a strong commitment to the delivery systems referred to above, the authorization request reflects no similar commitment to the matching warheads for those systems. The national testing program necessary to both the development and maintenance of the U.S. deterrent in the 1980's and 1990's was greatly underfunded. The conferees are concerned that billions of dollars may be spent to upgrade and convert

B-52 aircraft and to procure delivery systems which cannot be armed because sufficient funds have not been committed to the testing, production and surveillance functions of the Department of Energy or because critical decisions have not been made to produce sufficient quantities of special nuclear materials.

The Secretary of Energy in conjunction with the Secretary of Defense is requested to provide the Committee on Armed Services of the Senate and the House of Representatives, on or before February 1, 1980, a report which shall include: the data contained in the most recent "Stockpile Memorandum" approved by the President; an analysis to show that the appropriations requested for fiscal year 1981 will support the necessary research and development, testing, production and surveillance to meet the schedules set forth in the "Stockpile Memorandum"; and an assessment to demonstrate sufficient special nuclear materials will be available to support the warhead production for the delivery systems contained in Defense Department budget justification documents presented to the Congress.

PLANT ENGINEERING AND DESIGN

The programing of plant engineering and design (PED) funds has been the source of some confusion in recent years. It is the intent of the conferees that the design and planning of capital investment projects should proceed in advance of the request for authorization for the construction of such projects.

In general, the programing sequence for a new facility is expected to proceed as follows:

1. When the requirement for a new facility is recognized, concept studies necessary to define the broad scope and cost range of the project will be accomplished with operinto the programing process, Title I and ating funds. Such concept studies will normally be accomplished by "in-house" personnel (DOE and/or operating contractor).

2. When concept studies are completed and the proposed facility has been integrated Title II design can proceed using funds available from the PED appropriation *if the total estimated design cost does not exceed $2 million.* If the total estimated design cost exceeds $2 million, the design must be authorized as a separate line item in the annual authorization bill. The appropriate committees of Congress will see the proposed projects in the budget justification for the PED line and then again just prior to the obligation of funds as required by section 206. The conferees recognize that shifting requirements and priorities may result in changes from the budget justification in those projects actually proceeding to design and the PED line specifically permits that needed flexibility.

3. When design is well underway (30-50 percent as a minimum) such that the total estimated construction cost is sufficiently reliable and such that construction contract awards can be made during the budgeted year, the authorization for the construction of the project should be sought. The project authorization will be a line item if the construction cost is estimated to exceed $1 million or as a part of the General Plant Projects line if the cost is less than $1 million.

In consonance with this approach, the conferees have included House projects 80-AE-11 and 80-AE-12 for the design of target fabrication facilities at Los Alamos and Livermore Laboratories under the 80-P.E. & D.-1 line and intend that appropriations for those separate line items be used for those specific projects.

The conferees note that in utilizing PED funds for fiscal year 1980 the Department of Energy is apportioning available funds to accomplish design increments of very large, complex construction projects (e.g., TRU facility, Idaho Falls; Waste Processing Facility, Savannah River). In future years, design funds for such large projects will have to be separate line items in the authorization bill.

THE WASTE ISOLATION PILOT PLANT (WIPP)

The process of producing nuclear weapons yields byproducts, customarily referred to as nuclear wastes, that are hazardous in certain regimes and which should be isolated from the biosphere on a permanent basis. Defense nuclear wastes have been accumulating and safely stored at temporary storage sites over the past 35 years. The issue of the ultimate disposal of nuclear waste is one of the most troublesome challenges of our time. The United States has not yet decided on the issue of how to permanently store nuclear wastes resulting from various national defense programs. The right combination of public concern, technology and resource application is needed in order to produce a decision. Such a decision will not be simple, and the WIPP will contribute but one small piece to that decision.

*What is WIPP?*

The WIPP, originally authorized in 1976, was conceived as a research, development and demonstration project for the storage of defense waste. Since that time the administration has proposed changes to the mission of the WIPP regularly, first to include the storage of 1,000 spent fuel assemblies from commercial reactors, and later to a commercial type "intermediate scale facility" where defense nuclear wastes would be stored upon the payment of a "fee." This constant attempt to change the purpose of the WIPP has resulted in delay and confusion.

The conferees have sought to reiterate the congressionally authorized purpose for the WIPP project to get it back on track. The conferees emphasize that:

WIPP is not the solution to the total defense nuclear waste problem.

WIPP is not to become the "dumping ground" for the Nation's defense nuclear waste.

The conferees have very carefully defined the WIPP project in law as a defense project "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States . . ."

WIPP is a research and development effort designed to address the technological questions associated with the long term storage of defense nuclear wastes using a natural salt-formation as the geological medium for storage.

WIPP is only for the storage of demonstration quantities of defense wastes.

WIPP is, under current law, exempt from licensing by the Nuclear Regulatory Commission.

*Scope of conference on WIPP*

The Senate bill limited the use of funds authorized to be appropriated by this or any other act for the Waste Isolation Pilot Plant (WIPP) in southeast New Mexico to the "pursuit of a demonstration project for the long term storage of nuclear wastes generated by the nuclear weapons research, development and production complex." The Senate provision also provided that the Secretary of Energy "shall continue the pursuit of consultation and concurrence begun with the State of New Mexico regarding its legitimate concerns in this project."

The House amendment contained a more comprehensive provision which specifically reauthorizes the WIPP as a defense activity of the Department of Energy, administered by the Assistant Secretary for Defense Programs, for the "express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities of the United States." The facility is exempted from regulation by the Nuclear Regulatory Commission (NRC) by the House amendment as such a facility would also be exempted under current law. With respect to relations with the State of New Mexico concerning the project, the House amendment directs the Secretary of Energy to "consult and cooperate with the appropriate officials" of the state "with respect to health and safety concerns" and to "give consideration to such concerns and to cooperate with such officials in resolving such concerns."

The House amendment specifically prohibited the Secretary of Energy from entering into any agreement or making any commitment under which the State or any State official could in effect veto the project.

The House amendment also provided that changes to the WIPP provision (sec. 213) can be made only by specifically amending, repealing, or suspending that provision. The Senate bill contained no such restriction.

The authority of the conference committee is limited to the topics and issues committed to conference by either House. For this reason, the conferees have resolved this issue within the differences which existed between section 307 of the Senate bill and section 213 of the House amendment.

*Conference action on WIPP*

The conferees adopted the language of section 213(a) of the House amendment as a more concise statement of the intent of Congress that: the WIPP is a defense activity of the Department of Energy; its purpose is research and development, and demonstration; its activities are confined to defense wastes. The conferees believed that the frequent changes which have been made in the scope and purpose of the WIPP have made a statutory definition of the project not only desirable but necessary. Frequent changes have driven up costs, delayed design and construction, and have confused management, the public and the Congress. As a result, the project was unmanageable and served only to delay ultimate decisions and solutions necessary for the long term storage of nuclear waste.

The conferees have also adopted section 213(b)(1) of the House amendment as a concise expression of congressional intent. The conferees believe that the language directing the Secretary of Energy to consult and cooperate with officials responsible under New Mexico laws for public health and safety, along with existing applicable Federal laws, Executive Orders, and regulations, are sufficient to permit the State to protect its legitimate interests. At the same time, the language will permit the Secretary of Energy to carry out his legal responsibilities and to balance the national interest with that of the State.

After much discussion, the conferees inserted a new paragraph 213(b)(2) which prescribes the procedures to be followed in the pursuit of consultation and cooperation with the State of New Mexico as required by subsection 213(b)(1). A more detailed discussion of the conferee's action in this regard is discussed below—see State's Participation in WIPP. The conferees also included a new paragraph to provide Armed Services Committees oversight of the agreement.

The conferees adopted the language of section 213(c) of the House amendment.

*Should WIPP proceed now?*

There was serious question among the conferees as to whether the WIPP project should proceed at this time. The Senate had agreed with the administration's request to proceed with WIPP in fiscal year 1980; the House, on the other hand, raising questions of project scope and jurisdiction, had denied all funding and deauthorized $30 million in previous project authorization.

The conferees were aware that an Interagency Review Group (IRG) has prepared certain recommendations to the President regarding the long term approach to the handling of nuclear waste. The President has not yet acted on those recommendations. One of the IRG options related to the deep geologic storage of nuclear wastes suggests delaying WIPP until site studies of differing geologic media can be readied to make a more informed choice between alternative storage media.

After considerable discussion, the conferees reached a consensus that WIPP should proceed now for two reasons:

The demonstration of nuclear waste disposal is critical. The costs already sunk in WIPP are approaching $100 million and much of the effort already expended would be lost if the project were to be deferred. Sidetracking WIPP at this point would probably delay for years the ultimate decisions with regard to permanent nuclear waste disposal.

Any program which stresses the state of current scientific knowledge requires a demonstration effort, within an acceptable level of risk, to move the program forward. At some point every weapon system moves from the drawing board to the test range. The conferees did not want to delay any longer the demonstration of nuclear waste storage.

*WIPP as a precedent*

Much controversy surrounding the WIPP had dealt with the so-called "precedent setting" nature of the project. Some argue that WIPP will set a precedent as to the future procedures for the handling of nuclear wastes, and therefore the WIPP project should proceed only under a highly visible, tightly-formalized set of procedures which including deliberate State and local participation. There are equally compelling arguments that, since WIPP is a defense project, the interests of national defense mitigate against over-institutionalizing a costly, time-consuming set of procedures which might then be applied to other defense projects. The conferees believed that the "precedent setting" nature of WIPP has been overstated. WIPP, as it is now authorized, is only a demonstration effort which will serve to answer some of the questions about the complex system that will be needed to solve the defense nuclear waste problem. Strong central control is needed—not diversified management and over-regulation.

*State's participation in WIPP*

A key issue surrounding the WIPP project concerned what should be the State's role in the project. After lengthy discussion, the conferees agreed on two premises:

The State must be in a position where its legitimate concerns with respect to public health and safety are fully and responsibly considered. The State of New Mexico should be permitted the opportunity to be consulted and to cooperate in the development, construction and operation of the project. The State should have access to relevant material concerning the project and at key decision points, such as the decision point to proceed with construction, there should be a formal means, within reasonable specific time frames, for the State to make comments and recommendations on the public health and safety aspects of the project and to have its public health and safety concerns resolved at those key decision points.

While agreeing that the State should play an active "partnership" role with the Federal Government, the conferees did not feel the State should have the right to "veto" the project. The conferees felt that if the process of consultation and cooperation was pursued in good faith by both parties as prescribed in the final bill, then there need never develop a situation that would cause the State to raise an objection to the project.

Relations with State and local governments with regard to environmental, health and safety functions have been institutionalized within the DOE through the Atomic Energy Act, the Energy Reorganization Act of 1974 and the Department of Energy Organization Act. The present five levels of safety review required by DOE and the mechanisms for consultation and cooperation with State and local governments have proven to be quite adequate over time.

The conferees noted that the National Environmental Policy Act as implemented by Executive Order No. 11752 places heavy responsibilities upon government departments, and these responsibilities include consultation and cooperation with State and local governments. The Executive Order, however, states that, "In light of the principle of Federal supremacy embodied in the Constitution, this order is not intended, nor should it be interpreted, to require Federal facilities to comply with State or local administrative procedures with respect to pollution abatement and control."

The conferees emphasized the following points with regard to the consultation and cooperation provision:

The conferees recognized the possibility that the Secretary of Energy and the State might not be able to negotiate a mutually satisfactory agreement. However, in view of the long history of cooperation by the State with the Federal Government in atomic energy matters and in view of the national significance of the WIPP project, the conferees fully expect such an agreement can be successfully negotiated. In this spirit of cooperation, no specific legislative remedy has been included to resolve a situation where there is no agreement.

The consultation and cooperation agreement (or lack of such an agreement) and the proper execution of the process specified by such an agreement should not delay the progress of the WIPP project. Work should proceed on the WIPP project as planned and as envisioned in the fiscal year 1980 and subsequent budget requests. For fiscal year 1980, this includes the planned exploratory shaft to establish the adequacy of the salt formation which is part of the site characterization work.

The conferees have indicated only the general content of the agreement. The specifics of the agreement (i.e., the designation of key events; the setting of time frames for review, comment, and resolution of comments; the procedures for review of the project and for resolving conflicts; etc.) are left to the parties. However, the conferees were adamant that the Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

The Committees on Armed Services of the Senate and the House of Representatives should be kept advised throughout the process of developing a consultation and cooperation agreement and then during the consultation and cooperation process.

The conferees drew heavily from a September 7, 1979, opinion of the Comptroller General of the United States concerning this matter (B–192999). That opinion pointed out that permitting State disapproval to control DOE's determinations of suitable sites for nuclear storage facilities *could ultimately result in DOE being unable to carry out its statutory authority of establishing waste storage facilities,* since there are only a limited number of suitable potential storage sites in a very few States. Based on existing law, the Comptroller General also pointed out that an attempt by the Secretary "to bind the United States to refrain from establishing or operating a nuclear waste storage facility if the State objected," might in his view, "constitute an unlawful delegation of Federal power." (Italic added.) The conferees agree with this analysis.

Since there are a limited number of potential sites, the conferees believed that a State veto policy would be self-defeating of congressional intent regarding defense waste management. Under such a policy, the conferees, without difficulty, foresaw each State exercising a veto leaving no site available for defense waste management purposes. The result would be a continuation of the status quo, i.e. temporary storage of defense nuclear wastes.

OPERATING EXPENSES

INERTIAL CONFINEMENT FUSION

The Senate bill authorized a total of $114.89 million for operating expenses for the inertial confinement fusion program. The House amendment contained authorizations of $44.2 million for glass laser experiments, $29.3 million for gas laser experiments, $12.2 million for electron beam experiments, $38.3 million for supporting research including an allowance for experiments at a National Laser User Facility in New York, and $1.09 million for personnel—a total of $125.09 million.

The conferees agreed to adopt the House position in order to provide for program adjustments and to offset the impact of unbudgeted inflation on this program.

The Senate recedes.

The House amendment contained a limitation on the use of funds authorized to be appropriated for supporting research and development incident to the inertial confinement fusion program. The Senate bill contained no similar provision.

The House recedes.

WEAPONS ACTIVITIES

The Senate bill authorized $1,441,541,000 for operating expenses for weapons activities for fiscal year 1980. The House amendment provided authorizations of $421.143 million for research and development $225.0 million for weapons testing, $772.0 million for weapons production and surveillance, and $37,098 million for personnel—a total of $1,455.241 for this program. The conferees noted that the weapons testing and production and surveillance programs are suffering from serious underfunding problems which can only be alleviated through supplemental funding. The conferees agreed to compromise and have provided authorizations of $421.143 million for research and development, $236.0 million for testing, $761.0 million for production and surveillance, and $37.098 million for personnel—a total of $1,455.241, the total amount of the House authorization.

The Senate recedes with an amendment.

MATERIALS PRODUCTION

The Senate bill authorized $343.848 million for operating expenses for the materials production program for fiscal year 1980. The House amendment provided authorizations in six subprograms for this program, as follows: $180.3 million for production reactor operations; $82.4 million for nuclear materials processing; $67.714 million for supporting services, of which $15.0 million shall be used only for startup costs for the PUREX chemical processing plant at Richland, Washington; $21.390 million for fluorinel reprocessing; $5.0 million for advanced isotope separation research; and $944,000 for personnel—a total of $357.748 million, the amount of the House amendment.

The Senate recedes.

DEFENSE WASTE MANAGEMENT

The Senate bill authorized $216.501 million for the defense waste management program including the following allowances: $110.515 million for interim waste management operations; $63.495 million for long term waste management technology; $20.8 million for terminal storage operations; $1.691 million for program direction; and $20.0 million for an undistributed amendment.

The House amendment authorized a total of $211.25 million including allowances as

follows: $125.851 million for interim waste management operations; $76.708 million for long term waste management technology; $2 million for decontamination and decommissioning; $5 million for transportation research and development; and $1.691 million for program direction.

The House amendment provided no authorization for operating expenses for the Waste Isolation Pilot Plant (WIPP) in southeast New Mexico. The conferees agreed to authorizations totaling $215.991 million for operating expenses for the defense waste management program with allowances as follows: $125.851 million for interim waste operations; $74.449 million for long term waste management technology; $14.0 million for terminal storage operations; and $1.691 million for program direction.

The House recedes with an amendment.

The House amendment contained language which would prohibit the use of any funds authorized to be appropriated for defense waste management for the WIPP. The Senate bill contained no similar provision.

The House recedes.

PLANT AND CAPITAL EQUIPMENT

INERTIAL CONFINEMENT FUSION

Project No. 80–P.E. & D.–1: Plant engineering and design (P.E. & D.):

The President's request included $1.5 million for Project No. 80–P.E. & D.–1, plant engineering and design for inertial confinement fusion projects. The Senate bill included an authorization of $3.5 million for this project including two target fabrication facilities authorized by the House amendment as Project Nos. 80–AE–11 and 80–AE–12. The House amendment authorized the amount requested. The conferees agreed to adopt the Senate position.

The House recedes.

Project No. 80–AE–11: Target fabrication facility, Los Alamos Scientific Laboratory, New Mexico:

The House amendment contained a line item authorization for $1 million for starting the design of a target fabrication facility to serve both the Los Alamos Scientific Laboratory and the Sandia Laboratory in Albuquerque, New Mexico. The Senate bill contained no specific authorization for this project. The conferees believe this facility will be necessary to fully exploit the potential of the high-power gas laser (ANTARES) and the HELIOS system approaching completion at the Los Alamos Laboratory and the electron beam facility under development at Sandia Laboratory in Albuquerque, New Mexico. The conferees agreed to include this project within Project No. 80–P.E. & D.–1.

The House recedes.

Project No. 80–AE–12: Target fabrication facility, Lawrence Livermore Laboratory, California:

The House amendment contained a line item authorization for $1 million for starting the design of a target fabrication facility for the Lawrence Livermore Laboratory, California. The conferees believe this facility will be necessary to fully exploit the potential of the high-power glass laser (SHIVA) now operating at the Lawrence Livermore Laboratory and for the NOVA facility which was fully authorized and is under construction. The conferees agreed to include this project within Project No. 80–P.E. & D.–1.

The House recedes.

Project No. 75–3–b: High energy laser facility, Los Alamos Scientific Laboratory, New Mexico:

The President's budget contained a request for $8 million in additional authorization for Project No. 75–3–b, the high energy laser facility at Los Alamos Scientific Laboratory, New Mexico, to compensate for increased escalation, added costs of procurement, design and installation due to prior limited annual funding. The Senate bill contained no additional authorization for this project, since there is ample existing authorization for the appropriations requested. The House amendment authorized the amount requested. The conferees agreed to defer additional authorizations without prejudice, while expressing their continued strong support for the project. (See Inertial Confinement Fusion under Items for Special Comment earlier in this statement.)

The House recedes.

CAPITAL EQUIPMENT NOT RELATED TO CONSTRUCTION

The President's request for capital equipment for the inertial confinement fusion program was $8.5 million. The Senate bill authorized $18.5 million. The House amendment authorized $10.1 million for this purpose. This item is discussed earlier under Items for Special Comment.

The Senate recedes.

WEAPONS ACTIVITIES

Project No. 80–AE–7: Relocate water towers, Mound Facility, Miamisburg, Ohio.

The President's request included $1.4 million to relocate two water towers at Mound facility at Miamisburg, Ohio. The Senate bill authorized $1.4 million. The House amendment authorized no appropriations for this project.

The Senate recedes.

Project No. 80–AE–8: Advanced size reduction facilities, Rocky Flats Plant, Golden, Colorado:

The President's request contained $10 million for this project. The Senate bill authorized the amount requested. The House amendment authorized $5 million, the amount of the appropriation request for this project for fiscal year 1980.

The House recedes.

Project No. 80–AE–11: Pershing II warhead facilities, various locations:

Subsequent to the passage of Senate bill S. 673, the Department of Energy (by letter dated June 20, 1979) requested that an appropriation of $5 million be authorized to initiate the design and construction of facilities to develop and produce the new Pershing II warhead on an accelerated basis. The House amendment authorized the $5 million requested. The Senate bill contained no authorization for this project.

The Senate recedes.

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President's request included $3.6 million for plant engineering and design for selected future weapons activities construction projects. The Senate bill provided an authorization of $16.7 million. The House amendment contained $3.6 million, the amount requested.

The Senate recedes.

Project No. 79–7–c: Proton storage ring, Los Alamos Scientific Laboratory, New Mexico:

The President requested $16.1 million in additional authorization to fully authorize a proton storage ring that would be significantly larger than the facility presented to the Congress in fiscal year 1979. The Senate bill authorized the $16.1 million requested. The House amendment authorized $11.7 million, an amount sufficient to meet the original total estimated cost for the project. The conferees believe that $14 million will meet the increased size requirements for the proton storage ring facility when the 23 percent contingency funding is considered, and agreed to an authorization in that amount.

The House recedes with an amendment.

Project No. 78–18–d: Steam plant improvements, Y–12 plant, Oak Ridge, Tennessee:

By supplemental request dated May 15, 1979, the Department of Energy requested that an additional $15.5 million be authorized to make environmental improvements to a steam plant at the Y–12 facility in Oak Ridge, Tennessee. Prior year authorizations provided $10 million to completely upgrade the existing steam plant over a period of several years. The Senate bill authorizes the $15.5 million requested. The House amendment contained no authorization for this project.

The House recedes.

MATERIALS PRODUCTION

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President requested $3.4 million for preliminary plant engineering and design for future materials production construction projects. The Senate bill contains an authorization of $7 million for this plant engineering design project. The House amendment contained an authorization in the amount requested.

The Senate recedes.

Project No. 80–AE–3: Steam generation facilities, Idaho Chemical Processing Plant, Idaho:

The President requested an authorization of $23.5 million for the design, procurement and construction of a coal-fired steam generation facility at the Idaho Chemical Processing Plant. The Senate bill contained the requested amount of $23.5 million. The House amendment authorized $10 million, the amount of the appropriation request for this project.

The House recedes.

Project No. 77–13–a: Fluorinel dissolution process and fuel receiving improvements, Idaho National Engineering Laboratory, Idaho:

The President requested $84.4 million in additional authorization for this program. The Senate bill authorized $50.4 million. The House amendment authorized $54.4 million, the amount of the appropriation request for the project.

The House recedes.

DEFENSE WASTE MANAGEMENT

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President's request contained $21.32 million for eight defense waste management plant engineering and design projects which ranged from $500,000 to $10 million for each project. The Senate bill authorized the $21.32 million requested. The House amendment authorized preliminary design authorizations for potential projects of approximately $1 million each and authorized $8 million for this purpose, of which amount $3 million is available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

The Senate recedes.

Project No. 77–13–f: Waste isolation pilot plant, Delaware Basin, southeast New Mexico (A–E, land lease acquisition and long-lead procurement):

The Senate bill authorized an additional appropriation in the amount of $26.5 million for the Waste Isolation Pilot Plant, Delaware Basin, New Mexico, for fiscal year 1980, for architectural and engineering services, land lease acquisition and long-lead procurement, for a total project authorization of $94.5 million. The House amendment contained a provision which reduced the amount authorized to be appropriated for this project for fiscal year 1979 and prior years by $30 million, for a total project authorization of $38 million.

The conferees found that the amounts authorized to be appropriated for construction expenses for this project during fiscal year 1979, and prior years, is $68 million. The conferees also found that the amount appropriated for construction, and funds which have been reprogramed into the project including $22.0 million appropriated for fiscal year 1980 by Public Law 96–69, totals $68 million. The conferees further noted that a partial appropriation was made for the project for fiscal year 1980 to provide for operations only through March 31, 1980, pending the resolution of program goals and objectives in authorizing legislation. Since these

matters have been resolved by section 213 of the conference report, the conferees agreed to an additional authorization of $22 million for fiscal year 1980 for a total authorization for this project of $90 million.

The House recedes with an amendment.

Project No. 75-1-c: New waste calcining facility, Idaho Falls, Idaho:

The President's budget requested no additional authorization for this project. A Department of Energy letter dated November 6, 1979, stated that the facility's total estimated cost has risen by $25 million and authorization of that amount was necessary to keep the project on schedule to prevent a construction work stoppage of from one to two years, and to avoid the cost increases which would follow a work stoppage. The Senate bill contained no additional authorization for this project. The House amendment contained $25 million as requested.

The Senate recedes.

## TITLE II—GENERAL PROVISIONS

### Reprograming

Section 301 of the Senate bill and section 201 of the House amendment contained similar provisions pertaining to the reprograming of funds authorized to be appropriated by the bill. Amounts authorized for a particular program could be increased by five percent or $10,000,000 whichever is less. No new program which has not been presented to Congress could be started unless that new program is specifically presented to the appropriate committees of Congress in writing and a period of 30 days expires, or unless prior to the expiration of the 30 day period each such committee states in writing that it has no objection. The Senate provision, which the conferees accepted, also places a ceiling on obligations pursuant to the act which is equal to the sum of all authorizations; that is to say, any increase in the amounts obligated, as provided by section 201 of the conference report, must be offset by a corresponding decrease in one or more of the other amounts authorized.

The House recedes.

### Limits on General Plant Projects

The Senate bill contained a provision which authorized the Secretary of Energy to carry out any construction project under the general plant projects provisions authorized by this act if the total estimated cost of such construction project does not exceed $1 million. If at any time during construction of any general plant project the estimated cost of such project is revised to exceed $1 million due to unforeseen cost variations, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variations. Under the Senate provision, the total of all general plant projects carried out pursuant to the act may not exceed by more than ten percent the total amount authorized to be appropriated for general plant projects under the act.

The House amendment contained a similar provision with a limitation of $750,000 for any general plant project and a limitation of $300,000 for the cost of any building included in such a project.

The House recedes.

### Limits on Construction Projects

The Senate bill contained a provision which precluded the start of a construction project or the incurring of additional obligations for any project authorized by the act if current estimated cost exceeds by 25 percent the amount authorized for that project. Thirty days after the Secretary has notified the appropriate committees, in writing, of the facts and circumstances which caused an increase, the provision could be waived if there were no adverse response, or if in a shorter period of time than 30 days each committee notified the Secretary that they have no objection. This restriction would not apply to any construction project with a current estimated cost of less than $5 million. The House amendment also precluded the start or the incurring of additional obligations if the currently estimated cost of a line item construction project would exceed the authorization by 25 percent as such costs were estimated on the date of enactment of the act. This provision could be waived if the Secretary of Energy notified the appropriate committees of the reasons for the increase and did not receive a negative response after 30 days. The Secretary could proceed if, before the 30 days waiting period ended, he received written notice from each appropriate committee that he could proceed. The provisions of this section did not apply to projects with a currently estimated cost of less than $5 million.

Compromise language was adopted which precludes the start of, or the obligation of additional funds for, any national security programs project for which the current estimated cost would exceed by more than 25 percent the amount authorized for the project, or the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to the Congress. This provision would not apply if the Secretary notifies the appropriate committees in writing of the reasons and waits 30 days before taking any action on the project, unless he is notified before the 30 day period ends that the appropriate committees have no objection to the proposed action. This provision does not apply to any construction project which has a current estimated cost of less than $5 million.

The Senate recedes with an amendment.

### Funds Available for All National Security Programs of the Department of Energy

Section 204 of the House amendment provided that, subject to the provisions of appropriations acts, amounts appropriated pursuant to the authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy. The Senate bill contained no similar provisions.

The Senate recedes.

### Fund Transfer Authority

Section 304 of the Senate bill provided that, to the extent specified in appropriations acts, funds appropriated pursuant to authorizations contained in the act may be transferred to other agencies of the government for the performance of work for which such funds were appropriated, and that the funds so transferred may be merged with the appropriations of the agency to which such funds are transferred. Section 205 of the House amendment contained a similar provision which was stated in different language.

The House recedes.

### Authority for Construction Design

The Senate bill contained a provision authorizing the Secretary to carry out advance planning and construction design and to obtain architectural and engineering services for construction projects not authorized by law, within the amounts authorized to be appropriated for plant engineering and design. If the estimated design cost is greater than $300,000, the Secretary would be required to notify the appropriate committees of Congress in writing 30 days prior to the obligation of any funds for design services.

The House amendment restricted advance plant engineering and design funding to Department of Energy construction projects in support of national security programs which have been presented to the Congress. For those programs estimated to exceed a design cost of $300,000, the Secretary would be required to notify the appropriate congressional committees 30 days before any funds were obligated.

The conferees agreed to compromise language which constrains total spending on a single advance plant engineering and design project to $2 million unless the project is specifically authorized by law. If the estimated cost of planning and design of a project not specifically authorized by law exceeds $300,000, the appropriate committees of Congress must be notified in writing 30 days before any funds are obligated. The compromise provisions apply to design for construction projects begun after October 1, 1980.

The House recedes with an amendment.

### Authority for Emergency Construction Design

The House amendment contained a provision authorizing the Secretary of Energy to provide construction design services, in addition to design services performed with plant engineering and design funds, for any Department of Energy defense activity construction project if the project has been included in a proposed authorization bill sent to the Congress and if the Secretary determines that the project is urgently needed for the national defense effort or the protection of life and property or health and safety and that construction should be initiated promptly upon enactment of legislation appropriating funds for construction. The Senate bill contained no comparable provision. The conferees agreed to compromise language which authorizes the Secretary, in addition to the advance planning and construction design funds authorized to be appropriated by section 102, to perform such planning and design, utilizing available funds, for any Department of Energy defense activity construction project which he considers urgent for the needs of national defense or to protect property or human life.

The Senate recedes with an amendment.

### Availability of Funds

Section 209 of the House amendment provided that, when so specified in an appropriation act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

The Senate recedes.

### Restrictions on Licensing

Section 210 of the House amendment provided that none of the funds authorized to be appropriated by this or any other act may be used for any purpose related to the licensing of any defense activity of the Department of Energy by the Nuclear Regulatory Commission (NRC). The Senate bill contained no similar provision.

The House position was based on the fact that defense programs, particularly those dealing with weapons research, development and production, special nuclear materials production and defense waste management, are closely integrated into a complex of facilities. The Secretary of Defense and the Secretary of Energy have indicated that the application of NRC licensing and regulatory authority to defense programs could adversely affect the national defense interests of the United States and could cost billions of additional dollars. There is also uncertainty that the benefits of regulation would outweigh the costs or the impact on national defense.

In adopting the House position, the conferees are aware that there is legislation pending in both Houses, some of which would make a blanket extension of NRC authority over DOE defense nuclear waste activities. In addition, the conferees are aware that the President's Interagency Review Group on Nuclear Waste Management has made certain recommendations with respect to NRC licensing authority. The Committees on Armed Services will want to examine this legislation very thoroughly.

This section will continue current policy with respect to NRC licensing of DOE defense programs until the Congress addresses certain concerns raised by the NRC in its report on "Regulation of Federal Radioactive Waste

Activities." These concerns are that the authority of the NRC should not be given "a blanket extension" until:

(a) a process for applying further regulatory authority, satisfactory to both NRC and DOE, can be developed;

(b) probable costs can be determined;

(c) benefits would result that outweigh the costs;

(d) workable procedures can be established which both allow the public to be fully informed about the regulatory process and provide an effective severing of any link between regulation of the storage or disposal of waste and any classified information about its generation; and

(e) there will be no significant delay of, or other negative impact on, sensitive defense related production programs.

The Senate recedes.

RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT

Section 211 of the House amendment prohibits the use of funds authorized to be appropriated for the purpose of paying penalties, fines, forfeitures, or settlements resulting from the failure of a defense activity of the Department of Energy to be in compliance with the Clean Air Act if (1) the Secretary of Energy finds that it is physically impossible to be in compliance within the time specified, or (2) the President has specifically requested appropriations for compliance but the Congress has failed to make available such appropriations. The Senate bill contained no similar provision.

The Senate recedes.

CONTRACT FOR DELIVERY OF BYPRODUCT STEAM

Section 212 of the House amendment would require the Secretary of Energy, beginning in fiscal year 1980, to insure that an existing contract for the delivery of byproduct steam from the N-reactor, a dual purpose reactor located in Richland, Washington, to the Washington Public Power Supply System, is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered. The Senate bill contained no similar provision. After consideration of the practical difficulties with which the contracting parties would be faced under the provisions of the House amendment, the House receded.

CONTINGENCY PLAN FOR ALTERNATE MANAGEMENT OF WEAPONS LABORATORIES

Section 214 of the House amendment (section 212 of the Conference Report) directed the Secretary of Energy to submit to Congress a contingency plan for the possible termination of the existing contract with the Regents of the University of California, and for the orderly transition to management of the Lawrence Livermore Laboratory and the Los Alamos Scientific Laboratory by a possible new contractor. The Secretary is directed to protect the rights and benefits of employees, and to stress the paramount mission of those laboratories in the field of national security. Section 214 also inserts the word "national" into the names of the above laboratories and into the name of Sandia Laboratories.

The Senate bill contained no similar provision. The conferees adopted compromise language which includes language stating that it is the sense of Congress that the above mentioned laboratories are unique national assets which must remain dedicated to their primary defense focus aimed at maintaining United States preeminence in nuclear weapons systems technology. The compromise language also expresses the sense of Congress that the long-standing contractual arrangements between the Federal Government and the University of California have served the Nation well and should continue as long as the national interest is being served. The compromise language notes the recent efforts by individuals within the University of California system to influence the roles and missions of the laboratories which have been disruptive and which may prove to be counterproductive to the national interest.

The Senate recedes with an amendment.

WEST VALLEY PROJECT

Section 308 of the Senate bill directed the Secretary of Energy to carry out a nuclear waste management demonstration project at the Western New York Nuclear Service Center in West Valley, New York. The first year's costs for the project were to be borne by the Secretary of Energy from funds authorized to be appropriated for defense waste management. The House amendment contained no similar provision.

The conferees noted that a more comprehensive provision had been included in the bill H.R. 3000, authorizing appropriations for Department of Energy civilian programs, and that this bill had been passed by the House on October 24, 1979. The conferees also noted that, consonant with H.R. 3000, the Conference Report to accompany the 1980 Appropriations Act for the Department of Energy (Report No. 96-388) directed that funds for this project be allocated from funds appropriated for commercial waste management. Since the West Valley project is a civilian program not directly related to national defense, the conferees adopted the House position without comment on the merits.

The Senate recedes.

AMENDMENT OF THE TITLE OF THE BILL

The House amendment amended the title of the Act.

The Senate recedes.

MELVIN PRICE,
CHAS. H. WILSON,
DAN DANIEL,
BOB STUMP,
BOB WILSON,
MARJORIE S. HOLT,
R. DANIEL,
*Managers on the Part of the House.*

HENRY M. JACKSON,
JOHN C. STENNIS,
GARY HART,
J. J. EXON,
CARL LEVIN,
BILL COHEN,
JOHN TOWER,
STROM THURMOND,
*Managers on the Part of the Senate.*

## CONFERENCE REPORT ON S. 241, JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. GUDGER. Mr. Speaker, I call up the conference report on the Senate bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MURTHA). Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 10, 1979.)

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. GUDGER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Speaker, S. 241 passed the Senate on May 21, 1979. On October 12, the House passed its bill to restructure LEAA, H.R. 2061, and later agreed to a conference requested by the Senate on the differences between the two bills. The conference report is printed in the RECORD of Monday December 10 at pages 35162-35184.

LEAA was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968 in response to rising crime rates and following recommendation of a Presidential Commission for Federal assistance to State and local govenment criminal justice efforts. Although the act has been the subject of extensive amendments in 1971, 1973, and 1976, the basic design of the programs has remained that of the 1968 act. This design provides a combination of grant programs for criminal justice planning, for projects to strengthen and improve law enforcement, and for training, education research, and special projects.

S. 241 and H.R. 2061, as introduced, were identical. Both bodies adopted extensive committee and floor amendments, and major changes in the LEAA program contained in both provide for a reduction in the Federal review and supervision responsibility, for 3-year programs (rather than annual ones), for expansion of provision for automatic "passthrough" of funds through the States to cities and counties (the so-called miniblock grant provisions), and for the establishment of separate units for research (the National Institute of Justice) and statistics (the Bureau of Justice Statistics).

In all, there were 80 differences between the two bills. I will not go into detail on all of these differences since House Report No. 96-655, the conference report on S. 241, which appeared in the CONGRESSIONAL RECORD on December 10, 1979, pages 35162-35184, explains the action of the conferees on all of these items. The major items in disagreement were resolved as follows:

An Office of Justice Assistance, Research, and Statistics (OJARS) is established, as provided in the Senate bill, with authority to coordinate the activities of LEAA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS). The Senate bill would have given OJARS policy setting authority over the three other units; the House bill provided for direct reporting by these units to the Attorney General. Under the compromise agreement, OJARS will provide staff support to the three units, and priorities in LEAA programs will be established jointly by LEAA and OJARS, rather than by OJARS alone, as called for by the Senate bill.

Jurisdictions (cities and counties) and combinations over 100,000 population will be entitled to automatic passthrough of Federal funds, as provided in the House bill. However, only jurisdictions which will be entitled, in any given year, to a share which equals $50,000 or more will be permitted to participate. The Senate bill required counties and combinations to have a population of at least 250,000 for eligibility.

Involvement in civil justice matters under this act is permitted to the extent the civil justice matter in question bears

directly on criminal justice or is necessarily intertwined with criminal justice. The House bill prohibited involvement in civil justice by any of the entities established under the act, and the Senate bill would have opened up civil justice to an equal status with criminal justice in the programs of the NIJ and the BJS.

The House 10 percent matching fund requirement for the formula grant program is adopted, but the match requirement will not be imposed for fiscal year 1980, and hardship exceptions are permitted. The Senate "no match" provision is adopted for the discretionary program.

The Senate provisions relating to Federal funding of State and local planning and administration are adopted. These require that such activities be funded out of the State allocation for formula grants, rather than "off the top," as provided in the House bill.

A 4-year authorization is provided, rather than the House's 3 years or the Senate's 5.

The Senate exception for prison construction to the general ban on construction funding is not accepted; however, the Senate's 2-year "grandfathering" for existing construction projects is adopted.

The Senate bill's requirement for submission to Congress of a detailed evaluation of the LEAA programs 1 year before the end of this authorization period is adopted, but the "sunset" language of the Senate evaluation is not accepted.

The substitute bill agreed to in conference is a good one which I urge the House to adopt.

□ 1510

Mr. Speaker, I now yield 2 minutes to the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. I thank the gentleman for yielding.

First of all, let me thank the most distinguished gentleman from North Carolina (Mr. GUDGER) for his help in committee and in conference on the question of including in this bill the eligibility of rescue squad personnel in the public officers death benefits program of LEAA. I take this time to thank him and to thank the gentleman from Texas (Mr. HALL) who along with Mr. GUDGER, I would point out, were the only two House conferees who voted to support this program, which on a recorded vote passed in the House by almost 2 to 1.

At this point, I would like to try to determine for the record why the conferees did not support the House's position. I know the gentleman who manages this bill supported it, so perhaps I could ask this question and maybe get some response from the chairman of the full committee, the gentleman from New Jersey (Mr. RODINO) or the gentleman from Illinois (Mr. MCCLORY) if they would engage in some dialog.

Mr. GUDGER. If the gentleman will yield, I would answer the gentleman from North Carolina in my own right as floor manager that the proposition which he supported had my support and that of the gentleman from Texas (Mr. HALL) as he asserts but not the support of the conference committee.

In many instances the House position was sustained, but by the rule of the conference committee it failed in this instance.

Mr. NEAL. I would just like, for the record, to describe for my colleagues the situation. After an almost 2-to-1 recorded vote on the part of the House, the conferees, except for the gentleman from North Carolina (Mr. GUDGER) and the gentleman from Texas (Mr. HALL) did absolutely nothing to support the position of the House of Representatives. In fact, one of our conferees made the motion to recede. My colleagues and I know that certainly there are times when the conferees must negotiate serious differences, and that in those cases often yield on some issues to get something in return. But in this case, there was no serious objection from the other side. Nothing had to be given, nor was anything gained in return. It was simply the majority of our conferees substituting their judgment for the judgment of the House of Representatives, for nothing in return. I think it is important that all Members know this. Other Members may not be as concerned as I am about rescue squad personnel, but at some time there will be an issue in conference which will be as important to them as this one is to me, and they may find themselves in the same position that I am occupying at this moment.

I have no recourse, Mr. Speaker, other than to express my regret. There is no opportunity for a motion to recommit.

I will conclude by saying that I have the highest regard for, and the utmost respect for, the distinguished members of the Committee on the Judiciary. I must say, however, that in this one instance I am rather keenly disappointed.

Mr. GUDGER. If the gentleman will yield, I will answer him briefly, for the time is limited, to this extent only by saying that the conference proceeded in an orderly fashion. There was lengthy negotiation between staff members before the conferences and negotiations of the conference committee members. There were 80 items in issue and in dispute, and the result was as shown in the conference report.

Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. First of all I would like to compliment the gentleman from North Carolina (Mr. GUDGER) for the superb job he has done on this bill.

Mr. Speaker, during House consideration of this legislation my friend from Nebraska (Mr. BEREUTER) offered an amendment which I had intended to offer but I was unfortunately away from the city. That amendment was intended to put into the legislation language to make clear that funding available to State judicial coordinating committees may be allocated to State criminal justice councils in those States which do not have judicial coordinating committees.

In Senate floor debate the Senator from South Carolina, Mr. THURMOND, whom I understand was instrumental in seeing this funding included in the bill, made the point that those funds should be available to the criminal justice councils for purposes of court planning and administration in instances where there is no judicial coordinating committee. The LEAA expressed support for that interpretation in a letter I received in September. And the clarifying amendment was supported by the floor managers here in the House.

However, in accepting the Senate language with regard to the criminal justice planning function, the Bereuter amendment was not explicitly retained in the conference report. It is my understanding from checking with committee staff that the fact that the Bereuter amendment is not in the bill was not a conscious decision to reverse the present practice of making those funds available to the criminal justice councils where judicial coordinating committees have not been established. In fact, in accepting the Senate language with regard to these planning funds, it seems evident that the conferees also accepted the Senate's intent with regard to availability of the $50,000 in planning funds as explained in floor debate by Senator THURMOND.

My State of Kansas and that of my colleague, Mr. BEREUTER, are among the 13 States which do not have judicial coodinating committees. It is clearly most important to them that there be no doubt that their criminal justice planning funds will not be lost due to an unintentional ambiguity in the legislation. For that reason I would like to ask the distinguished floor manager his view on this matter. Is it the committee's intention that the present policy of making these funds available to criminal justice councils in the absence of judicial coordinating committees be continued?

Mr. GUDGER. If the gentleman will yield. When the House conferees accepted the Senate language with regard to these planning funds, we did so subject to the understanding that the Senate intent with regard to the use of these planning funds was as explained in the Senate debate by Senator THURMOND and that Criminal Justice Councils could qualify as in your question. Therefore, the answer to the gentleman's question is, "Yes."

Mr. GLICKMAN. I thank the floor manager.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. I thank the gentleman from Kansas for yielding. I would like to address my remarks to the gentleman from North Carolina. I appreciate the clarification he has just provided to the gentleman from Kansas. As the sponsor of the amendment, I shared my colleague's concern when I found that this provision had been dropped in the conference committee. Frankly, considering the importance of it and the lack of objection to it, I was disappointed that it was not in the bill. But I trust that should any problems develop—and I do not think that any will—if that is the eventuality, we might be able to contact the committee for some clarification and assistance to those States like Kansas and like Nebraska, and about 11 other States that are affected. Would this be the gentleman's understanding?

Mr. GUDGER. If the gentleman will

yield, I assure the gentleman that it is our understanding that the Councils which he has referred to will qualify.

Mr. BEREUTER. I thank the gentleman from Kansas.

☐ 1520

Mr. GUDGER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, while I am in general support of this conference report, I am extremely concerned about one section of the statement of managers.

Section 705 of both the House and Senate versions of S. 241 reauthorized certain law enforcement education programs under LEAA. However, the House version, which we approved on October 12 by a vote of 220 to 54, also contained a section 705(g), stating that "the functions, powers, and duties specified in this section to be carried out by the administrator shall be transferred to the Secretary of the Department of Education upon its establishment by an act of Congress." This language in the House bill was consistent with the intent of both Houses of Congress when they passed the Department of Education Organization Act, since that Act specifically transferred those programs to the Department of Education. In fact, during this Houses's long debate on the Department of Education on June 13, 1979, we rejected—by a vote of 128 to 275—an amendment to strike the transfer of the law enforcement education programs from the Justice Department to the Department of Education.

I was most surprised and displeased to discover that the conference report now before us deletes the specification of transfer to the Department of Education. To make matters worse, the statement of managers on S. 241 attempts to leave the impression that S. 241 is a subsequent enactment of these law enforcement education programs and that the deletion of the reference to transfer of programs will have the effect of leaving those programs within the Department of Justice.

This statement is misleading and, in my opinion, in error. S. 241's provision authorizing these law enforcement education programs is a word-for-word reenactment of the programs which are specifically transferred in the Department of Education Organization Act. The only change is in redesignation of the section number. Furthermore, inasmuch as the effective date of the Department of Education Organization Act is certain to be after the effective date of S. 241, it is clear that the language of the Department of Education Organization Act transferring these programs from Justice to Education will be the controlling language.

My opinion is shared by the Department of Justice's Office of Legal Counsel. That office has prepared a comprehensive memorandum on the disputed language in the conference report which concludes, and I quote, "We believe that that language does not affect the transfer of LEEP programs to the new DOE." I ask unanimous consent that this memorandum be printed in the RECORD at the conclusion of my remarks.

U.S. DEPARTMENT OF JUSTICE,
*Washington, D.C., November 27, 1979.*

Hon. JACK BROOKS,
*Chairman, Government Operations Committee, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I am sending a copy of a memorandum of the opinion of the Office of Legal Counsel of the Department of Justice on the transfer of certain LEEP programs to the Department of Education.

Sincerely,

ALAN A. PARKER,
*Assistant Attorney General.*

MEMORANDUM FOR ALAN A. PARKER

Re: Transfer of Certain Law Enforcement Assistance Administration Programs to the Department of Education

This responds to your request for our opinion on the effect of language in the conference report on S. 241, the proposed Justice System Improvement Act, on the transfer of the Law Enforcement Education Program and the Law Enforcement Internship Program (LEEP programs) to the Department of Education (DOE) from the Law Enforcement Assistance Administration (LEAA). For reasons stated hereafter, we believe that that language does not affect the transfer of LEEP programs to the new DOE.

The Department of Education Organization Act of 1979 (DOE Act), Pub. L. 96-88, provides in § 305:

"There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968."

Under § 601(a) of the DOE Act, this transfer "shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, . . ."

Congress is currently considering S. 241, the Justice System Improvement Act of 1979. Section 705 of that bill provides for a continuation of various LEEP programs and, as drafted, assumes that the LEAA will administer these programs by its use of the word "Administration" throughout.

There is no doubt that § 305 of the DOE Act specifically provides for transfer of the administration of LEEP programs from LEAA to the DOE. At the same time, S. 241 provides for the continuation of LEEP programs and names the LEAA as the agency to administer these programs. The question raised is whether § 705 is necessarily inconsistent with § 305 of the DOE Act. If § 705 were determined to be inconsistent and irreconcilable with § 305, then S. 241, *if enacted* in its present form, would, as the most recently enacted statute control the question of what agency is to administer LEEP programs. The specific rule of statutory construction applicable here is as follows:

"If the same legislative session enacts two or more acts on the same subject they are presumed to have been actuated by the same policy and intended to have effect together."

1A Sands, Sutherland Statutory Construction 250 (4th ed. 1972). In addition, the more general rule disfavoring implied repeals is applicable here because § 705 of S. 241, if read to retain administration of LEEP programs in the LEAA after a transfer would have otherwise been accomplished under the DOE Act, would necessarily repeal § 305 of the DOE Act. This rule of statutory construction has recently been reaffirmed by the Supreme Court as follows:

"In practical terms, his 'cardinal rule' means that '[i]n the absence of some affirmative showing of an intention to repeal, the only permissible justification is when the earlier and later statutes are irreconcilable.' "[1]

We believe that § 705 of S. 241, if enacted, could be read consistently with § 305 of the DOE Act for two reasons.

First, since § 601(a) of the DOE Act contemplates a gap of up to 180 days between the time the first Secretary of Education takes office and the actual transfer of LEEP programs occurs by operation of law, it is probable that LEEP programs as restructured by S. 241 will, for a short period of time, be administered by the LEAA. Thus, the inclusion of LEEP programs in the new LEAA organization Act, and the use in § 705 of the term "Administration" is understandable.

Second, § 507 of the DOE Act establishes a rule of statutory interpretation applicable to federal laws which we believe is controlling until that provision is itself repealed by Congress. Section 507 reads as follows:

"With respect to any functions transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions."

Because § 305 of the DOE Act transfers all LEEP functions vested in either the Attorney General or the LEAA to the Secretary of Education, § 507 of the DOE Act mandates that the word "Administration" as it appears in § 705 of S. 241 be deemed to refer to a component of the DOE.[2]

The only evidence of which we are aware suggesting that § 705 should be read to repeal not only § 305 of the DOE Act but the rule of statutory interpretation in § 507 of that Act is an expression of "opinion" in the conference report on S. 241:

"The House bill provided for the reauthorization of the Law Enforcement Education Program (LEEP). One of its provisions provided for the transfer of the program to the Department of Education.

"The Senate bill contained authorization for LEEP within LEAA, but had no transfer provision.

"The conference substitute adopts the Senate position.

"A provision similar to the House transfer provision is contained in section 305 of the Department of Education Authorization Act. (Public Law 96-88, approved October 17, 1979.) Section 305 provides for the transfer, upon the establishment of the Department of Education, of the programs 'authorized by subsections (b), (c), and (f) of Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.' These subsections are to be subsequently reenacted in section 705 (b), (c), and (f) of the conference substitute. These provisions authorize the Administrator of LEAA to conduct these law en-

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[1] *TVA* v. *Hill*, 437 U.S. 153, 190 (1978), quoting *Morton* v. *Mancari*, 417 U.S. 535, 550 (1974).

[2] We note that § 507 on its face is not limited in application to Federal laws existing at the time of enactment of the DOE Act and nothing in its legislative history suggests such a legislative intent. See S. Rep. No. 326, 96th Cong., 1st Sess. 60 (1979); S. Rep. No. 49, 96th Cong., 1st Sess. 88 (1979); H.R. Rep. No. 143, 96th Cong., 1st Sess. 30 (1979). Indeed, we assume that the drafters of § 705 would acknowledge that that provision's reference to the "Commissioner of Education" in paragraph (a) must be deemed a reference to the Secretary of Education as soon as the office of the "Commissioner of Education" is abolished, and that reference to the "Administration" in § 705 must be deemed a reference to a component of the DOE.

forcement education programs, and, upon enactment, the conference substitute will constitute legislative action subsequent to the Department of Education Authorization Act. The conferees are of the opinion that the cumulative effect of reenactment of the LEEP programs within LEAA and the deletion of any reference in this legislation to transfer of the programs will have the effect of retaining these LEEP programs within LEAA."[3]

To the extent that this "opinion" of the conferees expresses a legislative "intent" that could be subsequently ascribed to Congress as a whole were S. 241 to be enacted in its present form, it constitutes evidence regarding the correct interpretation of § 705. However, it is not, in our view, persuasive evidence, given the rules of statutory construction discussed above. The plain language of § 705 can, as we indicate, be read consistently with both §§ 305 and 507, of the DOE Act. In these circumstances, the observation of Mr. Justice White in *Train* v. *City of New York*, 420 U.S. 35, 45 (1975), that "legislative intention, without more, is not legislation" would seem appropriate to make regarding the views of the conferees.[4]

Congress may, of course, repeal or condition the application respectively of §§ 305 and 507 of the DOE Act.[5] We simply conclude that S. 241, if enacted in its present form, would be insufficient to accomplish the legislative objective articulated by the conferees on S. 241.

LARRY L. SIMMS,
*Deputy Assistant Attorney General, Office of Legal Counsel.*

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I take this time to speak about an attempt in this legislation to break up the Department of Education even before that new Agency is in operation.

In enacting the Department of Education Organization Act (Public Law 96–88) earlier this year, the Congress transferred the student financial aid portions of the Law Enforcement Assistance Administration's (LEAA) law enforcement education program (LEEP) from the Department of Justice to the Department of Education. The conference report now before us tries to prevent that transfer by keeping these portions of LEEP in Justice. I would like to explain how the legislation makes this attempt, and why I think it is ineffectual in doing so.

The conference report restructures the law authorizing LEAA, and in so doing, reenacts without change, for the purpose of simplicity in drafting, statutory provisions which are intended to remain intact. The section regarding LEEP is one of these provisions; it is renumbered from section 406 to section 705 of the Agency's authorizing law, but otherwise unchanged.

The statement of managers offers this comment on the reenactment:

> The conferees are of the opinion that the cumulative effect of reenactment of the LEEP programs within LEAA and the deletion of any reference in this legislation to transfer of the programs [(the House bill included such a reference)] will have the effect of retaining these LEEP programs within LEAA.

This remark, in my judgment, is contrary to both congressional intent and judicial rulings.

The House has spoken twice on the question of whether the student financial aid portions of LEEP should be administered by the Department of Justice or the Department of Education. On June 13, 1979, during consideration of the Department of Education Organization Act, the gentleman from Illinois (Mr. MCCLORY) offered an amendment to eliminate the transfer of these parts of LEEP from Justice to Education. The amendment was defeated by a vote of 128 to 275; incidentally, a majority of House conferees on the conference report now before us joined in opposition to the amendment. On October 12, 1979, the House passed H.R. 2061, this body's version of a bill to restructure LEAA, with an amendment to the section governing LEEP. This amendment provided that all of the LEEP program, not just the student financial aid portions, be transferred to the Department of Education.

The Senate has not spoken directly about the placement of LEEP, but twice, in its consideration of both the Department of Education Organization Act and this bill to restructure LEAA, it has raised no objection to the transfer of the student financial aid portions of that program to the Education Department. During debate on the education bill, no Senator attempted to strike the provision directing the transfer. After Senate passage of that legislation, the Judiciary Committee filed its report on this bill (S. Rept. 96–142); it made no statement about the transfer, which it knew the Senate contemplated, saying only that its bill's provision regarding LEEP was "comparable" to present law. The Senate later passed S. 241 without commenting on LEEP.

The courts have generally ruled that all provisions of law should be given effect, and that—

> *In the absence of any express repeal or amendment* therein, the new provision [should be read as having been] enacted in accord with the legislative policy embodied in those prior statutes . . . (emphasis added) (C. Dallas Sands, "Sutherland Statutes and Statutory Construction," § 51.02 (4th ed. 1973)).

Here, since S. 241 makes no express repeal or amendment of any provision of Public Law 96–88, the two laws should be read as being in accord with each other—the LEEP program restated, and portions of it transferred to the Department of Education.

In *Tennessee Valley Authority* v. *Hill*, 437 U.S. 153 (1978), the last case in which the Supreme Court considered an issue of statutory construction similar to the one before us, the Court ruled that statements in a committee report claiming that certain provisions of law should not apply to a specific matter were ineffectual. To find a repeal of existing law under these circumstances, the Court said, would violate the cardinal rule that repeals by implication are not favored. Professor Sands says that the presumption against implied repeals may be overcome only—

> by showing that the two acts are irreconcilable, clearly repugnant as to vital matters to which they relate, and so inconsistent that the two cannot have concurrent operation. (Id. at § 23.10.)

Such a showing, I think, cannot be made here.

Consequently, the statement of managers notwithstanding, the conference report on S. 241 should have no effect on the transfer of the student financial aid portions of the LEEP program from the Department of Justice to the Department of Education. As the ranking minority member of the Government Operations Committee, which recommended enactment of the Department of Education Organization Act, I shall be working with the administration to insure that the Education Department is established in compliance with that law, with regard to LEEP as well as all other programs transferred to the new Department.

Mr. MCCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report. As a sponsor and supporter of LEAA from its inception, I am pleased to see this program continue. Over the years it has not been uncommon for the administration to propose its plan only to have Congress write its own. This, in fact, was how LEAA was born. And this is occurring once again today. I would hope that the administration would accept the congressional enactment and execute the law in good faith and not try to construe our rejection into agreement of its proposal.

In the last few minutes I have had the brief opportunity to look over the so-called final report of the OJARS transition task force. As best as I can determine, the report appears to have been written to carry out the rejected proposal and then modified to the extent necessary to avoid clear conflict with the conference report.

This is not the equivalent of the good faith implementation I would hope for. I am fearful that by transferring certain so-called administrative support services from LEAA to OJARS, the necessary evaluation and audit review of programs before approval will be made by OJARS and not by LEAA. I am also concerned that by not transferring the necessary staff to LEAA to carry out the statistical systems development program which the report admits is specifically allocated to

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[3] H.R. Rept. No. 96–655, 96th Cong., 1st Sess., reprinted in 125 Cong. Rec. H11008 (daily ed. Nov. 16, 1979).

[4] We note that the argument of the conferees rests in the main on the proposition that their deletion of § 205(b) of H.R. 2061 as passed by the House, which provided explicitly for the transfer of LEEP administration to the Secretary of Education, succeeded in retaining the LEEP programs in the LEAA. This argument assumes that § 205(b) as it appeared in H.R. 2061 was in any sense necessary to effect the transfer of LEEP programs to the Secretary of Education. As our discussion of § 305 above makes clear, § 205(b) was, at best, a redundancy. Indeed, the House of Representatives had, in June 13, 1979, made clear its collective view regarding this transfer by rejecting, on a vote of 275–128, an amendment which would have stricken § 305 from the DOE Act. 125 Cong. Rec. H4481–82 (daily ed. June 13, 1979).

[5] We cannot say with certainty that if a court examined this question it would not find that Congress affected this repeal in passing S. 241. No matter how clear the statutory scheme, a court may not feel precluded from relying on contrary legislative history. *Train* v. *Colorado P.I.R.G.*, 426 U.S. 1, 10 (1976).

LEAA, the emasculation of LEAA continues. Moreover, the diagrams depicting OJARS as a layer of bureaucracy above the LEAA, NIJ, and BJS is exactly what both Houses of Congress have already voted to prohibit. OJARS is not supervisory. It is a management tool. It is designed to be equal to the other agencies, not their superior.

This program is not so well received as it once was. I have received assurances from the agency that the conference report will not be undercut, that the task force report does not represent the final conclusion of the Department, and that the law—as written—will be faithfully executed.

Mr. Speaker, clearly the most significant conference issue concerned the structure of LEAA. As the Members of this body will recall, the House by a recorded vote of 237 to 169 rejected the administration's proposal, adopted in the Senate, to place an administrative layer between the Attorney General and LEAA. This layer was called the Office of Justice Assistance, Research and Statistics, or OJARS. At the time I supported the OJARS proposal not because I wanted an additional layer of bureaucracy but because I thought OJARS could coordinate the activities of LEAA with the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) and could also provide common support staff to the three other agencies so that the total staff level could be reduced.

Fortunately, the conference compromise achieves the best of both worlds. It does not place OJARS above LEAA, NIJ or BJS. Rather OJARS is placed alongside of those Agencies and given its own administrative mission. It is to coordinate and support these Agencies but not to dominate them. And in the words of the statement of managers, "inasmuch as OJARS is to provide these support and coordination functions, and not policy discretion and control, the conferees determined that no Advisory Board to OJARS is needed."

Thus "policy setting for LEAA, NIJ, and BJS will be the responsibility of the appropriate Director or Administrator of the program in question." These three Agencies are placed under the general authority of the Attorney General and not under the authority of OJARS.

The one defect in this structure was introduced at the insistence of the Senate. Under the conference substitute LEAA must share its authority to establish priorities for discretionary and national priority grants with OJARS. This may recall to some the original "troika" scheme for administering LEAA, which has been largely discredited. The resolution of differences that may arise between the two agencies will be the duty of the Attorney General. This shared authority will, I fear, become a problem area. Unfortunately, there was no more acceptable alternative in conference and the House conferees reluctantly agreed.

But it should be pointed out that this is OJARS' only policy role. Thus with respect to policy formulation, it has less of a role than the agencies it coordinates and supports. And I trust that the scope of those functions are clear to all: Coordination and support are quite distinct from management, supervision, or policy control. In contrast to the role of OJARS as originally proposed by the administration, OJARS is—in the words of the ranking minority member of the Senate Judiciary Committee, "only a shadow of its former self." I agree in that evaluation, and I would like to commend the Senator for his explanation of the role of OJARS, given during debate on the conference report, which is both thorough and accurate.

The second major difference between the Houses concerned the jurisdiction of the entire program. The House wished to confine it to criminal matters alone while the Senate wished to embrace civil matters as well. It should be noted that there is probably no better way to reduce our efforts in both the criminal and civil areas than to adopt the Senate position. Although LEAA's enlargement of its own jurisdiction by bureaucratic fiat may have redounded to its political benefit by increasing the number of possible grantees who might pressure Congress to continue the program, such machinations were not in the interests of improving the administration of justice. The reason is that as a matter of practical experience, jurisdictional forays into civil areas have only reduced the number of dollars available for criminal matters while at the same time providing an excuse for not funding civil programs thought to be eligible for LEAA grants.

For that reason the Judiciary Committee in this body overwhelmingly agreed to restrict the jurisdiction of LEAA to criminal matters. It was not that we thought that civil justice was unimportant. Rather it was to allow civil justice programs to be judged on their own merits.

The other body took a less sophisticated approach. In view of that, our compromise is acceptable. The jurisdiction of LEAA extends to civil matters only to the extent that it bears directly upon, or is necessarily intertwined with, criminal matters.

This formula is statutory and it speaks for itself. It does not permit LEAA to build playgrounds to reduce juvenile delinquency. It does not permit LEAA to fund jobs programs so that the jobless will not steal. It does not permit LEAA to fund counseling centers so that people will not attack each other. LEAA is not the answer to all our problems. It is a limited program focusing on criminal matters. While playgrounds, jobs programs, counseling centers, and the like may be great ideas, they do not meet the test. Their relationship is indirect—not direct. They can make no claim on LEAA dollars.

However, there are many instances where it is not possible to accomplish one's purpose in the criminal area without acting upon both civil and criminal matters. Court reform may be such an example. While the House language would have restricted LEAA in such instances, the conference substitute would not.

The compromise is by no means a license for LEAA to continue as usual. Its funding of the National Center for State Courts was far removed from the purpose of LEAA then—and now. Then, of course, there was no statutory formula—only what I thought was clear congressional intent "to fight crime." Now, with the adoption of the conference formula, LEAA will no longer be permitted such jurisdictional incursions into noncriminal areas. It will be permitted to touch on civil areas where there is no other way to achieve its criminal justice purposes.

The third item of major controversy concerned Senate provisions requiring an evaluation report by OJARS. The House conferees, of course, did not oppose an evaluation requirement as such—the House amendment itself had such a requirement—but objected to the particular character of the Senate provision which was implicitly critical of LEAA, wasteful in its breadth, and unrealistic in its expectations. With substantial modification, the evaluation requirement was accepted. Most of the objections have been met in drafting new subsections 816 (b), (c), and (d), and to the extent some were not, the statement of managers makes clear what is expected of the report.

While the original provision was written in terms that one should expect that every LEAA dollar would produce some quantifiable benefit, the conference substitute is more realistic. As written there is ample opportunity for LEAA to suggest what may be reasonably expected of various programs. If a given effort is designed, for example, to train personnel, it is not expected that it will produce noticeable results in the crime rates or prison conditions or statistical systems. It is anticipated that both the evaluation prognosis and the evaluation results will be performed with proper regard for the limitations of LEAA programs—a low level of Federal funding and less control than ever over formula grants which comprise 80 percent of the program.

The fourth item of controversy concerned the 10-percent matching requirement for formula grants and discretionary grants contained in the House amendment. The House favored the matching requirement so that grantees would show true commitment to programs which they must pay for entirely when such programs have lost their innovative character and so that, having spent some of their own funds, grantees would exercise more care in auditing the programs to insure against waste. However, the best that those of us favoring the House position could accomplish was to apply the requirements to formula grants but not to discretionary grants.

In one sense, the requirement was strengthened by requiring that the match be in hard cash. But exceptions were made for fiscal year 1980, since many legislatures have adjourned, and thereafter in cases of hardship. I would hope that in applying the standard for determining a hardship case LEAA would require of a grantee seeking the exemption of how it reasonably expects to pay 100 percent of the cost in the future when it cannot pay 10 percent at present. In addition, the traditional exception for Indian tribes was reinstated.

A fifth item of disagreement was the

retention of the LEEP program within LEAA. Much to my surprise, there was very little opposition on the part of the House conferees to accepting the Senate provision which reenacted the LEEP program as part of LEAA. The Members may recall that I had offered an amendment to keep LEEP in LEAA last June 13, but the amendment was defeated with a majority of the LEAA House conferees voting against it. The subsequent enactment of Public Law 96–88, the Department of Education Organization Act, thus provided that LEEP was to be transferred to the Department of Education 6 months after a Secretary to that Department was sworn in. That condition has yet to be fulfilled; so LEEP is presently within LEAA.

There are two ways to override a prior law. The first is to repeal that prior law directly. The second is to write a new law that does the opposite. The conference substitute is an example of the second approach. The prior law transferred LEEP out of LEAA. The law before us today reenacts LEEP as part of LEAA. Both provisions cannot stand together; they are contradictory. The later in time therefore prevails. And the statement of managers makes clear that it is our legislative intention that the subsequent enactment be given its normal legal effect.

Those who argue that LEEP is not retained in LEAA appear to be confused by the condition subsequent contained in Public Law 96–88. Since that condition has not been fulfilled, they seem to feel that this legislation will be superseded on the fulfillment on the condition as if the fulfillment were somehow a reenactment of Public Law 96–88. But what they fail to realize is that the enactment of this legislation will nullify that part of Public Law 96–88 containing the condition subsequent just as if the condition had been fulfilled and LEEP then been transferred from LEAA. Had that happened and this legislation then been enacted, there would be no question that LEEP would be transferred back to LEAA. The same result must obtain where the condition has not been fulfilled. It is the law—not the occurrence contained in the condition—that is contradicted. It is the law—not the occurrence—which is nullified. If this report is passed by both Houses and signed by the President, it is the new law of the land, contradictory prior laws notwithstanding.

The Department of Justice has provided a legal opinion that our action today is not contrary to the transfer envisioned by Public Law 96–88 because the latter contained a provision, section 507, that said that references in Federal law to transferor agencies shall be deemed to refer to the transferee. That provision is, of course, an omnibus cross-reference provision. The opinion further suggests that the provision applies prospectively to subsequent acts of Congress so that our references to LEAA are actually references, for this purpose, to the Department of Education. But if that were so, our action today would be irrational. For we would be requiring in section 705(a) of this legislation that the Department of Education consult itself. Since rules of statutory construction require the avoidance of irrational results, the reference to LEAA cannot be deemed a reference to the Department of Education.

More significantly, section 507 of Public Law 96–88 cannot be applied to determine whether a transfer, in fact, occurs. It begs the question to suggest that a cross-reference provision that takes effect where there is a transfer actually governs legislation written to preclude such transfer. If LEEP were transferred, cross references should be deemed corrected. But if LEEP is not transferred, then section 507 has no relevance. And the question before us is whether LEEP is in the Department of Justice or in the Department of Education. The last word prevails, as the legal opinion admits, and that fortunately is S. 241.

The Members of this body will note that not one word of contrary legislative intention was voiced in the other body in debating the conference report. I concur in the unequivocal joint statement of managers and the legislative history in the other body that LEEP is now being enacted as part of LEAA for the purpose of keeping it part of LEAA. How some can suggest that this is neither our purpose nor our effect is difficult to understand unless, of course, you recall their particular interest on this issue.

A sixth item of some importance is the conference substitute's requirement that formula grant programs be "innovative." Innovative programs are comprised of those proven to be effective in other jurisdictions but never tried in the grantee jurisdiction as well as those programs never tried anywhere but which demonstrate a strong probability of achieving their intended criminal-justice purpose. This limitation on formula grants should rekindle the original flame of LEAA, a program instituted to provide the spark necessary to fight crime and improve the administration of justice in ways not yet tried by the grantees. It also means that after a period of time an LEAA program, no matter how successful, is no longer innovative and must thereafter be supported entirely by non-Federal funds. If LEAA would enforce this congressional mandate to fund only innovative programs, its contribution to the people would increase, its respect would rise, and its future existence would be assured.

The last item concerns the treatment of entitlement jurisdictions. While it is understandable that every locality would like to be entitled to LEAA money, that is not workable. In fact, the requirement of 100,000 population in the House bill also appeared unworkable upon careful analysis. With the meager appropriations provided for this year, such a formula would spread LEAA money so thinly across the country that it would be just a waste of money. Thus the conferees agreed that no grantee should be entitled to any money unless the formula entitled it to $50,000 or more. In the same vein, the conferees eliminated entitlement status for central cities of SMSA's since they produced a very high proportion of small grants.

This lessening of entitlements will have a beneficial effect, I believe, on regional planning units. The greater number of entitlement jurisdictions, the more difficult it is for regional planning. The higher standard for entitlements should prompt local governments to band together into coordinated units and thereby gain entitlement status. Where local governments are reluctant to combine or cooperate with regional planning units, the States have considerable leverage through incentive—and disincentive—funding to encourage such activity. An express provision for incentive funding was dropped as unnecessary rather than as undesirable or illegal.

Mr. Speaker, the conference substitute should be very acceptable to the House. I believe that in many respects the substitute is an improvement over the versions which passed the respective Houses. While we did not prevail on every point, we won more than our share. And, on those we lost, the result may be better for the administration of justice. I urge the adoption of the report.

Mr. McCLORY. I yield 7 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the conference report on the Justice Improvement Act of 1979. In my opinion, the conference report is substantially worse than the bill which passed out of the House of Representatives in that the Office of Justice Assistance Research and Statistics—OJARS, for short—has been revived and that the provision for 10 percent State and local matching grants for the formula grant has been deleted.

Mr. Speaker, the OJARS provision was amended out of the LEAA bill when it came before the House of Representatives on the grounds that an additional layer of bureaucracy is unneeded and unnecessary in the dispensation of Justice grants to the States and localities. Unfortunately, the conferees of this House were not able to prevail and as a result this bill creates a new Federal agency.

Mr. Speaker, on November 30, 1979, the final report of the OJARS transition task force was released in the Department of Justice. This is entitled "A Transition Plan for the Office of Justice Assistance Research and Statistics."

Mr. Speaker, this plan indicates that of the 598 present LEAA employees, 274 of them, or over half, will be transferred to OJARS. It is obvious that even before the President's signature is on this conference committee report the OJARS empire is being built and the only way the Congress can stop this empire from being built is through the rejection of the report that is before us at the present time.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I agree with the gentleman that this report, this so-called task force report, interprets the function of OJARS differently from the way the law is written in this con-

ference committee report. I have communicated with the Administrator of LEAA to advise him that the organizational structure outlined by the task force was not the will of the House nor of the Senate, that the OJARS function is to be a coordinating function and not supervisory over LEAA. LEAA is to manage its own independent functions. It is to be in charge of the grant program and the approval of the planning measures that are taken by the States. We do not want any super bureaucracy placed over LEAA and the National Institute of Justice and the Bureau of Justice Statistics. He understands that. And I think the message is clear that the House and the Senate have spoken their own mind on this legislation. I am hopeful that the limited role we give to OJARS—support and coordination—is the only role assigned to it. OJARS can be useful. But it could also be bureaucratic, it could be meddlesome, it could be expensive and burdensome if it is permitted to undertake functions beyond those that are granted in the legislation. I hope that the gentleman's fears will not come to pass in the administration of this law.

Mr. SENSENBRENNER. Mr. Speaker, I would pray that the hopes of the gentleman from Illinois will be fulfilled. However, in the brief time that this report has been available to me, it appears that the plan for OJARS that the bureaucrats have come up with is consistent with the law as set forth in the conference report. For example, OJARS' function would include, according to this report, management, budget, and program coordination, centralized staff and administrative support services, joint designation of discretionary and national priority programs with LEAA and civil rights.

Now for that, according to this report, they will need 274 employees. On the other hand, the Law Enforcement Assistance Administration, which this report downgrades, with responsibilities for State/local assistance, national programs, community crime prevention programs, juvenile justice and delinquency prevention and education and training would only get 228 employees. My, how the bureaucracy grows before it is even created. That is why OJARS is an unnecessary appendage to the LEAA-type apparatus because it gets more employees under a proposed reorganization plan than the agency from which it sprang—the LEAA.

Finally, Mr. Speaker, the conference report is deficient in that the House provision which requires State and local government to provide 10 percent of their own money to match the 90-percent Federal funding has been eliminated so that State and local programs get a 100-percent free ride. One of the reasons that some LEAA programs have been successful at the State and local level has been that there has been some State and local money required to be put up to finance it and, as a result, many of these programs have been continued when the Federal money expired.

One sure way to make sure they are not continued is to not have any State and local match, and for that reason I would hope this report would be rejected as well.

Mr. GUDGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to respond to one observation made by the gentleman from Wisconsin. Only for 1 year is there 100-percent funding. After that first year, which is the year now in progress, we will go back to the 90–10 limitation. I disagree with the gentleman on his interpretation about OJARS. I concur with the observations of the gentleman from Illinois concerning OJARS and concerning the LEEP program. I think the gentleman has fully defined what is the function of both in the context of this bill. I commend the gentleman for his observations.

Mr. Speaker, I now yield the balance of the time remaining to the majority, to the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

□ 1530

Mr. RODINO. Mr. Speaker, I shall not consume the 14 minutes allotted to me. I merely want to rise in support of this conference report and commend the gentleman from North Carolina, who has so ably not only floor-managed this conference report, but steered this bill through the House and through the conference.

I also want to commend the ranking minority member, the gentleman from Illinois (Mr. MCCLORY) for his cooperation.

I think the explanations today on the part of the managers of the House and the actions they have taken are reasonable. I think they are perfectly justified. They are part of the process of trying to arrive at a resolution of the differences in the two bills that were presented, one on the part of the House and the other on the part of the Senate.

The nature of the types of effective compromises they worked out is demonstrated by the resolution of the OJARS issue, which was probably the toughest issue before the conference. The House bill had no OJARS, the House having adopted provisions calling for LEAA, NIJ, and BJS to report directly to the Attorney General. The Senate language established an OJARS, with broad authority to set policy for and direct the three component programs.

The conference substitute retains OJARS, but with more limited and more clearly defined authority. First, OJARS is to provide staff support to the three other units. This will permit consolidation of a number of functions common to all, and will result in personnel and cost savings. Second, OJARS will coordinate the functions of the three units—it will not dominate them. Coordination in this context means to resolve differences between them, and to see that all three units work together effectively in areas where their functions overlap.

Accordingly, the Senate provisions for an advisory board for OJARS is deleted. Since OJARS will not be setting policy for the three grant making agencies, no advisory board is seen as necessary.

A final feature of the OJARS compromise relates to setting of priorities for the national priorities and the discretionary programs within LEAA. These will be set jointly by the Director of OJARS and the Administrator of LEAA.

I, too, have just received a copy of the transition plan prepared by the Justice Department and referred to in the remarks of the ranking minority member of the Judiciary Committee. We will be reviewing this document very carefully to make sure that the letter and spirit of the substitute bill adopted by the conference is followed.

Other apprehensions and concerns have been now aired here by some Members. The explanations made by the floor manager, certainly should, in my view, put those apprehensions and concerns to rest.

Mr. Speaker, this is a good bill. The House was able in many instances to maintain its position. There had to be, of course, a giving of the House position in certain instances in order to maintain a balanced view.

I think in all we have got to commend the managers of this conference report for having brought out a bill that I think all of us can support, which carries out the objectives of LEAA.

Mr. Speaker, I urge adoption of this conference report.

Mr. MCCLORY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just take this 1 minute to emphasize that under this legislation the general authority over, and general control of, each agency is in the Department of Justice under the Attorney General. The three agencies—LEAA, NIJ, and BJS—are not under OJARS. OJARS is under the Attorney General, just as are the three agencies. That is the way we want it to be. There is where we repose the responsibility for its faithful administration. That is what this conference report says.

No one agency is superior in status to any other. They are equal and coordinate, each supreme in the area assigned to it by Congress but each respectful of the functions assigned to others. Thus, for example, under the guise of providing support staff, it is not intended that OJARS correctly engage in policy direction and control.

Mr. Speaker, I am now happy to yield 3 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE. Mr. Speaker, I rise to voice my deep concern with the regrettable misdirection in emphasis this program has taken in Onondaga County, N.Y., a county I am proud to represent in this body. I am concerned that more than 1½ million Federal dollars have been allocated to fund a politically motivated probe that far exceeds the scope of the Law Enforcement Assistance Administration, and brings to the forefront the serious problem of LEAA's ability to oversee and evaluate projects funded by Federal block grants which prove to be in fact outside the program's intent and focus.

Before I outline, Mr. Speaker, the abuse of the program I see taking place in my district, I must state I applaud the purposes of the LEAA. In the decade since LEAA was formed in 1968, the number of serious crimes reported in the United States rose from 6.7 million

to 10.9 million, an increase of over 60 percent. As criminal activity has increased, the burden on State and local agencies responsible for protecting life and property has escalated, and the need for Federal assistance becomes more critical. In this context of rising crime and the limited financial resources of Government, we owe our citizens the most efficient and effective law enforcement possible, and any waste of funds is itself a criminal act.

When discussing this conference report in the Senate, my distinguished colleague, Senator JACOB JAVITS, has taken the time to outline the history of the political probe in Onondaga County funded by LEAA dollars. I concur with the Senator's assessments, and will not expand upon his description of this partisan political investigation, except to inform you it has lasted 3 years, expended over $1.5 million in LEAA funds which were appropriated to New York State through the formula grants program, and this investigation has produced only two misdemeanor convictions and five pleas of guilty to misdemeanors.

It must be stated this political inquiry was initiated by Governor Carey, a Democrat, and resulted in indictments of over 30 Republican politicians and their business associates for crimes former U.S. Attorney General Griffin Bell himself rejected as trivial and obscure. It must be noted, Mr. Speaker, that this large expenditure of LEAA funds is a grossly disproportionate allocation, and has caused essential criminal justice projects in other areas of New York State to go unaided.

Mr. Speaker, this disproportionate allocation raises in my mind serious questions about the effectiveness of the LEAA block grant formula approach. Although guidelines exist to check and balance the program, it has become apparent stricter criteria is necessary to insure immunity from partisan political interference. The original intent of LEAA is admirable—to make our neighborhoods safe for all citizens, to provide an environment where we are not prisoners in our own homes, and where criminals are behind bars.

Mr. Speaker, I am pleased to inform the House that I have today requested the Comptroller General of the United States to direct the General Accounting Office to study and report its findings on the use of LEAA funds for the maintenance of the Onondaga County probe. In making this request I have sought an impartial and completely objective review of the LEAA's role in this questionable, politically motivated inquiry.

There is no doubt, Mr. Speaker, that local and law enforcement officials are given a free hand within the limits of our Constitution to root out crime, unbridled by the redtape of the Federal Government. The LEAA block grant concept is well suited to achieving this goal. However, those serving in Congress have the obligation to guarantee to every extent possible that Federal moneys are used to fund only those programs well within the spirit as well as the letter of the law.

● Ms. HOLTZMAN. Mr. Speaker, I support the conference report on S. 241, which extends the programs of the Law Enforcement Assistance Administration for 4 years.

I hope it is adopted. As the members of this House know, I have taken a strong leadership role in support of LEAA for many years. While the agency has not been without flaws, it has been improving with each passing year. I have been proud to play a role in strengthening and upgrading this program. LEAA has helped develop successful efforts such as the "sting operations" and the career criminal program. In New York City, it is providing the means to computerize the criminal justice system. LEAA has helped make our criminal justice system more efficient and more effective.

This reauthorization bill makes a number of significant improvements in the Federal program of aid to States and local government in their efforts to fight crime. This legislation builds on the strengths of the existing programs. It streamlines the flow of LEAA assistance and improves management and accountability. The bill creates an Office of Justice Assistance, Research and Statistics (OJARS) to coordinate the activities of LEAA, the National Institute of Justice and the Bureau of Justice Statistics. The newly created National Institute of Justice would work on problems common to State and local justice systems and would coordinate efforts to develop effective crime prevention programs. The bill provides for a greater State and local contribution and requires those units of government to assume a greater share of the administrative costs.

This LEAA conference report will provide badly needed Federal aid to help State and local governments combat crime.●

Mr. McCLORY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GUDGER. Mr. Speaker, we have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 83, not voting 46, as follows:

[Roll No. 730]

YEAS—304

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| Abdnor | Applegate | Bedell |
| Addabbo | Ashley | Benjamin |
| Akaka | Aspin | Bevill |
| Albosta | Atkinson | Biaggi |
| Alexander | AuCoin | Bingham |
| Ambro | Bafalis | Blanchard |
| Anderson, Calif. | Bailey | Boggs |
| Andrews, N.C. | Baldus | Boland |
| Annunzio | Barnes | Bolling |
| Anthony | Beard, Tenn. | Boner |
| | Beard, R.I. | Bonior |
| Bonker | Guarini | Ottinger |
| Bouquard | Gudger | Panetta |
| Bowen | Hall, Ohio | Pashayan |
| Breaux | Hall, Tex. | Patten |
| Brinkley | Hamilton | Patterson |
| Brodhead | Harkin | Pepper |
| Brooks | Harris | Perkins |
| Broomfield | Harsha | Peyser |
| Brown, Calif. | Hawkins | Pickle |
| Brown, Ohio | Heckler | Preyer |
| Broyhill | Hefner | Price |
| Buchanan | Hightower | Pritchard |
| Burlison | Hillis | Pursell |
| Butler | Hinson | Quillen |
| Byron | Hollenbeck | Rahall |
| Carr | Holtzman | Railsback |
| Carter | Hopkins | Rangel |
| Chappell | Horton | Ratchford |
| Chisholm | Howard | Regula |
| Clausen | Huckaby | Reuss |
| Clinger | Hutto | Rhodes |
| Coleman | Hyde | Richmond |
| Collins, Ill. | Ireland | Rinaldo |
| Conable | Jenrette | Ritter |
| Conte | Johnson, Calif. | Robinson |
| Corcoran | Johnson, Colo. | Rodino |
| Corman | Jones, N.C. | Roe |
| Cotter | Jones, Tenn. | Rosenthal |
| Courter | Kastenmeier | Roybal |
| D'Amours | Kazen | Royer |
| Daniel, Dan | Kemp | Sabo |
| Daniel, R. W. | Kildee | Santini |
| Danielson | Kogovsek | Sawyer |
| Daschle | Kostmayer | Scheuer |
| Davis, Mich. | Lagomarsino | Schulze |
| Davis, S.C. | Leach, Iowa | Sebelius |
| de la Garza | Leach, La. | Shannon |
| Deckard | Lederer | Sharp |
| Derrick | Lee | Shelby |
| Derwinski | Lehman | Skelton |
| Dicks | Leland | Slack |
| Dixon | Lent | Smith, Iowa |
| Dodd | Levitas | Smith, Nebr. |
| Dornan | Livingston | Snowe |
| Dougherty | Lloyd | Snyder |
| Downey | Loeffler | Solomon |
| Drinan | Long, La. | Spellman |
| Duncan, Tenn. | Long, Md. | St Germain |
| Eckhardt | Lott | Stack |
| Edgar | Lowry | Staggers |
| Edwards, Ala. | Lujan | Stanton |
| Emery | Luken | Stewart |
| Erdahl | McClory | Stockman |
| Ertel | McCormack | Stokes |
| Evans, Del. | McDade | Stratton |
| Evans, Ga. | McHugh | Studds |
| Evans, Ind. | McKinney | Swift |
| Fary | Madigan | Thompson |
| Fascell | Maguire | Traxler |
| Fazio | Markey | Udall |
| Ferraro | Marks | Ullman |
| Findley | Marriott | Van Deerlin |
| Fish | Mathis | Vander Jagt |
| Fisher | Matsui | Vanik |
| Fithian | Mavroules | Vento |
| Flippo | Mazzoli | Walgren |
| Florio | Mica | Wampler |
| Foley | Mikulski | Waxman |
| Ford, Mich. | Miller, Calif. | White |
| Ford, Tenn. | Mineta | Whitehurst |
| Fountain | Minish | Whitley |
| Fowler | Mitchell, Md. | Whittaker |
| Frost | Mitchell, N.Y. | Whitten |
| Fuqua | Moakley | Williams, Mont. |
| Garcia | Moffett | Williams, Ohio |
| Gaydos | Mollohan | Wilson, Bob |
| Giaimo | Montgomery | Wilson, Tex. |
| Gibbons | Moore | Winn |
| Gilman | Moorhead, Pa. | Wolff |
| Gingrich | Mottl | Wolpe |
| Ginn | Murphy, Pa. | Wright |
| Glickman | Murtha | Wyatt |
| Goldwater | Myers, Ind. | Wylie |
| Gonzalez | Myers, Pa. | Yates |
| Gore | Natcher | Yatron |
| Gradison | Neal | Young, Alaska |
| Gramm | Nedzi | Young, Fla. |
| Grassley | Nolan | Young, Mo. |
| Gray | Nowak | Zablocki |
| Green | Oberstar | Zeferetti |
| Grisham | Obey | |

NAYS—83

| | | |
|---|---|---|
| Archer | Cleveland | Forsythe |
| Ashbrook | Collins, Tex. | Frenzel |
| Barnard | Conyers | Gephardt |
| Bauman | Coughlin | Guyer |
| Beilenson | Crane, Daniel | Hammer-schmidt |
| Bennett | Dannemeyer | Hance |
| Bereuter | Devine | Heftel |
| Bethune | Dickinson | Holt |
| Burgener | Duncan, Oreg. | Hubbard |
| Carney | Early | Hughes |
| Cavanaugh | Edwards, Okla. | Ichord |
| Cheney | English | Jacobs |
| Clay | Erlenborn | |

| | | |
|---|---|---|
| Jeffries | O'Brien | Stangeland |
| Jones, Okla. | Paul | Steed |
| Kelly | Pease | Stenholm |
| Kindness | Petri | Stump |
| Kramer | Quayle | Synar |
| Latta | Roberts | Tauke |
| Leath, Tex. | Roth | Taylor |
| Lewis | Rousselot | Thomas |
| Lungren | Runnels | Volkmer |
| McDonald | Satterfield | Walker |
| Martin | Schroeder | Watkins |
| Mattox | Seiberling | Weaver |
| Miller, Ohio | Sensenbrenner | Wirth |
| Moorhead, Calif. | Shumway | Wydler |
| Nelson | Shuster | |
| | Simon | |

NOT VOTING—46

| | | |
|---|---|---|
| Anderson, Ill. | Flood | Murphy, N.Y. |
| Andrews, N. Dak. | Goodling | Nichols |
| Badham | Hagedorn | Oakar |
| Brademas | Hanley | Rose |
| Burton, John | Hansen | Rostenkowski |
| Burton, Phillip | Holland | Rudd |
| Campbell | Jeffords | Russo |
| Coelho | Jenkins | Solarz |
| Crane, Philip | LaFalce | Spence |
| Dellums | Lundine | Stark |
| Diggs | McCloskey | Symms |
| Dingell | McEwen | Treen |
| Donnelly | McKay | Trible |
| Edwards, Calif. | Marlenee | Weiss |
| Fenwick | Michel | Wilson, C. H. |
| | Murphy, Ill. | |

□ 1550

The Clerk announced the following pairs:

Mr. Hanley with Mr. Andrews of North Dakota.

Mr. Russo with Mr. Campbell.

Mr. Brademas with Mr. Anderson of Illinois.

Mr. Rostenkowski with Mr. Jeffords.

Mr. Solarz with Mr. Goodling.

Mr. Weiss with Mr. Michel.

Mr. Murphy of New York with Mr. Philip M. Crane.

Mr. Coelho with Mr. Spence.

Mr. Nichols with Mr. Symms.

Mr. John L. Burton with Mr. Trible.

Mr. Dellums with Mr. Rudd.

Mr. Dingell with Mr. Hagedorn.

Mr. Edwards of California with Mr. Hansen.

Mr. Phillip Burton with Mr. Marlenee.

Mr. Donnelly with Mr. McCloskey.

Mr. Holland with Mr. McEwen.

Mr. Jenkins with Mrs. Fenwick.

Mr. LaFalce with Mr. Badham.

Mr. McKay with Mr. Lundine.

Mr. Murphy of Illinois with Mr. Stark.

Mr. Rose with Mr. Charles H. Wilson of California.

Ms. Oakar with Mr. Diggs.

Mr. STENHOLM and Mr. QUAYLE changed their votes from "yea" to "nay."

Mr. EVANS of Georgia changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5980, RECESSION AND TARGETED FISCAL ASSISTANCE

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–703) on the resolution (H. Res. 506) providing for the consideration of the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR CONSIDERATION OF H.R. 2816, REFUGEE ACT OF 1979

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 499 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 499

*Resolved*, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2816) 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, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2816, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 643, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2816 as passed by the House.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a simple, open rule, with 1 hour of general debate to be divided between the minority and the majority in the usual way.

The rule makes in order a committee amendment in the nature of a substitute to be considered as an original bill for purposes of amendment and read for amendment by titles rather than sections.

The rule waives section 402(a) of the Congressional Budget Act against consideration of the bill. Sections 301 and 302 of the bill as introduced would authorize appropriations for fiscal years 1980 and 1981 for domestic refugee assistance. Since the bill was not reported on or before May 15, 1979, it would, therefore, be subject to a point of order under section 402(a) of the Budget Act with respect to fiscal 1980. The Budget Committee, however, has voted to support the waiver of this section.

Upon passage of H.R. 2816, the resolution makes in order consideration of S. 643 and waives again section 402(a) of the Budget Act against consideration of S. 643, it also being in violation of section 402(a) of the Budget Act because it was not reported by the required time. However, again, the Budget Committee authorizes and supports the waiver.

The resolution also waives clause 5, rule XXI, the rule prohibiting appropriations in a legislative bill, against the committee substitute.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, the purpose of this bill, a very salutary and desirable bill, is to establish a coherent and comprehensive U.S. refugee policy, this being accomplished by creating a systematic and flexible procedure for the admission and resettlement of refugees. I urge, therefore, the passage of this rule so that we may consider that bill.

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

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule would make in order consideration of H.R. 2816, the Refugee Act of 1979. It is an open rule, providing for 1 hour of debate. The rule makes in order the amendment in the nature of a substitute recommended by the Judiciary Committee to be considered as an original bill for purposes of amendment and the substitute is to be considered by titles instead of sections.

The rule waives section 402(a) of the Congressional Budget Act, which requires that authorizations be reported by May 15 preceding the beginning of the fiscal year. In a letter from the chairman of the Budget Committee to the chairman of the Rules Committee, the Rules Committee learned that the Budget Committee had voted to support a waiver of section 402(a) due to the so-called emergency nature of the request.

In addition, clause 5 of rule XXI is waived against the committee substitute. Clause 5 relates to appropriations in a legislative measure.

After passage of H.R. 2816, the rule provides that the House move to consideration of S. 643, strike all after the enacting clause, and insert in lieu thereof the provisions contained in H.R. 2816 as passed by the House. Section 402(a) of the Congressional Budget Act is also waived against consideration of the Senate bill and the Budget Committee supports this waiver.

Mr. Speaker, H.R. 2816 is an attempt to replace our current haphazard system with a permanent program for the admission of refugees and assistance for their resettlement in this country. Although I am acutely aware of the need for updated refugee legislation and recommendations for long-range reform, this legislation does not address the real issues which should act as guidelines in assessing refugee situations as they arise.

I have some concrete objections to the legislation we will be debating. One of the most obvious is the lack of criteria which will be used in evaluating which refugees and how many will be admitted. There are millions of individuals who could qualify under this bill, but there is no guidance in setting priorities as to those refugees who should be accepted for admission.

Another area of concern is the fact that Congress only last year established a Select Commission on Immigration and Refugee Policy to review existing immigration and refugee laws. However, rather than wait for the Commission's report due next year the committee has chosen to recommend substantive changes in these policy areas without the benefit of the Commission's evaluation.

Perhaps even more important is the fact that a new refugee policy will, if we pass this legislation, be implemented without any real evaluation of the number of additional refugees or immigrants our country can successfully absorb. We seem to be completely ignoring those areas in the United States which must make adjustments for the influx of these people and we are unwisely failing to face up to some very difficult questions about our Nation's ability to accept unlimited numbers of refugees. For example, it would be foolhardy indeed for us to overlook the fact that our Nation is faced with a continuing energy crisis and problems of unemployment and inflation which will only be exacerbated by increasing our population, not only in our larger cities where refugees usually are assimilated more easily, but also in smaller towns and rural areas where the presence of refugees is more obvious.

Mr. Speaker, I am not unaware of the need to provide a refuge for the homeless. However, we do neither ourselves nor the homeless any good when we welcome them under a system which is oblivious to our Nation's future.

I have real concerns about the legislation we will be considering, and I urge my colleagues to think seriously about putting in place a system which is so ill conceived and shortsighted.

□ 1600

Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, I would like to propound a question to the subcommittee chairwoman, the gentlewoman from New York (Ms. HOLTZMAN).

One of the concerns that I have, along with the gentleman from New York (Mr. ROSENTHAL), is the plight of the Hmong tribesmen. These are people who, during the Vietnamese conflict, fought on our side, were indirectly paid by the CIA, and are systematically being eliminated.

I recently read they are being experimented on by the Vietnamese with gas warfare. There are about 40,000 Hmong tribesmen in a camp called Loei in Thailand.

I had originally prepared an amendment to give them special consideration. I have been dissuaded by the subcommittee chairwoman. I would like to ask her if in the committee report or in some place in the legislation whether or not special consideration can be given to these people who fought for our country, died in great numbers, and now are languishing in refugee camps in Thailand.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I think the gentleman has made an extremely important point. I, myself, traveled to Thailand and saw the plight of the Hmong people. So did the ranking minority member of the subcommittee, the gentleman from New York (Mr. FISH).

The committee report states explicitly that the criterion for admitting refugees to this country will be "special humanitarian concern."

It goes on to say that the special humanitarian concern could involve the relationship between people and the U.S. Government in the past. It explicitly refers to the Hmong tribes from North Central Laos and their plight, and their past connection with the U.S. Government.

This legislation, however, does not specifically refer to any particular group, because this is legislation not for today or next year, but for many years to come. Nonetheless, the committee report does specifically refer to the Hmong and does express the committee's concern about these people.

Mr. DOWNEY. I thank the gentlewoman for that explanation.

I hope that if we are establishing legislative history here, that that consideration by future people who will read this will understand my special concern and that of the subcommittee's toward these people who have really suffered an inordinate amount in service to this country despite the fact they are not citizens.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3875, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## REFUGEE ACT OF 1979

Ms. HOLTZMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2816) 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 SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. HOLTZMAN.)

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2816, with Mr. DODD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentlewoman from New York (Ms. HOLTZMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased today to bring to the House H.R. 2816, the Refugee Act of 1979, which was approved overwhelmingly by the Judiciary Committee and reported on November 9, 1979. This legislation, introduced by Chairman RODINO and myself in March, represents a comprehensive effort to revise and rationalize our laws relating to the admission of refugees to the United States and to provide effective domestic resettlement assistance after their arrival in this country.

This bill is an important first step in responding to an international problem of staggering proportions. Although the United States has a noble record of humanitarian concern for the world's homeless, we have up to this time had no overall policy to respond to refugee situations as they have arisen. Instead, we have been forced to enact special legislation—as we did after World War II—or use a combination of the limited conditional entry provisions of the Immigration and Nationality Act and the Attorney General's parole authority—as we have done for the past 20 years. This haphazard, ad hoc policy has been further constrained by the antiquated definition of "refugee" in present law which limits admissions to those fleeing Communist countries and the Middle East.

This ad hoc response to refugee problems has not only caused inordinate delays in admissions and led to great human suffering on the part of the refugees themselves, but has made long-range planning by States and voluntary agencies involved in the resettlement process virtually impossible. The bill before the House today will resolve these problems; it will mandate equity in our treatment of all refugees; it will bring us into conformity with our international legal obligations; it will provide set procedures for admission; and it will create a more

effective and less costly method of resettlement.

This is not a simple piece of legislation. It is a complicated response to an almost insoluble problem. My Subcommittee on Immigration, Refugees, and International Law held 5 long days of hearings on the bill in May of this year, in addition to numerous other hearings and briefings on the Indochinese refugee crisis in general. We heard from three members of the Cabinet—Secretary of State Vance, Attorney General Bell, and Secretary of HEW Califano—in addition to the U.S. Coordinator for Refugee Affairs and over 40 other witnesses. We heard from the States, including Gov. Robert Ray of Iowa, chairman of the National Governors' Association Task Force on Refugees. We heard from voluntary agency officials and individuals involved in particular resettlement programs. We heard from organized labor and from concerned citizens such as the distinguished black leader, Bayard Rustin. And we also heard from experts on methods used by other nations to admit and absorb refugees. All of these witnesses strongly supported the Refugee Act of 1979.

From this voluminous hearing record and after 2 days of markup, the Judiciary Committee fashioned the bill which we bring before you today. In this regard, I would like to thank and commend the members of my subcommittee for their consistent participation and work over the past several months on this important legislation. In particular, I would like to acknowledge the work of my good friend and colleague from New York (Mr. FISH) the ranking minority member for his efforts in producing a bill which the entire subcommittee could support and which the full committee reported out by a vote of 20 to 6.

Let me now briefly review the major provisions of the Refugee Act of 1979.

In title II, the bill sets up a statutory framework for the admission of refugees into the United States and provides for their adjustment of status to lawful permanent residents. The title makes several significant improvements in current law.

First, the bill provides a new definition of the term "refugee" which essentially conforms to that used under the United Nations Convention and Protocol Relating to the Status of Refugees, and which eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203 (a) (7) of the Immigration and Nationality Act. The committee added language to make it clear that the definition would include those persecuted or threatened with persecution in their own country on account of their race, religion, nationality, membership in a particular social group, or political opinion. Ths amendment was necessary to cover the situation in Vietnam in 1975 and in countries today such as Cuba and Chile where there are political prisoners or prisoners of conscience who may be of concern to the United States.

The committee also added language specifically to exclude from the definition of "refugee" those who themselves engaged in persecution. This is consistent with the United Nations Convention—which does not apply to those who, inter alia, "committed a crime against peace, a war crime, or a crime against humanity"—and with the two special statutory enactments under which refugees were admitted to this country after World War II, the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953.

Let me say that this expanded definition will in no way open the floodgates to hordes of refugees. Merely because an individual or group of refugees comes within the new definition does not guarantee resettlement in the United States. Obviously, with 10 to 13 million refugees worldwide that would be a practical, if not philosophical, impossibility. The number of refugee admissions to this country will be strictly limited under the terms of this legislation. This expanded definition will simply give our Government the flexibility to admit refugees of special humanitarian concern to the United States who remain within their own country as well as those who have managed to escape to a third country. The total number of refugees admitted will remain unchanged from the limits established in the bill.

Second, the bill establishes a statutory procedure for the admission of refugees to replace the conditional entry and parole provisions of current law. Importantly, for the first time, the bill requires that Congress be consulted before refugees are admitted, and spells out in detail the elements of that consultation.

The bill provides for a normal flow of refugees not to exceed 50,000 annually except in cases where the President, prior to the beginning of the fiscal year and after consultation with the Committee on the Judiciary, determines that there is a foreseeable need to admit a greater number and it is "justified by humanitarian concerns."

I would point out that although the 50,000 figure represents an increase over the 17,400 admissions allowed under the present 203(a) (7) conditional entry provision, the number does not actually indicate an increase in overall annual refugee admissions to the United States, since the Attorney General's parole authority has been used consistently to exceed the conditional entry ceiling.

The 50,000 annual admissions—and any additions thereto—will be allocated among refugees of "special humanitarian concern to the United States" in accordance with a determination made by the President. The committee added language to assure that this determination would be made only after consultation with Congress.

The bill also provides for the admission of refugees in unforeseen emergency situations arising after the start of the fiscal year. If the President determines following consultation with the Judiciary Committees, that an emergency refugee situation exists, that admission of refugees in response to the situation is justified by grave humanitarian concerns, and that admission cannot be accomplished under normal flow procedures, he may fix a number of refugees to be admitted for up to one year. Again, the admission numbers will be allocated among refugees of "special humanitarian concern to the United States" as determined by the President after consultation with Congress.

All refugees—normal flow and emergency situation—will be admitted by the Attorney General as refugees, not as lawful permanent residents. Applicants for refugee admission will be required to establish that they meet the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible with certain exceptions as immigrants under the act.

Admitting the refugees as refugees—in effect granting them a new status—will allow officials to conduct better and more intensive screening prior to granting them permanent resident status. In testimony before the committee, the Attorney General stated that he was not satisfied with current screening procedures and would support a status akin to conditional entry after admission.

Those admitted as refugees—either under the normal flow provision or in an emergency situation—are allowed to adjust their status to that of lawful permanent residence after they have been physically present in the United States for 2 years. Once granted, the lawful permanent resident status operates retroactively to the date of the refugee's arrival in the United States, so that in terms of eligibility for naturalization the refugee is not disadvantaged by the waiting period.

The committee was extremely concerned about assuring that Congress has a proper and substantial role in refugee admissions, given our plenary power over immigration. Consequently, the legislation as introduced was amended specifically to define the "consultation" process which up to now has been informal and solely a matter of courtesy or custom. The bill now provides that consultation means discussions in person by designated Cabinet-level representatives of the President with Judiciary Committee members to review the refugee situation or emergency refugee situation, to project the extent of possible U.S. participation, and to discuss the reasons for believing the proposed admission of refugees is justified by humanitarian concerns. Further, the section requires that committee members be provided with certain detailed information on the proposed admission. Additionally, the legislation requires that the Judiciary Committee print the substance of consultations on refugees in the CONGRESSIONAL RECORD.

The committee bill also creates, for the first time, a statutory asylum procedure in our immigration law. Currently, asylum can only be provided administratively. The bill now requires the Attorney General to establish a uniform procedure for aliens within the United States or at ports of entry or land borders to apply for asylum which may be granted if the alien is a refugee within the new definition. The bill allows the Attorney General to terminate an individual's grant of asylum if conditions change in the asylee's home country so that he or she would no longer be subject to persecution upon return. In addition, the bill amends section 243(h) of the Immigration and Nationality Act, relating to withholding of deportation, to prohibit, with certain exceptions, the depor-

tation of an alien to any country if the Attorney General determines that the alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group or political opinion.

These provisions are consistent with our international obligations, and were supported by the State and Justice Departments in addition to the United Nations High Commissioner for Refugees and numerous other witnesses.

As in the case with title II, the primary objective advanced by title III, dealing with domestic assistance, are equity and flexibility in our treatment of refugees. Equally important are those provisions in title III which are designed to insure accountability with regard to our domestic resettlement program.

In the past, refugee resettlement has been solely the result of administrative decisionmaking. There has been no legislative involvement in our resettlement policies and practices other than the blanket authorization of funds. This policy of unfettered executive discretion would have continued under the proposals submitted by the administration. The committee, after receiving extensive testimony from resettlement experts, felt that the delegation of such broad authority to the executive branch was not warranted. Instead, the committee adopted provisions which establish specific resettlement priorities and which insures that the expenditure of Federal funds for this purpose are closely monitored.

For over two decades—beginning in 1962 with the Cuban refugee program and carried forward in 1975 with the Indochinese refugee program and in 1978 with the Soviet refugee program—we have witnessed the emergence of different domestic assistance programs for different refugee groups. The result has been that some refugees receive a wide variety of domestic services; others receive nothing. Under title III of the bill, this disparate treatment is eliminated and all refugees are made eligible for the same range of resettlement services.

Title III also recognizes the need for preserving flexibility with regard to the resettlement approaches utilized by State and local governments and by voluntary agencies. The committee was careful to insure that existing approaches which have been successful and cost-effective—that is Soviet resettlement efforts—are not impeded and that new and innovative resettlement approaches can be developed in the future.

This title places special emphasis on those social services which have proven to be essential in the refugee absorption process. For example, title III acknowledges the vital importance of providing English language training to refugees as soon as possible after their arrival in this country. All witnesses agreed that the ability to read and speak English is directly related to their ability to assimilate, to find jobs, and to become economically self-sufficient. It is clear that employment opportunities are greatly enhanced by vocational and professional training and, as a result, title III places high priority on job-related programs. Furthermore, because the committee recognized the importance of these services in facilitating resettlement, no time limitation is placed on Federal support for these programs.

On the other hand, title III limits reimbursement to State and local governments for cash and medical assistance to refugees who have been in this country for less than 4 years. It also provides 1 more fiscal year of full Federal funding before that limitation takes effect. The administration's proposal would have limited reimbursement period to 2 years. The reason the committee adopted a more generous—and a more realistic—reimbursement formula is that decisions to admit refugees are within the exclusive province of the Federal Government and every effort must be made to minimize the financial impact on State and local governments. This is particularly true when we note that Cuban and Indochinese refugees have tended to concentrate in certain States.

In my judgment, it is essential that we continue to receive the full support of State governments for our refugee programs; I believe that we would jeopardize that support and cooperation if we were to transfer the resettlement burden to the States after the refugees have been in this country for only 2 short years. While most refugees are quickly integrated into American society, some adjustment problems do occur in the first few years and I do not believe we should require States to respond to these residual problems with their own resources. In short, full reimbursement for a 4-year period represents, in the committee's judgment, a proper allocation of Federal and State responsibilities for the care and resettlement of refugees.

While the funding level for title III is substantial, I would remind my colleagues that it is a sound investment when you consider that one of its basic objectives is to remove refugees from the welfare system and to encourage them to become productive members of our society. For example, one problem presented to the committee was the large number of refugees who go on welfare in order to be eligible for medical assistance (medicaid). In other words, we found that we were encouraging welfare dependency on the part of many employable refugees by linking health care eligibility to welfare eligibility. This problem has been corrected in this bill by authorizing medical assistance to be provided, for 1 year after arrival, to refugees who are not eligible for cash assistance. I point this out to my colleagues to demonstrate how this bill can actually result in a cost savings to the American taxpayer.

A final problem the Refugee Act of 1979 addresses is the current fragmentation of the resettlement program at the Federal level, with responsibilities divided between three Cabinet Departments—State, Justice, and HEW.

Because of this situation and as the result of the low priority historically accorded to refugee resettlement by HEW, programs have not been properly evaluated, expenditures have not been adequately monitored and coordination has been extremely limited. A recent GAO report found—

—the HEW management system lacking in detailed program guidelines and found it unable to effectively monitor the use of Federal refugee program funds.

It is clear that HEW's role must be strengthened and that the Federal Government must substantially improve its refugee resettlement mechanism.

Title II would accomplish this goal by creating an Office of Refugee Resettlement in HEW, directly responsible to the Secretary. That office will be charged with the responsibility of administering our domestic refugee program and all resettlement activities, including reception and placement grants—although during fiscal year 1980 these grants will remain in the State Department—will be concentrated in this office. The committee believes that the creation of this office by statute will promote accountability, enhance long range planning and improve coordination and cooperation among the Federal Government, States, localities and voluntary agencies.

Mr. Chairman, I cannot overemphasize the importance of this legislation and the urgent need for its enactment into law before the end of this session of Congress and prior to the expiration of the current Indochina parole program in a matter of days. I urge all my colleagues to join in supporting its immediate passage.

□ 1610

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join the gentlelady from New York in support of the bill, H.R. 2816, as reported from our committee. This bill we report will replace the present system requiring ad hoc responses to refugee emergencies with a rational system for refugee admissions and resettlement. This bill broadens the existing definition of "refugee" to conform to the United Nations Convention definition. It provides for a normal flow of 50,000 refugees per year—up from the present number of 17,400. The President is authorized to admit an unlimited number of refugees after consultation with Members of Congress for additional normal flow refugees anticipated before the beginning of a fiscal year. Additionally as unforeseen emergency situations arising after the beginning of a fiscal year, the President under restrictive conditions and consultation may admit further refugees.

Title III of the bill establishes an office of refugee resettlement directly responsible to the Secretary of HEW, to direct programs providing for resettlement assistance to refugees admitted to the United States. The bill would authorize job and language training, provide full reimbursement to States for cash and medical assistance provided to refugees for up to 4 years after their arrival in this country.

While consolidation of resettlement assistance in one office after a period of adjustment is an efficient procedure, I want to point out that by an amendment to be offered by the chairwoman of the subcommittee, the Office of Refugee Coordination will be placed in the White House and is expected, in fact, to be the overall coordinator of activities that inevitably involve several departments of Government in addition to Health and Welfare.

This bill represents a statement of a

new U.S. policy toward refugees, principally a focus on the humanitarian plight of the refugee. The policy is expressed in the new definition of refugee, a person unable to avail himself of the protection of his country "because of persecution or a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." The policy is expressed with reference to admissions.

Additions to normal flow of 50,000 a year must be warranted by "humanitarian concerns." Emergency admissions must be warranted by "grave humanitarian concerns." The latter is a stricter standard intended to limit the emergency admission procedure to situations where refugees' lives are in immediate jeopardy or their personal safety is threatened.

With respect to the allocation of numbers of refugees to be admitted among different groups of refugees, the term "special humanitarian concerns" defines those who will be admitted. The bill as it came to the committee had a standard of special concern and the word humanitarian was added to emphasize that the plight of the refugees themselves is paramount as opposed to national origins, political considerations or a possible contribution by the United States to the refugee condition. Consultation with Congress extends to allocations as well as admissions.

The committee report sets forth some of the historical considerations that can provide guidance as to persons who are in fact of humanitarian concern to this country. These include patterns of human rights violations in the refugee's country of origin, family, historical, cultural and religious ties to this country, the likelihood of finding sanctuary elsewhere, and previous contact with the U.S. Government or U.S. businesses abroad.

A second policy goal is to establish a long term political mechanism to respond to refugee problems as they may arise. For the first time, this bill would establish in one statute both admissions and resettlement policies. This will assure the international community of the continuing commitment of the United States to resettlement and also will assure State and local governments of Federal assistance for refugees admitted so they will not be an undue burden on State and local communities.

Mr. Chairman, the bill makes consultation a statutory requirement, rather than a custom, as it is now, before refugees beyond the number authorized by statute can be admitted to this country. Section 207(e) of this proposed legislation sets forth information that must be submitted as part of the consultation process, including a description of resettlement plans and anticipated economic, social, and demographic impact of the admission of refugees in question. The substance of the consultation will be communicated to the Congress. The actual process will be by an amendment which will be accepted, enlarged to embrace all concerned Judiciary Committee members.

Enactment of this legislation will result in several significant improvements in our system providing for the admission of refugees. I believe it represents a clear statement of a new U.S. policy toward the unfortunate victims of persecution. It will enable our Government to respond to refugee situations, not on an ad hoc basis as it must do now, but under prescribed and orderly procedures. Enactment of this bill will be a signal to all in this country and throughout the world of the continuing commitment of the United States to refugees in their plight.

In the course of the amending process, I shall accept not only the amendment providing for enlarging the consultive process to be offered by Mr. HYDE, but as well Mr. BUTLER's sunset amendment reducing the number of authorized 50,000 normal flow and Mr. MOORHEAD's amendment providing for a one-House veto on the admissions in excess to normal flow.

Mr. Chairman, I believe together these amendments will reassure the House of continued control over admissions of aliens into our country. Other amendments may be offered to restrict admissions which I believe do violence to our humanitarian tradition and which I shall oppose.

Until 1924 the door to our country was virtually open to all fleeing famine or racial, religious, or political persecution. Most of us in this Chamber trace our ancestry to these earlier refugees. We have before us an opportunity to reaffirm America's historic proud role as haven for the oppressed and the persecuted.

□ 1620

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman, and would like to identify myself with his remarks. He has very clearly presented the questions and issues that will be coming forth during the debate.

I would just like to emphasize that I am not as enthusiastic about this legislation as a lot of people are, but I think it is important that the Congress regain control of the process of immigration. I think this legislation goes a long way toward doing that, so that is the basis on which I support it. I will be pleased to work with the Committee of the Whole to make sure that is the intent of the legislation when it leaves this body.

Mr. FISH. I thank the gentleman.

Ms. HOLTZMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. RODINO), the distinguished chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I thank the gentlewoman from New York, the chairwoman of the Subcommittee on Immigration, for yielding this time to me. I want to commend her and the ranking minority member of the subcommittee for their diligence and their continued efforts in behalf of those who need the kind of assistance and the kind of understanding that this committee has given to these people, who indeed are looking for help from all over the world because they become the flotsam of the world. These are the people whom we call the refugees.

Mr. Chairman, we are considering today, H.R. 2816, the Refugee Act of 1979, which establishes rational, comprehensive and humane refugee policies and procedures for our country.

I think it is particularly significant that this legislation comes at a time when our country's commitment to human rights—our country's image around the world—has been drawn into question. This bill clearly reflects our genuine concern for all refugees around the world and it shows that we are prepared to provide a haven for those unfortunate people who have been driven from their homes and expelled from their countries.

Mr. Chairman, this legislation fills a critical void in our present immigration law and enhances our commitment to human rights.

The phenomena of refugee situations in the world which at one time were perceived as temporary and comparatively easy to resolve, now loom as a fact of life which requires continuous and long range solutions, not only on the part of the United States, but also by all the freedom loving nations of the world.

This legislation, which I introduced along with the gentlewoman from New York (Ms. HOLTZMAN) on behalf of the administration, is the product of lengthy hearings by the Subcommittee on Immigration, Refugees, and International Law. It was overwhelmingly supported by the members of that subcommittee and the full Committee on the Judiciary during the markup sessions. In fact, the bill was reported out favorably by the full committee on September 19—by a vote of 20 to 6.

In essence, this legislation would broaden the definition of persons who may be admitted as refugees under normal immigration to conform to the U.N. Convention and Protocol relating to refugees and would increase normal flow refugee admissions to not more than 50,000 persons per year. It would also provide for the admission of additional refugees in foreseen and unforeseen emergencies. Finally, it would establish comprehensive authorization to assist in the resettlement of refugees in the United States.

The first U.S. programs providing for the admission of refugees were established following World War II. Since 1945, we have admitted into the United States over 2 million refugees under programs authorized both administratively and legislatively, but always undertaken on an ad hoc basis in response to a serious refugee emergency that had developed.

In 1965, amendments to the Immigration and Nationality Act specifically provided for the admission of an annual flow of refugees to the United States. However, despite this statutory procedure, most of the refugees continue to be admitted outside the regular provisions of the law. Because of the restrictive definition of "refugee" and the limited refugee numbers available under current law, numerous parole programs have been initiated and implemented by the executive branch over the past two decades. The wide scope of this authority is clearly evident when you look at the

number of refugees admitted during that period—32,000 Hungarian refugees in 1958; over 650,000 Cubans since 1961; 223,000 Indochinese refugees since the spring of 1975; 46,000 Soviet Jews since January 1977; as well as numerous other smaller programs involving Ugandans, Lebanese, Chileans, Argentineans, and Czechoslovaks.

Under the present parole procedure consultation with the Congress is merely a courtesy extended by the Attorney General to selected members of the Judiciary Committees in the House and Senate. At present there is no prescribed format for these consultations nor is there any statutory requirement mandating that such consultation even be held.

This legislation corrects both of these deficiencies by specifically providing for consultations and describing in detail the information required to be submitted by the executive branch at these consultations.

Similar to the issue of admitting refugees, decisions on the level and nature of Federal assistance to be provided to refugees upon arrival continue to be resolved on an ad hoc piecemeal basis. This bill would eliminate that problem by establishing for the first time a permanent and dependable program to fund refugee resettlement and such assistance is made available to all refugees regardless of their national origin.

It is indeed imperative that we take immediate positive steps to rectify this chaotic state of affairs by enacting this major refugee reform legislation which will permit us to respond in a timely, orderly, and humane manner to refugee situations.

I would like to cite briefly from a letter I received from the Department of Justice earlier this week on this legislation and at the appropriate time I will ask unanimous consent to insert it in the RECORD of this debate. In the letter, Acting Attorney General Wade McCree expressed the Department's "strong support" of the bill and he noted that the administration believes its enactment "is necessary to regularize the procedures and decisional processes by which the United States responds to refugee problems, recognizing both our long humanitarian tradition and the limits on our available resources."

In conclusion, I urge my colleagues to give this legislation your wholehearted support and I firmly believe its passage will demonstrate to the world that our country continues to be deeply concerned by the plight of persons uprooted from their homeland by tyranny, racial persecution, and the threat of political reprisals.

Mr. Chairman, the letter from the Acting Attorney General, Wade McCree, and a letter from the American Council of Voluntary Agencies for Foreign Service, Inc., follow:

OFFICE OF THE ATTORNEY GENERAL,
*Washington, D.C., December 11, 1979.*

Hon. PETER W. RODINO, Jr.,
*Chairman, Committee on the Judiciary,*
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: The Refugee Act of 1979 (H.R. 2816) is scheduled for consideration on the House floor this week. In response to your query, I wish to take this opportunity to restate the Administration's strong support for House passage of this bill as needed revision of our existing piecemeal legislative authorities governing refugee admissions and domestic resettlement assistance.

Refugee migration and resettlement have become chronic international concerns and are not, for the foreseeable future, the sporadic and limited problems that inspired existing law. The Administration believes that the Refugee Act is necessary to regularize the procedures and decisional processes by which the United States responds to refugee problems, recognizing both our long humanitarian tradition and the limits on our available resources.

The Senate passed the Refugee Act (S. 643) 85–0 on September 6. In expressing our hope for early completion of Congressional action, the Secretary of State, the Secretary of Health, Education and Welfare, and I would like to advise you of our views on several key provisions of the bill reported by the House Judiciary Committee and on amendments that may be offered on the floor.

First, we continue to support a two-year limit on full federal funding for cash and medical assistance to new refugees. We believe that four years of such support, which is provided in the Judiciary Committee bill, is excessive and in some ways counterproductive to efforts to assimilate refugees quickly. The two-year period is, in our view, responsive to several competing considerations: it recognizes the fiscal burdens of states, particularly those with concentrations of refugees; it encourages those involved with resettlement to concentrate their assistance efforts in the initial phase of economic and social adjustment; and it recognizes the impact on the federal budget. The Judiciary Committee bill would add more than $100 million to federal costs in 1981, and as much as half a billion dollars over the period 1981–83.

Second, we strongly support Representative Fascell's proposed amendment to increase the authorized level of the Emergency Migration and Refugee Assistance Fund from $25 million to $50 million. This increased level will provide the resources to carry out provisions in the Act dealing with the admission of "emergency situation" refugees authorized by the President after consultations with the Congress. Refugee emergencies are by nature unpredictable, and adequate funds are absolutely essential to respond to these challenges.

Third, we support Representative Fascell's amendment to continue the four-year phase-down of special federal assistance to Cuban refugees, which the Committee bill eliminates after 1980. This phase-down was agreed to by the Administration and the Congress two years ago.

Finally, the Administration opposes any absolute limits on refugee admissions, whether effective immediately or in future years, as well as proposals forcing reductions in regular immigration when refugee admisions are increased. The Refugee Act authorizes the President—in consultation with the Congress—to adjust up or down the "normal flow" of 50,000 admissions if circumstances and national interests warrant. Given the unpredictable nature of refugee crises, we would oppose amendments limiting that flexibility or setting ceilings in any form.

We urge you to consider and support our views on these issues. We continue to believe the Refugee Act provides the most appropriate framework for addressing the admission and resettlement of refugees in the United States.

Sincerely,

WADE MCCREE,
*Acting Attorney General.*

AMERICAN COUNCIL OF
VOLUNTARY AGENCIES FOR
FOREIGN SERVICE, INC.,
*New York, N.Y., December 6, 1979.*

Hon. PETER W. RODINO, Jr.,
*Rayburn House Building,*
*Washington, D.C.*

DEAR MR. RODINO: The undersigned national refugee resettlement voluntary agencies want to state their wholehearted support for comprehensive refugee legislation which is long overdue. We strongly endorse and urge the immediate passage of the Refugee Act of 1979 and would not wish to delay immediate action on this vital legislation. There is, however, an aspect of HR 2816, as reported out of the Judiciary Committee on November 9, 1979, which gives us some cause for concern.

Our organizations have been resettling refugees for over 30 years. We enjoy a wide array of constituent support and dedicated participation from the volunteer sector across this country, including churches, synagogues and other community groups. "Good resettlement," as we define it, is the immediate marshalling of diverse resources within the community to enable refugee families to become self sufficient, contributing members of the American society as quickly as possible after arrival.

We welcomed the recent establishment of the Office of U.S. Coordinator for Refugee Affairs. We now welcome the recognition of the need for a refugee office in the Department of Health, Education and Welfare which will relate to the U.S. Coordinator's office and to which we can relate. Nevertheless, we feel that the actual operations, functions and interrelationships with public and private entities should be the prerogative of the Secretary. The detail contained in HR 2816 would, in our mind, create a costly, inflexible and potentially counterproductive bureaucracy unnecessarily and one which cannot relate to the ever changing needs of refugee situations.

The U.S. refugee program must be responsive to refugee and community needs without fostering long term dependency in our incoming refugee population. It must have maximum flexibility to respond effectively to shifting international realities. To legislate such an HEW structure would preclude swift decisionmaking adaptability.

Furthermore, to mandate placement of all components of the private, experienced voluntary resettlement agency programs under the administration of the Department of HEW with its longstanding use of state systems for program delivery could jeopardize the enthusiastic participation of church and other volunteer efforts and resources in this program. Without wide community support, refugees would suffer and severe strains between different groups in our society could emerge.

We agencies have enjoyed a long, effective relationship with the refugee office of the State Department which administers the reception and placement grants involved in our programs. This has been a long term, very effective and proven working relationship which has helped us carry out our international as well as domestic responsibilities. We urge that this relationship be allowed to continue. Our agencies' constituencies lend major public support to this responsive and cost effective program. They do so because they identify easily with it and it is "their program." The U.S. Refugee Program, now considered by private and public agencies in partnership, must be responsible and answerable to the American people.

Sincerely,

MRS. INGRID WALTER,
*Chairman, Committee on Migration*
*and Refugee Affairs.*

□ 1630

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I find myself in a difficult position through the debate on this bill as I firmly believe the American people are generous, openhearted, and touched by the plight of refugees, and that we have responded generously. We are now committed to a large-scale increase in the number of refugees admitted into the United States.

But there are those who want that increase to be a permanent change in the American immigration law, rather than just to be a temporary response to the current Indochinese crisis.

The United States already receives 400,000 immigrants every year, on top of the millions of illegal immigrants to the United States.

In H.R. 2816 it is proposed that the ceiling on refugees be increased from 17,400 per year to 50,000 per year, and that the President have the power to lift this ceiling at the beginning of every year to take more refugees. H.R. 2816 as a comprehensive policy can be made more responsible by recognizing a limit on admissions. We know that the American people have been willing to sacrifice and share without complaint, but with resettlement costs now reaching $1 billion per year, this burden cannot be compounded indefinitely.

There will be amendments offered during the 5-minute rule on this bill to require a public hearing to be held before the House and Senate Judiciary Committees when the 50,000-per-year refugee limit is exceeded. That amendment should be adopted.

Furthermore, a second amendment will be offered to put a sunset provision on the President's power to increase the refugee flow beyond the 50,000 per year effective in 1982. That amendment should be supported as well.

Finally, I shall offer an amendment to tie the refugee quota with the normal non-refugee-immigrant quotas so that the non-refugee-immigrant quota would be reduced by 1 for every 2 refugees admitted above the 50,000-per-year quota. This would mean that if we go to 70,000 refugees per year, the non-refugee-immigrant quotas would be reduced by 10,000.

In my opinion, this will put pressure on the other countries of the world to accept their fair share of refugees for permanent resettlement that commitment has been lacking in the past. This amendment would not—I repeat it would not—reduce the number of refugees who would be admitted to our country but would tell other countries, particularly developed nations in the world, that if they want their citizens to be able to emigrate to the United States, they must accept refugees for resettlement so that the burden is not on the United States and its taxpayers alone.

The plight of the refugee is, for the United States, just a part of a much larger concern: The flow of immigrants into this country. I hope that through the amendments to this bill which I have described, the American people can discharge our moral obligation toward the world's homeless without short-changing long-standing commitments to our people at home.

Mr. Chairman, I yield back the remainder of my time.

Ms. HOLTZMAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I would like to compliment the gentlewoman from New York (Ms. HOLTZMAN) for taking leadership in this area.

Mr. Chairman, from the time of the pilgrims to the new immigrants, our Asian cousins who are moving to this country, we have always stood for in this Nation as being a haven for people escaping persecution from foreign countries.

Last month I joined other women Members of Congress on a trip to Asia. While there, we viewed for the first time the holocaust that the Cambodian people were experiencing. For me, it was a very conscience-raising experience in terms of overall refugee issues. I did not realize until I went to Asia, the magnitude of the problem facing us in terms of the refugee situation. I did not realize the outmoded definition that we now have of a refugee that limits that primarily to those from Europe, when at the same time the refugee problem is enormously present in Asia and Africa. But far more devasting was the fact that I did not realize what an incoherent, inconsistent disjointed, fragmented, splintered refugee series of policies and programs that we have.

One of the main aspects that I like about the gentlewoman from New York's legislation is that for the first time we will have a coherent, consistent, compassionate policy on refugees that, No. 1, the refugees themselves can understand, and, No. 2, those private voluntary agencies that will carry most of the burden of refugee policy will be able to understand and administer to facilitate the resettlement of people in this country.

There are two other aspects of the legislation that I would particularly like to compliment the gentlewoman on, and they are, No. 1, the fact that she mandates that in-transit centers where people are waiting to come to the United States we will mandate educational, language, and other training for people about to enter this country. In the Lumphini Refugee Transit Center in downtown Bangkok, I was absolutely shocked to find 6,000 people who would be going primarily either to Canada or to the United States—mostly to the United States—in which they were waiting to come into this country, and there was no language training, no orientation into the United States, no preparation for entering the job market. One of the men I spoke to told me he was going to Montana. When I told him that was terrific he said, "What is Montana?"

I think that is not only a waste of time, it is a waste of human resources, and I compliment the gentlewoman from New York for mandating those types of programs for people waiting to come into this country.

The second aspect that I compliment the gentlewoman for including in the legislation is that for the first time we will have a specific policy directed to unaccompanied children. What a tragic word that is. What a tragic concept of a child being called an unaccompanied child. What does that mean? It means that you are 12 years old, you are absolutely vulnerable, you have no place to go, you have no protection. You are subject to all types of physical abuse and the worst type of treatment. What I like about this legislation is that for unaccompanied children who will be coming to the United States we establish a guardian policy within the U.S. Government, related to HEW, so that in this way, in a very specific way, we offer protection to the unaccompanied children.

Ms. HOLTZMAN. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentlewoman for her comments. I think the problem with regard to unaccompanied minors is an extremely serious one. These are children who have often lost their parents in the process of escape. They have seen their parents die. Our procedures here are so extremely bureaucratic that, although we accord to the unaccompanied minor almost the highest priority in terms of coming to the United States, virtually none of them come here because the Federal Government does not want to take responsibility for them. The States do not want to take responsibility for them. So they languish in these camps. When you see these children, who cannot smile, your heart breaks.

I want to compliment my colleagues on the subcommittee for supporting me in this legislation. It goes far to provide a program where we can effectively help children who have lost their parents.

Ms. MIKULSKI. I thank the gentlewoman and would agree with her. I would like to conclude my remarks by pointing out that there is a fundamental difference between being an immigrant and being a refugee. An immigrant is a person who would like to come to the United States in search of the American dream, usually looking for personal opportunity, a chance to have a better life. That is also true of the refugee, but a refugee comes not only in search of the American dream but to escape a desperate personal nightmare. That person is coming not only looking for personal opportunity but physical safety, refuge and sanctuary.

Unfortunately, the problems of refugees will not go away. Americans can be proud of our history of accepting refugees. It is not an accident that the Statue of Liberty is one of our most honored national symbols. Our policies as a nation should continue to reflect those principles. The door to freedom must always remain open. We should be prepared to deal with today's refugees in a fair, compassionate, coherent, humane way, and I believe the Holtzman-Fish legislation establishes those principles.

□ 1640

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the Committee on

the Judiciary, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I want to compliment the gentleman from New York (Mr. FISH) and also the gentlewoman from New York (Ms. HOLTZMAN) for the very diligent work in bringing this legislation to us.

I want to express first, my general support of the legislation. I think it would bring a great deal of order out of a very confused situation as it exists at the present time.

Mr. Chairman, at present, we are admitting 17,400 so-called conditional entrants as refugees, but only if they are from the Middle East or a Communist country. To deal with the problems of refuges from Indochina and elsewhere, we have had to resort to the exercise of parole authority as contained in section 212 of the Immigration and Nationality Act. Custom has developed that the executive branch comes to the Judiciary Committee of both Houses and "consults" with us as to the decision to admit large numbers of refugees through the use of the parole authority.

These ad hoc determinations are short term in nature and are inadequate to allow for orderly and long-term planning for the processing and resettlement of refugees once they are in this country.

This legislation establishes a procedure for the admission of both "normal flow" refugees and additional refugees who may be admitted in cases of unforeseen emergencies. As one who has participated in prior consultations, I welcome this significant change in our admissions procedure.

I have some problems with the bill as reported. I believe that the full Judiciary Committee should approve any requests for admissions of the "normal flow" beyond the number specifically authorized by statute. I also feel that title III of this bill creates an unnecessary bureaucracy in the Department of Health, Education, and Welfare to administer the domestic resettlement programs. I would prefer the approach recommended by the administration in submitting this bill to the Congress and adopted by the other body to establish broad guidelines for programs of resettlement assistance, leaving the implementation of these programs up to the executive branch. At the appropriate time, I will offer amendments to carry out these proposed changes. Otherwise, I again wish to congratulate my colleagues on their efforts to bring some order to refugee admissions procedure.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Chairman, I rise in strong support for this particular piece of legislation. It seems to me abundantly clear that this country has made a major commitment to the admission of refugees in response to worldwide refugee crises, perhaps unparalleled in recent history. That is a good gesture. It is in the best keeping with the feelings and fundamental premises of this country.

At the same time it seems to me we must go further than just admitting them, we must insure that the admission is a real admission and that there is every attempt to insure that these refugees are somehow acclimated to this society and make the transition to become full members of this society. I think that is the purpose of this bill. I think in the general thrust of this bill it does a good job in accomplishing that task.

Mr. Chairman, there will be a number of amendments that will be presented, some of which have already been mentioned. I intend to support some of them as important and necessary changes in the legislation. I think overall we must keep it abundantly clear that this legislation is absolutely necessary. I will, along with the gentleman from California (Mr. DANIELSON) bring forth an amendment as far as the grandfather clause is concerned. This would extend it from 1 year to 2 years. This is in response to unique situations which exist not only in my home State but in a number of States throughout this country. It is a phenomenon that is not occurring in all 50 States. It is the question of secondary migration.

Mr. Chairman, a number of those refugees admitted to this country have initially resettled in some States of the Union and finding it difficult to achieve resettlement successfully there, have moved on to other States. As a result some States are resettling far more refugees than other States, far beyond State population figures would initially suggest.

Mr. Chairman, in my own State of California, the best figures we can find are that approximately 40 percent of all the Southeast Asian refugees have resettled in California.

Of that number about 70 percent are in southern California. Now, that is no problem as far as I am concerned and no problem as many Californians are concerned in terms of their hospitality and in terms of their recognition of the tremendous commitment this country has to resettle these refugees. However, it is an undue burden in terms of the State and local taxation that goes into effect when many of the programs that are necessary to accomplish successful resettlement are not going to be carried forward by the Federal Government.

Mr. Chairman, I think those who have heard me speak in the well before know that I cannot be accused of being a big spender, particularly on Federal issues, but it seems to me the issue is very different here. There is a Federal commitment, a correct Federal commitment, in my judgment, that we should accept these refugees. However, at the same time it ought to be a Federal commitment to take care of the refugees to the extent that Government programs are necessary.

Mr. Chairman, we have found in southern California, for instance, that a good portion of those refugees who have already been here for 4 years are still on some form of assistance—cash assistance or medical assistance of some sort. And this may differ with some of the other States because the secondary migration question comes into play here.

While some States may be able to show that a tremendous number such as 70 or 80 percent of the refugees after just 2 years are able to go off welfare assistance of any sort, that has not been the case in my home State.

One of the reasons is secondary migration. When people find they cannot make it in some of the States of the Union and go to a second State, in terms of statistics it may show that that first State has been successful in getting them off assistance programs when, in fact, all that has happened is that those people have moved to another State.

□ 1650

We can guess at why these refugees go to a second State. We can talk about climate. We can talk about the fact that in California and some of the other States of the Union a large number of people have already resettled in the first place and others then gravitate to those areas. These refugees have the same cultural background, the same training, the same language, some of the same values. It is a very natural thing that they should go there. As a result, the secondary migration takes place and large numbers find themselves in States where they were not originally settled. So I think that should be at least addressed in this legislation and we will bring forward that amendment.

I am hopeful that we will have the support of many of the other Members of the House. It is not a California issue. It is not a Florida issue. It is not a Pennsylvania or New York issue. It is a national issue and one that needs attention.

In conclusion, I would just like to say that we must pass this legislation. We need a comprehensive refugee assistance program. Many of the complaints that have arisen about the failure of resettlement of those that are already here have, I think, arisen as a result of the somewhat helter-skelter approach we have taken in the past. That is not a complaint or a criticism of what we have done in the past.

The fact is that with the fall of Saigon we needed to act and act immediately. We needed to do whatever we could given the programs that already existed. But now we have had this experience of the past number of years. This bill is really the product of the experience of those years. This is a bill that attempts to bring together these programs in one focused piece of legislation. This is a bill that I think is quite proper. This is a bill that is really ultimately necessary if we are going to achieve successful assimilation of the Southeast Asian refugees into the American community.

Ms. HOLTZMAN. Mr. Chairman, I yield 6 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, first of all, I wish to extend very hearty congratulations to the gentlewoman from New York (Ms. HOLTZMAN), and the gentleman from New York (Mr. FISH) for this piece of legislation, because the need for an equitable and comprehensive refugee policy for the United States is widely accepted. H.R. 2816, the Refugee Act of 1979, accomplishes this goal.

Since World War II, refugees have entered the United States under a variety of legislative and administrative refugee programs. As crises arose, each refugee program was established to accommodate a different group of East Europeans fleeing Communist regimes to the recent admission of refugees from Southeast Asia. This bill establishes a coherent U.S. refugee policy by creating a systematic and flexible procedure for the admission and resettlement of refugees. One of the most significant contributions toward this effort is the new definition of the term "refugee." H.R. 2816 defines a "refugee" as—

> Any person who is outside . . . (his or her) country . . . who is unable or unwilling to return to . . . that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.

This redefinition eliminates the current geographical and ideological restrictions which limit the designation of refugee status to persons fleeing Communist or Middle Eastern countries and bring U.S. law into conformity with the internationally accepted definition of the term "refugee" as articulated by the 1951 U.N. Refugee Convention and the protocol which was ratified by the United States in 1968.

I would hope that this new definition would also encourage both the State Department and the Immigration and Naturalization Service to provide additional consulates, which will accept refugee applications. It is significant that applications for refugee status abroad can only be made in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy, or Lebanon. It is particularly striking that nowhere in the Caribbean, Latin America, or Africa can applications for conditional refugee status be accommodated. Unfortunately, such channeling operates to discriminate against refugees from the Caribbean, Latin America, and Africa, most of whom, would be people of color.

Although there seems to be a great deal of support for the general thrust of this legislation, many questions have been raised about the increased number of refugees that could be admitted annually under this bill. The report language on H.R. 2186 represents the best rationale for the ceiling of 50,000 annual refugee admissions. As the Committee on the Judiciary report indicates:

> The 50,000 normal flow figure was selected based on past experience with refugee outflows. . . .

It further states:

> Although the 50,000 figure represents an increase over the present 17,400 admissions allowed under the present 203(a)(7) conditional entry provision, the number does not actually increase overall annual refugee admissions to the United States, since the Attorney General's parole authority has consistently been used to exceed substantially the conditional entry ceiling.

While it is true that the President can increase the number of refugee admissions beyond the 50,000 ceiling, this action can only be taken "after consultation with the Committees on the Judiciary," and after a determination has been made "that there is a foreseeable need to admit a greater number and it is justified by humanitarian concerns."

Refugees fleeing persecution regardless of the country they come from, on humanitarian considerations alone, should be equal in standing for entry into the United States. Obviously, the United States cannot and should not accept all the world's refugees. But the United States should do its share toward alleviating the worldwide refugee program. Considering the millions of refugees in the world, 50,000 annually is a comparatively small number. It should also be remembered that this ceiling does not mean that 50,000 refugees will in fact be admitted to the United States; the actual numbers may be much less than 50,000. Therefore, I would hope that you would resist any attempts to reduce the number of annual refugee admissions below the current ceiling of 50,000 as presented in H.R. 2816.

While supporting H.R. 2816, I also wish to briefly address the tragic plight of Haitian refugees. Since 1972, 8,000 to 10,000 black men, women, and children have fled the oppressive Duvalier regime and sought political asylum in the United States. Thousands have languished in South Florida for 5, 6, and up to 7 years, uncertain of their fate, and in desperate fear of forced return to Haiti. I would like to submit for the record a recent Amnesty International report and articles from the Miami Herald, New York Times, the Philadelphia Inquirer and Latin American Political Reports which describe the reality of political repression in Haiti and the arrest and indeed execution of Haitians deported by the Immigration and Naturalization Service.

The Haitian Government, the State Department, and INS would have us believe, these boat people are not political refugees, but rather flee to the United States for economic reasons. The Congressional Black Caucus has studied this question carefully and has concluded that there can be no doubt that Haitians are in fact political refugees.

Yet, upon arrival in the United States, Haitians, unlike any other group of political refugees, are imprisoned, maltreated, and denied any semblance of due process. The National Council of Churches accused the United States of human rights violations in its treatment of these refugees in a complaint filed with the Organization of American States. I would also like to submit the complaint for the RECORD together with an article from the October 1979 issue of the Saturday Review.

Further, Dade County officials have testified that the primary health problem facing these people in the United States is starvation. I am overwhelmed and ashamed that these refugees have been forced into starvation in America.

The Archbishop of Miami has described the U.S. treatment of Haitian refugees as discriminatory and racist. He, and many others, including the CBC task force on Haitian refugees, have called upon the administration to grant refugee status—political asylum—to the small number of 8,000 to 10,000 Haitians who have sought refuge in the United States. Black Americans throughout the country have joined this appeal. I submit for the RECORD two letters to President Carter, from the CBC and approximately 125 black leaders in Florida, calling for equal treatment for these black boat people. We shall no longer tolerate the suffering of these refugees.

I include the following material:

[From the Saturday Review, October 1979]

REFUGEES ADRIFT—BARRED FROM AMERICA'S SHORES

(By Kevin Krajick)

"If they are going to deport me, it is better that they kill me right away here," said Joseph Gabriel, speaking in Creole through an interpreter. "I will die when I get there anyway." Gabriel (not his real name) paid a boat captain $2,000 to smuggle him from his native Haiti to the coast of southern Florida. He borrowed the money from a cousin who immigrated illegally to New York several years ago. Gabriel said his father was killed by the government for political activities, and he was afraid that he would be next. On December 28, 1978, he, the smuggler, and three other Haitians were caught by the U.S. Immigration and Naturalization Service (INS) when they landed on the coast of Florida. Now the INS is trying to send Gabriel back, along with 8,000 other Haitians in the Miami area who it says are here illegally.

But the Haitians have banded together to fight their deportation with litigation and political pressure. To Florida INS officials' dismay, they have succeeded so far.

The "Haitian problem," as it has become known in Miami, involves moral and political questions that will eventually have to be answered by Congress and the federal courts. It will not only affect the Haitians in Miami and many of the estimated 75,000 Haitians illegally in New York, but it will have more important implications for U.S. immigration policy toward other poor countries controlled. like Haiti, by right-wing dictatorships.

The dispute concerns whether the Haitians are fleeing political persecution or are victims of intense poverty. The U.S. is bound by international protocol to let political refugees stay. But the Haitians, according to their supporters, are the victims of the U.S. government's double standard as to who should be let into the country on political grounds. Under a set of regulations left over from the Cold War, nearly anyone who comes from a Communist country or from the Middle East is a "political refugee" and receives favorable consideration for admission to the country. Such individuals reach American shores over and above the legally mandated quota of 17,400 refugees per year, through the Attorney General's "parole" authority. Three to four thousand East Europeans are admitted annually without being processed through the European INS center. Two thousand released Cuban prisoners and their families have entered the United States from Havana since August. During the last fiscal year, 30,000 Russian Jews arrived in this country. And we have already accepted 210,000 Indochinese refugees, the largest number of any nation in the world with the possible exception of China.

But those claiming asylum from right-wing governments, no matter how blatantly oppressive, have had a far more difficult time gaining entry, since they must prove with documents and witnesses that they personally will be subject to persecution if they return. The Haitians and a coalition of lawyers and church groups have been fighting to validate the Haitians' claim that they are fleeing what they say is the oppressive and murderous government of Jean-Claude "Baby Doc" Duvalier, the country's hereditary "president for life."

When the Haitians arrive in the U.S., they are often greeted with little more courtesy then the Vietnamese who land in Indonesia or Malaysia. They are jailed and, it is alleged, sometimes beaten and tear-gassed

while behind bars. The Immigration Service, whose job it is to hear political asylum cases, has been accused on numerous occasions of walking over the Haitians' rights as landed aliens so that they can be deported as quickly as possible. Nevertheless, efforts of a group of volunteer immigration lawyers, the National Council of Churches, and some Roman Catholic clergy have temporarily prevented the INS from sending back all but 550 of the 8,000 Haitians caught since 1974. Usually only a few dozen of these known illegal Haitians are in jail at any one time. Some have been locked up as long as 18 months pending hearing, but most get out within a few weeks when members of the legal Haitian community post bond for them or offer them a place to stay and a promise to the INS that they will show up at later hearings.

Like the Vietnamese "boat people," the poorer illegal Haitians cram themselves onto the open decks of broken-down fishing boats for the 800-mile voyage to Florida. They often bring no more than a bundle of clothes. They risk drowning. Dozens, maybe hundreds, have died when their old and overloaded boats have capsized or sprung a leak. Sometimes they pay a ship captain to take them to Florida and are then murdered on the high seas because the owner does not want to risk confiscation of his boat by landing in U.S. territory. On August 13 at 5:29 a.m., two West Palm Beach police officers spotted a smuggler's boat a quarter mile offshore and watched, horrified, as the panicked smugglers allegedly threw small children overboard and forced the adults out of the boat. Five children and a young mother drowned.

Haitians who are better off fly to the U.S. on tourist visas and simply stay on after the visa has expired.

However they arrive, they are considered illegal aliens. Illegals like Gabriel say they live here under the constant shadow of fear that U.S. authorities will finally succeed in sending them back.

State Department officials have steadfastly maintained in almost all cases that if any Haitians die when they are deported, it is because of the starvation and disease that plague the island, not because of political oppression. Most Hatians, they assert, are economic, not political, refugees. Haiti, they point out, is the poorest nation in the Western Hemisphere. It is one of a handful of nations in the world that economists consider the "fourth world." There is little industrial or economic development and none on the way. Three-quarters of the children in Haiti suffer from malnutrition. Eighty percent of the adults are illiterate. U.S. aid officials proposed an $80 million economic development program for Haiti this year, but then withdrew the offer when the Haitian government refused to change corrupt budgeting practices. Officials of private organizations administering aid have estimated that 20 to 40 percent of the government's income goes into the private accounts of the Duvalier family.

Haitian expatriate leaders in this country protest that the Haitian issue cannot be separated neatly into economics and politics. They say strikes are repressed by the government with beatings and jailings, and the poverty of most of the people in the country is forcibly maintained by a tiny ruling class. The U.S. government ignores this oppression, they say, because most of the few industries in Haiti use the cheap labor to make such things as underwear, wigs, and stuffed toys for American markets. Haiti is the world's number-one producer of baseballs. No one in Haiti plays baseball.

A deeper reason may be that Haiti, with its terrible poverty, and the strong evidence of official terrorism is a country ripe for revolution. Critics of America's Haitian policy say that the Department of Defense is afraid of "another Cuba" if the Duvalier regime is overthrown and replaced with a more leftist government. "Any admission by the American government that the Haitains have a valid claim for asylum because their country is run by a brutal dictatorship is clearly going to destabilize Duvalier, and they don't want that," said Ira Kurzban, a Miami lawyer who is helping lead the litigation on behalf of the Haitians.

Privately, U.S. officials pose an equally complex argument. Many countries, they say, are afflicted by insane political terrorism and horrible poverty. They fear that if they admit the Haitians as political refugees, millions from the many other poverty-mired right-wing dictatorships will press their own equally forceful claims, and a massive invasion will inevitably ensue.

"It is certainty that Haiti is ruled by an oppressive and terrible government where you do find genuine political refugees," said a State Department official who asked not to be identified. "But that fact does not entitle everyone there to an unmbrella status as refugee. . . . We have to go on a case-by-case basis. . . . The question is, Can we take everyone who is living under oppression?"

In July, five black members of Congress condemned the INS for "discriminatory" treatment of the Haitians, and called on the Attorney General and President Carter to reconsider the present policy.

One particularly unfortunate boatload of 47 Haitians was quickly rounded up by police on May 7 when they landed in the worst of all possible places: Miami's Dodge Island Seaport, right in front of a security post and 25 feet from a big U.S. Customs house. The same day, they were driven in one of the Border Patrol's two second-hand buses to the place where many apprehended Haitians receive their first taste of America: a dingy cell block at the Collier County Prison Stockade in Imokalee, Florida. The trip to Imokalee must rank among the most bewildering experiences of their lives.

About 120 miles west of Miami on one of the two small roads through the wild Everglades, Imokalee is about as close to the middle of nowhere as one can be in Florida. The prison has gray concrete floors and crumbling foam mattresses. The thinly populated county is glad to rent out its vast and almost deserted jail to the INS for $10 per prisoner per day.

The guards at Imokalee do not speak a word of Creole, and most of the Haitians don't speak a word of English. The nearest Haitian-English interpreter is in Miami. (Creole is a unique language, blending elements of French and African dialects. The ruling class in Haiti speaks only French, which is incomprehensible to the majority of Haitians.)

So the Haitians are left pretty much to themselves in their separate cellblock except at mealtimes, when guards, waving and gesticulating, guide them to the mess hall. There they eat better than they ever did at home. They rarely see anyone from the outside who can explain in their language what is happening to them.

Things are not always quiet at Imokalee or at the several other county jails where Haitians are imprisoned. According to sworn affidavits given by four Haitians, detainees were beaten in November 1978 by guards at Imokalee and immigration officers when they organized a hunger strike. Shuttled around to various other jails in southern Florida over the next time months, the group organized other strikes to extract information from INS about what was happening to them. Two days into their last strike, on Saturday, February 24, 1979, they were taken to a jail in Fort Pierce, Florida. There they were crammed 12 to a cell, they say, and the cell floors were littered with garbage and feces. The Haitians banged on their bunks to protest the conditions. The guards' response was to tear-gas them twice, assert the Haitians. Finally, most of the prisoners were released on bond in early March, shortly after four of their number had been hospitalized from the effects of hunger.

Another jail incident: An eight-year-old Haitian girl was imprisoned in the West Palm Beach jail for three weeks last November after being captured along with a boatload of other illegal immigrants. She was freed after a Haitian priest and nun discovered her in the jail, weeping for her missing father. INS commissioner Leonel Castillo described the girl's incarceration as a "screw-up."

John Eldred, head of detention for the Florida INS office, said he had no knowledge of beatings or gassings.

But James Lester, the warden at the Imokalee jail, readily admitted that his men and the immigration officers had beaten the Haitians. "They didn't want to move when we told them to move," said Lester in an interview at the jail. "We had lots of fun there for a few minutes. There was some bloodshed and we cracked some heads." Lester then pointed the way down a corridor to where most of the Haitians who had been apprehended the week before at Dodge Island were being held. "Now that bunch, they haven't give us no trouble yet."

When a reporter walked through the sliding gate at one end of the cellblock in Imokalee, the 42 Dodge Island Haitians who were there crowded around in a tight circle, hushed and wide-eyed, as if they were imprisoned on a strange planet and expected to hear some important news. Most were barefoot and wearing the clothes they had been arrested in the week before. Somehow, through a combination of broken English, French, sign language, and some Spanish, interpreted by a Mexican-American prisoner, they communicated.

Joseph Zenon, a tall man in his late twenties, had two possessions besides the scanty clothes on his back: a bar of Zest soap which he shared with another inmate and a folded, worn mimeo sheet given to him by the INS which he kept in his pocket. It informed him that he was considered a "deportable alien" and that he would have a preliminary hearing within seven days.

Zenon and the others were bewildered by the paper. They said they wanted a job, any job. They knew there were plenty of jobs in Miami because friends and relatives who lived there had written and told them so. They thought America was free. They could not understand why they were locked up. No one had told them how long they would be there, although they asked often.

"You let us out soon?" asked a tiny young man with warm brown eyes. He did not understand the purpose of the visit.

Another man volunteered that he had seen huge fields of tomatoes growing on the side of the road during the bus ride to the jail. He would pick tomatoes all day for nothing and sleep on the ground if they would let him go free, he said.

A slight young man dressed only in a pair of ragged black trousers outlined the economic incentives for emigration from Haiti. "In Haiti much problem. Father hungry. Mother hungry. My family hungry. I come here to help myself. Help my family."

But politics is the ground on which their application for residency must eventually rest.

No one denies that torture and murder were the pillars of government in Haiti after Francois (Papa Doc) Duvalier appointed himself "president for life" in 1957. When his son, Jean-Claude, known as "Baby Doc" inherited the presidency in 1971 at age 19, blatant persecution dropped off. The U.S. and France stepped up military aid on the condition that certain standards of human rights be maintained.

Haitian leaders in America assert that

the "liberalization" that took place under Baby Doc is a facade. "They do not shoot people in the streets anymore, and they do not hang opposition leaders publicly," said Father Antoine Adrien, a Haitian priest living in Brooklyn. "But people do disappear." Newspapers do not print anti-Duvalier articles. To produce a play in Haiti, you need the approval of three government agencies.

Significant numbers of Haitans began arriving on Florida's shores in 1972, well after Baby Doc took over. Many were denied even so much as a hearing on their political-asylum claims. They were also denied the representation of lawyers at hearings.

Eventually, the Haitians gained the sympathy of American legal and religious organizations. The organizations began to insist that the INS take the Haitians' claims more seriously. The INS was intransignent. Finally, in 1977, as a result of a lawsuit pending before the Supreme Court, the INS agreed to give the Haitians hearings and allow legal representation.

But the INS continued to deny asylum to almost all Haitians, and has constantly maneuvered to find a way to deport those who are here, with a minimum of legal process. According to INS records, only 58 Haitians have been granted political asylum since 1972. One of the most powerful weapons of the INS has been its stringent rules requiring documentation of specific persecution. "How do you prove that your brother was killed by the government if he just disappeared one day? They tell you that you're paranoid," said Sue Sullivan, who works with the Haitian Refugee Project in Washington, D.C.

INS officials admit that the only Haitians who receive political asylum are well-known civic leaders who have spoken out against the government.

But the bulk of the Haitian immigrants, mostly peasants, claim that much of the most terrible persecution happens arbitrarily on a local, decentralized level, often without political motivation. They say the state police, called the ton ton Macoute, are often controlled more by rural village chiefs than by the president. The chiefs use the ton ton Macoute to intimidate local business or political rivals. The ton ton Macoute use their position in turn to plunder the peasants of businesses and goods. There is also strong evidence that more centralized, political oppression also exists in Haiti.

Throughout the early 1970s, hundreds of arrests of students who had studied abroad were made by national police, apparently on the suspicion that they opposed the Duvalier government. In November 1977, Amnesty International obtained from ex-detainees who had been expelled from Haiti a list of over 100 prisoners who had died in detention. The organization's 1978 annual report states, "Arrests still take place without legal safeguards and are often carried out by the security militia. . . . There are still many hundreds of political prisoners who have not been accounted for, dead or alive. . . . Haiti has one of the world's highest mortality rates among detainees."

During the last elections in Haiti, this past February, recently exiled Haitians report that most of the few political candidates who dared run against Duvalier-supported politicians were forced by the ton ton Macoute to withdraw; a few were exiled.

The fate of exiles claiming political asylum in the U.S. who are deported to Haiti is uncertain. In May, the State Department sent a team of investigators to Haiti to determine what had become of 550 Haitians that the U.S. had deported over the last several years. Like an investigator that U.S. lawyers working for the exiled Haitians had sent down the month before, the State Department investigators were unable to trace many of the deported Haitians. However, they did not interpret this to mean, as the lawyers did, that some of the returnees had been jailed, killed, or were in hiding. Leonard Leopold, a trial lawyer for the INS, said "it is being contemplated" that the State Department will be used as evidence in future asylum hearings to support the contention that deportees face no danger if they are sent back.

A report issued in December by three lawyers' groups in Washington, D.C., and New York presented strong evidence that in many of the hearings and prehearing procedures already held for Haitians, the INS, in its zeal to deport them as a group, has systematically deprived them of due-process rights. The Lawyers' Committee for International Human Rights, The International Human Rights Law Group, and the Washington Lawyers' Committee for Civil Rights jointly reported after an investigation that in order to expedite a sudden glut of cases last summer in Miami, the INS held an average of 60 and sometimes as many as 150 hearings a day. The seven lawyers working for the Haitians at that time pointed out that it was impossible for them even to be present at all the hearings, much less to prepare for them.

The report says that during prehearing interviews, where crucial evidence is taken for the hearings, INS employees routinely listened to detailed reports by the Haitians of their troubles with government authorities. But if the Haitians did not have documentary evidence of persecution, the interviewers simply wrote "no" in the space for that question without even including the person's comments.

The report states that the INS did everything it could do to keep lawyers from seeing the Haitians and offering them help. It allegedly denied them access to hearing waiting rooms, harassed them, and threatened them. The INS justified this by saying it was improper for the lawyers to "solicit business" on public property, though the lawyers work almost exclusively on a volunteer basis.

INS officials deny that anyone's rights were violated. "All of them were notified of their right to an attorney . . . and given access to telephones to call anyone they wanted," said Vern Jervis, an INS spokesman in Washington.

The growing group of lawyers working for the Haitians is constantly filing new lawsuits to stave off pending deportations. Deportation hearings are being held as of this writing, but it may be months or years before the Haitians have exhausted their appeals.

Raymond Morris, district director of the INS in Florida, is angry about the legal tangle. He said that he believes most of the Haitians come here not even knowing about the political-asylum provisions. All they know, he said, is that there are more jobs in America than there are in Haiti. "Once we catch them, the lawyers come to the jail and prime them," he said. "The lawyers teach them the magic words 'political asylum,' and suddenly they're turned into political refugees."

Other agents feel more sympathy. "It takes a lot of balls to come across all that water in a rickety little boat," said border patrol agent Truman Carr. "We ought to do something for them in their own country so we wouldn't have to round them up here."

"I feel sorry for them," said Fred Alexander, an INS investigator. "I'd do the same thing in their place. . . . But I sincerely feel that we're better off enforcing the law as it stands. Until Congress and the American people resolve this issue some other way, I'm going to continue enforcing the law."

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AMNESTY INTERNATIONAL,
*December 1979.*

STEPHANIE GRANT,
*Director,*
*Washington Office*

DEAR STEPHANIE: I understand you are testifying on some technical aspects of human rights research in the context of the Miami legal case concerning Haitian refugees. I have received your request for a comment on Amnesty International's present concerns in Haiti which you could make available to the court. This letter is written to reflect information available to Amnesty International (AI).

1. In September 1977, the Haitian government released 104 political prisoners and stated publicly that no other political prisoners remained in custody. Information from these prisoners, and from others released some months earlier, confirmed AI reports that large numbers of prisoners had been imprisoned for nonviolent political activities, often for many years, and invariably without charge, trial or any due process procedures and that their treatment in prison had resulted in a high mortality rate resulting from, inter alia, disease, malnutrition and summary execution. Prior to these releases precise information had been hard to obtain, as evidenced by a State Department statement to Congress in 1975 that "few if any individuals are being held solely for their beliefs"—an assertion directly contradicted by the 1977 releases.

It might be added here that we have received reports that several political prisoners including Ceres D'Accueil and Nestor Rochambeau, who had been seen alive in September 1977, are still in prison or in secret detention centres.

2. Shortly after this amnesty, on 27 September 1977 the Haitian government ratified the American Convention on Human Rights. In so doing it undertook to protect basic human rights in Haiti and specifically to safeguard:

(A) Freedom from arbitrary arrest and the right to due process.

(B) Freedom of expression, association and belief.

(C) The right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment.

3. Since September 1977, AI has endeavored to assess the extent to which Haitian law and practice has in fact been brought into conformity with the provisions of the convention. The low awareness of human rights combined with the high level of fear amongst almost all sectors of the Haitian population, make monitoring unusually difficult. However, the information which has to date become available to us suggests that there remains a wide discrepancy between Haitian practice and the convention. Serious violations continue to take place. I will indicate some of the evidence which underlies this comment.

4. Right to due process, freedom from arbitrary arrest.

(a) Constitutional/legal safeguards: the Haitian constitution formally guarantees basic human rights. However, most constitutional safeguards are suspended under the "Plein Pouvoir" authority in the period when the legislature is not in session (normally for 7 months of each year). State of siege provisions also formally suspend significant constitutional safeguards (Article 197). Even when these guarantees are not suspended, available evidence suggests that they are not applied (e.g. article 197 provides that prisoners must appear before a judge within 48 hours of arrest—to our knowledge, this is not observed).

In addition, there exists in Haiti an extensive body of legislation which applies irrespective of the constitution. These laws—e.g. the anti-communist law of 1969 and the series of laws for acts against state security—provide no constitutional or due process protection. Despite claims that the state security tribunal, which was established in August 1977, would remedy these defects, reports such as that of the International Commission of Jurists (December 1977) make it clear that in fact it does not provide any protection before the time when

a charge is brought against a prisoner. It should also be noted that although the names of prisoners arrested as long ago as April 1979 are known (e.g. Ulrigh Desire) the tribunal is believed not to have met, no prisoner has appeared before it, no judges have been appointed, and for all practical purposes the tribunal appears to have been a dead letter.

(b) Legal representation in practice: to our knowledge, none of the prisoners currently held for political reasons in Caserne Dessalines, Fort Dimanche or the National Penetentiary have been formally charged, brought before a judge or provided with legal counsel. Information in the Amnesty International Report 1979 (published on 10 December 1979) that four prisoners had been charged came from the government and is now known to be inaccurate.

5. Freedom of expression, association and belief.

(a) Constitutional safeguards: formal safeguards exist but are set aside under "Plein Pouvoir" and state of seige. (4(a) above). The provisions of the anti-communist law and the new press law radically curtail constitutional freedoms.

(b) Legal limitations: the anti-communist law provides that persons found to have made "any declaration of belief in communism, verbal or written, public or private" or propagated "communist or anarchist doctrines by conferences, speeches, conversations, by leaflets, posters, newspapers" will be charged with crimes against the state, tried in a military court and if convicted "punished by the death penalty." This is a clear violation of freedom of expression and association.

The press law (26 September 1979) makes it an offence to "offend the chief of state or first lady," "to make any attack against the integrity of popular culture" (article 22), or to erode public confidence on the country's financial system (article 40), prison sentences are prescribed.

Anyone sentenced under either law would of course, be regarded by AI as a prisoner of conscience.

(C) In practice the VSN (Volunteers for National Security—"Tontons Macoutes") and other security forces enjoy apparently unfettered discretion in arresting suspected or denounced critics of the Duvalier family or the Haitian government.

6. Freedom from torture and other cruel, inhuman or degrading treatment or punishment.

(A) The Constitution prohibits physical brutality and guarantees the integrity of the person. This protection is set aside under states of siege or the "plein pouvoir" authority. In a statement to the United Nations (17 May 1979) made in reply to questions on what legislative or administrative steps had been taken to implement the UN 1975 declaration on torture in Haiti, the Haitian government noted only that a victim "might appeal to the competent courts" for violation of his constitutional rights. It was not stated that torture was a criminal offence, nor that officials guilty of acts of torture would face legal or administrative sanction.

(B) No instances are known to AI in which any official responsible for violating these rights prior to 1977 has been charged, prosecuted or subjected to disciplinary measures.

(C) Evidence that torture and systematic brutality continue to be employed has reached AI during 1979. It includes:

(I) A public appeal to the government "to suppress the abhorrent practice of torture "made by the president of the Haitian League for Human Rights on 31 July 1979. He also referred to the "dangerous re-occurrence of cases where individual rights have been violated."

(II) A report that Sylvio Claude was beaten and given electric shock treatment in February 1979. Claude is leader of the Haitian Christian Democratic Party.

(III) Affidavit statements by former prisoners alleging torture on specified dates in December 1978 and April 1979.

7. Political imprisonment.

Cases have been reported to AI of individuals who have been arrested in the following circumstances, and who are still in custody:

(A) For organizing peaceful association.

(B) For engaging in peaceful discussion of human rights issues.

(C) As a result of anonymous denunciation of the above-mentioned activities or such activities as singing a song critical of the government, reproving members of the armed forces who had expressed a wish to shoot strikers, or of illegal exit and reree ntry to Haiti.

Numerous short-term detentions were reported in 1979, including Haitian League for Human Rights in early November 1979 to protest at these violations was broken up by the security forces.

The government has taken the unusual step of informing the United States Government that it will prosecute political opponents who return or are returned to Haiti and has underlined the point by stating that in certain cases an application for political asylum in the USA would be regarded as defamation of the nation. Given the wide discretion to arrest and detain indefinitely which Haitian security officials enjoy, it must be assumed that this term 'political opponent' will be interpreted widely. In recent months three people have been deported from Haiti allegedly for having contact with exiles: Two Haitians residents abroad who went to Haiti on holiday and one living in Haiti who had been abroad on holiday. This, in fact, would seem to indicate that every Haitian returning to Haiti could potentially be accused of having had contact with opposition abroad.

8. Extra-judicial executions.

While in at least one case the government has taken legal action against an official responsible for a street killing, other instances have been reported to AI in which 'Tonton Macoutes' have shot individuals on the street with apparent impunity.

9. Incidence of violations.

AI is in no position accurately to assess the level or frequency of these violations. We are, however, convinced that political imprisonment and torture still take place and that the government has brought neither law nor practice into conformity with even minimal international standards. It is also apparent that this is a situation in which asylum provisions in the USA should be interpreted broadly and generously, and the benefit of the doubt given to individual applicants.

With best wishes.

Yours sincerely,

DICK OOSTING,
*Deputy Secretary General.*

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[From the Philadelphia Inquirer, Oct. 7, 1979]

SEEKING REFUGE IN THE U.S., THEY WASH OFF HAITI'S SHORES

(By Bruce Keidan)

PORT-AU-PRINCE, HAITI.—She lives now with her two small children and her mother in an airless room the size of a walk-in closet, off a dirt alley that empties onto the Rue de Grand.

She takes in laundry and ironing and does a little sewing to support the children, but work is very scarce and they often go hungry.

She is either the wife of Arnold Desroiers or his widow. She suspects it is the latter, but she cannot be sure.

She last saw her husband in the summer of 1977, when he was deported back to Haiti from the United States after his application for political asylum was denied. He stayed in Port-au-Prince for a few weeks, she says, but there was no work for a tailor.

So Arnold Desroiers begged and borrowed enough money for passage aboard a makeshift boat. And in July 1977, about a month after his deportation from Miami, he rejoined the tide of human flotsam that washes off Haiti's shores on moonless nights.

They are the other boat people, the people whose plight is every bit as pitiful as that of Indochina's boat people. Like the boat people of Indochina, they are victimized by smugglers and by pirates. Like the boat people of Indochina, they are often simply dumped onto uninhabited islands and left to fend for themselve or perish.

But unlike the boat people of Indochina, they have attracted little public notice; no humanitarian outcry has gone up on their behalf. Victim of abject poverty and a repressive regime in their homeland, they have been exploited in every country to which they have fled. They are the outcasts of the Caribbean.

Last month, six of them drowned—five children and a young mother—when sailors they had paid to get them to Florida put them overboard half a mile from the Florida coast to avoid a police patrol.

Last week, 209 of them crammed aboard two tiny sailboats were rescued off the Florida Keys by the U.S. Coast Guard after guardmen expressed fears that their overburdened sailboats might capsize.

No one knows what happened to Arnold Desroiers. He was determined to go back to Miami, his wife says. And first he was bound for the Bahamas, where he could work and earn the $300 or more he would need to pay the smugglers to take him to Florida. It is the time-honored escape route of the Haitian boat people from the hopelessness of one of the world's poorest nations.

She has not heard from him since the night he left. Many months later, she heard that a boat went down that night and that more than 50 persons drowned.

No one knows for sure, but the best estimates are that approximately 200 Haitians a week slip out of their country in rickety boats that hold from 20 to 100 persons. They have been doing it for decades, long before the boat people of Indochina first began impinging upon the American conscience. But there the parallels end.

The refugees who fled Indochina brought with them some education and skills. Their ranks include a merchant class whose predominantly Chinese ancestry makes them convenient targets for the governments of Southeast Asia. Because those governments are Communist, the refugees are being granted political asylum in the United States, in much the same manner that Hungarians who fled their homeland in 1956 were granted asylum.

POVERTY'S VICTIMS

Most of the Haitian boat people are uneducated and unskilled. Their property has not been seized; they never had anything worth taking. They are not fleeing from firing squads but from a less dramatic sentence: slow death by poverty.

By the reasoning of the U.S. Immigration and Naturalization Service, they are not political refugees at all. They are economic refugees. When they have roused our attention at all, we have given them not sympathy but scorn.

Immigration officials estimate that nearly 200,000 Haitians, most of whom entered the country and remain illegally, live in the New York City area alone. There are perhaps another 60,000 in south Florida. Their presence has been responsible for an outcry both in New York and Miami.

"These people have a very strong work ethic," a State Department official said. "They'll take the jobs nobody else wants, live in the slum areas nobody else wants to live in, just so they can save up some money.

"The Jamaican immigrants come into the

United States and join the unions. The Mexicans get on welfare. But the Haitians just go out and work at whatever jobs they can find for whatever money they can get. And the unions understandably don't like that."

Slum landlords in Brooklyn's Bedford-Stuyvesant section are glad to take in Haitians, who live five and six to a tenement room, do not complain and habitually pay their rent without a problem.

"That's one reason why so many Haitians have gravitated to New York," a State Department official said. "The slumlords there have a justifiable reputation for hiding them."

A majority of those Haitian refugees who come into contact with Immigration officials are quickly shipped back to Haiti.

SIGN OR ELSE

"They're given a form to sign that's a waiver of a hearing," said Steve Forester, a Miami attorney who often represents Haitians applying for political asylum. "And they're told they must either sign it or go to jail. Most of them speak only Creole French and don't read any language at all, so they sign with no idea what they're signing.

"Most of them sign and then are shipped back to Haiti within 24 hours. But some of them are so terrified of returning to Haiti that they refuse to sign, even though they think it means going to prison here. The ones that don't sign wind up getting a hearing. And then we can make a case for political asylum."

Such cases are decided on their individual merits. Most of the hearings result in a denial of political asylum. In a few cases, such asylum is granted. But at least one U.S. consular officer stationed here believes the difference between a "political refugee" and an "economic refugee" to be mostly semantic.

"I don't think you'll find a pattern of systematic persecution by the government here," the officer said. "There are some human-rights violations, but less now under Jean-Claude Duvalier than under his father.

"What you do have here is a government that is lining its own pockets in a country where the minimum wage is $1.60 a day, where many companies get around paying even that much by hiring workers on a piece-work basis, and where there are simply no jobs of any description for the vast majority of the people.

"What you also have here in Haiti is a situation where the government is so decentralized as to virtually be nonexistent outside Port-au-Prince. Out in the provinces, the government doesn't really know or care what is going on. The provinces were run by feudal-type warlords back as far as the 18th century, and that's largely the case today.

OPPRESSION BY NEGLECT

"When you talk about what happens outside Port-au-Prince, you aren't talking so much of government oppression by design as you are government oppression by neglect."

Until his death in April 1971, the government of Haiti existed entirely in the person of Francois (Papa Doc) Duvalier. Political observers here believe that Jean-Claude Duvalier, who succeeded his father as president-for-life that year at the age of 19, has managed to liberalize government policies at least a little—despite strong resistance from his mother, Simone O. Duvalier, designated First Lady of the Republic, and a coterie of his father's advisers, who retain their cabinet positions and are known here as "the dinosaurs."

Under the Carter Administration, Jean-Claude Duvalier has been subjected to some pressure to open up Haiti's political process and to take some steps to alleviate human-rights violations.

But it was not until this summer, after the fall of the Somoza government in Nicaragua, that Jean-Claude Duvalier convinced "the dinosaurs" to legalize opposition political parties in Haiti for the first time.

Two opposition parties were immediately formed, but the experiment has not proven an unqualified success: Sylvio Claude, the leader of one opposing party, made some intemperate public statements about the government early this month and was immediately imprisoned.

The Haitian constitution provides for election of all members of the nation's unicameral legislature every four years, but there is some evidence that those elections continue to be cosmetic.

A minor Haitian provincial official, who has since fled to the United States, swears that he personally saw the "results" of the last such election in the southeastern city of Les Cayes three days before the election was held. In a sworn statement, he has testified that the vote totals were sent in advance in a memo from Jean-Claude Duvalier to the local military prefect, Col. Gregorio Figaro.

Election-rigging, though, is not the gut-level issue to the provincial Haitian that it would be to his American counterpart. In the Haitian provinces, repression wears a blue denim uniform and carries a rifle or submachine gun. It goes by the name "Ton-Ton Macoute."

Formed by Papa Doc Duvalier along the lines of the German SS, the Ton-Ton Macoute has not been dismantled by Jean-Claude Duvalier. It exists today as the Voluntaire Securite Nationale (VSN). It continues to strike terror over the length and breadth of this nation of 6 million.

"The Macoutes still operate in the provinces the way they always have," a U.S. embassy official confirmed. "You don't see much of them in Port-au-Prince anymore, but in the provinces, they are the law.

"They are not paid. They exist by practicing extortion on the people. They are a law unto themselves."

And they are one of the reasons that Haitians have risked their lives in rickety boats to escape.

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[From the Philadelphia Inquirer, Oct. 8, 1979]

TALES OF THE TONTON MACOUTES FROM HAITIANS WHO FLED

(By Bruce Keidan)

MIAMI.—Call him Dumont. That is not his real name. Athough he lives here, in a tiny apartment in a rundown section of northeast Miami, he fears reprisals against his relatives, who are still in Haiti.

He is a defector from the Tonton Macoutes.

In a recent interview, Dumont explained why he had joined Haiti's quasi-official army of thugs: "The macoutes had cut off someone's head. I was afraid of them, so I joined."

Dumont, who has applied for political asylum in the United States, has testified in an affidavit sent to the U.S. State Department that he personally witnessed other murders by the macoutes during his six years in the organization.

"Some reprimand (of a macoute) may be announced (by the government)," he said, "but even if it is, nothing ever happens to the macoutes. He is never punished."

The tonton macoutes, the private militia formed by the late Haitian dictator Francois (Papa Doc) Duvalier along the lines of the German SS, did not die with Duvalier in 1971. It continues to operate in the Haitian provinces, where its gun-toting members are a law unto themselves.

"You don't see much of them in Port-au-Prince anymore, but in the provinces, they are the law," a U.S. embassy official in Haiti said. "They are not paid. They exist by practicing extortion on the people."

Among the people who reportedly have suffered most at the hands of the macoutes are the Haitians who have fled the impoverished island country, only to be picked up by officials and deported back to Haiti.

They are the "boat people" of the Caribbean, victimized by smugglers and exploited in the countries to which they have fled. But unlike the boat people of Indochina, whose plight has been widely publicized, almost no one has raised a humanitarian outcry on their behalf.

The U.S. Immigration and Naturalization Service considers them economic, not political, refugees. Although it considers Haitians' applications for political asylum on a case-by-case basis, most of those who enter the United States illegally are shipped back.

What they often confront when they return is the tonton macoutes.

Dumont, the macoutes defector, said provincial Haitians can be arrested by the macoutes under virtually any pretext, and their release is generally arranged through payment of a bribe to the local macoutes commander. If the family is too poor to pay the bribe, the commander will decide where and for how long the "offender" will be incarcerated.

"When people are arrested by the tonton macoutes, they never go before a judge," Dumont said. "I personally saw hundreds, if not thousands, of people arrested and thrown in jail . . . without ever appearing before a judge.

"Occasionally a judge attempted to serve by messenger a notice to appear to one or another macoutes. The common practice on our part was simply to rip the notice up.

"If the macoutes want to arrest you, they can simply say you are 'kamokin,' which means a snake but which in Haiti is used to mean an enemy of the government. Then that person becomes a political prisoner.

"On the average, we would have 17 persons in a 10- by 12-foot cell. The political prisoners got absolutely nothing to eat. Those who did not die when they were being beaten sometimes died in the cells. After a few days, they looked like skeletons."

Dumont recalled that one such "kamokin" was beaten so savagely by the macoutes guard that "blood was gushing from the man's head and face. And the guard said, 'You'll make the floor dirty,' and he ordered the man to drink his own blood. The man picked up his blood from the floor with his cupped hands and drank."

Dumont's downfall came after he learned that the macoutes group was about to arrest a boyhood friend. He was observed warning the man of the imminent arrest and was forced to flee Haiti.

Smuggled out of the country in the hold of a tourist ship last June, he left behind him a wife and four children. The thought of returning to Haiti terrifies him. Because he is a defector, he says, he would be arrested, beaten and put to death.

Like many other Haitians, Dumont believes that there is a standing secret order from Jean-Claude Duvalier, Papa Doc's son and successor as president for life, to arrest everyone deported back to Haiti.

"That order was first given in 1976," he said. "It was still the unquestioned rule when I left Haiti, and the order was never taken back."

The Haitian government has denied that there are standing orders to imprison returning refugees, and Jean-Claude Duvalier has announced publicly that they are not to be harassed.

Two American studies, one by the State Department and another by a Florida congressman, failed to uncover evidence of systematic abuse of the returning refugees by the Haitian government.

But a State Department official formerly stationed in Haiti said: "If the macoutes commander out in the provinces tells his hoodlums that there is such a secret order, they aren't going to question him."

Michelle Bogre, a free-lance journalist from New York City, visited Haiti last spring. In

the town of Port de Paix, he found it was common practice for returning refugees to be jailed for short periods as "a small punishment" for the civil offense of leaving Haiti without an exit visa.

When the provincial Haitian has been directly victimized by his government, it has usually been on another front. The Anti-Slavery Society, based in London, created a small stir in August when it suggested in a report to a United Nations commission meeting in Geneva that Haitians were being sold as slave labor by their government to the government of the neighboring Dominican Republic. The report said the "slaves" harvested sugar cane there.

The commission adjourned without commenting on the report, which charged that the Haitian government was collecting an $11 bounty for each field worker it sent over the border for the cane-cutting season.

A spokesman for the Anti-Slavery Society, Pat Montgomery, told the Inquirer: "Since our report was written, there has been a change in government in the Dominican, so that the present Dominican government may well have done whatever it can to right the situation. But my own belief is that no one on earth could put the matter right quickly. Conditions are so bad that it would take years to improve them very much."

"It is slavery and it is happening on Haiti all the time," said the Rev. Gerard Jean-Juste, head of the Haitian Refugee Center in Miami. "Duvalier orders the peasants into town, then sends them by truck into the Dominican.

"Well, Papa Doc used to order them to come into town. Jean-Claude Duvalier does it differently. He promises them jobs. About 20,000 responded to that promise last year. They were rioting for the chance to get on the trucks, and the macoutes finally shot about 10 people.

"But even those who got on the trucks voluntarily now are still enslaved. They are promised money. Then, once they are in the Dominican Republic, they are given part payment of a few dollars and told they must collect the remainder from their own government when they return to Haiti. But if they try to collect, they are turned away. And if they protest, they are jailed.

"The conditions in the Dominican for the cane cutters are worse than anything you can imagine. That is why they must bring in the Haitians: The Dominicans refuse to work the cane fields. When a Haitian tries to quit and go back home, he is discouraged from doing so.

"Still, it is better now than it used to be. Under the Trujillo government, the Haitian workers were sometimes massacred. Thousands of them."

Gen. Rafael Leonidas Trujillo Molina ruled brutally from 1930 until his assassination in 1961.

Despite a history of inhospitable treatment, the Dominican Republic continues to attract some Haitian refugees. In 1975, the Dominican government estimated that there were 450,000 Haitians living in the Dominican Republic—most of them illegally. The Dominican Department of Migration has an ongoing campaign to find and deport them, except during the cane-harvesting season.

Indeed, the Haitian refugee is an outcast wherever he travels.

"They are looked down on all over the Caribbean, except maybe in Cuba," a veteran American observer of the Haitian refugee problem said. "For the most part, it's a racial thing. The Haitian is usually black. The brown-skinned people of the Caribbean are very caste conscious.

"Almost everywhere you go in the Caribbean, you'll hear certain kinds of jobs referred to as 'Haitian work' by the locals. That means it's the sort of work that's so backbreaking and low-paying that no human being in his right mind would consider doing it."

But in Haiti, there is no money to work for, as far as the majority of Haitians are concerned. For the chance to toil at even the worst job at the lowest pay, the Haitian must leave his homeland. And that is an uncertain journey, fraught with peril.

"Most of the people go out in flimsy boats," said Father Jean-Juste, himself a Haitian refugee. "The small boats are co-ops. Anyone who can read a compass is the captain. They sneak out at night, from 10 to 200 in a boat. I believe that half of them never make it.

"Then there are other boats, the trawlers and cargo boats, that sometimes carry people. Some of the captains of these boats used to have a habit of charging whatever they could get, then picking the people up and dropping them on a deserted island or just pushing them overboard at sea.

"One lady who made it to the United States talked to me. She left Haiti on a ship with 215 others going to the Bahamas. Only 11 of them reached the Bahamas. She said the captain pretended to be lost, starved the passengers then threw most of them overboard."

The Bahamas are the traditional first stop on the voyage of the Haitian boat people, since many Bahamian islands are less than a day's sail from the northwest coast of Haiti.

"Some of the Haitians end up on uninhabited little out-islands here," a U.S. official stationed in the Bahamas said. "But many of them do manage to reach Nassau or Freeport. They take work as domestics or cleaning up yards. They save their money and try to build a nest egg that will get them to the United States or Canada.

"Once in a while, the Bahamas Defense Force will pick up one of the incoming boats. Or there will be a sweep through some of the out-islands, and they'll find the Haitians there. So, periodically, some Haitians are sent home. But despite that, there are thousands of them here.

"The Bahamas never grants political asylum to Haitians. And the official word is that the Haitians aren't welcome here. But they fill a job need. If you look around, you'll find Haitians mowing lawns for Bahamian government officials."

Knowing full well that the Bahamas are the primary jumping-off point for Haitians illegally entering the United States (Bimini is less than 50 miles from the Florida Keys), the American government has tried for years to spur Bahamian immigration officials to staunch the flow.

"In public," said one State Department source, who asked not to be identified, "the response of the Bahamian government has been to ask what it can do to help. But in private, the Bahamians say they can't understand why, if we don't want the Haitians, we don't just kick them out as soon as the Haitians come ashore.

"When you try to explain to them about immigration hearings and due process and political asylum requests, you can see their eyes start to cloud over. I think they feel we are asking them to pull our political chestnuts out of the fire for us."

At times, the Bahamian government has cracked down on the Haitian refugees for reasons of its own.

Seeing a fifth of its own population on welfare while Haitians worked, the government has reacted on occasion by announcing "repatriation" programs for the Haitian refugees.

The Haitians would be given 72 hours to turn themselves in and be shipped home. After that, they were warned, they would face imprisonment.

Most of the Haitians who leave the Bahamas do so from Bimini, and they are taken out by smugglers.

Bahamian officials are loath to discuss the smuggling trade, but an American counsular officer who has spent years in the Bahamas said: "Smuggling is not really regarded as a crime in the Bahamas, or at least not a very serious one.

"Throughout its history, the Bahamas has prospered most when there is something that the Americans were determined to keep from U.S. shores. Bahamian smugglers had a field day when the Union attempted to blockade the Confederacy. They had another one during Prohibition. And now we're trying to keep out the refugees.

"Well, a free movement of people and an easy attitude toward smuggling is traditional in the Bahamas. Even drug smuggling is largely successful, because Bahamian (police) resources are quite limited. But the government of the Bahamas is really trying hard to cut down on the drug smuggling because they can see we really oppose it.

"The Haitian refugees are another story. The way the Bahamian official sees it, we're telling the Haitian refugee: 'If you can make it to the U.S., you can stay. If you don't, drown.' Then we're telling the Bahamian: 'Stop him (the Haitian) en route.'

"In the estimation of Bahamian officials, we're welcoming these people in the United States. So their attitude is: 'Why ask us to solve your problems?' "

Even if the Bahamian government really wanted to halt the smuggling of Haitians into Florida, chances are it could not.

"There's no way, man," the captain of a Bimini-based boat said. "There's more of us than there are constables."

But the boat fare comes with no guarantees. When Bahamian smugglers fear they are about to be intercepted by the Coast Guard in U.S. coastal waters, they sometimes drop their illicit cargo overboard. That was true during Prohibition, when they carried rum. It is true now, when their cargo is Haitian refugees.

The Haitian boat people who do land safely in the United States and manage to avoid deportation are less than enchanted with the government of their new land.

The feelings of many of them are expressed by Christian Louis, 19, who fled Haiti in a boat with 28 other persons after being jailed for two weeks for his part in a protest near the presidential palace in Port-au-Prince last January.

Said Louis, who now lives in Miami on a temporary visa: "The United States government knows exactly what is happening in Haiti, but they continue to support Duvalier. Then they wonder why people are leaving Haiti and trying to come here.

"They used to support Papa Doc, and nobody knows how many people Papa Doc killed. Now they support Jean-Claude Duvalier. They say he is a better man than his father. They don't listen to us when we try to tell them about Jean-Claude Duvalier.

"Jean-Claude Duvalier told somebody about himself. He made a speech to the people of Haiti. And he said: 'The son of the tiger is the tiger.' "

Mr. FISH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. HOLTZMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Chairman, there is no bill that has come before the Congress of the United States this year that needs passing any more than H.R. 2816. For years we have followed a very inconsistent policy toward the refugees of Southeast Asia. After the fall of Viet-

nam, our program even ceased for a period of time, even though the problem was continuing to grow.

I personally became involved in this matter a couple years ago in talking to the leaders of the first asylum nations for refugees throughout Southeast Asia. At that time the United States was putting pressure on these nations not to turn back the refugees at their borders. We were encouraging these people, although our policies were not clear, to take the refugees and protect them and to keep them from dying on the high seas.

Mr. Chairman, this country is a country that cares and we do not have any choice but to pass legislation that will provide a comprehensive policy for the refugees and the bringing of refugees into this country out of Southeast Asia and other areas.

□ 1700

I just left Griffin Bell, the former Attorney General. We talked about this problem. He talked about the problem he had as Attorney General in trying to operate without a statute dealing with the comprehensive problem of refugees. As we know, he extended his power greatly and worked with the Congress, which he recognizes is the proper body to deal with refugees in trying to cooperate with the first asylum countries and provide assistance by giving permanent asylum to refugees.

Mr. Chairman, we cared enough about resisting communism to commit our own troops and our own people to fight communism in Vietnam. Surely we care enough now to provide a comprehensive policy to help the people that we cared about before and to at least provide them some opportunity.

Sometimes I run into problems in my district with the refugee question and with people who wonder why we even care or do anything for them. I can imagine how those people who have to be elected in their own countries—in Thailand and Malaysia and other first asylum countries—must feel with the pressure they have from their constituents to turn these people back. Those countries are not nearly as well off as we are or as well equipped to try to help these people.

I do not think that the United States can turn its back on providing a continuous program for the refugees. I do not think we can afford to refuse to help those people and those countries that we have encouraged to allow these people to come into their countries on a temporary basis. We cannot afford not to tell the countries of first asylum what they can depend on from us. We have to tell them how many people we will take and how much we will provide for them if they will continue to be humane and allow these people to come across their borders and come into camps for protection.

This is not a problem that is going away, and we cannot turn our backs on it.

I come from a very conservative part of the country. I think that communism is one of the things that we have to be concerned about, and we have fought it. Yet we have not until now provided a comprehensive policy to give refuge to the refugees who are fleeing communism.

Mr. Chairman, I would just like to say in conclusion that this country is the leader of the free world. We believe that people should be allowed to have an opportunity to provide for themselves. Certainly the refugees who have come into this country have proved over and over again that they appreciate the opportunity, and that they will provide for themselves.

Other philosophies try to spread their philosophy by force and by taking over governments. This country does it by example. Is our example going to be that when the going gets tough, we turn our backs, or is it going to be that we open our hearts and our lands to these people who need our help? I think it is the latter.

Mr. Chairman, I urge passage of the bill.

● Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 2816, the Refugee Act of 1979. As noted on pages 7 and 8 of the Judiciary Committee's report including the exchange of letters between Chairman RODINO and myself on this legislation, the Committee on Foreign Affairs, in order to expedite the consideration by the House of this important legislation, did not insist on sequential referral of the bill. We chose this course with the understanding that such action did not in any way diminish or prejudice the jurisdiction and continuing interest of the Foreign Affairs Committee with regard to the bill or the subject matter contained therein.

We also agreed to forgo formal consideration of this legislation with the understanding that the distinguished manager of the bill, the gentlewoman from New York (Ms. HOLTZMAN) would accept certain amendments offered by the Committee on Foreign Affairs pursuant to its jurisdiction. Those amendments, which will be offered at the appropriate time by the distinguished chairman of the Subcommittee on International Operations, Mr. FASCELL, deal with: First, the definition of the term "refugee"; second, the role of the proposed Office of Refugee Resettlement in the Department of Health, Education, and Welfare versus the Office of the U.S. Coordinator for Refugee Affairs in the Department of State; and third, raising the funding ceiling of the emergency migration and refugee fund.

I would like to take this opportunity to commend those who have made it possible to bring this vital legislation to the floor. In particular, I want to commend the distinguished chairman of the Committee on the Judiciary, Mr. RODINO, and the distinguished chairwoman of the Subcommittee on Immigration, Refugees and International Law, Ms. HOLTZMAN, and the chairman of the Subcommittee on International Operations, Mr. FASCELL, for their efforts to reconcile the foreign and domestic aspects of this legislation without prolonging the consideration of the bill at committee level.

Mr. Chairman, I am convinced that the bill as reported by the Committee on the Judiciary, with the amendments to be offered by the Committee on Foreign Affairs, is in the best interest of the United States. I therefore urge its overwhelming adoption.●

● Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 2816, the Refugee Act of 1979. I have long been interested in refugee matters and just 4 months ago visited refugee camps in Southeast Asia. I commend the chairwoman of the Immigration Subcommittee, Congresswoman HOLTZMAN, and the members of that subcommittee for their great accomplishment in developing a fair and responsible program for the admission of refugees to the United States. There is no greater need in the world today than the very basic call for resettlement assistance for the world's homeless.

For far too long our efforts to resettle refugees have been a series of ad hoc legislative and administrative reactions to certain crisis situations. This piecemeal approach is contrary to both our international commitments and our concern for human rights.

We have made clear our indignation over the disregard for the rights of countless persons throughout the world who have been abducted from their homes, held without charge or tortured simply because of their race, religion, nationality, or political opinion. We have cried out for those forced to flee their countries and left to languish on open seas or in dismal refugee camps. We have reduced aid to certain nations saying we will not be partners to this brutality. Yet, all too often, those victims on whose behalf we speak, are denied admission to the United States or subject to long, agonizing periods of uncertainty in gaining admission.

As the distinguished chairwoman of the Subcommittee on Immigration has observed:

> In good measure, our country's humanitarian tradition of extending a welcome to the world's homeless has been accomplished in spite of, not because of, our laws relating to refugees.

H.R. 2816 gives substance to our concerns and meaning to our words. One of its most important, yet fundamental provisions, is the definition of a refugee. In current law refugee status is determined based on outmoded geographical and ideological considerations. Only those fleeing from Communist nations are recognized as refugees.

With H.R. 2816 our law will finally be in conformity with the internationally accepted definition of a refugee set forth in the 1951 United Nations Refugee Convention and Protocol which the United States ratified in 1968. The U.N. definition recognizes as a refugee, any person outside his or her country, who has a fear of persecution based on race, religion, nationality, or political opinion. In fact, this bill takes our law one important step further. It also recognizes the plight of those political prisoners within their own nations who are not able to reach a country of first asylum.

United States policy to some extent, already recognizes this need as the Attorney General's parole authority has been used to admit groups such as Chil-

ean and Cuban political prisoners directly into the United States. In these instances release has been conditioned on resettlement in the United States.

H.R. 2816 separates the admission of refugees from that of routine immigration under the preference system and authorizes the admission of 50,000 refugees a year. It also contains allowances for additional admissions at any given time based on emergency situations and humanitarian concerns.

For the first time, a comprehensive statutory procedure for the admission of refugees, will replace the limited conditional entry and parole provisions of existing law. Because of the flexibility this legislation provides, there will be no need for special legislative or administrative actions, in the future in order to meet an urgent resettlement need. Those in need of our assistance will not have to wait for us to act.

Title III of this bill establishes a permanent resettlement program for refugees once they are admitted to the United States. One of the primary criticisms of current resettlement efforts is that separate programs serve separate groups. A "patchwork" of Federal programs have emerged to deal with various groups of refugees and as a result there is considerable confusion among both public and private agencies involved in resettlement activities. Needless to say, those intended to be served, are least served by a morass of programs.

H.R. 2816 creates a high level Office of Refugee Resettlement within HEW charged with coordinating refugee resettlement programs that include reception and placement of refugees, grants for resettlement services such as English language training, educational and vocational training, counseling, basic orientation, food, clothing and shelter and reimbursement to State governments for cash and medical assistance provided to refugees.

This proposal is one of the most important matters before this House. It is a finely tuned piece of legislation that deserves our support. This Nation is for the most part composed of the descendants of refugees from political, religious, and economic oppression. Adoption of H.R. 2816 is in our national and international interest.●

The CHAIRMAN. The Chair wishes to inform the gentlewoman from New York (Ms. HOLTZMAN) that she has 2 minutes remaining. The gentleman from New York (Mr. FISH) has yielded back his time.

Ms. HOLTZMAN. Mr. Chairman, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DODD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2816) 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, had come to no resolution thereon.

## GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2816, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

## PROVIDING FOR CONSIDERATION OF H.R. 2585, NATIONAL TRAFFIC AND MOTOR VEHICLE INFORMATION AND COST SAVINGS AUTHORIZATION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2585) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 provides for the consideration of H.R. 2585 which authorizes appropriations of $53 million for fiscal year 1980 and $58.1 million for fiscal year 1981 for the operations and research activities of the National Highway Traffic and Safety Administration of the Department of Transportation. The authorized level in the bill is 8.3 percent below the President's budget request for fiscal year 1980.

The funds authorized by this bill would be used to conduct vehicle safety research, to develop and promulgate new vehicle safety standards, to amend existing standards and other rules and regulations, to provide consumer information, to conduct defect and noncompliance testing, and to enforce the provisions of the Safety Act.

This is an open rule providing for 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. A motion to recommit is in order upon completion of the consideration of the bill.

Mr. Speaker, I urge my colleagues to adopt House Resolution 320 so that the House may consider H.R. 2585.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of the bill, H.R. 2825, to amend the National Traffic and Motor Vehicle Safety Act and the Motor Information and Cost Savings Act. This is an open rule, providing for 1 hour of general debate to be divided between the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. The rule also permits a motion to recommit.

H.R. 2585 authorizes appropriations for the 1980 and 1981 fiscal years for the National Traffic and Motor Vehicle Safety Act and Motor Vehicle Information and Cost Savings Act. One of the activities which is being carried out under the National Traffic and Motor Vehicle Safety Act is the development and implementation of the passive restraint standard. This is, of course, an issue which is somewhat controversial and will, I am sure, be addressed by my colleagues as the bill is considered. Also included in H.R. 2585 is an authorization of funds under the Motor Vehicle Information and Cost Savings Act for providing consumers with information to help them avoid unnecessary damage to their cars, make informed purchasing decisions, and encourage early diagnosis and repair of automobiles.

The amount of the authorization for this legislation is $53 million for fiscal year 1980 and $58.1 million for fiscal year 1981. The authorization level in the bill is 8.3 percent below the President's budget request for fiscal year 1980 and 9.8 percent lower than the comparable funding level enacted for fiscal year 1979.

Mr. Speaker, this legislation was reported from the Interstate and Foreign Commerce Committee by voice vote and I have no objection to the passage of the rule.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, this is a wide open rule, and it allows the House to work its will, as the gentleman said; is that correct?

Mr. LOTT. I think it does, yes.

Mr. BAUMAN. Does the gentleman from Mississippi realize that this is the second time in 1 day that this has happened, that two open rules have been passed today?

Mr. LOTT. Yes. It is unprecedented. I do not know whether we are beginning to start doing these things in the open now or not. I think it is just that this is an unusual day.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, I think it is virtually unprecedent in this Congress that such freedom will be allowed to reign. With

two open rules in 1 day, Christmas cannot be far behind.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1710

## ANNUAL REPORT OF THE SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs:

*To the Congress of the United States:*

I hereby transmit to the Congress the annual reports of the six river basin commissions, as required under section 204 (2) of the Water Resources Planning Act of 1965.

JIMMY CARTER.

THE WHITE HOUSE, *December 13, 1979.*

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 4, 18, 19, 23, 27, 31, 42, 45, 47, 52, 53, 55, 65, 83, and 92 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1227. An act for the relief of Munir P. Benjenk.

## EMPTY SCHOOLS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, education is the most important asset that we can give to the youngsters of America. We are all discouraged to see that student achievement tests have dropped 10 percent during the past 15 years since the Federal Government planners put in school busing. Shuffling students around develops insecurity and leaves students with a lack of interest in learning. Busing also leaves empty school buildings. This is a waste of taxpayers' money.

Monday's copy of the Dallas Morning News had a lead story that spread completely across the top of the newspaper. It was describing what has happened to many Dallas elementary schools since 1970. They took the decade of the 1970's and showed the capacity of the school and the current enrollment. These 25 typical schools are listed in the chart of the Dallas Morning News.

When I was in business, there was an old saying that every good business has good brains at the top. When we look at the education system in America, there is one profound conclusion that keeps coming through. Judging by results, we are mightly short on heavy thinkers at the top of the Federal education and planning process. We have a group of sociologists who believe that change for the sake of change is more important than fundamental education for the sake of sound learning.

It is unfortunate that this Congress established a separate Department of Education. The best thing we could have done for America would be to have taken Federal intervention out of local education. We should return schools to the local school board and again have America be able to move forward in developing brighter young men and women.

| School name | Current enrollment | Capacity |
|---|---|---|
| Nathan Adams | 114 | 800 |
| Arlington Park | 117 | 350 |
| William L. Cabell | 196 | 1,300 |
| City Park | 155 | 800 |
| George B. Dealey | 111 | 800 |
| E.L. DeGolyer | | 800 |
| Tom W. Field | 145 | 500 |
| C.A. Gill | 248 | 800 |
| Tom C. Gooch | 188 | 800 |
| Fannie C. Harris | 130 | 550 |
| Thomas Hassell | 156 | 750 |
| Victor H. Hexter | 169 | 800 |
| J.S. Hogg | 341 | 400 |
| Stonewall Jackson | 222 | 800 |
| Edwin Kiest | 271 | 1,300 |
| Arthur Kramer | 72 | 800 |
| B.H. Macon | 273 | 450 |
| Ben Milam | 178 | 800 |
| J.W. Ray | 236 | 400 |
| Edward Titche | 305 | 800 |
| William B. Travis | 272 | 800 |
| Priscilla Tyler | 279 | 750 |
| Urban Park | 243 | 800 |
| Phyllis Wheatley | 218 | 400 |
| Harry C. Withers | 134 | 800 |

We do not need a Federal Department of Education. This $14 billion expenditure is duplication bureaucracy. Education is best handled by the local school board. Our country has more Government than we need, more Government than the people want, and more taxes than we can afford to pay.

## SUPPORT FOR THE PRESIDENT'S STATEMENT ON THE NEED FOR NUCLEAR ENERGY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. PRICE. Mr. Speaker, it is indeed encouraging to note the landslide of support which is developing for use of nuclear energy. The media is doing a good job of presenting the President's December 7 statement explaining the need for nuclear energy which I introduced in the RECORD on December 10, on H11759. An example of the responsible treatment in the media of this issue is the lead editorial in the Washington Star which follows my remarks:

MR. CARTER AND NUCLEAR POWER

It would be hard to be more emphatic about the continuing need for nuclear power than President Carter was the other day when he announced his response to the Kemeny Commission's report on Three Mile Island: "Every domestic energy source, including nuclear power, is critical," the president said, "if we are to free our country from its overdependence on unstable sources of high-priced foreign oil. We do not have the luxury of abandoning nuclear power or imposing a lengthy moratorium on its use."

Since the commission apparently came within a vote or two of recommending a permanent moratorium on nuclear plant construction, and since both of Mr. Carter's rivals for the Democratic nomination have aligned themselves with the anti-nuclear lobby, the president has taken a position not without political risk. But we are persuaded, as apparently he is, that it is in the national interest.

Calling the abandonment of nuclear power a "luxury" was the strongest part of the president's statement. But the ancillary actions he took (or refused to take) are also important. Quite without prompting from the commission, he ousted the chairman of the Nuclear Regulatory Commission, Joseph Hendrie, and signaled his intent to nominate a strong chairman when the next NRC vacancy occurs. Mr. Hendrie seems a competent and well-intentioned man. But he was not the man of the hour, when a man of the hour was needed, when the Three Mile Island accident happened. Stronger leadership is a must.

Mr. Carter wisely refrained from seconding the Kemeny Commission's recommendation that the NRC be scraped and replaced by a line executive agency for nuclear regulation, directly accountable to the White House. That restructuring would be fundamentally objectionable, risking the politicization of nuclear regulation and policy and exposing the nation's existing nuclear plant (as well as projected expansions of it) to the caprices and uncertainties of presidential elections. Constancy and continuing of nuclear policy are needed, along with more vigorous leadership and stronger safety enforcement.

The president would be justified in demanding an earlier end to the NRC's temporary moratorium on operating licenses. Nine new plants could be operating within two years; seven, which have the capacity to displace the equivalent of 200,000 barrels of oil per day, are ready to start up now.

Stalling their opening, notwithstanding that most of them have more sophisticated safety devices than the operating plants to which they are often twins, may be a satisfying gesture to safety concerns. But unless there are distinct and specific safety problems at these new plants, it is merely a gesture. Meanwhile, the energy deficit created by the delay is costly to consumers and hazardous to the nation's security. Mr. Carter expressed the hope that the moratorium will be ended by May. It probably should end forthwith.

The essential finding of the Kemeny Commission, let us not forget, was that the problem at Three Mile Island and (insofar as problems may really be predicted) in nuclear plants generally are human problems, not equipment problems.

There should be a rapid improvement in the competence of plant operators. They

probably should be federally trained and licensed, their work treated as the crucial specialty it is. But if human management is the root of the problem, it is as irrational as it is wasteful of the nation's energy-producing potential to hold equipment idle. It means more inflation, more strain on the industrial nations, and more American vulnerability to the threat of oil blackmail.

The public concern with nuclear safety is appropriate; it is not an imaginary worry. It is, however, a question of men (and women), rather than machinery. And the concern for safety is hardly one-dimensional when the dependency on imported oil entails all sorts of perils to the nation's economic well-being and even, as the Iranian crisis shows, to human life.●

## INDUSTRIAL INNOVATION COLLOQUY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 60 minutes.

GENERAL LEAVE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AuCOIN. Mr. Speaker, my colleagues and I have come to the floor and are making floor statements today because we are deeply concerned about the health and vigor of the American economy. Rampant, double-digit inflation is fueling excessive consumer spending and eroding personal savings which are already at a level which is lower than any of the other industrial nations of the world.

Productivity has fallen by nearly 6 percent in this year alone. We continue to rack up huge trade deficits, in large part due to our dangerous dependence on foreign oil.

Because of our concern about the economy, a number of the Members of the House this fall joined together to form an Ad Hoc Task Force on Industrial Innovation which I now chair. I am joined in this colloquy today by the cochairman of the task force, the gentleman from New York (Mr. Ambro). and by the distinguished chairman of the Subcommittee on Science, Research and Technology of the Committee on Science and Technology, the gentleman from California (Mr. Brown). There are others who are also making statements for the purposes of the Record.

We are here, Mr. Speaker, because we believe that innovation can have a significant, positive impact on our economy. Innovation helps expand and increase exports. It makes better use of scarce resources such as fossil fuels, and it boosts productivity, thereby decreasing inflationary pressures.

The United States has always been a leading technological power, but there are signs today that the pace of innovation in the United States is slowing and that we are perhaps losing ground to foreign nations. The proportion of gross national product devoted to research and development has actually declined during the past decade while our international trading partners have increased their commitment. European firms on the average devote a greater percentage of their sales to research and development than do U.S. companies.

In the past 5 years, foreign citizens have won more than one-third of all patents issued by the U.S. Government, while the share of patents held by Americans abroad has actually declined.

Mr. Speaker, while experts may, in fact, argue over the significance of indicators of that kind, one thing is absolutely clear and that is that increased innovation will help us to maintain our competitive edge and to increase productivity and thereby reduce the rates of inflation we are experiencing today.

The purpose of the colloquy today in the House is to focus more attention on the part of all of our colleagues in the House, and the public as well, on the important role that innovation plays in industry in fighting the problem of staving off an unstable economy. We want to illustrate how innovation can help fight inflation, how it can bring stability to the economy. We want to talk about the ways in which innovation can be stimulated through changes in tax policy, through changes in foreign trade regulations, patent procedures, and Government research efforts.

At this point, Mr. Speaker, I would like to yield to my colleague, the gentleman from California (Mr. Brown), the chairman of the Subcommittee on Science, Research and Technology of the Committee on Science and Technology.

Mr. BROWN of California. Mr. Speaker, I want to thank the gentleman for yielding and particularly I want to commend him on the perception that he has had of the complexity and the importance of this problem. It is typical of a growing number of problems facing the Congress in which there are a number of interrelated pieces frequently falling within the jurisdiction of different committees, and the problem is such that unless all of these pieces are addressed in some coherent way it is impossible to develop a rational course of action.

This is true of the problem of innovation and productivity, and the efforts of the task force to put all of these pieces into perspective, in my opinion, are essential to being able to address the problem and produce solutions that will have any meaning.

INTRODUCTION

The innovation of new products and services is central to the process by which our economy has grown and renewed itself. Technological innovation is also an important element in international trade and the balance of payments. Innovation, productivity, and R. & D. are closely interlinked, as cost reductions and efficiency gains arise mainly through innovations in methods for production and distribution. Thus, the advancement of innovation and productivity, within the context of other national objectives, holds enormous promise for the continued betterment of our national welfare.

INDICATORS

Although this country has a record of innovation that is little short of astonishing, a number of economic, technical, and manpower indicators point to the fact that, even though the United States still leads the world in innovative technology, there has been a decline in both our rate of research and in new product development over the past decade. There have been a number of contributing factors in this decline.

First there is inflation. It is high, it is getting higher, and we do not seem to be able to control it. Increases in productivity can help bring inflation down.

Second, there is productivity itself. The annual percent growth of person-hour output for the total U.S. private economy during the last decade was less than half that of the preceding two decades, and recent reports put productivity growth near zero.

Third, is the international balance of trade. The net U.S. 1978 trade deficit for all items was about $28 billion. Although we are still strong in certain areas such as chemicals and electronics, in light machinery the deficit was $10 to $12 billion. The 20 most negative trade categories associated with mechanical technology generated a $34 billion deficit in 1978—oil imports cost about $39.5 billion that year.

A fourth indicator is patents. Over the last decade a larger and larger share of U.S. patents has been going to foreign nationals, while foreign patents to U.S. nationals have been decreasing.

A fifth indicator is formation of new publicly financed small technical companies. In 1969 204 such companies sought public financing. In 1975 that number had dropped to near zero. Although there has been some recovery since, the number is still low.

NEED FOR NATIONAL CONSENSUS

Recently there has been a surge of activity in industry, in the administration, and in Congress on the problems of innovation and productivity. This is nothing new; discussions and studies of these problems have taken place at the national policy level sporadically for the last 20 years, and programs to solve the problems have come and gone. The severity of the problems, however, has now reached such a level that there is potential for reaching national consensus on what to do about them. For realization of this potential and for action on issues of innovation and productivity, there must be both substantial congressional interest and constituencies—industry, academia, and labor—pressing for action.

A shortcoming to date has been the degree of coordination and communication within Congress on innovation and productivity issues. Our discussions today are one of several recent efforts to rectify this shortcoming. This effort, however, should be viewed as only a beginning. In the months ahead, Congress, aided by its constituencies, needs to develop a coordinated approach to the many issues which address the entire

spectrum of requirements for successful innovation, from the inception of research and development ideas to the application and widespread use of a new product, process, concept or service, and to provide the necessary linkages between the various phases in the innovation process.

This level of coordination is necessary in order to develop the appropriate incentives and research and development infrastructure that will encourage linkages between good ideas and people, between institutions in the R. & D. enterprise, and between R. &. D. innovation and productivity policies and national objectives. The forging of these linkages will be an integral element in the success of our innovation and productivity endeavors and in meeting the technological and social challenges of the future.

DOMESTIC POLICY REVIEW ON INDUSTRIAL INNOVATION

As you are well aware, this past summer the Secretary of Commerce presented the President for his consideration the findings of the Domestic Policy Review on Industrial Innovation. The President made known his recommendations regarding this review on October 31, and Congress, in a coordinated effort, held joint hearings among the House and Senate Small Business Committees, the House Committee on Science and Technology, and the Senate Committee on Commerce, Science and Transportation on that same day to evaluate and discuss the President's specific recommendations on industrial innovation.

It should be recognized that the President's recommendations represent only an initial step in fostering a national climate which hopefully can rekindle both our competitive ability and our entrepreneurial spirit for the technological, economic, and social challenges of the future. It should be noted also that, although several domestic policy reviews on industrial innovation have been developed previously, this is the first review on industrial innovation which a President has acted upon.

Recommendations contained within the President's report on industrial innovation which are of particular importance to my Subcommittee on Science, Research, and Technology and its NSF oversight responsibilities include: First, expansion of NSF's successful experimental industry-university cooperative programs by $20 million in fiscal year 1981; second, extension of the model for NSF's industry-university cooperative program to other Federal agencies such as DOD, DOE, EPA, and NASA; third, expansion by the Federal Government at both NSF and the Department of Commerce of Cooperative (generic) Technology Centers by approximately $8 million in fiscal year 1981 with increasing contributions by industry; and fourth, expansion of NSF's small business innovation program by $10 million in fiscal year 1981 and extension of this program to other Federal agencies.

ACTIVITIES OF THE SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY

In addition to my subcommittee's responsibilities for NSF, many of the recommendations of the Domestic Policy Review on Industrial Innovation and related issues are also being considered concurrently with our ongoing subcommittee studies of innovation and productivity. I would like to mention some of these broad ranging initiatives and legislative proposals now under consideration by the Subcommittee on Science, Research, and Technology.

First. I introduced H.R. 4672, National Science and Technology Innovation Act of 1979, patterned after Senator STEVENSON's S. 1250. H.R. 4672, a specific form of university-industry linkage would authorize the support of Centers for Industrial Technology by NSF and the Department of Commerce and would establish an "Office of Industrial Technology" in the Department of Commerce. Three sessions of hearings held last summer on university-industry relations by my subcommittee included testimony on this bill. Senator STEVENSON's subcommittee has held hearings on S. 1250, the most recent being on November 21, 1979.

Second. We are considering draft legislation which establishes a National Technology Foundation. We are giving this bill further review before deciding whether to introduce it. In essence the bill would create an independent agency to promote technology for the national welfare and unite and coordinate key elements within the Federal sector involved in innovation and productivity, university-industry linkages, high technology small business, technical information and data acquisition, and transfer of technology and information to the private sector. The bill would incorporate all of the substance of H.R. 4672.

Third. Another piece of draft legislation under subcommittee review and consideration relates to the more effective utilization of Federal laboratories as national resources (Domestic Technology Transfer and Utilization Policy Act). The bill would provide a national policy of encouraging secondary utilization of federally sponsored R. & D., would require each Federal laboratory with a budget in excess of $50 million to establish a technology utilization office, and would establish a Federal Laboratory Resource Center to coordinate the activities of the various technology utilization offices and to serve as a technological information clearinghouse for the private sector.

Fourth. To encourage the commercialization of innovative ideas and technologies developed as a result of Federal sponsorship of university and industry based R. & D. projects, proposed patent legislation (S. 414, BAYH and others, University and Small Business Patent Procedures Act; and identical legislation, H.R. 2414, RODINO, H.R. 5427, ERTEL, Science and Technology Research and Development Utilization Policy Act; H.R. 5715, ERTEL, Uniform Federal Research and Development Utilization Act of 1979) under consideration by the subcommittee would extend beyond the institutional patent agreement concept, would provide uniformity in Federal patent policy, and most importantly, would increase the opportunity for the results of federally sponsored R. & D. to reach the consumer in the form of tangible benefits. On October 16 and 17, 1979, my subcommittee held hearings on the proposed patent policy legislation and its predicted impact on innovation and productivity. Additional discussion and hearings are planned in the future.

Fifth. In joint R. & D. small business hearings on November 1, 1979, among the Senate and House Small Business Committees and the House Science and Technology Committee, factors, such as the availability of venture capital during the startup phase, that contribute to the success and survival of high technology small businesses and the means by which the Federal Government can reduce disincentives and barriers which tend to discourage entrepreneurship and technology small business survival and expansion were explored.

SUMMARY

The problem of industrial innovation and productivity is probably as complex as any set of problems that Congress faces. If we continue to be fragmented in our approaches to this problem, the chances of succeeding and solving it are about the same as solving the energy problem. The events of the past decade should force us into the realization that this national problem will be solved only through coordinated congressional effort and constituency consensus building. This may be atypical of past congressional action. I am, however, an optimist, and I am here today to encourage all Members to assist this cooperative national endeavor.

INDUSTRIAL INNOVATION PROCESS RECEIVES RESTRAINED BOOST FROM CARTER POLICY REVIEW

(By Stephen Reiss)

Industrial innovation, that elusive process in which an idea moves from the inventor to the drafting table to the production line, received a somewhat restrained boost when the Carter Administration unveiled the results of its long-awaited Domestic Policy Review.

The President's proposals were the product of a mammoth 18-month effort coordinated by the Department of Commerce, which solicited suggestions from industry, labor, academia, and public interest organization. The voluminous reports these groups produced then went through the executive agency mill and were presented to Carter in September in the form of an options paper.

The Carter program calls for changes in a smorgasbord of federal policies covering areas from patents to antitrust action to government purchasing practices, but they are curiously limited in scope considering the time and effort that preceded them.

Dr. Frank Press, the President's science advisor, has tried to allay concern over the almost gingerly approach of the planned initiatives, which call for a mere $55 million to be spent over the next year, a pittance compared to the $30 billion which the government spends annually on research and development.

"Many of these programs are experimental," said Press. "If they work well we will want to expand them. One shouldn't reach a decision on the efficacy of this program by the dollar value attached to them."

But to the Congressmen who have been pushing for action on a host of topics related to innovation, notably Senator Adlai Stevenson (D-Ill.) and Rep. George Brown (D-Calif.), it seemed as though the President thought he could tame a rhinoceros with a flyswatter. Brown, chairman of the House subcommittee on Science, Research and Technology, expressed dismay that many

of the options Carter chose to endorse would not be implemented in the 1980 budget, and that there was no mention of changes in the tax codes or in monetary policies to encourage capital formation, actions which would have a more immediate effect.

"They're too little and don't cope with a broad enough area," he said. "You're suggesting an expansion of a modest nature in the fiscal year 1981 budget which is a year away. Let's not delay another year to get some initiatives."

Senator Harrison Schmitt (R–N.M.) voiced similar feelings. "We must stop taking small steps, many of which are backward," he said. "Frankly, I'm not impressed with the President's proposals. It ignores those things that the Congress has been pointing to for years."

The White House initiatives fall into nine areas:

*Enhancing the transfer of information.*—Carter will create a center within the National Technical Information Service (NTIS) to improve the flow of knowledge from federal laboratories to private industry. NTIS will also improve its collection of foreign technical literature. In apparent imitation of the Japanese practice, the Commerce and State Departments will begin interviewing volunteers returning from abroad about foreign technological developments.

*Increasing technical knowledge.*—Four generic technology centers, jointly financed by industry and government, will be established in 1981. Each center will focus on a technology such as automated assembly that is involved in the processes of several industrial sectors and has potential for significant technological upgrading. A National Science Foundation program that funds R&D projects proposed jointly by industry-university research teams will receive an additional $20 million in 1981, and the program will be extended to the Defense and Energy Departments, EPA, and NASA.

These suggestions are similar to ones in a bill introduced by Rep. Brown, but the scale is completely different. The White House sees the generic technology centers costing a total of $6–$8 million, and projects an eventual government-wide goal of $150 million for the joint industry-university research projects. Brown, on the other hand, wants to spend $320 million over the next five years to set up an Office of Industrial Technology in the Commerce Department and a series of Centers for Industrial Technology at schools and non-profit institutions across the country.

*Strengthening the patent system.*—The Administration will support legislation to establish a uniform government patent policy for inventions made under federal contracts. The contractor would have an exclusive license in the field of use, but the government would retain title and would have march-in rights enabling it to cancel the license if the company is not commercializing the invention.

Carter also proposed a reorganization of the Patent and Trademark Office and a single court of patent appeals to reduce the cost and frequency of contesting patents in court. The Small Business Administration and the Office of Minority Business Enterprise will provide legal assistance to inventors trying to make the jump from invention to small business.

The vagaries of the patent system have been the bane of inventors for over 30 years and have been a concern on Capitol Hill for the past several years. The problems fall into two main areas: First, individual inventors have difficulty defending their interests in the labyrinths of the patent law system.

The second area of concern is the large number of patents produced by private firms under contract to the federal government that have not been commercialized. Trying to avoid the stigma of a "give-away," federal agencies are reluctant to waive title to patents or grant exclusive licenses. The result, say industry spokesmen, is that no company is willing to invest in commercializing the patents because it cannot protect its investment. The federal government presently holds title to nearly 30,000 inventions, less than five percent of which have been effectively utilized.

Rep. Allen Ertel (D-Pa.) is pushing a proposal that would grant companies exclusive license to patents developed on federal contracts but would require royalties on the profits made from them. "The government has paid a lot of money for the invention and one person will reap all the benefits," said Ertel. "It seems to me the government ought to participate in the benefits because that person would never have been able to do it without your and my taxes."

Carter's proposals mirror ideas already before Congress in bills introduced by Senators Schmitt and Bayh which have no royalty provisions. "Current policies have failed miserably to effectuate the transfer of new technology to the marketplace," commented Senator Schmitt. "The real loser has been the consumer and the taxpayer." He feels inventors are already paying royalties in the form of taxes on profits and that any further financial penalty would cause them to abandon any plans to commercialize the product.

*Clarifying antitrust policy.*—Competition is good except when it inhibits innovation, declared the White House, and the Justice Department has been directed to "clarify its position on collaboration among firms in research and development." The Attorney General, the chairman of the Federal Trade Commission, and the Secrtary of Commerce will begin a series of "discussions" with industry to "dispel the perception that antitrust policy inhibits innovation." The Administration points to a joint research program by the auto industry—announced in May after government prodding—as a step in the right direction.

*Fostering the development of small, innovative firms.*—An NSF program that provides funding to small companies for venture analysis and to demonstrate technological feasibility of their products will have its funding quadrupled in 1981 to $10 million. Other federal agencies are supposed to see whether they can set up similar programs.

The Commerce Department will establish two Corporations for Innovation Development (CID) in 1981. Modeled after the National Research and Development Corporation in Great Britain and the Connecticut Product Development Corporation, these CID's will provide management assistance and direct equity funding for firms wishing to develop and commercialize a promising, but high-risk innovation. Spurred by annual assessments by the Office of Management and Budget, every federal agency will develop policies to make sure that small businesses are not excluded from competition for federal R&D contracts.

Numerous government and independent economic studies have shown that most innovation occurs in small firms and that these firms also account for most new jobs. But small businesses are receiving only 3.4 percent of federal R&D money. Therefore, the plan for a "good faith effort" by federal agencies with OMB looking over their shoulders ran into large-scale skepticism. "Without these mandatory levels they don't feel they have the capability of competing for R&D funds," said Senator Donald Stewart (D-Ala.)

A widely-supported bill introduced by Senator Gaylord Nelson (D-Wisc.), chairman of the Small Business Committee, would require every federal agency to increase its R&D funding for small business by one percent a year, until ten percent of the total R & D money was received by small business. Mandatory percentages are "a pretty poor idea" commented Assistant Secretary of Commerce for Science and Technology Jordan Baruch, who coordinated the policy review, because the needs of each agency differ. "There is already a strong incentive because each agency will be reporting to OMB," he added.

Although tax breaks for small, innovative buinesses were among the options presented to Carter, including accelerated depreciation and taxfree cash reserves for future R&D, they did not appear among the final proposals, to the annoyance of a number of Congressmen.

Rep. John LaFalce (D-N.Y.), a self-appointed apostle of tax incentives and the sponsor of one of four bills presently before Congress on the subject, said, "This is what the private sector told government it needed to facilitate the innovative processes. This is what the Administration has to date ignored."

Although Senator Stevenson commended the Administration for "a small first step," he was equally miffed at the lack of proposals for tax reform and capital formation. "Do we continue down the British route, subsidizing low-growth, geriatric industries, or are we going to subsidize our strengths," he said. "Is this the proper ratio—$55 million for innovation and $1 billion for Chrysler?"

Dr. Press stated that the Administration was not opposed to tax incentives but didn't want to consider them apart from other aspects of economic policy. "This will be considered in the overall context of the Administration's economic and tax policies," he said.

*Opening federal procurement to innovations.*—OMB and the General Services Administration will perform a number of internal housekeeping reforms to allow the government to more easily purchase new innovative products.

*Regulatory reform.*—Health, safety, and environmental regulatory agencies will now prepare five-year forecasts of their priorities and concerns to allow industry to better plan its R&D to comply with those priorities. The Environmental Protection Agency will substitute performance standards for design and specification standards where it's possible. EPA will also develop an implementation policy and set of criteria for "innovation waivers" for new processes which more cheaply meet one set of environmental standards while violating others.

*Facilitating labor/management adjustment to technical change.*—The Departments of Labor and Commerce will work jointly with labor and management to develop a national Labor/Technology Forecasting System. This system would predict technological change within specific industries and assess the implications for labor. These forecasts would then be used as the basis for retraining and other adjustment activities.

Similar programs have been used successfully in several Western European nations, particularly Sweden. The labor movement in this country has been calling for such a policy for two decades. Rep. William Ford (D-Mich.) and Senator Harrison Williams (D-N.J.) currently have bills in committee that would provide for retraining of workers in the event of plant closings. Similar proposals are before a number of state legislatures.

*Maintaining a supportive climate for innovation.*—NSF and the Commerce Department will host a national conference for deans of engineering and business schools to stimulate improved curriculum development in technology management and entrepreneurship. In addition, Carter will present an annual award for technological innovation to companies in several areas: transportation, communication, health, agriculture and food, and natural resources.

In the past few years, the solution to the innovation problem has assumed almost mythical importance. Dr. Baruch is typical of the government and industrial leaders who preach the gospel of salvation through innovation. "Industrial innovation affects domestic productivity, domestic inflation, domestic employment and our balance of trade," he recently told the House Committee of Small Business. "Increased industrial innovation will improve domestic productivity, help dampen the rate of domestic inflation, help to improve the nation's balance of trade and create jobs. In addition, increased industrial innovation can help to reduce this nation's consumption of raw materials and our dependence upon non-renewable energy resources."

What should not be lost in the bickering over particular proposals or the lack of them, is that the domestic policy review represents a major step toward a national industrial policy. Although "free market" and "excessive government regulation" are still the favored buzzwords, these policies cannot help leading to more public involvement in what were formerly private decisions about the future of particular industries.

As Senator Stevenson observed, an innovation program "requires resistance to the pressures to protect geriatric industries from competition and shelter the powerful in labor, industry, and agriculture from natural adjustments. It requires reassessment of traditional attitudes about relationships between government and industry."

Mr. AuCOIN. Mr. Speaker, I appreciate the comments of my friend and colleague, the gentleman from California (Mr. BROWN), who has made a great contribution in the subcommittee that he chairs, and he has made a great contribution in the ad hoc task force that has been formed. He rightly points to one of the problems we face in the Congress today when we are dealing with modern difficulties, with issues that cross into so many disciplines and fields, and that simply is that our committee structure sometimes prevents us from organizing ourselves in such a way as to deal effectively with those problems on a legislative basis.

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I would guess that the ad hoc task force is no meaningful substitute for a standing ad hoc committee in which members from a variety of committees of the Congress could sit and have bona fide legislative authority in which to consider the myriad of proposals that are pending before the Congress, that are in the hopper tonight as we stand here, that could be looked upon from an interdisciplinary point of view.

In lieu of that, the task force does give the Members of Congress who are interested in this exchange an opportunity to trade ideas, bringing to bear their expertise from the committees that they do serve on and in order to try to promote understanding and to try to develop more positive results in action in their own committees and also on the floor of the House.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I certainly want to commend the gentleman on the floor at the moment and also the task force as a whole for taking time to have this discussion on national productivity. It is a very, very crucial subject, as I hope all of our colleagues realize. We do not know enough about it. Not even the experts know enough about it, and so it is time we started focusing all of the attention we can.

Mr. Speaker, invention and innovation are essential to providing technical solutions to many of the Nation's problems: The energy crisis, inflation, the unfavorable balance of payments and declining productivity.

In 1978, an estimated $47 billion was spent on research and development in this country, with the Federal Government providing the source of over half of that R. & D. financing. Nevertheless, we seem to be suffering a technological innovation lag. In the past, some Federal policies have actually worked to discourage investment in innovative ventures. For instance, industry migration out of established urban areas, spurred by Federal tax programs, has resulted in costly duplication and absorption of the capital needed to intensify innovative efforts.

It is important that we reassess our policies in light of the impact they have on the investment in new scientific and technical ideas, and make whatever changes we must to stimulate innovation. That will, in turn, enhance our country's economic well being.

Capital formation must be one of the focal points of any discussion of innovation incentive policies. There seems to be a consensus that an acute lack of capital is industry's biggest problem. I have heard the president of a steel company state that the steel industry in the United States, which is one of our most troubled industries, has not exploited new technological developments as fully as some foreign competitors simply because of lack of capital. For years, I advocated changing the investment tax credit as a way to spur capital formation. The proposal I favored, which was adopted in essence last year with passage of the tax bill, provided for targeting the investment tax credit to areas of economic distress. The Nation's existing urban areas represent an enormous investment, yet many of them are in deep trouble mainly because supporting industries have built their newest plants elsewhere.

This uses up capital which could be used to stimulate innovation. But when manufacturing plants and equipment grew old and obsolescent, there was no incentive for the plant owners to upgrade the existing facilities, so they moved to areas where the climate was better, the work force younger, or the labor problems fewer. But now that the tax code offers an incentive to plant owners to rehabilitate their older buildings, there will, I hope, be more capital available to sink into innovative ventures.

Another proposal which could help recommends making the investment tax credit refundable. Much of the innovation in this country takes place in small firms that have difficulty in obtaining capital for research and development. As it is now, in its nonrefundable form, the investment tax credit does not help low-growth firms—usually small or new firms—because they lack sufficient tax liability to take advantage of all their credits. A fully refundable credit would end the discrimination against the small, unprofitable firms and make available the kind of capital formation incentive intended to be generated by the investment tax credit.

Another Federal policy that may have inhibited innovation somewhat is pollution control. I have long been a strong advocate of the clean air and water laws which improve the health and environment of our citizens. But I recognize that compliance with these necessary laws may be costly to industry, diverting capital that could otherwise be used for innovation. Our ultimate goal should be full internalization of industry's pollution control costs so that the costs will be reflected in the prices of the products. But until we have overcome the initial burden of costly retrofitting of older plants to achieve compliance, I think financial tools are needed, not only to help clean our air and water, but to help preserve economic stability.

The situation demands a balanced approach to achieve both capital formation and a healthy environment. I have introduced my own bill, H.R. 5339, which I believe encourages compliance with regulatory schedules for pollution control and, at the same time, reduces the adverse economic impact of abatement and lessens the potential for dislocation and destabilization. The bill would permit a plant which was in operation prior to January 1, 1971, a choice among three tax options:

First. A 5-year amortization plus the ITC; or

Second. A 1-year amortization; or

Third. A refundable, double investment tax credit.

This approach makes sense because the entire public benefits from both a clean environment and continued economic growth and technical excellence.

Perhaps no other issue has so clearly highlighted our need to stimulate innovation as the energy crisis. We have become painfully aware that we must find ways to insure the rapid development, demonstration, and commercialization of the kinds of energy technology needed to transform our society from dependence on exhaustible fossil fuels to the use of renewable energy sources. In the past, I have introduced legislation which would achieve this and also minimize the likelihood of abuses when the oil companies are doing the bulk of the federally funded R. & D.

As you know, the development and commercialization of synthetic rubber became a critical national need if the United States was to win World War II. Rapid success was achieved only because of a Government decision to require a joint Government-industry effort based on the pooling of patents and technology. It also made possible the fantastic postwar expansion of the private synthetic

rubber industry of a whole spectrum of synthetic rubbers. Without the assurance that the private manufacturers had of patent licenses on the basic technology, this expansion would not have taken place as quickly or as fully. The lessons of the synthetic rubber industry, I believe, should be applied to the nonnuclear energy industries because of the war-like proportions of the current energy crisis.

Last year, the oil industry spent a lower percetnage of its sales and profits on R. & D. than any other major industry in the United States. Earlier this year, a Business Week survey of industrial spending on R. & D. showed that for the country's 10 largest high technology industries, the average R. & D. spending in 1978 was 3.5 percent of sales and 62.1 percent of profits. By contrast, and quite a contrast it is, the oil industry spent only 0.4 percent of sales on R. & D. and only 8.6 percent of profits on R. & D. That is about 800 percent lower than the composite average. The energy field is full of research opportunities, yet according to these figures, and according to the oil industry's performance in the past, they are far from being fully explored or exploited by the oil industry.

The assumption underlying our patent laws is that the inventor of new technology will have a financial incentive to have that technology commercialized and widely used. But when the technology involves alternative fossile fuels or renewable energy resources, an oil company may very well have the financial incentive not to commercialize the technology since commercialization may hurt the company's overall profits. To prevent this from happening, we should have statutory authority to insure that such technology would be made available rapidly, widely and cheaply. At the same time, the company making the breakthrough should be generously rewarded—but not through statutory protection of its monopoly right not to develop or commercialize that technology. The solution I have proposed requires mandatory licensing of nonnuclear energy technology by amending the Clayton Act to give a private cause of action to any person who is unfairly denied a license to use energy technology upon the payment of a reasonable royalty.

Finally, one of the reasons that innovation, and thus productivity, has declined in the United States is the amount of Federal research and development funds which go for military purposes. According to the National Science Foundation, of the $26.3 billion which the Federal Government spent in 1978 for R. & D., $12.9 billion, or 49 percent, went for military purposes. By contrast, only $97 million, or 0.4 percent of Federal R. & D. funding, went for economic growth and productivity. In the April 1 Washington Post, Dr. Seymour Melman, a well-known economist and professor of industrial engineering at Columbia University, made a compelling case that this crushing burden of Federal spending on military research and armaments production is a major cause of inflation. He states:

> The mechanism of productivity growth and cost minimizing ground to a halt by the mid-1960's as a result of capital and technology resources being pre-empted on a massive and continuing scale for the military economy. Whatever worth the military economy has, its products do not serve us in consumption or for further production.

The military-industrial complex, Dr. Melman argued, has usurped the three ingredients which fueled our 1865–1965 achievements in high productivity and economic growth: Capital, technology resources and the traditional practice of cost minimizing, instead of the cost-passthrough which military contractors perfected.

This country was built on risk and ingenuity. Without the Americans who, with great hopes and visions, were willing to invest in new ideas, we would not have the competitive advantage we do in the world today. But that advantage, and our entire economic survival, still depend on continuing risk and experimentation. Now is the time to meet this challenge and direct our efforts toward stimulating innovation.

Mr. AuCOIN. I appreciate the gentleman's comments, and I would observe that in an economy in which we have always tried to achieve more for the working person, we have always tried to have an ever-growing standard of living, the only way it seems to me that we are going to be able to do that, to continue to do that as we have done in the past, is to insure that the United States retains that technological advantage in order to increase productivity.

If productivity increases, then wage demands, bona fide and justified as they are, will not be inflationary if productivity follows suit.

Mr. SEIBERLING. Absolutely.

Mr. AuCOIN. That is what industrialization is all about. It is about tax possibilities, too, the degree to which it can help provide that technological advantage and that productivity we are talking about. That is what research and development proposals are about. It is what all these things are about. That is why there needs to be some focus on this subject. That is what the task force is about. I think the colloquy we are having tonight sheds some light on it. I appreciate the gentleman's contribution this evening.

Mr. SEIBERLING. Thank you.

Mr. AMBRO. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from New York, cochairman of the task force at this time.

Mr. AMBRO. I am happy to join with the distinguished gentleman from Oregon (Mr. AuCoin) and my cochairman on the Committee on Science and Technology, the gentleman from California (Mr. Brown), and I would like to congratulate my friend from Oregon for providing the leadership to this task force and compliment them for elevating the consciousness of our colleagues to the significance of this most vital subject.

Representing as I do a Long Island, N.Y., congressional district known for its aerospace, electronics, and high-technology industries, I work constantly with businessmen, engineers, physicists and scientists who tell of America's need to increase industrial innovation.

Now, the term industrial innovation covers such a broad range of activity as to almost defy simple definition.

The task force on industrial innovation, as was said, is an informal group of House Members who will use a series of seminars with prominent businessmen, academicians and Government officials to formulate recommendations for boosting America's sagging productivity, a task force which does not have legislative powers, who will examine the reasons for the decline of productivity in the United States, a major contributing factor to our inflation, unemployment and negative international balance of payments.

The panel as well should devise a comprehensive program for reversing the decade-long slide in industrial output per average hour. Many Americans believe for a variety of reasons that there is no longer pioneering spirit nor other technological breakthroughs that accrue here and that indeed our traditional lead in that field has been overtaken by German and Japanese industries.

Innovation process, product innovation, and indeed radical innovation should be related to a coherent Federal policy, it seems to me, to stimulate industry in this country. The debate on sweeping changes in the tax code, on Federal long-term low-interest loans and streamlining of the patent process must intensify in order to speed up the pace of innovation in our private sector to stimulate production, to increase employment and to restore this Nation to its place of primacy among the industrialized nations of the world.

Toward these goals, my friend, the gentleman from Oregon has done and will continue to do the Nation a great service, and I once more commend him for taking this short time to even further elevate the understanding of our colleagues to this vital subject.

I would like to thank the gentleman for asking me to participate.

Mr. AuCOIN. I want to thank the gentleman from New York because, as I say, he has made a very fine contribution to the work of the task force, and it is a pleasure to have him as a cochairman.

I am confident, with his help and the help of the other Members we can have, at least even in an informal sense, the interdisciplinary dialog that is so essential, in the first instance, to effectively legislative action in this area.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, the subject of innovation and productivity has become very popular recently. It has been discussed in the press, there have been conferences dealing with it and many committees of Congress have held hearings into this very complex subject. My own Committee on Science and Technology has been particularly active.

While there were studies by previous administrations, nothing came of them. This administration just completed an

18-month "Domestic Policy Review on Industrial Innovation Initiatives." I am submitting for the RECORD a copy of the President's message to Congress on the initiatives.

Although the domestic policy review was comprehensive in its inquiries, the President's initiatives in my opinion, can only be considered a first step in what is hoped will be a continuing series of initiatives to further address the innovation issue. The President's initiatives all seem to be steps in the right direction, although they could have been more forceful steps. There are also critical areas which have not yet been addressed by the President.

These include tax policy—particularly for capital formation—and innovation related to foreign trade, among others.

The fact remains, however, that the administration is trying to implement these recommendations, and it is up to us in Congress to make the most of this opportunity. We must take comprehensive action on national innovation policy, action in which the total package of legislation is greater than the sum of its parts.

This is a most important point. Piecemeal legislation, done without broader focus, will not achieve this goal. A strategic plan is needed. I would like to quote part of the testimony of Dr. Myron Tribus, a former Assistant Secretary of Commerce for Science and Technology, at the August 1 hearing before our Science, Research and Technology Subcommittee. He relates how pieces of the innovation process are interdependent—

It does no good to encourage invention in universities while we kill the Patent System.

It does no good to develop patentable ideas if there are no sources of venture capital.

It does no good to create sources of venture capital if the rewards for risk are removed.

It does no good to create centers of expertise if managements of companies are not under pressure to use them.

It does no good to do research on manufacturing if there are no connections to manufacturers who intend to use the results.

It does no good to encourage researchers to pursue their own ideas about productivity if they are remote from the real problems of the manufacturing world.

It does no good to promote collaboration in research on an industry-wide basis if participating companies are worried about anti-trust problems.

It does no real good if we develop sources of help which are as accessible to Japanese companies as American.

Strategic studies should reveal the barriers to progress and point to a more balanced use of our assets. This problem (innovation) didn't arise for a single reason; it will not yield to piecemeal approaches.

There may not be universal agreement on these provocative comments, but they do bear thought.

On the Senate side, Mr. CANNON, chairman of the Committee on Commerce, Science and Transportation, has already asked his fellow chairmen to join him in a concerted effort to coordinate Senate action on innovation. I believe we must take similar steps in the House if we are to produce an effective package of legislation. We may need to act in areas such as taxes, small business, labor, procurement, foreign trade, education, anti-trust—and other economic regulation—patents, health and safety regulation, and research and development. The legislation should be dealt with as parts of an overall innovation package, rather than individual pieces. This will require transcending individual committee jurisdictions at times, but without this type of cooperative effort, any legislative solutions to this problem will be unlikely to achieve the long range effects that the Nation requires.

The problems that our Nation faces today in the area of inflation, energy, and the environment demand a resurgence in innovation. We must meet that challenge head on.

THE WHITE HOUSE,
*October 31, 1979.*

*To the Congress of the United States:*

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information
Increasing Technical Knowledge
Strengthening the Patent System
Clarifying Anti-trust Policy
Fostering the Development of Small Innovative Firms
Opening Federal Procurement to Innovations
Improving Our Regulatory System
Facilitating Labor/Management Adjustment to Technical Change
Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to reexamine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fileds of use that they agree to commercialize and will permit the government to license firms in other fields. If the license fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice at my direction, will issue a guide clearly explaining its position on colaboration among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovation. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressures of competition to trigger innovative new ways to cut costs and improve service. In environmental, health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for fiscal year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

Mr. AUCOIN. I appreciate the gentleman's statement and his contribution and also the support that he brings to bear from the committee that he so ably chairs.

At this point I would like to yield to my colleague from Louisiana (Mr. MOORE), the other cochairman of the Task Force on Industrial Innovation, with the comment that he has served very ably. I appreciate the help he has rendered.

Mr. MOORE. Mr. Speaker, I thank the chairman for having asked me to serve as a member of this task force and as one of its cochairmen.

There are many task forces in the Congress right now or certain groups trying to promote one sort of activity or another, and I was asked to join many of them. I have turned down most, but this was one I could not turn down for two reasons. One, my respect for the gentleman who chairs this task force, and secondly, because of his tremendous importance, serving on the Committee on Ways and Means, and the Subcommittee on Trade, in particular.

When we look at the status of American foreign trade, and we see that our penetration of foreign markets is not what it ought to be, and foreign manufacturers are penetrating our markets to an extent maybe they should not be, then we begin to ask questions why is this?

The subject matter of this task force, that of innovation, when we finish our work and really continue to get down into the subject matter as we have begun to do, I think we are going to find some answers to those questions.

□ 1730

Innovation seems to me, from what I have learned, innovation seems to be the very root cause of either a deterioration in our trade and in our industrial society, and because of inflation, and because of unemployment, or if we have a prosperous, developing, innovative policy in one's country, a continuing promotion and progressive response in terms of technology, we find just the opposite. We find new industry, growing industry, expanding industry, and expanding foreign trade, and expanding foreign economy and inflation held to a standstill, and expanding employment.

So I think the subject matter of this particular task force is vital. I think the further we get into this, Mr. Speaker, we are going to see that we are going to be able to tie innovation to capital formation.

Mr. Speaker, industrial innovation cannot be accomplished without industrial capital and it in turn will not exist without a national tax policy with capital formation as its focal point not only for innovation, but also for job creation, economic expansion, and inflation reduction. In recent years and with increasing frequency we have found Government regulatory policy forcing the limited amount of industrial capital available these days away from innovation and toward control of pollution, noise, industrial discomfort, and many other forms of Federal regulation. Some experiences have proven worthy while cost and effectiveness cast doubt on many others. So

we are not only doing little to create new capital but we are committing existing capital to purposes other than innovation. This produces even less capital for innovation than regularly would be available. Now is the time to give innovation an economic shot in the arm and use our tax policy to do it.

Statistical evidence shows the degree of decline in capital for innovation purposes. Recently, the Business Roundtable found that 48 companies it surveyed said they had to spend half of their research and development budgets on complying with Government regulation. According to Dr. Murray Weidenbaum that cost of compliance nationwide is well in excess of $100 billion annually. As a result we have fewer scientists and engineers in U.S. industry today than 10 years ago and our research and development expenditures have fallen from a 10-percent annual increase a decade ago to 2 percent today. Without capital there is no innovation.

Other economic indicators point to an equally bleak condition for innovation unless corrective steps are taken in our tax policy. Presently, the United States is suffering from a very low rate of economic growth, with real GNP expanding at an annual rate of 2.4 percent, a near 6-percent unemployment rate, inflation at near 14 percent, a decline in productivity—the third quarter rate was minus 2.4 percent—and a 28-year low in personal savings. It now stands at 4.1 percent of family disposable income. Without savings little encouragement occurs for capital formation.

Let us look at the dimensions of the capital shortage.

We have created a tax system which taxes capital rather than income from capital, and as a result companies are frequently unable to recoup their initial capital investment. Dr. Martin Feldstein, president of the National Bureau of Economic Research and a professor at Harvard University, estimated that last year corporation paid taxes on $40 billion in phantom profits, resulting from the underdepreciation of plant and equipment. The real effective tax rate then became 66 percent versus the maximum statutory rate of 46 percent.

As an example of the economic penalty resulting from underdepreciated plant and equipment, consider a printer who bought a $10,000 printing press 10 years ago expecting that press to last him 10 years. Over the last 10 years he has depreciated the press based upon its original cost of $10,000 and has thus set aside $10,000 to cover the cost of a new press this year. Unfortunately, the printer goes into the market only to find equivalent presses for $20,000 to $30,000 because of inflation. He has calculated depreciation of assets according to original cost, not upon replacement costs.

The multiple taxes upon corporate capital are, in many cases, even more extreme. Again, an illustration may prove valuable. Assume for a moment that you are operating a successful business in New York City, earning $1 million per year pretax profit. First of all, you will need to pay a 10-percent New York State corporate income tax. Secondly, you will have to pay a 46-percent Federal corporate income tax. If the remainder is paid out to stockholders residing in New York City, they must pay a 5.3-percent New York City income tax, and 11-percent New York State income tax, and up to 70 percent in individual Federal income taxes. On the initial $1 million income, taxes of 10 percent, 46 percent, 5.3 percent, 11 percent, and 70 percent were paid. The result is an effective tax rate of almost 90 percent. Your total tax rate, coupled with underdepreciation of assets, could create a tax rate approaching, or at times exceeding, 100 percent.

The tax on capital gains is another illustration. Dr. Martin Feldstein reports in a study using 1973 data, which is the most recent data available, that there were $4.5 billion capital gains in sales of corporate stocks; however, after adjustment for inflation, investors were taxed upon $1 billion worth of capital losses.

Classical economic theory states that if you tax something, you get less of it; if you subsidize something, you get more of it. If we tax capital at rates approaching or sometimes exceeding 100 percent, investors will stop investing, which is precisely what has happened in our economy. Fortunately, more and more of our political leaders are becoming aware of the economic crisis which is besetting our country. Last year Congress and the President passed the Revenue Act of 1978, which reduced the maximum capital gains tax from a maximum of 49.125 percent to a maximum of 28 percent. Inflation being what it is, many investors still pay effective capital gains taxes of a rate of 100 percent or more; however, the Revenue Act of 1978 was a huge step in the right direction.

I believe there is some reason for optimism. Next year the Congress may take several steps to reduce the size of the tax wedge upon capital. Specifically, there are several bills under consideration which I believe have a good chance of passage and which would aid the investment crisis in this country.

The Capital Cost Recovery Act of 1979 or 10–5–3 as it is popularly known has been introduced to replace the existing useful life concept of plant and equipment depreciation with a faster depreciation write-off system. The 10–5–3 label simply refers to the classes of corporate assets which could be depreciated more quickly under the new system. Structures could be depreciated over a 10-year recovery period. Equipment could be depreciated over a 5-year period with a full 10-percent investment credit. And short-lived assets, such as automobiles and light duty trucks, could be recovered over a 3-year period with a 6-percent investment tax credit with a limit of $100,000 per year for this class. The 10–5–3 system has several major advantages.

First of all, business will be able to recoup most capital investment even under relatively high rates of inflation. Second, the Internal Revenue Code will be simplified because the so-called useful life concept will be abandoned and replaced with a definitive schedule for all capital assets. Third, 10–5–3 will virtually eliminate the present tax bias against investment in very long-lived equipment; and, finally, it will have a relatively modest impact on Federal revenue initially under the proposed phasein of the system. In short, 10–5–3 addresses many problems of continued high inflation, the accelerating cost of replacing obsolete or unproductive assets, and the lack of liquid funds available for investment and reinvestment.

Another approach that must be taken is encouragement of individual savings rates. One reason other industrialized nations commit more time and investment to innovation than the United States does is found in rates of savings used to build investment capital. While Americans place only 4.1 percent of their disposable income in savings, other industrialized nations far outpace our rate. Savings as a percent of disposable income is 13 percent in Britain, 15 percent in West Germany, and 25 percent in inflation-riddled Japan.

Why do their savings rates greatly exceed our own? Take a look at the degree of incentive to save given by the government of each industrial power. In Britain, national savings certificates are tax free up to the equivalent of $2,237.50. British savings bonds, save as you earn, national savings bank accounts are totally tax free. In West Germany, interest on deposits at savings and loan associations is tax deductible based on family size, veterans status, and other factors. In Japan, any person receiving either interest or dividend income can choose to have this income taxed at a flat 35-percent rate while it otherwise could be taxed as high as 75 percent. Interest income from deposits up to $15,000 is totally tax exempt. Little wonder their savings rates are far above our own.

To encourage savings I have proposed a modest yet effective savings incentive of allowing each individual with a savings account in any financial institution to receive $100 in interest annually tax free. Couples would be given a $200 interest income exclusion. According to Evans Economics, Inc., savings would grow by up to $1.2 billion annually and by $2 to $3 billion annually under the findings of Dr. Michael Boskin of Stanford University.

Would Americans save by this degree of incentive?

Yes.

Between September 9 and 21, the firm of William R. Hamilton polled 1,394 adults over 21 years of age throughout the United States by telephone. The poll was prepared for the Savings and Loan Foundation. One-half of those polled would consider increasing their use of savings accounts if they received a tax incentive of a $100/$200 exclusion on interest subject to tax. It had broad appeal with 59 percent of those in the $10,000 to $20,000 annual income range saying their saving frequency and degree would increase as did 54 percent of those living in the Northeast, 54 percent of those between the ages of 22 and 34, 54 percent of all blue-collar head-of-household workers, and 54 percent of single inviduals. Fully 40 percent of those polled who do not now

have savings accounts said they would be inclined to use savings in order to get the $100/$200 exclusion.

Without encouragement for savings investment, there is little encouragement of capital formation. Without its encouragement, there is little chance for the U.S. industry to increase its commitment to advanced technology and innovation.

Certainly other means to encourage innovation exist as well and should be explored. These include rewarding innovation directly thorough tax credits. These means should be fully explored in tandem with savings encouragement and general tax revision to create a more normal business atmosphere.

Mr. AuCOIN. I appreciate the gentleman's comment.

I would like to ask the gentleman in the well, serving as he does on the Ways and Means Committee, which has jurisdiction over much of the field of trade policy in the House of Representatives, what is the gentleman's opinion about the implications in the multilateral trade negotiations that have just been completed with regard to American products? It would seem to this observer, serving as I do on the Committee on Banking, Finance and Urban Affairs, but also on the International Trade, Investment and Monetary Policy Subcommittee of that committee, that this new international agreement, highly desirable as it is, poses a very significant challenge to the United States. That is that we are going to have to compete far more effectively than perhaps we have done before in order to not only penetrate market opportunities that are now open for us in other countries, but also to compete effectively against foreign competitors through our own doors that they will be walking through; in other words, we have opened up our doors to a greater amount of trade on the part of the foreign trading partners. If we are not competitive, if we do not have the technological edge, if we do not have the productivity edge that we need, it would seem to me that we might find ourselves at a distinct disadvantage. So it would seem to me in the weight of this international agreement there is even more reason today, to advance in this field of industrial innovation and provide the venture capital necessary, the R. & D. that is necessary in order to make American industry fully competitive again at home and abroad.

Would the gentleman agree with that assessment?

Mr. MOORE. I certainly agree with the chairman of the task force. I would simply say we sat through perhaps as much as 6 weeks of closed-door, all-day deliberations in the subcommittee working on this multilateral trade negotiation document that this House and the other body passed by an overwhelming vote. The question the gentleman just posed was not posed by very many Members of this House. This sort of thing was accepted as being all good. I supported it and voted for it. It was accepted as really having nothing bad in it. It was like a motherhood resolution or a grandfather's day resolution. It just slid right on through the House. Really, I think the significance of that document and those negotiations really escaped most of the Members of this House and, I think, the American public.

There are two things that need to be drawn from that or realize, and this poses a real good forum to discuss that. The first thing is that while we do open the doors or have the doors opened of certain foreign countries to allow us to sell goods in those countries that we have been blocked from doing in the past, that supposes we can compete there, that we have the goods to sell, that we still have the most modern, the most technologically advanced goods to sell and that that door is also open for other competitors that signed that document, and they may just have the best goods to sell and we may find while we have opened a market for ourselves we cannot compete in that market.

Second, in opening the market to them, we have likewise opened our markets to all of the rest of the world's trading partners, which means that things that have been protected before, or by American agreements we have had on Government products and Government purchases, those things cannot be done now. We have opened up our own markets to these foreign competitors, so we have got to be technologically advanced, we have to have innovation to be able to hold our own domestic market much less against the possible foreign markets that are now open to us.

There is one other point that I think people ought to remember. In the past when American industry got in trouble all they had to do was come to Congress and ask for help. All they had to do was run down here to us and say let us raise the quota on this, or let us raise the tariff on that, or let us do something to stop those goods from coming in. This agreement that we are now a party to and have signed, and this Congress has approved, and the President has signed, largely prevents us from doing that in the future. When people come down to us in trouble here in the future we are going to have to say I am sorry, but these GATT agreements and multilateral trade negotiations which we are a party to prevent us from outright protectionism to help our industries and businesses that are in trouble. This forces us to begin to look at the root causes of that trouble rather than trying to see them stay in trouble and protect them from foreign competition. We cannot bring down that curtain any more. They have to be able to compete or they have to go out of business. That is why this task force on innovation and our attention to innovation is so necessary.

We are talking about solving the problems that Congress is going to be presented with 4 or 5 years down the road. We are talking about doing it now, and if we do not do it now, 4 or 5 years from now when they come to us, then there is nothing that we are going to be able legally to do overnight to save them.

Mr. AuCOIN. I thank the gentleman and think he makes the point just extremely well. Of course, I am a strong advocate of the multilateral trade negotiation agreement entered into that we signed and passed in this Congress. The gentleman is quite right, as a result of that we are not going to be able to drop the curtain of protectionism any longer, or certainly to the degree we have done in the past.

I say that is good. But let us understand, and I hope our colleagues in Congress understand that this means an attendant responsibility. That responsibility is to pick up the challenge we have given to ourselves to innovate, to give ourselves the technological advantage so that we can be competitive, or someone is going to steal our lunch, as the gentleman well pointed out.

Mr. MOORE. If the gentleman will yield further, I think he is exactly right. The real value of this task force is to begin to look at our American industries for innovation, for methods of innovating and developing new products. Then as we begin to develop the reasons for innovating, and the means of innovating, then as we begin to develop answers to these questions, hopefully then we can use the implications of this task force to get our colleagues to begin to propose solutions to these problems, then have these solutions on line, bringing about a solution to the problem before it is too late. Many of the things we are talking about doing, capital formation, whatever it may be, cannot be done overnight. We are talking about a year or two to implement, and maybe 2 to 3 years before the economic effect is properly felt.

□ 1740

So, now is the time to start. In 4 or 5 years from now it will be too late.

Mr. AuCOIN. Absolutely. I completely agree with what the gentleman from Louisiana has said. Now is the time to start. I would say that the whole question—and I know the gentleman agrees—is that this is not a negative situation we are discussing. We are discussing an exciting possibility for a course of turning away from the narrow-minded, self-defeating notion of protectionism to advancement and enhancing of industry, to accomplishing a bold and vigorous challenge that American industry can get on the march again, if we can only devise the proper policies to allow that industry to proceed. That is what we are talking about here.

Mr. Speaker, I want to take a moment now to talk about the very important relationship between industrial innovation and foreign trade. This relationship moves in two directions—innovation helps American exports and, at the same time, expanding participation in foreign trade increases the innovation and productivity of the American economy.

The time when the trade sector could be considered peripheral to the health of the economy is now past. Increasingly, we must find ways to pay for our imports, not only because we are buying huge supplies of foreign oil and other scarce materials, but also because our citizens are better off when they can buy lower cost products from abroad.

We have not been doing very well at paying for imports. The poor performance of exports beginning in 1975 led to

large balance of payments deficits in 1977 and 1978 and to a decline in the dollar. The largest and most immediate effect of a depreciating dollar is that prices go up as imports become more expensive. So we can blame part of the severe 1979 inflation on insufficient exports.

Innovation is a critically important way for American industry to become more competitive internationally. The United States has a particularly large advantage in the products of innovative industries—industries with heavy investment in research and development. Chemicals, electrical machinery, nonelectrical machinery, aircraft, and scientific instruments are industries which currently are R. & D. intensive, spending more than 3.5 percent of their net sales on R. & D. The balance of trade—the difference between the value of exports and the value of imports—for R. & D.—intensive manufactured products has been positive for at least two decades and has increased fivefold since 1960, while the balance of trade for non-R. & D. intensive manufactured goods is negative and declining dramatically, reaching a deficit of nearly $25 billion in 1977.

But it is not a static situation, in which we can sit back and enjoy the competitive edge of our high technology products. As those technologies are adopted by foreign producers, who often have lower labor costs or other advantages we can not match, the United States loses its advantage for those products. So the export success of our industries depends on their constant renewal, depends on the constant development and application of further technological advances.

There is some evidence, for example, from the movement of the balance of trade for high technology products in the past 2 years that they are beginning to lose ground. While the positive trade balance for chemicals continued to grow after 1975 and the balance for aircraft and parts remained constant, the balance for other high technology product groups began to decline. This decline can be attributed in part to the recession in Western Europe and Japan, which weakened these markets for U.S. goods, but a contributing factor is certainly the slowdown of American research and development and the associated slower growth of productivity in U.S. industry.

The U.S. proportion of all industrial R. & D. expenditures by industrialized Western countries decreased from 62 percent in 1967 to 49 percent in 1975, and the intensity of industrial R. & D. expenditures—expenditures as a percentage of the domestic product of industry—has declined in the United States since the mid-1960's, while it has risen in West Germany and Japan. Movements in productivity have been more striking, with the productivity of manfacturing industries growing at a slower rate in the United States than in France, West Germany, Canada, the United Kingdom, and Japan.

We need to pay serious attention to increased investment in research and development as a key to maintaining our trade position. This does not simply mean more Government funding of R. & D. Compared with other advanced industrialized countries, industrial R. & D. in the United States is already heavily dependent on direct Government funding. There is evidence that indirect Government support for R. & D. through tax incentives, patent policies, regulatory policies, and Government procurement actions, has a greater impact on the industrial innovation process than direct Government R. & D. expenditures. Clearly, in all these areas increased incentives for investment in R. & D. must be balanced against other goals. I think we need increased discussion of what can and should be done. The measures and proposals announced in the recent report of the domestic policy review on industrial innovation are a start, but they do not go far enough.

One area that the President's report failed to address is tax policy. America's high technology industries need an infusion of venture capital. And mature industries—such as steel, automobiles, and textiles need to renew their capital resources. The bottom line is that greater capital formation is an absolute must if we are to maintain our technological edge.

One way to increase capital formation is to revise depreciation procedures and increase the incentives for industries to invest in the'r productive assets. The Capital Cost Recovery Act introduced by Congressmen JONES and CONABLE would simplify procedures by setting uniform time periods for asset depreciation.

I also have cosponsored legislation to unfetter patents resulting from Government-financed applied research. Now these patents often languish because companies are unable to tie down the exclusivity they need to justify major capital expenditures to develop and market products.

Finally, we need to maintain a strong commitment to basic research. In the last few years, there has been a shift in emphasis away from basic research toward applied research. This shift has taken place in part because inflation—and market success—have turned previously aggressive companies into cautious investors. With a limited amount of investment dollars, firms can get more for their money by concentrating on applied research.

To help correct this situation, I agreed to be prime cosponsor of a bill to give both a tax credit and a tax deduction to companies that contract with universities to finance basic research. This bill would reestablish a Government-industry partnership in doing basic research, and hopefully spur increased applied research by individual companies. In addition to targeting research, it will have the spinoff effect of training people to step right into industrial laboratories and apply this basic knowledge.

I want to emphasize that our support for industrial innovation need not be confined to industries which currently are R. & D. intensive. Many industries which do not currently invest heavily in R. & D. or apply the results of R. & D. could increase their productivity and their international competitiveness by doing so. Economists attribute the export success of American agriculture in part to its technology intensiveness, its reliance on continual improvements in seeds, fertilizers, and agricultural machinery—as well as to more obvious advantages such as good land and favorable climate.

An equally important but less clearly recognized connection between innovation and trade is this: selling products abroad accelerates the process of innovation itself. Economic theory tells us that the more our products are forced to compete the more we will concentrate on more efficient products. Innovative firms, firms with increasing productivity, will prosper and continue to innovate under the stimulus of foreign trade.

But we have more than theory to go on. A recent survey of industrial leaders shows that 20 producers of various manufactured goods and 10 chemicals producers on the average counted on exports for 30 percent of the return to their investments in R. & D. They would have invested considerably less, they asserted, if opportunities for foreign sales had not been available.

To summarize, exports are important, not just because they enable us to pay for imports, not just because they enable us to produce more than we could produce for domestic markets alone, but also because they stimulate an increase in research and development on new products and processes. This adds to the productivity of the U.S. economy in general, and not just to that of the export sector.

As a legislator, I am working to expand opportunities for U.S. exports, both through assistance to firms in marketing their products and through removing barriers to international trade.

One way to stimulate expanded trade is by opening up Eastern bloc markets. The Stevenson-AuCoin bill, which I hope this Congress will pass early in the next session, will achieve this objective by making section 402 of the Trade Act—the Jackson-Vanik provision—both more effective in its effect on emigration policies and less of a barrier to trade. The trade agreement recently concluded with the People's Republic of China is a particularly important step in creating export opportunities for American firms. I testified in favor of this agreement and I am delighted with the action of the Ways and Means Committee, which just yesterday reported out the resolution implementing the agreement.

Another way to expand export opportunities is to create incentives for U.S. export firms to pool their resources in seeking markets abroad. Therefore, I am drafting legislation to clear up legal ambiguities relating to trade associations.

Much more needs to be done. The United States needs an aggressive, consistent export policy, working, for example, to promote exports of smaller businesses and to provide greater financing assistance to American exporters through the Export-Import Bank.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I thank my colleague from Oregon. I was very interested, before I get into just a few notes I have here, in the colloquy which took place between the gentleman from Oregon and the gentleman from Louisiana. We are in a new economic era, and we have really not faced up to that. After World War II we were the economic giant, and the rest of the world were economic pygmies. That is a day of the past.

One of the ways where we are not facing up to it is what the two gentlemen were talking about, selling, and selling overseas. You can buy in any language; you cannot sell in any language. We happen to be living in the only Nation on the face of the Earth where you can graduate from college without having had a year of a foreign language at any point. There was a marvelous discussion on the floor of the Senate recently on the balance of trade with Japan, and Senator HAYAKAWA, from the gentleman's neighboring State, pointed out that in New York City alone there were approximately 10,000 Japanese salesmen, all of whom speak English. In all of Japan there are approximately 1,000 American salesmen, very few of whom speak Japanese. He asked the question "Who do you think sells more?"

We simply have to recognize in our educational establishment and in the business world that the old era is past, and it is going to be tough. We ought to be selling all kinds of things that we are not selling; 80 percent of American manufacturers who ought to be exporting today are not exporting, in part because we are not paying attention to the cultures of other countries.

Let me just add a few words on this very important discussion here today. I want to cite two studies. One is perhaps the most thorough discussion of the whole area of productivity done by Prof. Edward Dennison, of the Brookings Institute. Among other things, they point out this decline in productivity, and that in the first three-quarters of 1979 we have actually had a negative productivity factor. But, he points out that in the decline four major factors—the 1974–75 recession, policies controlling safety requirements, the changing makeup of the labor force, and this is one that is going to turn around because of changes in our culture where we have brought a great many people into the labor force who have not had skills and technical training and background. That is gradually going to change, and the point the gentleman has been talking about, the smaller accumulation of capital in the United States.

I would also like to cite the recommendations of our Task Force on Inflation, an arm of the Budget Committee. We divided our 37 recommendations into four categories: Fiscal and monetary policies; wage and price action; procedural recommendations; and the final area, productivity. We mention several points, and I shall just touch on them lightly.

One is an approach on an industry-by-industry basis. For example, in the coal industry we can find a number of industries. We can find some coal mines where they have a very high productivity figure, and some do not. We ought to be taking a look industry-by-industry.

Secondly, we have to move aggressively on this whole regulation process. I do not care whether one is Republican, Democrat, conservative, or liberal, we have to look at regulations. They are too cumbersome, too uncertain, they have to wait too long to get them. There are just a host of problems we have with them.

We have to be examining unemployment compensation policy. It is a ticklish area. I think we have to be looking for some type of job guarantees, alternatives to paying people for nonproductivity, at least beyond a certain point. We ought to be studying both Japan and Germany in their labor-management relations.

We ought to encourage research training. One of the things Professor Dennison's study points out very clearly is that one of the things that has been best for our country is vocational training that we have in the high schools, community colleges, and elsewhere.

Finally, the capital formation problem the gentleman has touched upon. We have suggested several things, including accelerated depreciation and some special stimulus to the equity market. It is very clear that the equity market is much weaker than it ought to be. I would hasten to add that one of our recommendations is that no tax cuts take place this next year, that right now tax cuts would be inflationary. We agree with the Federal Reserve Board in that respect.

Mr. AuCOIN. Does the gentleman believe general tax cuts—is he referring to general tax cuts or specialized tax cuts as well?

Mr. SIMON. At this point we are talking about any tax cuts, but we do believe that after another session we ought to be in a position, if we exercise prudence here in Congress, where we can have some tax cuts, that obviously they will have to be balanced with looking toward equity, but also taking a look at the very real capital formation problem that we have in this Nation.

But, again I would simply want to commend my colleague from Oregon, who has distinguished himself in so many ways in this House, for once again providing leadership in a very vital area. I am proud to be associated with him in this discussion.

Mr. AuCOIN. I want to thank the gentleman from Illinois for the remarks he has made. I hold to the view that perhaps the time is ripe for some from of tax cut this year, but I share his view that a generalized, across-the-board, massive tax cut would be most disruptive economically because it stimulates the spending side rather than stimulating the supply side. It would seem to me that the Congress would be well advised to look at the tax cuts, to the degree it looks at them this year, to how they might pinpoint those cuts to stimulate the supply side of the economy. It seems to me that is one of the processes.

Mr. SIMON. If we want to go ahead, and my strong feeling is that despite the wisdom of my colleague from Oregon we should approach this with great caution because, as the gentleman indicates, we cannot repeal the law of supply and demand, but if we move ahead we ought to target those cuts very, very cautiously.

Mr. AuCOIN. Again, I want to compliment my colleague for his comments. I appreciate his participation in the colloquy tonight. I have always admired his enthusiasm for the work that he does and the ideas that he brings to the committees he serves on and to this Chamber. It has been a pleasure serving, and remains a pleasure, serving with him. I might mention, in addition to pointing out something many people might overlook, the problem of language training in the United States is involved in this entire situation, but in addition to that in the whole field of education and in research we have some very serious shortcomings.

I think the gentleman might be interested in one statistic that I think says a great deal about our problem today; that is, that the U.S. proportion of industrial R. & D. expenditures by industrialized western countries decreased from 62 percent in 1967 to 49 percent in 1975, and the intensity of industrial research and development expenditures has declined in the United States since the mid-1960's, while it has risen in West Germany and Japan.

☐ 1750

I think that points not only to tax policy, but it points in the direction of educational policy. And it says something about the emphasis of basic research on our college campuses, in our research institutions, as well as in the industries and firms and corporations of this country.

Mr. SIMON. If my colleague would yield for just 1 minute—I see two of my colleagues who wish to enter into this colloquy here, and I do not want to hold them up—I would simply point out one other factor, and that is that relative to these other countries we have a very high percentage of our research that goes on in the defense field which does not end up helping our balance of payments and other things. So our research component factor in this productivity problem is a more major one than the simple study that the statistics suggest. Again I thank my colleague.

Mr. AuCOIN. I appreciate the gentleman's participation.

I will be pleased now to yield to my friend, the gentleman from California (Mr. CLAUSEN).

Mr. RITTER. Just before the gentleman from Oregon yields to the gentleman from California, could I ask the gentleman to yield for a short moment on that comment on the research component factor.

Mr. AuCOIN. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding. I would like to point out for Members that the area where we are leading the world today in market sales in jet and turbine-driven aircraft and electronics had a major boost from defense, so it is not all a one-way street. We

can do all the basic research and development at our universities in the world yet not have the biggest market share, because the industrialized countries of Western Europe are moving ahead, and we remain stagnant with very little innovation in our economy.

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman from Oregon for yielding.

I appreciate the opportunity to engage in a bit of dialog with the gentleman from Oregon (Mr. AuCoin) because one of the most important steps that we can take, in my view, in order to get this country back on the road to productivity is to encourage innovation. It was good old American know-how, ingenuity, and hard work that made our country as great as it is. I am convinced that with a little encouragement we can keep the foreign technology and competition at bay and regain our lead in innovative technology.

Every day we are barraged, literally barraged, with reports of the ills of our economy. Inflation is at an all-time high. Rising costs are forcing businesses to close their doors. The underlying issue that has been confronting our Nation for many years is whether or not we will have economic growth and opportunity or contraction and unemployment. As I see it, if we are going to address this issue properly and adequately, we must take some immediate steps to provide incentives for investment and innovation.

As I listened to the exchange between my friend, the gentleman from Oregon (Mr. AuCoin) and the gentleman from Illinois (Mr. Simon) I detected a little bit of a tax cut, when it should be, and in what form. There has been a lot of reference made in the Congress to a tax cut and/or reform, but I choose to use the word "revision." I think what we need to do is to come forward with a selective revision of the Tax Code that would place the maximum emphasis on incentives for people to save and to invest.

Our businesses are faced with a critical shortage of investment capital. I cosponsored the Capital Cost Recovery Act because I believe this legislation will put an end to this shortage and encourage increased productivity and market expansion—a sure way to break the inflationary spiral.

We should liberalize depreciation rates, freeze social security taxes, and provide more incentives for American energy production. The most direct thing we can do to immediately increase the amount of employment, saving and investment is to increase the reward or incentive for the next dollar earned by employment, saving, or investment. This means cutting tax rates and I am in full support of a selective revision in individual and business tax rates. These tax cuts would lead to more job creation and investment in the private sector—in small business and in large corporations.

The United States is faced with a kind of situation where we are living in competition with Japan, incorporated, or Germany, incorporated, and much of it is because of the lack of responsiveness on the part of Congress to address adequately the tax code, we need to liberalize some of the depreciation rates. We need to freeze the social security taxes and provide more incentives rather than disincentives for American energy production. The most direct way to increase the amount of employment and investment is to increase the reward or incentive for the next dollar earned by employment, saving, or investment. This means the cutting of those tax rates, the kind of selective tax cut that the gentleman from Oregon (Mr. AuCoin) is talking about and that I fully support. These tax cuts would lead to more job creation and investment in that productive private sector.

Let me just say in conclusion it was my privilege to speak recently in Cairo, Egypt, to the first World Aerospace Education Congress. I tried to lay out to them what I perceived to be the basic thrust of our objectives here in this country, and that is that we want to participate in a move in the direction of a merger between the developed and the developing countries, an expansionist program that places the maximum effort on the building of our freedom and our free institutions in those sections of the world that simply do not know what it is all about. I happen to believe that as we look to the expansion of our free-trade concepts by an interlinking of our institution-building effort with these developing countries, they will see all of the advantages that will accrue to them if they associate with the United States of America. But we have got to give them something to associate with.

Just in conclusion, I have said this on occasion, that our international purpose is really going to be judged by our domestic performance. The people here at home need to do the right kind of thing, and this means revising that Tax Code to open up what I think is the greatest productive system in the world, the private sector.

Mr. AuCOIN. The gentleman from California (Mr. Clausen), as always, makes an extremely important series of points. I would hold to the view, and I think the gentleman holds to the view, that at this time when people in this Congress and across the country are talking about this Nation's defense, as we should be, we ought to remember that fundamentally our Nation's defense really depends on the strength of our basic economic structure. If we are economically strong, we have then the capacity to be socially strong. We have then the capacity to be militarily strong, and we will not have that strength unless we adopt the kinds of policies that allow industry to innovate, that allow industry, not just the halls of the ivy-covered walls of college campuses alone, but industry to embark on research and development, and also to allow campuses to work in basic research. Until we do those kinds of things, I do not think we are going to be able to have the technological incentive, the productivity, the vibrancy that has made this economy what it is today. That is what we need to work for.

The gentleman makes a good point, too, when he focuses on selective tax cuts. That is what we should be talking about today, selective tax cuts pinpointing where the greatest need is, on the demand side in working toward the kind of innovations that will, indeed, yield greater results and improved products so that we can be more competitive in the world and here at home.

Mr. CLAUSEN. As the gentleman knows, I was the principal author of the so-called innovative technology amendment dealing with the so-called waste water treatment alternatives in the Clean Air Act.

Mr. AuCOIN. Yes, I am.

Mr. CLAUSEN. The whole concept is based upon providing incentives so that the municipalities themselves will look to something other than the established status quo in addressing waste water treatment, but by the same token to bring in the engineering capability that we have, as well as those that are involved in productivity, in the building sector in this country, so that they would address the pollution abatement problems in a more innovative manner. In this way it creates jobs. But that is the kind of direction for the limited amount of innovation that we have, and we need to be doing more of that.

I would make just one final point. Most of the people in this country, I think, have forgotten whence the element of revenues comes for the so-called social programs of this country. Unless there is assured productivity from the private sector, and the opportunity for it to function and flourish in that great free enterprise system, there is not going to be an element of revenue where the public sector functions, or an element of revenue where the great private sector functions. But it all depends upon a viable productive sector in the private sector of our economy.

Mr. AuCOIN. That is exactly why this is not a partisan issue. It is not a Democratic issue. It is not a Republican issue. It is an issue that ought to be of concern to every American who wants to see the assured strength of this economy and the assured strength of this country's posture in the world. He wants also to look to the future with regard to himself or herself and his or her family with some degree of assurance that there is a possibility of improvement economically on an individual basis.

Mr. Speaker, I now yield to the gentleman from Pennsylvania (Mr. Ritter).

□ 1800

Mr. RITTER. I thank my colleague from Oregon. I especially would like to thank the gentleman for taking this special order to underscore to the House and to the American people and to American industry the very much increased importance of innovation in the national economy. I would also like to thank the chairman of our subcommittee, the gentleman from California (Mr. Brown) for his very active role in this important area of innovation.

I repeatedly have argued strongly on the floor of the House and in subcommittee that in order for America to restore its place of preeminence in the world competitive order we have to act to promote change in such areas as tax

investment policy, patent and technology development, government research efforts, stimulation of small business and foreign trade policy, many of these things which have been talked about earlier today.

Mr. Speaker, I would like to focus initially on the immediate effects of government research and development policies on the lives of the American people. Having been a scientist-engineer and research manager before coming to the Congress, I am eager to see the fruits of our research achievements affirmatively translated into improving people's lives.

In fact, in recent days I listened carefully to the collective wisdom of four Nobel prizewinners who testified before our joint subcommittee hearing on science and technology. Each of these great achievers in the realm of basic research argued vehemently that the problem was not putting more money into the research and development sphere but rather in addressing the interface, or the wall as it has turned out to be, between the development of scientific information and its application in the marketplace.

There is little doubt that the question of innovation in our economy addressed here by our good colleague from Oregon centers right at that point of obstruction.

Mr. Speaker, I spent a year as an exchange science fellow in the Soviet Union. They, too, have a great research and development arm. In fact, the Soviets put a hefty percentage of their gross national product into basic research and development.

The interesting thing is that the research and development richness they have does not translate hardly at all into the marketplace. It does to a limited extent in certain areas of defense and their space program but that is where it all ends. There is little Soviet product competition on today's world markets despite enormous research and development expenditures by that society. They have done even worse than we in this important regard. Nor did the Carter policy review on innovation completed recently fully address the real problem area, which is not greater government research and development, increased technical information sharing and a whole series of what the Federal Government already is doing. No, it is rather in that area where the Federal Government has been inactive, and that is in providing the kind of innovation ambience or climate for the application of these results.

Mr. Speaker, as a graduate student in the 1960's at MIT, I witnessed one of the greatest technological revolutions in this country in modern times. Similar breakthrough situations evolved in and around Stanford, at Palo Alto, and around the University of Chicago and a number of America's great universities and science-oriented communities. This was a time of enormous technology transfer into the marketplace. What happened?

We have to ask ourselves this important question: what happened to choke off that kind of technology transfer we seek and were experiencing?



In the late 1960's there was a monumental increase in capital gains taxes. It went to 50 percent maximum from 25 percent. Almost overnight that influence choked the very substance of that technological revolution then centered in electronics.

What is very interesting is that the recent reductions—and these are across-the-board reductions, they are not targeted reductions—the recent reductions in the capital gain taxes have been very effective in restimulating these smaller, more innovating businesses. These were called by many on the floor of this House, these capital gains tax reductions were called "rich man's tax havens."

Not so.

There has been a marked increase in industrial innovation and there would be an even further marked increase if these kinds of taxes were reduced.

Mr. Speaker, many of the people on the floor of this House this year have pushed a variety of brand new programs where everybody knows the money is not there to pay for more programs.

The SPEAKER pro tempore. The time of the gentleman has expired.

One hour has expired.

Mr. RITTER. Mr. Speaker, I ask unanimous consent that I be allowed to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Speaker, many new programs have surfaced in this House of Representatives this year when everyone knew we were facing dire economic circumstances, rampant inflation caused to some large extent by overspending of this Government. I do not want to get into that during this colloquy on innovation, but it was very interesting for me to hear the comments of one of my colleagues a moment ago that this year we cannot afford any tax cuts, that this year would not be the time for tax cuts.

On that important point I want to echo the remarks of my colleague from California that without a productive economy there is no room for additional socially beneficial programs this House might wish to put into place.

To say that we cannot afford tax cuts while we are deficit spending to the tune of perhaps $40 billion this year—after all of the on-budget items add up—is really putting in danger the very goose that lays the golden egg that pays for these socially beneficial programs in the first place.

Mr. Speaker, I would strongly urge my colleagues that tax cuts, be they targeted toward innovation, be they general, together with some greater spending restraints here on the floor of the House, will do more to stimulate revenues collected by this Government than anything we could possibly imagine, and that if we wish to see a return to innovation that we saw in the 1960's, we have to cooperate toward these basic goals in this House of Representatives.

Mr. Speaker, I am happy to see my colleague from Louisiana here on the floor representing the Committee on Ways and Means. Because if again there is going to be innovation it will not come about simply out of increasing the Federal role in research and development.

□ 1810

Also, I have here an article taken from the Professional Engineer magazine, a magazine put out by the National Society of Professional Engineers. The title is, "Industrial Innovation Process Receives Restrained Boost From the Carter Policy Review."

Basically, Mr. Speaker, we ended up spending about $50 million or $60 million more to further study the problem. The problem does not need further study. This Monday we had in committee four Nobel Prize winners, generous recipients of Federal research money, testifying that it is not Federal money in research and development, or the lack of Federal activities to fine tune the research and development transfer into the private sector. It is simply giving back the incentive, the reward, the motivation for individuals to move out of large corporations into "America's small garages," because they know that they have a product that they can do eventually far better than they would be doing had they stayed with their initial big corporations.

This is the sociology of the technical professional who went into small innovative business in the sixties. This is the sociology that we can ill afford to repress.

Unfortunately, present governmental policies toward these kind of individuals and their future gain, the risks that they take, and the risks of the capital that accompany them are to date repressive.

I thank the gentleman from Oregon for the opportunity to participate in this very helpful special order on innovation in the American industrial economy.

The SPEAKER pro tempore. The time of the gentleman from Oregon (Mr. AuCoin) has expired.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes concerning this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Speaker, first and foremost, I would like to pay my deepest respect and appreciation and admiration to my colleague, the gentleman from Oregon (Mr. AuCoin) for bringing this matter under a special order to the attention of this House and to the people of this great country.

Mr. Speaker, I rise to address the role America's small businesses play in the innovation process—and the relatively poor role the Federal Government has played in stimulating innovation by such firms.

My colleagues have already emphasized the importance of innovation in increasing productivity, reducing inflation and improving the balance of trade. Therefore, any effort expended by the Federal Government in promoting the innovative climate is money well spent—probably one of the wisest and most cost-effective uses of the tax dollar.

The most productive Federal initiatives would be those concentrated on small firms, because this segment of pri-

vate industry has historically accounted for a disproportionately large share of our Nation's innovations. One study shows that of the 61 important inventions and innovations of the 20th century, over half stemmed from independent investors or small firms. Further, small firms—those with 1,000 employees or less—produce about 4 times as many innovations per R. & D. dollar as medium-sized firms—those with 1,000 to 10,000 employees—and about 24 times as many as those large firms with over 10,000 employees.

The importance of this segment of industry is further underscored by the fact that 87 percent of all new jobs are created by firms with 500 or less employees. So innovation by small business not only has the biggest impact on inflation, productivity, and the balance of trade, it is also the deciding factor in our Nation's employment statistics.

Consequently, the fate of innovation by our small firms determines for the most part the fate of our economy. But small businesses have been producing innovations in spite of Federal policies, not because of Federal programs.

Small businesses share only a fraction of Federal procurement and R. & D. dollars. And while some agencies have launched programs to promote innovation, most of these have been aimed at large industries. Yet it is small business that has the least resources to dedicate to research and development and patent procurement, as well as the least access to venture and startup capital.

To be fair, some agencies have attempted to address innovation by small business. In fact, one particular example involves a firm in my congressional district—Aimwell Production Co. of Ada, Okla., my hometown.

Jerry Johnson, president of Aimwell, together with another partner in the firm, obtained a patent for an innovative pumping device for oil wells. Rather than relying on the traditional mechanical engine or motor to drive the pumping unit, the Aimwell pump uses a hydraulic device. Although Aimwell holds the patent, it does not have access to sufficient capital to acquire land, build the plant and begin production of the device. Also, a few final engineering problems remained to be resolved.

Jerry Johnson contacted the Oklahoma Technological Commercialization Center, an operation funded by the Commerce Department's Minority Business Development Agency. The center first put Aimwell in contact with engineers at Oklahoma State University and Georgia Institute of Technology to complete technological development so a prototype can be built. Then the center determined that the Aimwell pump has a major commercial market, both in the United States and Mexico. Then, working with the State Industrial Development Department, the center obtained an offer of a free industrial tract from the town of Davis, Okla. Next, the center reached an agreement with the Oklahoma Department of Transportation to build an industrial access road to the plantsite. The center is now working with Aimwell to prepare a business plan and working with public and private sources of capital to put together financing.

The upshot is that we soon hope to have a new, minority-owned manufacturing concern located in a rural, depressed area providing jobs and, hopefully, exporting products. Everyone involved will benefit, thanks to the efforts of the Oklahoma Technology Commercialization Center and the Minority Business Development Agency.

But for every such success story cited, there is a horror story of an independent inventor or small businessman who did not have access to these types of resources and whose dreams faded and fell by the wayside. The public is the loser because jobs, good ideas, improvements, ways to save money or do things better for the same money are never developed.

And now, the hopes of America's entrepreneurs have been rekindled by the recent announcement of President Carter's innovation initiatives. To be sure, I applaud the President for his leadership in this area and he can count on my support in these efforts. But if these programs remain centralized in Washington, they are doomed to failure.

To capitalize upon the opportunities provided by these initiatives, I propose a network of regional innovation centers to marshal the resources of the Government in promoting innovation by small businesses. The innovation centers would assist entrepreneurs in determining the technological and commercial feasibility of new products and processes, provide adaptive engineering to develop prototypes and pull together private and public capital sources to develop the financial packaging. The centers would also be charged with commercializing patents owned by the Federal Government through its research and development projects. Finally, the innovation centers would encourage the startup ventures to locate in areas targeted for economic development, particularly the economically depressed small cities and towns in rural America.

America can rekindle its entrepreneurial spirit. America can come to grips with inflation and its balance of payments. But only if we, as Members of Congress, recognize the role of innovation in the economy and seize this opportunity.

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent to address the House for 2 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. AuCoin)?

There was no objection.

Mr. AuCOIN. Mr. Speaker, I want to conclude this colloquy by thanking all the participants for contributing their views to what I consider a fundamental problem and an extremely important issue facing the Congress and facing the American people.

I would say to my colleagues that the preceding Speaker is a friend of mine whom I have known since the gentleman joined the Banking Committee and I know of no better advocate for the small businessman and the plights and problems that the businessman has than the gentleman from Oklahoma.

I would also say in conclusion that this colloquy is being held on a momentous day for the Congress. This is a day in which debate began on a massive Federal loan guarantee program for a company known as the Chrysler Corp.

Now, Members have differing views on how they expect to vote on that particular proposition, whether they will vote to give the loan guarantees to Chrysler or whether they will vote against it; but whether they will or whether they will not, I think the point needs to be made. I think we need to ask ourselves why is it that this institution, this great body of the Congress of the United States becomes concerned about jobs, becomes concerned about operating capital, becomes concerned about the ability to provide decent futures for the workers and for the management and for a segment of our manufacturing sector of the economy only when we have a disaster and a crisis of the kind and magnitude of the Chrysler proposition.

Why is it that we cannot take one step back and see that some underlying economic problems such as declining productivity call for our attention just as meaningfully, just as eloquently, and demand our attention just as much.

It seems to me that we ought to do that more often. This colloquy has focused on that important need and I believe it is only the first of many future discussions in this House on the need for more innovation.

● Mr. WYDLER. Mr. Speaker, I appreciate this opportunity to participate in this Special Order on innovation and productivity in the United States. It is an excellent idea for an extremely important topic.

I would like to take a slightly different approach from my colleagues on this topic, but nevertheless one that has profound implications for innovative advances in the Nation.

I was quite interested in the White House paper of October 31 on industrial innovation. In particular, the section on maintaining a supportive Federal climate for industrial innovation caught my attention. This country has made several decades of research investment to provide a technical base for breeder reactor demonstration. It is an area where technology demonstration is now required to bring to fruition the results of several billion dollars of research and development. This has truly been an effort "to insure American technological strength," yet the Government has drawn back from this commitment. This is hardly a step to "maintain a climate conducive to industrial innovation." Industry was originally encouraged to participate in this project, but now the Federal Government has reneged and we are losing valuable international ground in advanced technology. It is certainly a valuable exercise to look at specific programs under these innovatives in the context of the administration's present technology priorities.

I believe my colleagues would agree that initiatives under any innovation program should not be considered in a vacuum but rather be evaluated in the framework of concrete examples. The

case of the breeder reactor is a sad example of the Federal Government stifling innovation rather than encouraging it.

I communicated these thoughts to Dr. Frank Press, Director of the Office of Science and Technology Policy at the White House in November. For the benefit of my colleagues I would like to include a copy of that letter at this point in the RECORD.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., November 29, 1979.*

Dr. FRANK PRESS,
*Director, Office of Science and Technology Policy, Washington, D.C.*

DEAR FRANK: I was quite interested in the White House paper of October 31 on industrial innovation. There are two aspects of the paper that particularly caught my eye and I thought it might be worthwhile to bring them to your attention.

Item number 9, "Maintaining a Supportive Federal Climate" is certainly apropos of the breeder reactor program. This country has made several decades of research investment to provide a technical base for breeder reactor demonstration. It is an area where technology demonstration is now required to bring to fruition the results of several billion dollars of research and development. This has truly been an effort "to ensure American Technological Strength", yet the Government has drawn back from this commitment. This is hardly a step to "maintain a climate conducive to industrial innovation." Industry was originally encouraged to participate in this project but now the Federal Government has reneged and we are losing valuable international ground in advanced technology. It is certainly a valuable exercise to look at specific programs under these innovative initiatives in the context of the Administration's present technology priorities.

Item number 7, "Improving Our Regulatory System" is a most laudable one but it omits a critical aspect of the regulatory issue. Although "the use of cost-impact analysis" is mentioned, the broader question of cost benefits, including risk assessment, is not addressed. Our Science and Technology Committee has emphasized the theme of comparative risk (for example, for energy technologies) in the 96th Congress.

I believe it is extremely important that the questions of environmental, health and safety risks be studied on a comparative basis and the real benefits of technologies such as nuclear power (for example, oil savings) be considered in any assessment which is intended to serve as an adequate basis for decisionmaking.

I would be interested in hearing your views on these points. I believe you would agree that the initiatives under the innovation program should not be considered in a vacuum but rather be evaluated in the framework of concrete examples.

Sincerely,

JOHN W. WYDLER,
*Member of Congress.*●

● Mr. AUCOIN. Mr. Speaker, the 96th Congress faces no economic issue of greater priority than the need to stimulate technology development, innovation, and industrial growth in our Nation. At the heart of this issue is the need for Congress to adopt tax policies that will foster capital formation by American business.

The single most effective piece of capital formation legislation that is likely to be voted this Congress is the Jones-Conable bill, H.R. 4646, which will accelerate depreciation and the recovery of capital costs for American business.

H.R. 4646 will help create 1.2 million new jobs over the next 5 years. Econometric studies show the bill will boost industrial growth and productivity from the current 1.7 percent annual rate to 2.4 percent, an increase of 40 percent. Passage of the bill will help give American business the capital it needs to invest in modern and more efficient technology, and to compete more effectively in world markets.

The Capital Cost Recovery Act also provides major simplification of our complex tax code, an aspect of the legislation that small business in particular strongly supports. Finally, H.R. 4646 is the least inflationary of the several business tax-cut bills now being discussed, providing important stimulus to innovation and economic growth at the relatively modest first year cost estimated by CBO of under $2 billion.

Mr. Speaker, H.R. 4646 currently has the broad-based, bipartisan support of 267 House cosponsors. The Ways and Means Committee will quite likely begin hearings on the legislation shortly after our return to session in January. To those Members of the House who have not already agreed to cosponsor H.R. 4646, I want to again solicit your endorsement of this important legislation. The sponsors of H.R. 4646 feel very strongly that this bill will become the centerpiece of a new direction in tax policy designed to stimulate American economic growth in the 1980's.●

● Mr. LUKEN. Mr. Speaker, I welcome the opportunity today to speak on innovation and to commend the gentleman from Oregon (Mr. AUCOIN) for his efforts in organizing this colloquy.

We are proud that our country has been historically known as a leading technological power throughout the world; yet, there is increasing concern that the capability of the United States to continue its historic successes in technology is in a serious decline. For example, during the past decade, the gap has been narrowing between U.S. patents issued to foreigners and those to U.S. residents.

As we begin a new decade, I believe we must solidify America's lead in innovative technology. We need to improve the climate for the sole inventor and the small businessperson to bring their ideas into the marketplace.

As chairman of the Small Business Subcommittee on Energy, Environment, Safety and Research, I am especially interested in the continued effectiveness and viability of small business in innovation. Small business is the proven innovator in our society. For example, during the period of 1953–73, firms with less than 1,000 employees accounted for almost one half of major U.S. innovations. This includes such well-known items as the automatic camera, discount stores, air conditioning and insulin.

In addition, innovation is especially important in the creation of new jobs. From 1969 to 1976 fewer than 600,000 out of 9 million jobs were added to our economy by our 1,300 largest businesses. It is also important to point out that research and development dollars to small business create domestic jobs, whereas, those same dollars to big business often end up creating foreign jobs.

In the energy field, innovation is essential if we are to meet our country's future needs, and I believe that it is the small businessperson who can lead the way. However, small business, with great potential to develop alternative energy sources, is only given an estimated 3½ percent of Federal research and development money. Further, small business has 24 more major innovations per research and development dollar than does big business according to a recent National Science Foundation report.

In hearings conducted this fall by the subcommittee which I chair, it was found that in 1978 only 5 percent of Department of Energy solar research and development money went to small business. The 1980 Department of Energy authorizing legislation requires a 12-percent set-aside to small business—certainly a major step to increase small business participation in the solar R. & D. area. We will look with interest to insure that this mandate is fully satisfied.

The time has come for us to focus our attention on the vital role of innovation in our country. To meet this goal, we must turn to small business, the proven leader in the field. Small businesses have had a striking record of innovation in the past and will in the future, as well, if we make sure they have that opportunity.●

● Mr. ERTEL. Mr. Speaker, today, more than ever, we need to focus our attention on the need for this country to become more innovative and more productive. In this last year, this long neglected issue has begun to receive the attention it demands. Our colleague, the Honorable GEORGE E. BROWN, JR., chairman of the Subcommittee on Science, Research and Technology of the Science and Technology Committee, is to be commended for his efforts in this area.

Innovation and productivity are closely related to the health and vitality of our scientific and technological activities. Obviously, research often results in important new inventions and innovations. The Federal Government, as a major funder of research and development work, clearly has an impact on our innovativeness and our productivity. It is imperative, however, for us to realize that simply funding scientific inquiries and research work does not in itself yield innovations, nor does it improve our productivity. There are numerous other variables which must be considered. Among these are the impact of Federal regulations, the tax codes, the general economic health of the Nation, and the patent system.

Federal funding for research represents a catalyst for the development of new inventions and innovations. I would emphasize the word catalyst because following the Federal R. & D. work a great deal of additional time and money is usually required to bring new products or processes to the marketplace. It is commonly recognized that in the research and development process research accounts for about 10 percent of the total cost of bringing a product to the marketplace. This is the share pro-

vided by the Federal Government. This leaves 90 percent for the private sector to pick up if innovations are to be commercialized and made available to the American people. As such, the incentives for the private sector to invest its time and money to commercialize something developed in the course of Federal R. & D. work is a subject of enormous significance.

The patent "policies" of the Federal Government have often been identified as a disincentive to private sector commercialization of federally developed inventions and innovations. Currently, Federal patents are controlled by approximately 20 statutes applying to different agencies and programs, and by Presidential patent policies in all situations not covered by statute. Under this "system" an inventor's rights may differ not only from agency to agency, but from department to department within an agency. This confused situation is in itself a disincentive to firms which may be interested in commercializing a federally developed invention.

In addition, current policy does not permit exclusive licensing of federally held patents—the Federal Government holds title to all patents developed under federally funded research and development. Without some form of exclusivity, a private firm is often reluctant to invest the resources needed to commercialize the invention. Why spend the money only to have your competitor pick up the process just before you hit the market? Your competitor will be able to underprice you since he does not have to recover the development costs.

Studies have indicated that commercial utilization of patented inventions is achieved at a much higher rate when the contractor is permitted to retain exclusive rights to the invention. For example, a NASA study has shown that contractors have achieved commercial utilization of patented inventions at a rate approximately 20 times greater than that achieved by the agency itself.

The development of a uniform Federal patent policy permitting a private company exclusive rights to practice an invention is an important way in which we can improve the climate for innovation and encourage greater commercialization of these inventions. I recently had the opportunity to participate in the National Academy of Engineering's Colloquium on Industrial Innovation and Public Policy Options on the panel examining the issue of a Federal patent policy. I would like to share my remarks upon that occasion with my colleagues:

STATEMENT OF HON. ALLEN E. ERTEL

I am pleased to have the opportunity to participate on this distinguished panel today as we look at patent policy as an aspect of the subject of innovation and productivity.

As my colleagues here are well aware, discussions on the need to rationalize federal patent policy are not new. What is new is the heightened attention in both the Executive and Legislative Branches of the government to the need for change.

The President's October 31 message on innovation and productivity includes recommendations for change in the patent system. Many of these changes can be made administratively or through the budgetary process. Some of these areas include improving the Patent and Trademark Office's filing and classification system, and providing greater public access to, and use of, patent files. Other areas where change is needed will require legislative action. As you know, legislation has been introduced in a number of these areas. In most cases the issues involved with this legislation are fairly clear.

There is one area, however, where an understanding of the options is not so clearly recognized. This relates to the creation of a uniform federal patent policy which would bring about greater commercial utilization of inventions developed under federal contract. In fact, I sense confusion even in the background papers which were provided to the panelists. If I could quote from that report, on page 14 it states:

". . . the studies strongly support President Carter's recent call for the Congress to enable government agencies to grant exclusive marketing rights on a consistent policy basis."

I would quarrel with that statement for several reasons. The President's proposals do not grant patent rights on a consistent policy basis. The President recommends granting title to inventions developed under federal contract if the contractor is a university or a small business. In other cases, only exclusive licenses (not title) are granted for specified fields of use. Different rules for different groups is not a consistent policy.

More importantly, however, I disagree that the literature on this subject strongly supports the President's proposals. There are important differences between the granting of title and the granting of exclusive licenses in specified fields of use. The very fact that the President made this distinction in his proposals underlines the fact that they are not the same thing. Most of the literature endorses the granting of some form of exclusivity; it does not, however, contend that exclusive licenses are superior to the granting of title. In testimony before my Task Force on Federal Patent Policy it has become clear that granting title, not exclusive licenses, will result in the greatest amount of commercialization of inventions developed under federal research and development contracts. I think that it is important that we recognize this distinction and that it be the subject of our attention today.

I am sure that it comes as no surprise to my colleagues on this panel that I support the granting of title to contractors of federal research and development work whether they are small businesses, universities, or large businesses. I have introduced legislation in the House, H.R. 5715, that would accomplish this end.

I believe that the President's proposals, important as they are, are still inadequate. Granting exclusive licenses, rather than title, creates enormous administrative burdens. Limiting these licenses to specified fields of use merely compounds that burden. In the case of large businesses, which make up roughly 90 percent of all federal R & D contracts, patent rights would have to be negotiated on a case-by-case basis. Administrative burdens must be, and can be, kept to an absolute minimum—but not under an exclusive licensing arrangement.

Denying title to the major part of federal R & D contractors also inhibits the full commercialization potential. The fact is that the private sector perceives greater protection by holding title. It is clear that the private sector acts upon its perceptions in making investment decisions.

Finally, what goal is furthered by the government retaining title to patents on inventions developed by large businesses under federal contract? I have heard that some in the Administration feel that large corporations have difficulty sublicensing their patents. I suppose I must assume from that that the Administration feels that small businesses and universities will not have these same difficulties and it is, therefore, appropriate to grant title to these groups. I have also been told that the federal government is going to seek out industries that would have an interest in commercializing federally held patents. I have seen nothing in the past experience that would suggest that the federal government will accomplish that objective in an effective manner and I am extremely dubious about those predictions that with passage of the President's proposals things will greatly improve in the government's salesmanship.

In short, we lose nothing from granting title to all contractors, but we could lose a great deal by not doing so.

I earlier stated that I thought we should deal with this subject today. I believe that this is important because we are expecting the Administration to submit its legislation within the next few weeks. The Senate Judiciary Committee has reported out legislation which is much more limited in scope than even the Administration's proposals. The die is being cast in Congress on the type of legislation which will very likely be considered in the near future. To have a meaningful input in that process, this panel must address this fundamental question.

I was pleased that discussion did follow on the question of what form of exclusivity best accomplishes our goal of achieving greater innovation and productivity in the Nation. Notable among the discussion were the remarks of Mr. Philip Smith of the Office of Science and Technology Policy. He stated that the administration basically favors a title with the contractor concept for all contractors of Federal R. & D. work regardless of their size; however, they felt that Congress would not agree to such a proposal. This parallels numerous comments from other sources. I think that we should look at this attitude for a moment.

People in the private sector favor title with the contractor across the board. I am told that the administration favors title with the contractor across the board. The American Patent Law Association and the American Bar Association Section of Patent Trademark, and Copyright Law favors title with the contractor across the board. Small businesses and universities apparently have no problem with title with the contractor across the board. This is one of the most important features of legislation I have introduced, H.R. 5715. Why then are we not working toward our common goal?

Now is the time that we all need to work together to push for legislation that we believe in and which will best accomplish the objective of increased innovation and productivity. We should not limit our efforts to what we think we can get. If that is the strategy then there is no question that nothing more can be gained. Instead, we should strive for what we know is best. I think Congress will enact some form of patent legislation during the 96th Congress. I am afraid that if we do not push for title with the contractor for all Federal R. & D. contractors, we will have lost the opportunity to make a truly meaningful and effective change. If we stop saying Congress will not enact such a policy and begin working for it, we may all be surprised to see our goal accomplished.

I believe that it is possible to pass a

bill providing title with the contractor for all contractors. I take this position for two principal reasons. First, those who favor granting some form of exclusivity to encourage greater commercialization of federally developed inventions in general could support a provision granting title across the board. Second, those who have opposed the granting of exclusive rights in the past have done so because they feel that this would be a giveaway of something that belongs to everyone and a company should not be allowed to profit from research done by the taxpayers. The bill which I have introduced, H.R. 5715, addresses the giveaway concerns.

Under this legislation provision is made for a payback to the Government through the sharing of royalties and/or revenues in return for the original Federal investment. I believe that this provision will compensate the Government and prevent the contractor from achieving windfall profits at the expense of the taxpayers while still encouraging commercialization of the invention. Under my bill this payback can be waived under certain circumstances to insure that the payback is not counterproductive. For example if the payback would cost more to administer than it would collect, it would be waived. Further, if it would inhibit the commercialization potential it would be waived. In addition, it could be waived for universities and small businesses. These are the groups which are least able to make a payback. As such, this should make my legislation more attractive to these groups than other legislation which is receiving attention in the Senate. The payback provision insures that there is no giveaway. Therefore, those who have been reluctant to work for legislation in this area should now be able to support the much-needed changes.

Developing a climate which encourages greater innovation and productivity is an effort which will require action over a broad front. Patents represents one piece of the puzzle. I am pleased to have this chance to join with my colleagues to highlight the problems and potential in this important area.●

● Mr. LAFALCE. Mr. Speaker, it is essential for this country to begin to focus increasing attention on the importance of innovation in our economy, because without innovations, the rate of productivity will continue to decline ominously.

Until very recently, mere mention of the word "productivity" was met with indifference or a yawn from labor and business leaders, Government spokesmen and economists. Although statistics on productivity were kept, no one seemed to evince any interest in them or their ramifications. This indifference reached its nadir last year, when the administration allowed the National Center on Productivity and Quality of Working Life to expire and to be replaced with almost nonexistent National Productivity Council which has an imposing staff assignment of two.

However, I am pleased by the fact that the previous indifference is beginning to melt away. For the first time in its history, the Joint Economic Committee has issued a unanimous report, backed by liberals and conservatives, which emphasizes the key importance of productivity. The New York Stock Exchange has issued a report on productivity, entitled "Reaching a Higher Standard of Living", which concluded that—

A coordinated national effort to boost productivity growth to at least 3 percent per annum would go a long way toward unwinding inflation, raising living standards, and creating jobs. It would also make American goods more competitive internationally and help strengthen the dollar. These are objectives in which every American has a stake.

Professors Kendrick and Denison have been in the forefront of the effort to bring other economists' attention to the problem of declining productivity.

I was particularly pleased by the fact that the administration initiated a "Domestic Policy Review on Industrial Innovation," because innovation plays an important role in boosting productivity. The decline in the rate of productivity during the late 1960's and 1970's was preceded by a decline in the amount of spending on research and development as a percentage of the Gross National Product. While spending declined on a relative basis in this country, our industrialized competitors did not slacken their research and development efforts, which has been very detrimental to the competitiveness of U.S. goods and services.

The administration's review has been completed, and a number of initiatives have been announced. Although many of those initiatives are commendable and will have a positive effect on industrial innovation, the administration neglected the best and swiftest way to encourage innovation; and that is tax incentives. Without tax incentives, there can be no meaningful national policy for boosting productivity and industrial innovations; but I believe that Congress will take the initiative and correct that significant deficiency in the administration's program.

The tax code is not neutral in its relationship toward productivity growth and industrial innovation, and tax policy must be made in light of its effect on both. Due to the emphasis on Keynesianism in the post-World War II world, tax policies have concentrated on the demand side of the economy, as various administrations and Congresses have attempted to stimulate demand, in order to produce prosperity. With the advent of stagflation on a prolonged basis, new attention must be focused on ways to stimulate the supply side of the economy, because the usual Keynesian tax cut—personal income tax cuts—contributes to a higher rate of inflation.

A surprising consensus of opinion among economists of every school and persuasion is emerging on the need for non-inflationary supply side tax reductions to revive the economy without contributing to inflation. This consensus, which includes Herb Stein, Walter Heller, and Bill Miller, is convinced that economic stimulus is vital to restore the basic underlying strength of the economy. That strength has been seriously eroded by the inadequate level of investments in the private sector of the economy.

A study by the Organization for Economic Cooperation and Development of productivity also investigated the level of investments in industrialized countries from 1960 to 1976. Not surprisingly, it found that the United States ranked dead last by a fair margin in investments as a percentage of gross national product. The OECD concluded that "nations with highest ratios of investment in GNP had the highest rates of productivity growth," which points to the imperative need to stimulate investments, in order to help produce industrial innovation.

Last year, the Congress took the initiative and forced the inclusion of three key items in the Revenue Act. First, the act contained provision for a liberalized capital gains tax. Second, it made the investment tax credit, which is one of the most direct ways of encouraging investments, more attractive to businesses wishing to expand their facilities or equipment. Third, the act instituted a graduated corporate income tax, which will be of considerable benefit to small- and medium-sized businesses, by freeing capital for these firms.

Mr. Speaker, this year, the Congress has again taken the initiative with H.R. 4646, which I cosponsored. This bill would institute a fundamental reform of the depreciation allowance by installing a rational, clear-cut, and equitable system of depreciation allowances on the popularly known 10–5–3 basis. Business leaders and economists have long been complaining about the haphazard and complicated present system of depreciation allowances, which provide a marked disincentive for new investments and for industrial innovation.

There is yet another way to use the tax code to enhance productivity growth and industrial innovation. R. & D. are vital to both, because they directly lead to better and newer products, more streamlined production, and better worker safety and comfort. However, as I mentioned earlier, total R. & D. spending has steadily declined from over 3 percent of GNP in the early 1960's to just over 2 percent in 1977; and there is no sign that this discouraging trend is being reversed.

One sure-fire method of encouraging R. & D. is to provide a tax incentive to businesses which are involved in advanced technological R. & D. Therefore, I have sponsored a number of bills, including H.R. 5313, the Small Business R. & D. Incentive Act, which would provide targeted tax incentives to businesses, in order to persuade them to increase their R. & D. spending or to become involved in R. & D. These types of tax incentives are particularly useful for small businesses, because it is precisely those types of companies which are in the forefront of technological innovation and which require these tax incentives the most because of their limited financial base.

Mr. Speaker, declining productivity rates and lagging industrial innovation are far too important to be relegated to the back pages of academic journals; on the contrary, they are topics worthy of a high priority from Congress and the administration.●

Mr. KEMP. Mr. Speaker, American innovation is vitally important in creating high levels of productivity, real economic growth, and increasing real income for all Americans. Yet we have recently seen an actual decline in U.S. productivity, and many experts claim there has been a deceleration of the pace of U.S. innovation. We are here today to focus attention on this dangerous shift, to discuss strategies for reversing these trends, and rightly so. But while debating Government research, patent procedures, capital formation, and foreign trade implications, we cannot lose sight of the fact that it is the individual and the individual alone who is the source for all innovation.

As the Small Business Administration's Task Force on Innovation concluded:

*New concepts are only generated from individuals*, and creative individuals need an environment that is conducive for creation with rewards, recognition, profits, freedoms, and the availability of capital, basic knowledge, and other tools with which to create. There appears to us to be a lack of understanding within government of how individuals create in the private sector, and how they implement their creations.—(emphasis added)

The decline in innovation is not caused by any drop-off in traditional Yankee creativity and ingenuity. It is, rather, a direct result of years of misguided Federal policies which work to discourage risk-taking, capital, work, savings, creativity, and entrepreneurial activity. To increase innovation we need to restore incentives for risk-taking.

The beginning point has to be Government-wide recognition of a simple, time-honored idea: When you tax something, you get less of that thing. A revised tax policy, then, should be the cutting edge of a program to restore incentives for innovation, productivity, and real economic growth. We should start by cutting personal income tax rates dramatically, across-the-board, for both labor and capital. This would instantly increase incentives for innovation by increasing the after-tax return for individual effort, and would restore the incentive for production and real economic growth to our economy as well. In addition, such tax rate reduction would dramatically increase the pool of personal savings—these after-tax savings are the only source of seed capital available for most independent inventors. Without this seed capital, most innovations have no way of reaching their intended market.

Furthermore, we must eliminate several glaring inequities in the Federal tax code, which taxes individuals at rates of up to 70 percent while limiting corporate taxation to a flat 46-percent rate. Federal tax policy, then, gives corporations the edge in accumulating after-tax savings to be channeled into product innovation. Yet another tax break biased against inventors permits corporate use of profits tax free to develop and market new products. This credit is useless to the would be entrepreneur, and, again, tends to skew the availability of R. & D. money towards large corporations.

Over the past few years, several articles by economist D. G. Soergel have analyzed the impact of our biased tax code on innovation, and his penetrating analyses are an extremely timely addition to this debate. He has looked as well at the Federal R. & D. budget and Federal procurement policy. The Federal Government spends more on R. & D. than is spent by all of industry. This tends to federalize innovation, centralize control over venture capital, and divide product design from product development. Soergel concludes that a combination of Federal tax, procurement, and R. & D. policies have resulted in the near disappearance of new technical enterprises from the U.S. economy; a growing tendency for industries to economically concentrate; a stagnated economy; and a worsening position in world trade. It is the combined impact of all three which causes a decline in innovation; individuals may no longer hope to advance in society by venturing their own ideas, win or lose.

I commend the following articles by Soergel to my collegues, as an important addition to this vital debate, and ask that we concentrate on the individual in our "solutions" to this problem, for it is from people alone that all creative concepts arise.

The articles follow:

IR&D: AN UNRESOLVABLE CONGRESSIONAL ISSUE?

(By David G. Soergel)

A controversial issue has been around Congress a long time—over ten years—and will probably be around much longer. This is because it is a derivative of a still larger issue.

The larger issue is the tax code's treatment of private enterprise. The derivative issue comes from Senator William Proxmire's (D-Wis.) annual challenge to defense contractor costs for independent technical and proposal activity. Like most everything having to do with national security, independent technical and proposal costs are known by an acronym, IR&D/B&P, which means Independent R&D and Bid and Proposal.

The key to understanding IR&D/B&P is that no formal defense contract authorizes the new business expenditures. They are costs which are added to a company's current weapon contracts and paid as part of the company's overhead, along with many other overhead costs, such as employee benefits and executive office expenses.

They are negotiable as to dollar amount and relevance to the Department of Defense's longer range interests. The dollars come to about 4% of a defense contractor's weapon's sales, and in 1978, amounted to nearly $1 billion. This amount was recovered in $25 billion weapon's sales by less than 100 of the largest defense contractors out of 24,000 DOD suppliers.

PREFERRED POSITIONS

Senator Proxmire claims that IR&D/B&P distributes new business opportunities unequally by reinforcing the market positions of the largest defense firms and keeping out newcomers. According to his viewpoint, IR&D/B&P is a "taxpayer hand-out to the large defense firms with inadequate expenditure accountability", that they are costs which should either be brought under congressional control, or eliminated completely.

Defense contractors and DOD representatives annually counter by claiming that "IR&D/B&P is a normal cost of doing business, and contractor technical independence is in the interests of national security."

Both viewpoints are defensible and only a stand-off can result—as has happened since Senator Proxmire surfaced the issue.

The industry and DOD position is persuasive because the tax code supports it. A mark-up on a product's price to start new products, processes, or services may be deducted in corporate tax reporting. These costs are indeed considered by the IRS as a normal cost of doing business, exactly as claimed by aerospace industry leaders and DOD.

For example, in 1977, 624 of the nation's largest firms spent $18 billion tax-free to start new technical products, and the IR&D/B&P $1 billion is only a small part of the $18 billion total. Business Week annually reports the data and opinions that out of four million businesses, the 624 companies spent about 90% of all industrial research and development for new products. According to the tax code, the expenses are deductible whether sales are gained within commercial or government markets. This exemption feature of the tax code is well accepted by industry because it is, in fact, a profit-related tax incentive for industrial innovation.

BASIC DIFFERENCES

Whether commercial firms can afford such price mark-ups depends on sales in price competitive markets and corporate operating costs and obligations. If costs to gain sales are higher than those of competitors, a firm may close the year with less gross profit than others, or suffer an operating loss. There may be little left over to explore new business possibilities. How much the price mark-up is must be balanced against expected sales revenue, stockholder dividend payments, operating cash demands and reserves, debt repayments and other corporate obligations. And these independent judgments fluctuate from year to year.

On the other hand, weapon sale prices are usually negotiated; that is, they are not usually set by price competitions within common markets. Also, new weapon developments are characterized by high estimating uncertainties at the time of negotiation, and actual costs may end up much larger than initially negotiated. An aerospace company could "go broke" unless DOD paid the difference, and DOD will pay the difference if it judges the additional costs reasonable and justified, unless the contract is "fixed price", as it often is if sales prices have been well established and competitively determined.

The similarity between tax-free new business costs recovered in commercial sales, and IR&D/B&P costs negotiated into defense contracts and recovered in defense sales, is that both are spent to prepare for and propose new business, and this is why both issues are interconnected. Where they differ is that the amounts available for new business activity are set by price competitions in one case, and by negotiations in the other.

If "commonness" is viewed in the context of private enterprise generally, Senator Proxmire's position about IR&D/B&P is equally persuasive. Tax deductibility of costs for new product innovations which are recovered in sales prices obviously benefits established and profitable firms, but not enterprising individuals and newly-started businesses, simply because they do not have sales and profits at the beginning. In short, government does "hand-out" new business benefits which are available to some but not others, as Senator Proxmire claims.

The tax code is apparently based on the premise that those who have succeeded in the past should receive special incentives to be enterprising in the future—incentives which are over and above the profit gained from success. This premise is carried forward in IR&D/B&P negotiations for weapon's contracting. It is a faulty premise because new

product ideas come from individuals regardless of their employment location or economic status in society.

To illustrate, the inventor who recently demonstrated 74 mile per gallon auto performance didn't come from any of Detroit's "Big Three" auto producers, nor did Xerox come from any office equipment manufacturer of the time.

Of course just an idea is not enough. It has to be moved through product innovation to reach its intended market. More fail than succeed along the way, but some eventually form the basis for a new and profitable enterprise. The critical resource which moves an idea into innovation is called seed capital. It is critical because what cannot be started has no chance at all to reach its intended market. As might be expected, seed capital expenditure may attract even more start-up money and, if experimental success continues, a new product could be on its way to consumers.

Where do entrepreneurs find seed capital to start a new enterprise and hope to attract outside money to continue the work? The answer is, from accumulation of after-tax savings. It takes personal savings to prepare a convincing case that others should join a new enterprise using their own savings, thus all seed capital comes from after-tax savings.

And this situation relates to another tax code provision which also favors the established firm. Corporate profits are taxed at a 46% rate and individual income at a 70% max rate by progressive taxation. In brief, corporations are again benefited by the tax code, as compared to all others, in the accumulation of after-tax savings for product innovation purposes.

Thus, the established and profitable firm has two sources for new product seed capital—after-tax savings and nontaxable profits—and the individual entrepreneur only one, after-tax savings, which is accumulated at a higher tax burden than corporations.

It seems reasonable to conclude that on two counts—nontaxable profits and progressive taxation—the net effect of U.S. tax policy protects the capital of established firms from challenges by new enterprise.

Corporate executives must, and do, take public policy positions which have the net effect of a "capital protective" strategy. Otherwise their capital may be destroyed or threatened by non-producible new technology introduced by upstart entrepreneurs—as mimeograph producer's capital was "destroyed" by Chester Carlson's Xerox, Kodak's threatened by Dr. Land's Polaroid, Detroit auto producer's threatened by small car imports, and U.S. steel producer's threatened by Japan's new technology steel production.

Yet several special federal incentives, however, do encourage new enterprise. For example, a new company which is financed by 10 or less stock purchasers doesn't have to go through costly SEC reporting procedures. The Small Business Administration may guarantee commercial loans which are secured by the entrepreneur's personal assets, or entrepreneurs may contact Small Business Investment Corporations which are federally chartered to purchase equity stock and make low interest loans to small businesses. And minority groups may start-up a new business by federal contract set-asides which provide seed capital. Other IRS, SEC, SBA and federal procurement procedures have been, and are being, considered, all having to do with making easier the start-up of a new enterprise.

BASIC CHANGE NEEDED

All, however, are "band-aids" to the fundamental problem—"old" enterprise is treated more favorably in federal tax and prominent policy than new enterprise, and legislating "distributive justice" codes is evidently seen as the only way to remedy what is essentially an institutional problem.

It would be better to institutionally remedy the problem than pick away at it by piece-meal legislation. Distributive justice legislation leads to such absurdities as special federal entitlements for firms of less than 500 employees which are not available to a firm of 502 employees, for example, or American Motors being labeled a "small business."

The trouble is that institutional change in policy is easier said than done. The more the tax code promotes industrial capital protection, the more tendency for industry to economically concentrate—and the more economic concentration, the more political clout to influence corporate tax policies towards even more capital protection. Fortunately there is a way out of this dilemma, and possibly a way large industry may actually endorse.

For almost two decades, Nobel Prize winner Friedrick Hayek has advocated a tax policy which equally burdens all income producing units, including individuals. Thus, if government took 25 percent of the national income, 25 percent would also be the maximum rate of direct taxation on any part of income. In 1970, another Nobel Prize winner, Milton Friedman, estimated that a flat-rate tax of about 16 percent on the difference between gross income and the cost to gain income would yield federal revenue equal to the federal budget, a percentage which undoubtedly needs updating because government continues to increase its demand on national income to finance its own operations.

Surely industrial leaders would endorse a significantly lower taxation on profits than the current 46 percent. But they may not endorse what goes with it. And that is that all new product seed capital come from equally burdened income and not from tax exemption of costs for new product developments.

It is time for a basic legislative change to U.S. tax law. Private enterprise must be considered in the context of enterprise generally, whether entered into by individuals or corporations.

Enterprise is the "means to the end" of capitalism, the private ownership of capital, and individuals and corporations must be tax burdened equally to achieve equalities in opportunities to enterprise. The importance of equality in the opportunity to enterprise is that it is inherent in the American ideals of individual liberty and economic freedom guaranteed to all citizens by the rule of law.

The survival of private enterprise capitalism, however, is endangered, and because it is, so is individual liberty, mainly because the tax code distributes unequal opportunities to enterprise—by favoring those who have successfully enterprised in the past and discriminating against others who haven't enterprised, but wish to try. And "distributive justice" remedies, while the fuel which makes the legal machinery run, do little to correct basic institutional flaws.

There are other important reasons why private enterprise capitalism and individual liberty are endangered. One is a $30 billion federal R&D budget. Federal enterprise, through government's centralized control over more experimental money than privately supplied by all industry, is becoming dominant in determining the nation's future economy—a likely cause among many for an inflationary dollar, productivity decreases, and a worsening position in world trade.

With an increasing federalization of product ideas and technologies, private productive capital will produce more what bureaucracy tells its private owners to produce, and produce less what a company independently decides and risks in the marketplace. Only centralized economic planning and nationalization of industrial segments can come from a long-run dominance of federal enterprise in the U.S. economy.

Senator Proxmire, aerospace and DOD leaders will have at it again this year. Not much will come of it, and the issue will resurface next year, and the next, and so on.

But he has touched on an important issue which does need resolution, but is an issue which can't be resolved at the level of IR&D/B&P debate. Resolution of the issue requires participation by all of Congress, and most of all, by American citizens who value liberty above everything else.

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THE FEDERAL GRIP ON AMERICAN INVENTIVENESS

(By D. G. Soergel)

An unwritten federal policy favors those who have successfully innovated in the past, and inhibits competitive challenge by those who may successfully innovate in the future. The invisible policy undermines America's private enterprise capitalistic economy, and is a fundamental cause of America's deteriorating position in domestic and world economies. This conclusion came from an analysis and assessment of the interactions of three federal policies: (a) the U.S. tax code, (b) the procurement code, and (c) the federal "make-or-buy" policy.

On first examination all are benign and deliver the intended public benefits. The tax code exempts new product expenses and thus encourages industrial innovation. The federal procurement code governs contract compliance, expenditure accountability, and provides "start-up" capital to established federal contractors. Risk capital for the development and test of nationally needed products (processes and services) is provided by federal R&D contracts with little risk to company stockholders. Permitting agency scientific and technical personnel to "make" innovative activities provides federal-level competence to assess contractor technical progress, manage agency innovation programs, and prepare technically precise standards for health, safety, and environment improvements.

A brief description follows which ties the three policies together, analyzes the combination, suggests conclusions about government's role, and perceives national consequences. It is a space-limited discussion which permits only a surfacing of the most important findings and analyses.

RISK CAPITAL AND R&D

Enterprise and industrial innovation depend on the commitment of risk capital. It finances the start-up of new ideas; development, testing, production, and market introduction of survivors of the innovative process.

Research and development (R&D) is a special risk capital which starts up new ideas and carries some through full development and test, but does not finance subsequent innovative phases, such as production, sales and distribution. Thus R&D finances the earliest and riskiest beginning of innovation and locks in the characteristics of future innovative supply, including the societal and economic price to be paid.

Because what cannot be started cannot be introduced, it is important to locate institutional sources of R&D and examine for what purpose and to whom these institutions distribute R&D.

INSTITUTIONAL R&D SOURCES

Most privately sponsored R&D is economically concentrated. In 1977, 624 of the largest companies spent $18 billion on R&D and recovered this amount of $921 billion sales to government and private consumers. They controlled about 90 per cent of all privately sponsored R&D.

The most concentrated source, however, is found in the U.S. Treasury and it is also the largest amount. In 1977, taxpayers paid $22 billion R&D. Thus the largest R&D institutional source, government, acts as a monopoly source of the United States' major share of start-up and development risk capital, and the second largest institutional source, industry, indicates high concentration.

FUNCTIONAL ALLOCATIONS OF FEDERAL R&D

Over half of federal R&D is allocated to start up and fully develop new weapons and space science "tools of research," such as the space shuttle. Centralized control is needed because Department of Defense and NASA innovation markets are generally monopsonistic; that is, these agencies usually act as single buyers and users of the innovations they have sponsored.

The nearly half that remains, however, represents the largest R&D growth market in today's economy. These federal R&D expenditures are allocated to start up and develop new product ideas to achieve national civilian goals, such as those for energy, transportation, and housing. A portion is also spent to determine precise technical standards to achieve national social goals, such as those for environment, health, and safety.

As one might expect, when new introductions are required to meet these new national civilian and social goals, Congress would turn to the agencies having most experience in high-technology innovations—to DoD, NASA, and the old Atomic Energy Commission—for advice, policies, and even assignment of their people to the new missions.

The fact that civil and social agencies do not consume what they innovate—nonfederal private and public buyers are consumers—seems to have made little difference in statutory and policy issuances as compared to those for DoD and NASA.

Centralized technology, program and risk capital planning, and nationalized risk-taking—all characteristics of both DoD and NASA innovation markets—cannot apply to widely separated and unique innovation markets created by new civilian national goals, for what may work well in Peoria, for example, may have little similarity to what is needed elsewhere, even though a common national civilian goal may be met by different approaches in all applications.

Also DoD and NASA policies applied to federal regulatory missions will tend to economically concentrate private innovative supply. A single technical standard arrived at outside of a competitive marketplace favors the economy-of-scale price advantages of large suppliers, inhibits the entry of new suppliers, and forces smaller suppliers to exit the market.

New policies which describe an appropriate role for government in nonfederal innovation markets must be conceived. This new role cannot be the same as that played by DoD and NASA in their monopsonistic innovation markets. The issue centers on nationalized control of R&D when the nonfederal consumer markets to be served are widely separated, diverse, and unique.

FEDERAL R. & D. PERFORMER DISTRIBUTIONS

Federal agencies plan to distribute about equal R&D to non-market and market innovative performers ($13 billion each, est. FY 1978).

Non-market innovative performers cannot be measured by the usual economic standards of profit, return on investment, or stock and bond market prices. They are represented by agency in-house laboratories, private not-for-profits, and private operators of nationalized facilities such as Western Electric's management of the Sandia Corp. There are about 40 other nationalized facilities operated by private organizations.

To put a dimension on non-market innovative performers, a 1977 congressional survey identified 779 federal laboratories with annual operating expenses of about $15 billion, some of which is contracted out and taken into account in the distribution shown above.

The planned R&D distribution indicates disregard for government's 20-year "make-or-buy" policy. Briefly, the policy (A–76) fosters the concept that government has no business being in business, that government should rely on private enterprise for the goods and services which it needs. In this context, innovative services are little different than window-washing services, or many other commonly understood services; they also can be either competitively "bought" or monopolistically "made" within federal agencies.

Are all non-market innovative services ones which industry is either unwilling or unable to supply? Recalling that monopoly in R&D monopolizes the characteristics of future innovative introductions, including price, asking and answering this question has extremely important relevance to the nature and efficiency of the nation's future economy.

FEDERAL START-UP CAPITAL

The meaning of start-up capital is approximately the same as "applied research" expenditure in government terminology, although the amounts reported do not include all that is needed to start up a new idea. In addition, and relevant to all government R&D reporting of agency in-house R&D expenditure, the true taxpayer cost to support inhouse activities is understated by at least 16 per cent by under-reporting taxpayer contributions to civil service retirement and insurance benefits.

With these caveats in mind, official government data show that agencies plan to distribute over 100 per cent more start-up capital to non-markets than to markets ($4.9 billion vs. $1.9 billion, est. FY 1978).

This distribution suggests that industry will finally develop, produce, and introduce mainly what non-markets have started and decided, and that the market entry of newer and smaller businesses will be inhibited by non-market retention of start-up capital which they need to enterprise new businesses and products. The distribution tends to inhibit innovative competition in the marketplace, narrow the supply and span of new technology introductions, and prohibit a small firm from growing to a large one based on competitive merit.

A PROCUREMENT TECHNICALITY

Along with non-markets, established federal contractors also receive federal start-up capital, but indirectly by a federal procurement technicality. About 10 per cent of industry's total independent R&D appears as price mark-ups in current federal sales.

The federal contractor distribution, however, is highly concentrated. Ninety-one of the largest defense suppliers out of a total DoD supply base of over 23,000 separate firms are annually audited and in 1976 were found to have received about $900 million of the estimated $1.4 billion total paid on all government procurement of about $70 billion.

The indirect supply of start-up capital to federal contractors institutionally connects to directly paid non-market start-up activities and moves industrial competitions downstream in the innovative process, to late design and early production phases. The cost to remain competitive until invisible innovative activities are broken out for visible procurement of follow-on activity is not affordable by enterprising individuals and small technical firms, so the connection, in effect, tends to concentrate future innovative supply.

TAX CODE INEQUALITIES

The tax code also tends to concentrate future innovative supply and foster more of a "product improvement" economy and less of a "private enterprise" economy.

Nobel prize-winning economist Friedrich Hayek has noted that the tax code inhibits competition within the private sector by favoring the savings of established corporations as compared to the savings of all others. It is individual, small firm, and corporate savings which constitute the largest start-up capital source for enterprising new businesses and products. The tax code, however, makes it relatively easy for corporations to accumulate savings for new idea start-up purposes and thus tends to protect their market positions from the challenges of newcomers.

But the tax code provides no relative incentive for established corporations to start up risky and novel ideas as compared to improving current production. This relative lack of tax incentive to undertake riskier product innovations motivates corporate avoidance of new ideas which may prematurely make obsolete current plant and equipment if undertaken.

The net outcome is that corporate organizations, whose savings are relatively benefited by the tax code, are less likely to employ savings for the introduction of new and novel ideas. Those that are more likely, enterprising individuals and small firms, are relatively less benefited, and product improvements are more likely to appear in the marketplace than new and novel products.

GOVERNMENT'S ROLES

The net policy caused by the interactions of several policies elevates the role of government to a principal actor in the industrial innovative process. Federal enterprise is supplanting private enterprise in the U.S. economy. Federal agencies, through centralized control over non-market economy start-up activities, increasingly decide what is to be innovated, how it is to be produced, and allocate nationalized risk capital to private innovative performers that other policies tend to economically concentrate.

Equalities in the distribution of innovation entitlements and opportunities to innovate are in decline and in the process of being supplanted by disconnected "distributive justice" administrative rules and procedures. These rules and procedures arbitrarily declare that some innovative performers are "more equal" than others and distribute innovation entitlements and opportunities accordingly. Enterprising individuals and small technical firms receive the least innovation entitlements and opportunities, and non-markets and federal contractors the most. All others are variously benefited depending on their relative wealth and federal contract sales base. The enabling statute for the Small Business Administration, or the procurement technicality favoring large federal contractors are examples of "distributive justice" rules, both contrary to the rule of law.

However, the ability to create new ideas has little correlation to the wealth of a creative individual or an innovating unit. And the opporunity to risk an innovation and financial benefits distributed by federal policy should be equal to all, regardles of relative wealth or federal contract sales base.

NET OUTCOME

With government unable to separate innovation markets in federal policy, combined with policies and practices which further unequal taxation on savings, a lack of incentive to undertake new and novel products as compared to product improvements, the supply of start-up capital for future federal business to current contractors but not others, and a practice which disregards government's

"make-or-buy" policy applied to innovative services; the net, but unwritten, U.S. policy governing the private enterprise capitalistic economy could be written in the following way:

It is the policy of the United States to unequally distribute innovation entitlements and opportunities favoring those who have successfully innovated in the past and inhibiting competitive challenge by those who may successfully innovate in the future and, by such policy, to foster economic concentrations in the private sector, increases in nationalized risk-taking and ultimately nationalized industries and centralized economic planning.

This is the principal conclusion of the brief and space-limited analysis.

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R&D FUNDS: FOR GOVERNMENT USE ONLY

(By D. G. Soergel)

Next year, government will spend $30 billion on research and development to start and develop what it thinks best for the nation. It doesn't plan to produce what it starts, because, since 1966, an administrative policy known as A–76 states, "It is government's general policy of relying on the private enterprise system to supply its needs." In short, government has no business being in business, or so one would think.

But in actual practice, the investment of $30 billion in R&D surely means that government is heavily in the business of enterprise, regardless of its stated policy.

Could federal enterprise be overtaking private enterprise in the U.S. economy? If so, what could this mean to the future of capitalism, the private ownership of capital?

WHO GETS THE FEDERAL MONEY?

Some information about $28 billion R&D obligated during 1979 helps answer these questions. Over half went to scientific and technical organizations that are not incentive-oriented, the so-called "non-profits," and the rest went to industry. Nonprofits are both privately and publicly administered. Those that are publicly administered are scientific and technical organizations within federal agencies. They all have one thing in common. All are chartered outside a capitalistic economy, that is all are not incentive-oriented to gain the reward for successful enterprise, the ownership of capital. Nor is it necessary for them to explore new product ideas which are competitive in the marketplace in order to stay in business.

Remarkably, the only count ever taken was in 1977 by a congressional committee. It located 779 federal laboratories and private nonprofits controlled by agencies, such as Los Alamos, Sandia, and Livermore Labs, the centroid of federal nuclear power enterprise for the past 30 years.

Basic research, the "search for nonapplied knowledge," is mainly performed by universities ($2.1 billion), but it is interesting that a total $5 billion was spent. This suggests they do a lot more than "search for knowledge," such as move ideas into enterprise within their own laboratories in hope of patent royalties and consulting contracts with industry. To some, enterprising activity may seem far from a common understanding of a university's principal role in society. Nevertheless, they annually "perform" about $3 billion of it using federal funds.

Most was spent by agency laboratories and technical centers to run their own internal operations and employ 66,000 scientists and engineers ($7 billion).

Of the overall $28 billion, about $7 billion could be loosely described as scarce "seed" capital to start up new ideas, the beginning of enterprise.

Nonprofits spent $5 billion of the $7 billion which suggests that they select ideas from both private and public sources and start up new products; some go further into prototype and engineering development, and, at a later time, transfer their designs to industry for final production. In effect, government uses industries' productive capital as a convenient "tool" to finish whatever it is agencies and "captured" nonprofit technical organizations have decided and started.

WHY SO MUCH FEDERAL ENTERPRISE?

Taxpayers had little choice for most of the $28 billion. About $18 billion was spent to develop new weapon and space systems—systems far too risky for private capital. The B–1 bomber cancellation comes to mind as an example.

Some may think $18 billion for these purposes is far too much—defense R. &. D. tends to "pump up" the arms race, so they say. Others may claim it is far too little in view of the Soviet threat. Whether "too much or too little" is strictly a matter for political debate because national security will always be a taxpayers' burden.

The real problem in the supply of weapon and space systems is Department of Defense (DOD) and National Aeronautics and Space Administration (NASA) management of R. & D. "seed" capital. It leaves much to be desired when one places the need for new weapon and space systems in context with private enterprise's role in supplying them. DOD and NASA policies protect the capital of long-established contractors from technology challenges by newcomers.

For example, space and weapon contractors include nontaxable costs in contract prices to prepare for and propose new defense and space business. These are "seed" capital payments not granted anyone else. More than $1 billion is recovered annually as a contract charge in the defense sales of a small number of the largest defense contractors. For this reason alone, defense and space R. & D. markets are best avoided if one has new technical enterprise in mind and must have "seed" capital to begin. It's a stacked deck from the outset.

About $10 billion in federal R&D was spent for civilian and social enterprise, such as nuclear power, transportation, health delivery systems, and social standards for environment and safety. From 1969 to 1979, civilian and social R&D rose from 20 percent of the federal R&D budget to about 40 percent. The rise suggests that defense and space R&D policies governing the distribution of federally supplied "seed" capital are also used by civil and regulatory agencies.

THE NEED FOR DIVERSITY AND COMPETITION

Apart from a serious threat to private enterprise, adoption of DOD's R&D policies and federalized control of "seed" capital are entirely out of place. Unlike DOD and NASA, civil and regulatory agencies don't purchase and use the products of their own R&D sponsorship; nonfederal private and public purchasers represent the consumer's marketplace.

These are private individuals, organizations, companies, and state and local governments. What is needed is diversity of choice and competition in supply, not a single or limited choice decided by bureaucracy. This may be appropriate for defense markets, but surely not for private and nonfederal public markets, where what one locality needs for public transportation, for example, is always different than what is needed by another. There has to be a better way to enterprise new products for nonfederal consumers than by the convenient route of defense policy and federalized control of "seed" capital.

The public's concern about environmental pollution and safety and health hazards caused by *laissez faire* private enterprise cannot be minimized. It is an important national problem and government does have a legitimate role in solving it. The issue cannot be should government intervene in private business affairs but when and how it should intervene.

The "when and how" can come from only two choices. Government could tell industry what it may or may not enterprise. It could coercively enforce its dictates by demanding compliance with rigid social standards and production of its partially completed designs. Or government could challenge private enterprise to meet national goals in the future. The first fosters federal enterprise, the second private enterprise, competition, and diversity in approach to common national goals. The problem is that no one knows what these national goals are, not even a federal agency.

THE IMPORTANCE OF GOALS

National goals, if the agencies would only get around to constructing them, should be publicized for the benefit of all private entrepreneurs throughout the country. They give freedom and competition in approach. Standards and partially completed designs, on the other hand, lock in a bureaucratic approach, are coercive in application, and tend to enhance the formation of industrial economic concentrations. It would be a good idea to inform the American people about the challenge and goals to "win the war," if the creative genius of American enterprise is to solve "the energy crisis, the moral equivalent of war." And goals are needed for new housing approaches, transportation, health delivery systems, and many others where government has legislatively intervened into private business affairs and markets. But goals alone are not all that is needed. An incentive is also needed which makes it at least as attractive to privately enterprise nationally needed innovations.

Suppose government paid accumulated, audited and private "seed" capital to successfully demonstrate an idea's promise of meeting well-advertised national goals. By this is meant a feasibility demonstration of some critical features of an idea, not a demonstration of a fully engineered and preproduced product. Failure to successfully demonstrate, as measured by goals, would mean loss of the "seed" capital.

What would federal payback of accumulated "seed" capital offer compared to usual commercial opportunities? It would offer a private "seed" capital investor a chance to quicky recover initial investments. And a public and successful feasibility demonstration would undoubtedly attract equity stock purchases for follow-on innovative work to full market introduction.

For example, under this arrangement, the inventor who recently demonstrated 74 miles per gallon auto performance could very likely have had his "seed" capital investment picked up by government. Is 74 mpg performance in the national interest? If so, what obligation does government have to encourage its introduction? Surely there is some obligation if one is to believe the "energy crisis is indeed the moral equivalent of war," a rationale for the establishment of the 20,000 employment at the Department of Energy. The "when" of intervention could come at the time of feasibiity demonstration, the "how" by direct federal payment of the initial "seed" investment.

No commercial opportunity presents a possibility of quick "seed" investment recovery. The product must run the full innovative cycle and become profitable in the marketplace before the investor knows whether money has been lost or financially gained. This could take years, sometimes more than a decade.

GETTING THE WORD AROUND

General publication of the national need and goals for new enterprise could be most effective through local business associations and Chambers of Commerce. No federal agency's staff could ever hope to duplicate

the combined knowledge of such groups in locating our country's most important resources: its innovative and risk-taking individuals. And all would be given the same challenge and technical/economic background by distribution of identical data through local organizations. No individual or company, large or small, would have an "inside track" on future business which comes from national needs.

Institutionally, there are important gains. Instead of federalizing ideas according to agency internal decisions, the approach makes them private by broadcasting goals to the nations enterprising resource.

All would be presented with an equal opportunity to start up their ideas, regardless of employment location or economic status in society, and a firms size, profitability and familiarity with the complexities of federal contracting. This cannot mean that all who wish to enterprise their ideas do, in fact, find private "seed capital, or that all who do will be successful; only that all have an equal opportunity to try to be successful in the private supply of national needs.

THE THREAT TO LIBERTY

Individual liberty and economic freedom to enterprise are one and the same. They are inseparable, and if one goes, so goes the other. The freedom to engage in private enterprise—the means to the end of capitalism—is directly connected to the preservation of individual liberty. No other economic system fosters this important direct connection.

Unfortunately, America's ideal of individual liberty is seriously undermined by the alarming growth of federal enterprise. Government's policy "of reliance on private enterprise" is at best rhetorical and at worst a sham played on the American public.

The "public ownership of productive capital"—socialism—becomes enticing the more federal enterprise is allowed to dictate the private production of goods and services. Federal enterprise is the beginning of federal enterprise socialism with centralized economic planning in command and individual liberty in jeopardy. Admiral Rickover has suggested the transfer of shipbuilders' private capital to public ownership—under his autocratic control, of course. And recently the threat of nationalizing private oil companies has picked up some popular appeal.

All new ideas please some and displease others. The idea described in this article is no exception. While it has been conceived hopefully to motivate public goals to become private interests, and also foster competition, diversity and incentive-oriented decisions about new ideas and technologies, there is no question that it steps on many well-established "turfs" in both private and public sectors. But it might work better than current policy. Why not give it a try?●

● Mr. LUNDINE. Mr. Speaker, during the last decade the United States has experienced a worse record of improvement in productivity than any of our major international economic competitors. This declining productivity is one of the most serious problems facing our country today. It is an underlying cause for much of our country's economic malaise—sustained inflation, large trade deficits, and a sagging American dollar. Development of an overall national strategy for productivity improvement must be one of our top priorities as we enter a new decade.

Continuous innovation is an essential component to productivity growth. At least 40 percent of our post-World War II productivity growth has been due to innovation. There is evidence that our innovative capacity—our ability to take a novel idea, develop it, and bring it to commercialization—has weakened.

Unfortunately, improving our innovative capacity is not likely to be a simplistic task. Policy areas that are often mentioned as having a direct bearing on our capacity to innovate include tax policy, capital and credit policy, burdens of Government regulations, levels of research and development funding, Government procurement policy, and Government patent policy.

Still, I am not certain that any of us at this point have the necessary grasp of the intricacies of the innovative process that will enable us to design solutions to address the trouble spots. The recent reports of the Commerce Department's task force on innovation shed some light on this subject and are an important first step; but certainly a great deal more dialog in this area is needed. We need to develop a set of policies that will make companies not now innovating do so. As such, it is important that we address ourselves to all types of businesses—high-technology businesses that are innovating in the current environment, small businesses that have a great potential to innovate and create new jobs and other opportunities, and marginal businesses that are concerned about their future competitiveness and are disinclined to innovate.

Many large businesses seem reluctant to embark on innovative projects because of lack of investment capital and a costly and uncertain regulatory environment. As important, these and other factors related to Government actions have created an adversary type relationship between the Federal Government and private sector which hinders productivity improvement. Instead, to insure adequate return on investment, these businesses are more and more content to take a short-term planning outlook that will insure high, immediate returns on investment. This serves to dampen the competitive spirit in the private sector and creates opportunities for international competitors to capture traditional domestic markets.

Labor, sharing some of the fears of management concerned with business outlook and maintenance of job levels and benefits, is also reluctant to internally advocate adoption of a business plan emphasizing technical change that will require some level of worker mobility adjustment. Productivity improvement and innovation, in the long term, will create jobs and help stabilize the economy by opening up new businesses at home and maintaining a competitive advantage abroad.

Since coming to Congress, I have advocated Federal support for creation of labor-management committees to help foster a higher level of collaboration between labor and management. Experience I gained when I was mayor of Jamestown working with our local labor-management committee and examining similar efforts across the country demonstrate the positive impact this approach can have on improving productivity.

When speaking of innovation, it is important to recognize the important role small business has traditionally played in the innovation process. The bulk of inventions and greatest number of new jobs have been created as a result of work done by small business people and enterprising entrepreneurs. Today, small businesses are experiencing a critical gap in available venture capital in the formative stages of the innovation process. Private venture capital is rarely available and bureaucratic complexities and delays have made Government assistance a frustrating experience. Actions aimed at improving capital availability and insuring that small businesses have adequate access to Government procurement opportunities are essential to improving the innovative process.

As our society has grown more complex, with the creation of additional regulatory burdens, fewer resources have been available to expend on patenting an invention. Government patent policy is one area where policy changes can result in additional incentive. Proposals before the Congress to make patent rights available to contractors working with Federal research and development dollars and to provide for more rapid depreciation of costs related to patent procedures should be given serious consideration.

Fundamentally, I do not believe the United States has lost its innovative spirit that has enabled us to maintain our preeminent economic position in the world. However, I am convinced that deliberative, coordinated actions must be taken by Congress and the administration to remove disincentives to innovators and to help provide a framework that will help us manage our inventions better. Furthermore, actions to improve our innovative capacity must be part of an overall strategy to improve our sagging productivity performance. I urge my colleagues to give this issue top priority consideration in the months ahead.●

● Mr. BALDUS. Mr. Speaker, it is a pleasure for me to join my colleagues in the House in this special order focusing attention on the importance of innovation in our economy.

I have long felt that small businesses hold the key to innovation. When I served as chairman of the House Small Business Subcommittee on Energy, Environment, Safety, and Research in the last Congress, the point was repeatedly made that small businesses are the chief innovators and job creators. Study after study shows that, contrary to the popular misconception, big businesses, universities and Government laboratories do not produce the majority of new technology. A recent survey by the National Science Foundation shows that small firms produce about four times as many innovations per research and development dollar as medium-sized firms and about 24 times as many innovations as the largest firms.

Considering all this, you might expect that small businesses are being given a high priority by the Federal Government in affecting economic policies. Unfortunately, the reverse is true. Therefore, it is evident to me that Government policies and regulations must be changed to help stimulate small business provide even

more of the innovations that have helped this Nation become a technological power.

I was particularly impressed by the administration's announcement in November that it was proposing a series of legislative and administrative actions aimed at encouraging innovation. These steps, along with initiatives I and other Members have taken, hopefully can provide the necessary stimulus for increasing productivity and capital formation in our country.

One of the proposals I have advocated would encourage investment in small businesses and require the Small Business Administration to provide management assistance to small research and development firms to help them receive a more equitable share of available Federal dollars for this purpose. Another feature of the legislation would set goals so that eventually 20 percent of prime contract research and development dollars would go to small firms. Currently, less than 4 percent of Federal research and development contract funds go to the Nation's small businesses.

And even more importantly, because of our energy crisis, is the need for the Department of Energy to provide alternative energy and solar research and development money to small business. A GAO report made at my request questioned the effectiveness of DOE's efforts to encourage small business solar research and development contracting. For example, in fiscal year 1978 only 5 percent of solar research and development money was awarded to small business, and in the first half of fiscal year 1979 an astonishingly low 0.7 percent of the funds went to small business. Solar energy represents an opportunity to decrease our dependence on high-priced foreign oil, and yet the Department of Energy has failed to turn to the proven innovative leader, small business, to provide the needed research and development. I would hope that DOE will soon make a concerted effort to increase small business participation in research and development.

As an example, I would cite a small business in my district in western Wisconsin manufacturing high quality solar panels for existing homes. The price for these panels is less than one-half of the amount that big businesses in this field are charging. The demand is so great for the panels made by this small business that the owners are only able to fill about 10 percent of its orders. The owners hope to expand the operation utilizing Federal funds and eventually would like to offer classes to train people to install these panels.

This is the kind of innovative and job-creating business that we need to encourage and develop. It is clear to me that the sooner we have more small businesses participating in the development and distribution of unusual energy-saving products, the better off we will be.●

● Mr. FLORIO. Mr. Speaker, as we enter the eighth decade of this century, the greatest homage we can pay to truth is to recognize that American technological supremacy has ebbed. Explanations for our economic decline and diminishing role as a technological superpower vary. Nevertheless, a consensus seems to prevail here among our colleagues in both the House and Senate. A new surge of inventiveness, and increased productivity throughout the broad spectrum of American enterprise, could reverse the flow of the tide.

Who, among us, can dispute that a new climate, created to foster and stimulate industrial innovation, is an imperative need?

Mr. Speaker, as all of us are aware, industrial innovation is not a newly emerging concern of the U.S. Congress. The House Small Business Oversight Subcommittee has been conducting hearings on the entire concept of innovation and productivity on a regular basis for the past 3 years. The Senate's review of technology policy over a period of approximately 1½ years was embodied in Senator STEVENSON's noteworthy bill, S. 1250, the National Technology Innovation Act of 1979, introduced last May.

But, it was only recently when the President made a personal commitment, and pledged the support of his administration to revitalizing the Nation's industrial base, that national attention focused upon innovation.

On October 31, when the President sent to the Congress his Domestic Policy Review on Innovation, a new track record for accelerated congressional action was established. Indeed, within an hour of the White House press conference announcing the administration's nine initiatives, an unprecedented quadrilateral congressional hearing was underway.

As amazing as a quadrilaterial session seemed to me at that time, in retrospect, Mr. Speaker, it should not be surprising to any of us that the Senate Commerce Committee, the Senate and House Small Business Committees, and the House Committee on Science and Technology would move swiftly to hear testimony on the President's Domestic Policy Review on Innovation. The President's pronouncement was:

It represents the most wide-ranging initiative ever made to spur initiative and innovation to unleash America's creative genius.

The President has proposed revisions in patent, antitrust and regulation policies, in addition to six other measures to reverse a widely perceived lag in the capacity of American business to exploit technological innovation. These concepts are compatible with S. 1250, the National Technology Innovation Act of 1979. However, emphatic and frequently recurring references were made by committee chairman, and members, during the hearings that the most essential component—tax incentives—to encourage industry to spend more on research and development, was a glaring omission. The President has rejected, for the present, and with no definite commitment for consideration in the future, an administration study panel's recommendation to seek tax incentives.

The transcript of the hearings attributes to Senator STEVENSON the following comment:

An innovation program circumscribed in vision and nutured in a climate of retrenchment is unlikely to produce a bold basis for a national industrial policy. Such a policy, it seems to me, demands an ungentle review of tax codes and monetary instruments, export promotion and adjustment assistance . . . it requires resistance to the pressures for protection for low growth industries from competition and natural adjustments . . . it requires an assessment of traditional attitudes about the relationship between government and industry, and assistance for high-growth industry.

Our colleague, JOHN LAFALCE, as chairman of the Small Business Oversight Subcommittee pointed out that "the various task forces which have focused on the innovation process have all noted the need for tax stimuli."

For the record, Mr. Speaker, both of these esteemed legislators refrained from resurrecting the President's 1976 campaign assertion that our Nation's tax structure was "a disgrace to the human race."

In her last appearance at a congressional hearing, before relinquishing the reins as Secretary of Commerce, Mrs. Kreps' testimony contained a parting message no Member of Congress can afford to take lightly. Since reports of the hearings are not likely to be off the press and available until sometime early next year, I would like to share with my colleagues an excerpt from her provocative comments:

. . . It is difficult to overstate the prevasive importance of industrial innovation to our economy and our society. In the long run, innovation determines the growth and strength of our economy, the ability of our Nation to provide for human needs and individual wants, and the quality of life for our people. It determines the range, quality and price of the goods and services we produce and thereby the vitality and world competitiveness of our industry.

Innovation is also critical to the attainment of important National goals—improving the quality of health care, conserving and using efficiently our national resources, reducing our dependence on nonrenewable sources of energy, assuring the defense of our Nation, and advancing the living conditions of our people.

By promoting the strength of our economy through innovation, we dampen inflation, we enhance our balance of trade, we create jobs.

The strength of our Nation, the faith in our ability as a people to solve problems, are premised on our scientific, technological and industrial preeminence.

Mr. Speaker, in reviewing Mrs. Kreps' testimony, and the President's October 31 press release on his industrial innovation initiatives, a compelling question comes to my mind.

If, as Mrs. Kreps' avers, there is such a strong correlation between innovation and solutions to our Nation's most pressing problems, should we, as Members of Congress, hesitate to make innovation a priority during the second session next year? From my perspective—and it is one shared by so many of my colleagues—I do not believe we can afford the consequences of delay in doing whatever needs to be done.

The administration has committed a total of $55 million in fiscal year 1980 to launch the innovation program. This is a first forward step in establishing a supportive climate. Several of the nine

initiatives, such as clarification of antitrust policy, opening Federal procurement to innovation, and improving our regulatory process do not require new funds.

As the program proceeds, we will find ways and means to enhance its potential. With 535 reservoirs of creativity in the U.S. Congress, Mr. Speaker, I harbor no doubts that we are equal to the challenge.●

Mr. LEWIS. Mr. Speaker, at a time when the rate of productivity growth in the United States lags behind most of our competitors in the world economy, and our country is suffering from unemployment, inflation and a large negative balance of payments, it is imperative that we encourage productivity in our Nation's most productive sector, that of small business.

Small businesses create the vast majority of new jobs in our Nation. In fact, studies show that of the major innovations introduced into the marketplace in the past 25 years, small firms were found to produce about 24 times more per R. & D. dollar than large firms, and 4 times as many as medium-sized firms. In this time of fiscal austerity, it is necessary that the Congress realize this and spend its money in the most productive manner.

One of my concerns has been this body's apparent lack of assertiveness in setting criteria for Federal Agencies. Our rules and authorizations have been too lax, especially in the area of small business. The agencies know small business is more cost efficient and has a greater per dollar rate of productivity than large firms. However, they continually show a lack of confidence in small firms' ability to produce, by awarding their money to the less effective larger firms. This is not to downgrade the importance of the large company, but it is essential that my colleagues realize the important role played by small business.

It is time we let the agencies know that the Congress is concerned how our tax dollars are allocated and that we want the most from every R. & D. dollar that is spent.

I have sponsored legislation which will be a meaningful step toward achieving this goal, H.R. 5330. The Small Business Innovation Research Act will strengthen technological innovation and in turn, promote increased productivity in our Nation's economy. I urge my colleagues to join me in supporting this legislation.●

● Mr. NELSON. Mr. Speaker, I want to thank my colleagues, Mr. MOORE, Mr. AMBRO, and Mr. AUCOIN for reserving this bloc of time for a colloquy on such an important topic.

As a member of the Task Force on Industrial Innovation, I have become increasingly aware of this Nation's technological innovation lag which seems to be growing at a rapid pace in recent years. This Congress has the opportunity to fight our overriding problem of inflation by doing all in its power to encourage innovation and productivity. To attack inflation, we will have to spur innovation and create employment; we will have to stimulate productivity and regain our competitive edge in the world trade market.

Historically, the growth of American productivity has been rapid by any standards during most of the postwar period. About a decade ago, the rate began to slacken. Until the recession of 1974, this slackening was not particularly alarming. Although nearly all advanced countries enjoyed larger rates of growth in postwar years, most of these countries have experienced some retardation in the growth of productivity since 1973.

In answer to many of the charges that innovation and productivity must be further encouraged, this week the Brookings Institution published "Accounting for Slower Economic Growth" to investigate the causes contributing to the decline in the growth rate of productivity and innovation. This study by Edward F. Denison delves into myriad reasons for this decline, such as the shift of employment to service industries, the reduction in R. & D. expenditures, the decline of yankee ingenuity, Government regulation and taxation, and the rise in energy prices. Although Denison suggests that each of these has contributed only minimally to the over-all problem, the total has considerable impact.

This gives us the opportunity to make incremental improvements in each piece of legislation that we introduce. From this time forward, we should consider the innovative and productivity impact of each bill that we introduce. I am cosponsoring several pieces of legislation that I feel will work toward improved productivity and innovation. Bills such as H.R. 4646, the Capital Recovery Act, and H.R. 5607, the Small Business Innovation Act, will encourage business to invest their profits in research and development and in plant and equipment expansion. I believe that if we can encourage investment into production capacity and can decrease Government intervention, our free enterprise system will be able to take over from there.●

● Mr. HOLLENBECK. Mr. Speaker, I welcome this opportunity to speak on the terribly important subject of innovation and productivity and congratulate the members of the task force on innovation, Congressman AUCOIN, Chairman BROWN, and others for their initiatives in getting this effort going. Today's colloquy is the first important step in raising the consciousness of the Congress and the public on this important subject. Unfortunately, I have to agree with a speaker the other day at the National Academy of Engineering's workshop on industrial innovation the subject of innovation is definitely not foremost in the Congress attention. It is, as the speaker said, a "category B" issue. This situation must change because over the long run innovation in our economy and in our society is a prerequisite to providing a rich and rewarding life for our people through this rapidly changing era.

Mr. Speaker, we hear a great deal about how American productivity is declining. And it is true that the growth in output per working hour has declined nearly 30 percent in the United States from 3.5 per year in the 1960's to 2.4 percent in the 1970's. But what does this mean? It may simply result because we already have reached a very high standard of living and that beyond a certain point it becomes more and more difficult to bring about marginal increases in productivity? There is good evidence to believe so. All other countries which are industrialized, including the much vaunted Japanese and Germans, have also experienced declines in productivity growth. Most dramatically, Japan declined from a 11 percent annual rate to a 4.5 annual rate between the decade of the 1960's and the 1970's.

Others have blamed lower investments in R. & D. for declining productivity in this country and for the declining rate in productivity. However, the United States spends more on R. & D. than the United Kingdom, France, West Germany, and Japan combined. So it is not obvious that our declining productivity stems from declining research expenditures even though estimates made by Robert Solow of MIT and others who said that about half of the growth of U.S. productivity is itself the result of advances of scientific knowledge.

Of course, innovation is not simply research and development. Innovation implies actually getting the results of research out into the economy and that is a long-term process at least as long as the research itself. There are indications that in fact it is the transition from the laboratory to the economy which is not occurring. I might add, however, perfectly valid reasons for scientific research rather than the immediate practical benefit. Not the least of these is the greater understanding of the world around us, which opens our eyes and minds and makes us receptive to the possibility of new inventions by creating new wants which years later may be satisfied by new technology.

Nevertheless, whatever the cause for declining U.S. productivity, our balance-of-payments problem which some believe stems from a lack of innovation is dominated by our imbalance in imports in energy and material. In fact, over the past decade, U.S. exports of innovative high technology items has grown dramatically and are now some five times what they were in the early 1960's. This seems to suggest that innovation by itself will not solve our balance-of-payments problems, but it must be coupled with the national solution of energy and materials shortages.

Mr. Speaker, from what I have just said, it is evident that we need to come to a greater understanding of the causes of declining productivity. We cannot expect a simple fix; we must recognize that there will be no single solution. Rather, we are going through a readjustment to a new style of economy, one dominated by services, but also one where, in terms of consumption of goods, we are perhaps leveling off simply due to restraints of world resources. This, of course, does not require a decline in the quality of our life because for a long time we have been shifting from manufacturing to services and thus the latter being

hard to increase productivity. By definition, services imply personal attention and that is hard to make "efficient."

With these general thoughts as background, I will discuss a few issues which I believe are important and upon which I intend to act in the area of innovation and productivity.

First, Federal Patent Policy. I have joined my colleague ALAN ERTEL in cosponsoring H.R. 5715, the Uniform Federal Research and Development Utilization Act of 1979. It is shocking that the utilization of the rate of Federal patents is up around 1 percent whereas in private industry that rate is up around 20 to 30 percent. In part, this results from the fact that patents from federally sponsored R. & D. are virtually useless as a proprietary item. They do not grant somebody, who is willing to sink the capital for developing an invention, the exclusive right to produce and market that invention. In fact, testimony before our subcommittee has indicated that the real bucks flow into developing a product not into inventing it or conducting research. H.R. 5715, in contrast to the administration's proposal, would grant to all performers of Federal research and development, the title to any invention which they may make under Federal sponsorship.

I realize that some will object to allowing personal gain from the results of publically funded research, but the fact is that no one is gaining under the current system. It is far more important to get these research results used. However, H.R. 5715 does provide for a payback. If an invention growing out of Federal research funds makes a profit, the Federal Government at least recoups its investment. One other feature which should be pointed out about this bill is that it grants title—not simply an exclusive license to the inventor. For the purposes of raising capital to finance the development and production of an invention, it is important that the inventor have actual title to the invention. In addition, by granting title and having a uniform policy across all Federal agencies, we eliminate an enormous amount of bureaucratic paperwork as well as negotiating time in the application of new inventions. And timing is crtical—because very often marketability of a new product depends upon the timing of its entrance of the market. A year's time lost because you are negotiating with a contract officer in a Federal agency on the terms of a license can mean the difference between economic success and failure. For this reason, I commend Mr. ERTEL for introducing this bill and I hope that the Congress will act upon it in the coming session.

Second, I would note that recently the House overwhelmingly passed H.R. 2743, the Materials Policy Research and Development Act. I am very proud of this bill which mandates the President to deliver within 1 year a comprehensive national program for materials research and development. I hope that the Senate will act on this bill with all due speed so that we can meet the research and development needs which are becoming increasingly evident in many areas of materials production, processing and supply. For example, we must develop and implement and employ substitutes for chrome wherever possible, although complete substitution will never be possible. I mention this because I believe we should reduce our dependence on oppressive governments such as Rhodesia, South Africa to the maximum extent possible. In addition to our political ideals, on a purely practical level, if we do not begin to recognize the move toward independence and equality in those countries, we may well find ourselves cut out of vital materials products at a later date. There are potential methods for reducing annual consumption by approximately two-thirds according to the National Academy of Sciences. But to achieve this requires research and then sustained industrial innovation in all uses of materials such as chrome, platinum and cobalt.

I should also draw attention to the fact that the Materials Policy Research and Development Act stipulates that it is the policy of the United States to promote industrial innovation in materials and materials technologies. Specifically, we must take steps to see that the results of the research are applied in actual practice.

Thus, it is fully the understanding of our committee and the floor managers that the programs which the President is mandated to submit also deal with all measures of all types which will foster industrial innovation. I hope the President responds imaginatively to the challenge.

I am proud to have worked with my colleagues on this bill and I hope that we will soon see passage of this important legislation.

It has been pointed out in a recent study by the MIT, program on neighborhood and regional change, that up to 80 percent of all new jobs created in the last decade have grown out of young small businesses. Furthermore, roughly 50 percent of the major product innovations have originated in small businesses. Thus it is very important that we do everything possible to insure that Federal policies do not discriminate but rather enhance the ability of small businesses to thrive and prosper. In this connection, I would note that there has been an alarming decline in the introduction of new public stock offerings by small businesses. This situation has been somewhat reversed by recent reductions in capital gains taxes, but only partially so—we have a long way to go.

Testimony to us indicates that there is a real problem in raising capital to support the introduction of innovations. The U.S. savings rate is among the lowest of all industrialized nations. As a matter of fact, the capital investment as a percentage of output in the United States was only 14.6 percent from 1970 to 1976 which is lower than any other nation. In Japan the percentage was 27 percent for the corresponding period.

Many people have proposed the introduction of various tax credits, tax deductions and other financial incentives to stimulate capital investment, particularly in high risk young new corporations. Others have criticized the investment policies of pension funds for being too conservative. I hope that pension investment policies can be changed. We all know the classic example of the widow during the depression who had General Electric stocks while her children were forced under court order to invest their inherited funds in "prudent" bank stocks of the period. The widow who had the investment in GE at that time is the only person who has any money now. I simply use this example to illustrate the point that ultimately the safest investment is an investment in innovation which anticipates future needs and which does not simply shore up geriatric firms, such as the Chrysler Corp., at a time when we have so many new and unmet needs.

Mr. Speaker, on the subject of possible tax breaks to stimulate greater capital investment, I could not at this moment give a precise formula for a desirable approach; nevertheless, I think one important principle should be considered. I do not directly favor a tax break to stimulate industrial innovation, although I certainly support the aims behind it, because tax credits and deductions would be administered under current techniques by the Internal Revenue Service. The purpose of the Internal Revenue Service is to collect revenue, not to give it out. Therefore, I would strongly urge that if the Congress mandates a program which works through the income tax system—which I would recommend—then we should authorize the mission agency whose programs most nearly coincide with the goals of any given tax break to write the guidelines and regulations. For example, if we want a tax deduction for solar energy or a tax deduction for capital equipment in small businesses, we should have the guidelines and regulations for these programs defined by the Department of Energy by the Small Business Administration respectively, not by the Internal Revenue Service.

Mr. Speaker, we must always ask ourselves why we want to have innovation. In my mind, the forces of innovation must be directed by the satisfaction of socially desirable ends. Innovation to produce a colored toothpaste, is not to my mind a worthwhile diversion of public resources. On the other hand, innovation to stimulate the introduction of energy conservation measures or to capitalize solar energy is highly worthwhile and should be supported. More generally, we should couple the thrust of any innovative measures to the solution of national problems.

Having decided what national goals we wish to pursue, we must find a better way to bring more of the reward that society reaps from an innovation back to the person who is out on the cutting edge. Let me illustrate: Historical evidence seems to indicate that of the total return from an innovation, the inventor receives about one-half of the profits. Society receives the other half. It seems to me that we should develop techniques to permit a greater return of the social profits to the individual who is willing to take a risk and introduce an innovation. For instance, a man who

puts $2,000 of insulation in his house in some small way reduces pressure on world oil prices. Thus, he makes it easier for his neighbor who may not have put a penny into saving energy. Should not the man who made the insulation investment receive some of his neighbor's profit? This type of problem occurs again, again and again.

In effect, the social profit is profit returned to the original innovator's competitor. It seems hardly fair that a company which has introduced an invention should in effect be financing its own demise over the long run. At the same time, however, society contributes a great deal to the support and the conditions under which it is possible to innovate at all. If nothing else, society provides an individual with his education. So society also deserves to receive some of the profit which returns from innovation. What is the right mix? I don't know, but I think we should study very carefully whether the right proportion is occurring so as to stimulate the introduction of innovations consistent with national goals.

Mr. Speaker, I will conclude simply by observing that the process of reinvigorating our national economy is going to be a generation-long problem; I have tried to make this point time and time again in my support of bills on long range materials and energy policy. We must not scatter our resources. We cannot move willy-nilly in response to each passing crisis. We must begin to chart a much longer range flexible program which is built upon proper synchronizing of our public policies with the very process of technological change over a full generation—in energy, materials and in all facets of economic activity. At the same time, in order to meet short term shortages and disruptions, programs such as materials and energy stockpiles, are necessary. These can be used to blunt momentary shortages.

At present, we have virtually none of the elements of this systematic approach in place. The keysone in my mind of the problem of innovation and productivity is one of understanding and managing technological change toward improving the quality of human life. Not only for ourselves but for people everywhere in every land, now and in the future. If we do not recognize the demands for equity and justice in this process of economic change and development, then we shall not reap its benefits. If we do recognize and peacefully assist other nations in their struggle for freedom from want and from authoritarian governments, we shall all receive a handsome profit.●

## A BILL TO IMPROVE THE QUALITY OF LIFE OF HANDICAPPED AND DISABLED CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, the bill I am introducing today is an amendment to the Social Security Act. Its purpose is to make it possible to allow children to remain at home and receive medical care without having to be institutionalized in order to get supplemental security income (SSI).

At the present time the income and resources of the parents are attributed to children in determining eligibility for SSI. If a child is institutionalized for at least 1 calendar month, his parents' income is no longer used to determine eligibility. Once a child is allowed SSI, he becomes eligible for medicaid which covers all medical expenses. Unfortunately, a child can receive those benefits only if he is institutionalized because often the parents' income and resources render the child ineligible when he is living at home. Yet a problem that arises in many cases where a child can live at home is that the parents' income cannot be stretched to pay the cost of medical bills. I might also add that the bill does provide for regulations determined by the Secretary to exclude those children whose families can realistically afford home care. Such a provision will insure that SSI and Medicare will not be allowed to individuals who are financially able to pay for needed medical care.

As an example of the inadequacies of our present eligibility requirements, I will describe the case of a family in my district. Paul and Patricia Leymeister became the parents of a baby boy, Paul-Matthew, over 1 year ago. Shortly after his birth Paul-Matthew developed hydroencephelitis, meningitis, and other problems. He has spent most of his short life in and out of institutions, but only once for an entire calendar month. Since he spent only that 1 calendar month in an institution he was found eligible for only 1 month of SSI and medicaid benefits. Paul Leymeister is a laborer for a township road department and makes approximately $12,000 a year. Obviously that income is inadequate to meet ordinary living expenses plus the medical bills of the baby. I would like to quote to you from a letter I received from the Leyeisters.

> If parents could receive benefits to help in keeping their handicapped children home, when possible, it would cut taxes, empty institutions and most importantly help the children lead as normal lives as they possibly can. I don't know what we will do without the SSI and Medicaid benefits.

I have done some arithmetic with the help of the Department of Health, Education, and Welfare and the Congressional Budget Office which clearly demonstrates the benefit and logic to this legislation. To institutionalize Paul-Matthew in an institution recommended by his physician it would cost the Government approximately $56,000 a year. If Paul-Matthew would be allowed to live at home and receive SSI and medicaid benefits it would likely cost about $4,000 a year. The difference is $52,000 a year in his case which is particularly severe. When one looks at the overall picture, there are about 20,000 children in medicaid reimbursable institutions. It costs approximately $20,000 a year to institutionalize a child in a long-term care facility. The average yearly SSI and medicaid payment for disabled recipients is about $4,000. If only half of the 20,000 institutionalized children could be cared for at home, the savings would be approximately $165 million a year. The bill I have introduced provides a savings in public funds and more importantly gives each one of those children in an institution the opportunity to be in an atmosphere which may make a tremendous difference in the quality of their lives.

I hope you will join me in cosponsoring this bill.●

## QUALIFIED PENSION PLAN RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, the qualified pension plan rules of the Tax Code provide significant tax incentives to encourage the formation of pension plans that do not discriminate in favor of employees who are officers, shareholders, or highly compensated. These incentives include deferral of tax on plan benefits, favorable taxation of benefits, and exclusion of benefits from estate and gift tax. Also, employer contributions to a qualified plan are deductible—within limits—in the year for which the contributions are made.

In a case decided recently by the Tax Court, *Kiddie* (69 T.C. 1055) separate corporations were established by two professionals. Each professional was the sole employee and sole shareholder of his own corporation. The professional corporations formed a partnership and the partnership employed staff. One of the corporations, Kiddie, Inc., set up a pension plan for its only employee and claimed a deduction for a contribution to the plan. There was no comparable plan for the employees of the partnership. The Internal Revenue Service disallowed the deduction, contending that the employees of the partnership should be considered together with the employee of the professional corporation in testing the corporation's plan for discrimination and that the plan failed to satisfy the discrimination test. The Tax Court found no rule which would aggregate the partnership employees with the corporate employee for pension purposes.

Accordingly, the Tax Court found the plan qualified and allowed the deduction. Since Kiddie, the Tax Court decided a similar case, *Garland* (73 T.C. —, No. 2) with a similar result.

I am concerned that if the Kiddie and Garland cases become an accepted part of the pension law, the intent of the Congress in providing tax incentives for qualified plans that benefit rank-and-file workers will be frustrated. The bill I am introducing today, together with Mr. ROSTENKOWSKI and Mr. CONABLE, is designed to stop this abuse before it becomes widespread. Under the bill, in testing whether a pension, profit sharing, or stock bonus plan meets specified requirements relating to tax-qualified plans, employees of a professional organization and an adjunct professional organization—for example, the professional corporations and their partnership in the Kiddie case—would be treated as if they were employed by the same employer.

The rules affected by the bill include

plan qualification requirements relating to discrimination, eligibility for plan participation, vesting, and limits on contributions and benefits. The bill also provides for coordination of the new rules with pension rules relating to funding of plans and employer deductions for plan contributions. The bill authorizes the Secretary of the Treasury to prescribe regulations necessary to prevent abuse of the specified provisions with respect to professional organizations through the use of separate corporations, partnerships, or other organizations.

The bill applies where: First, a professional organization regularly uses the services of the adjunct professional organization or is regularly associated with the adjunct organization in performing professional services for others; second, one or more of the professionals (or one or more owners of the professional organization) owns an interest in the adjunct organization; and third, such individuals, as a group, own at least 25 percent at the adjunct organization.

For plans not in existence on December 13, 1979, the bill would apply for plan years ending on or after December 13, 1979. For plans in existence on December 13, 1979, the bill would apply for plan years beginning after December 13, 1979.●

## ECONOMIC OPPORTUNITY ACT OF 1964

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, my colleague, IKE ANDREWS, and I are introducing a weatherization bill which would amend the Economic Opportunity Act of 1964 by establishing a comprehensive energy conservation services program designed to enable low-income individuals, particularly low-income elderly persons, and severely handicapped individuals, to participate in energy assistance programs.

This bill revises section 222(a)(5) of the Economic Opportunity Act which authorizes low-income emergency energy conservation services with respect to the following programs: weatherization; crisis intervention; outreach activities; energy conservation education; alternative technological developments; and energy audits. The new title XI—comprehensive energy conservation services program—is established in the Economic Opportunity Act under which these various energy-related programs will be conducted.

This bill makes more explicit the authority for the Community Services Administration to conduct a low-income weatherization program although it does not affect the Department of Energy's authorization to conduct its low-income weatherization program. The bill resolves, however, many of DOE's problems. For example, it allows weatherization funds to be used to pay for labor costs.

The program is authorized for 3 fiscal years, 1981 through 1983. $750,000,000 is allotted for fiscal year 1981; $1,000,000,000 for fiscal year 1982; and $1,200,000,000 for fiscal year 1983. Grants will be provided to the States for weatherization of homes. Each State must submit a 3-year plan which would be updated yearly.

Title XI also clarifies the crisis intervention program. Energy crisis intervention projects which are presently authorized by law but are revised and made more explicit in this bill, supplement energy assistance payments by providing temporary assistance—such as blankets—in times of energy-related crisis. Such sums as necessary are authorized for fiscal years 1981 through 1983 for the crisis intervention program under part B of this bill.

The formula for allocations to States prescribed for both weatherization and crisis intervention is as follows: One-third of the funds will be allotted on the basis of the number of heating degree days weighted by the population of the State; one-third of the funds will be allotted on the basis of the relative number of families whose income equals or is lower than the 100 percent of the OMB poverty line; one-third of the funds will be allotted on the basis of the relative number of individuals who are 60 years of age or older.

Finally, the bill revises existing authority for energy conservation education, alternative technological development; energy audit; energy conservation research and demonstration and pilot projects; and other energy-related activities, and $10 million is authorized for fiscal year 1981 and for each succeeding fiscal year ending before October 1, 1963.

Some distinct provisions of this bill are worth noting at this time. This bill gives priority in determining eligibility for assistance to three groups of individuals: low-income persons whose income is equal to or less than 100 percent of the OMB poverty guideline; persons over the age of 60 whose income is equal to or less than 150 percent of the OMB poverty guideline; and severely handicapped individuals without regard to income level. Because of poverty or severely handicapped conditions, these persons would have the most difficult time in weatherizing their homes.

Also, this bill would utilize to the extent feasible, older persons, who are eligible to receive assistance under title V of the Older Americans Act of 1965, as employees to conduct weatherization projects.

Mr. Speaker, both Congress and the administration have recognized a need for a comprehensive energy plan for this country. A comprehensive weatherization program such as the one set forth in this bill is an essential component of any long-term strategy which seeks to help individuals reduce consumption of energy. Energy-conserving weatherization activities benefit not only those individuals who are eligible for assistance under this bill, but also benefit the Nation as energy consumption and foreign dependence on oil are reduced. Conservation and reduction of consumption of energy is possible for our country, but not all individuals can afford to conduct weatherization activities. This is why my colleague and I firmly believe that the Federal Government must commit itself to a comprehensive weatherization program so that our conservation goals can be achieved.●

## PEACE THROUGH STRENGTH

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, I want to compliment the President for his new defense stance, proposing increases in the future.

At a time when a consensus is emerging across the Nation that we must have stronger defenses to protect our national interests and safeguard our embassies and diplomats, it is worth noting once again how the Carter administration finally recognized how it has erred in defense procurement decisions until now.

In June 1977 President Carter canceled production of the B–1 intercontinental missile. The administration claimed that our existing obsolete B–52's and existing commercial aircraft could be used to launch standoff cruise missiles.

More evidence is emerging that killing the B–1 project was foolish. The current issue of Aviation Week and Space Technology reports that existing transport planes are unsuited to carry the cruise missile.

As a result, the Air Force is being compelled to focus again on the B–1 as a primary cruise missile launcher.

Mr. Speaker, it is clear that the misguided B–1 decision is another example of amateurism in White House decisionmaking. It has harmed the Nation and our defenses.

AERONAUTICAL ENGINEERING—B–1 STUDIED AS CRUISE MISSILE CARRIER

(By Robert R. Ropelewski)

LOS ANGELES.—U.S. Air Force is preparing to evaluate the Rockwell International B–1 bomber as a potential cruise missile carrier aircraft following an Air Force determination that existing commercial transport aircraft could not be adapted suitably to the strategic air-launched cruise missile (ALCM) launcher requirement.

The service is concentrating the remainder of its flight testing of the B–1 on the development and evaluation of the aircraft's penetration aids and defensive systems, with the aim of proving the concept of these systems rather than qualifying them specifically for the B–1.

Under congressional mandate, the Air Force last year awarded study contracts to Boeing to evaluate its 747 and YC–14, to Lockheed to evaluate its L–1011 and C–5A, and to McDonnell Douglas to evaluate its DC–10 and YC–15 transports as potential candidates for the cruise missile carrier aircraft (CMCA) role (AW&ST May 22, 1978, p. 23). Those studies are nearing completion—with unfavorable conclusions as far as the wide-body commercial transports are concerned.

The Air Force is now focusing on the B–1 as its primary strategic air-launched cruise missile launcher (SAL) candidate, and has directed the Aeronautical Systems Div. of the Air Force Systems Command to initiate preliminary planning for a flight evaluation and advance design of a B–1 SAL derivative. The third B–1 prototype is expected to be used

for the flight evaluation once it finishes the present B–1 flight test schedule.

Reasons for the dismissal of existing commercial transport aircraft as viable candidates for the CMCA mission center around their performance and relative vulnerability in a hostile environment.

In a speech here to an Air Force Assn. symposium, Seymour L. Zeilberg, deputy under secretary of Defense-strategic and space systems, acknowledged that the Air Force and the Defense Dept. had "made some progress in sorting out the issue of what is an appropriate cruise missile carrier."

Echoing a sentiment expressed recently by several top Air Force officers, Zeilberg noted: "I personally believe that variants of commercial aircraft are not appropriate. By the time they are modified to have the desired characteristics in the presence of the kinds of threats we worry about, they offer no cost or performance advantage over a dedicated military aircraft," he added.

"You can't just go out and buy a [Boeing] 707 and use it," Zeilberg told Aviation Week & Space Technology. "If you apply a severe threat in a forward area, then modify the aircraft to account for this, you run up the cost of the aircraft and change it so much it's not the same aircraft any more."

A B–1 derivative in the 1984–85 time frame "is our favorite solution as far as a cruise missile is concerned," said.

"Variants of military cargo aircraft might be interesting," Zeiberg conceded, "but the analysis is not yet convincing and more work needs to be completed before we decide this point. Derivatives of the B–1 technology base have the features desired; however, there the question tends to be cost-related."

Air Force officials confirmed that while derivatives of wide-body commercial transports were no longer under consideration, the CX or other military derivative aircraft were still candidates.

In addition to the cruise missile carrier aircraft requirement, the Air Force continues to be concerned with the manned penetrator issue as it relates to the eventual replacement of the service's aging Boeing B–52 bombers. While Defense Dept. and Air Force officials have identified the stretched General Dynamics F–111 as a lower-cost interim solution to this requirement, a derivative B–1 solution continues to have its proponents.

As Zeiberg noted: "The penetrating bomber question is still an area of uncertainty. If I could trade $5–6 billion of late-eighties money for near-term application, I'd weigh in for the FB–111 stretch. If I could round up more money, I'd switch to derivatives of B–1 technology, with suitable updating, since it offers better performance and can serve a dual role—bomber and cruise missile carrier.

"But, this may be fantasy," he added, "since the extra money is not likely and the appropriate and critical question to answer is how long we can extend B–52 life while keeping quick-reaction options open if the B–52 suffers from unexpected degradation—either threat or age-induced."

Zeiberg conceded there was little reason to believe the money would be available to move ahead with a new bomber program. But the need for options in case of unplanned early retirement of the B–52 would "dominate our thinking in the near future," he said.

We will be looking for a firm plan to evaluate B–52 life extension while developing prototypes for the shelf as backups, should the B–52 not be available throughout the eighties. I foresee a near-term end to paper studies and the start of some prototype hardware efforts."

He described these efforts as a "combined program of prototype hardware for a cruise missile carrier plus studies of a new manned bomber."

In conjunction with this, a program management directive (PMD) has been issued by the Air Staff directing the Air Force Systems Command to initiate the B–1 cruise missile carrier evaluation. Rockwell International has been asked to assist in developing a range of options for B–1 modifications to be accomplished within the fiscal constraints of the cruise missile carrier aircraft evaluation.

Those constraints have not been identified fully for the duration of the evaluation program, but about $30 million has been earmarked for CMCA work in Fiscal 1980, and most of that is likely to be used for the B–1 evaluation.

As the program is outlined, examination of the options developed by Rockwell and the Air Force would begin late this year or early in 1980. The Air Force would then select the most suitable option from these, probably in the spring of 1980.

A request for proposals would be issued at that time for the design, development and demonstration work involved, and a contract would follow. Schedule for the start of flight demonstrations varies with the options and ranges from as early as the spring of 1981 to sometime in 1982.

Rockwell has already accomplished a considerable amount of work on its own in this area with its proposals for the production of a B–1 core aircraft that could be adapted for several strategic missions, including strategic weapons launcher, near-term penetrator, conventional bomber or tanker (AW&NST, Sept. 17, p. 14).

Air Force and Pentagon official stress that the studies now being planned involve only a cruise missile launcher role for the B–1 and not a broader role of strategic weapons launcher or manned penetrator. Current discussions on an evaluation of the B–1 as a cruise missile carrier do not address directly the manned penetrator question, although present B–1 flight testing with the third and fourth B–1 prototypes is oriented specifically toward penetration/defensive systems capabilities.

A low-key flight development program has continued at Edwards AFB since President Carter's decision in 1977 to terminate B–1 production plans. Flight testing is scheduled to terminate in early 1981.

The program management directive commissioning the B–1 strategic ALCM launcher studies gives specific instruction to the Aeronautical Systems Div. to complete ongoing B–1 tests. Remaining flight tests are oriented toward the following areas in order of their priority:

Penetrativity.

Defensive systems, including a shakedown of the AIL ALQ–161 electronic warfare system and its compatibility with the aircraft.

Offensive systems.

Basic aircraft systems.

General Electric F101 engines.

Electromagnetic propagation tests.

Activities in these areas include both development and testing, with heavy priority placed on the first two areas. Little, if any, testing is devoted to the basic aircraft, and the two B–1 prototypes essentially have become convenient platforms on which to test penetration aids and defensive systems.

"Flight objectives are generally written around the first two areas," according to an Air Force spokesman, "but we're looking at the other areas, too, as time permits."

Basic research and development work on penetration and defensive systems in the two aircraft is continuing as reflected in the recent installation of a Doppler beam sharpening system for the B–1's terrain-following radar, a long wave guide in modified dorsal fins on both aircraft for jamming, and other developmental systems.

"We had a baseline system a couple of years ago," an Air Force Systems Command officer said, "but there has to be a constant evolution of the system as far as the threats that can be anticipated. The restructuring [of the test program] was an attempt to update this baseline."

"The system is fairly up-to-date now," he said, "but we can expect to add to it as time goes on."

TEST PHASES DEFINED

Decision to give priority to the penetrativity/defensive systems tests and the guidance for doing this were provided by an Air Force general officers' steering committee, which met last January for this purpose. The steering committee defined three phases of penetrativity testing, including:

ALQ–161 defensive systems group shakedown evaluation to verify the system meets specifications and performance requirements. Only the No. 4 prototype is equipped with the ALQ–161. The system is designed to detect, classify and identify hostile radar threats and to direct appropriate jamming responses automatically.

Evaluation of the B–1's penetration aids and defensive systems against advanced threats using existing USAF systems with similarities to the anticipated enemy threats of the middle and late 1980s. Downward-looking radar-equipped aircraft such as the McDonnell Douglas F–15 fighter and the Boeing E–3A early warning aircraft, among others, are serving as the adversaries in this phase of the tests.

Operational penetrativity phase, in which the overall capabilities of the B–1 systems are being examined in a total air defense environment rather than one-on-one situations. Both flight test data and computer simulations are being used.

There is a certain amount of overlapping of each phase, rather than a strictly consecutive execution of the three phases. Thus, some flights involve one-on-one encounters with adversary aircraft while others involve multiple adversaries.

The two B–1 prototypes have been averaging a total of four or five flights a month, with each flight generaly lasting 6–7 hr.●

## CONFERENCE REPORT ON S. 918

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958.

CONFERENCE REPORT (H. REPT. NO. 96–705)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20(e)(4) of the Small Business Act is amended to read as follows:

"(4) For the programs authorized by sections 501, 502, and 503 of the Small Business

Investment Act of 1958, the Administration is authorized to make $49,000,000 in direct and immediate participation loans, and $75,000,000 in guaranteed loans and guarantees of debentures.".

SEC. 102. Section 20(e)(5) of the Small Business Act is amended to read as follows:

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.".

SEC. 103. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $275,000,000 in direct and immediate participation loans, and $3,630,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $69,000,000 in direct and immediate participation loans and $81,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $30,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation, loans, and $105,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $38,000,000 in direct purchases of debentures and preferred securities and to make $207,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,300,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $100,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $952,000,000. Of such sum, $715,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $20,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958: $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $212,500,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,000,000 shall be available for procurement and technical assistance, including the employment of not less than twenty-seven additional procurement center representatives and subcontracting specialists; of which amount not less than $1,800,000 shall be available for technical assistance, and of this amount not less than $572,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $750,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses; and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) $21,000,000 shall be available for management assistance including the development and implementation of a small business export development program, of which amount not less than $500,000 shall be used to employ not less than fourteen additional staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,000,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,500,000 shall be used to develop an external small business data bank and small business index; and not less than $1,500,000 shall be used for research.

"(4) $25,000,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,285,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,000,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,000,000 shall be used to pay for development of such indicative small business data base.

"(6) $12,000,000 shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20 (i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000.

"(8) For the programs authorized by sections (7)(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, of which amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system and not less than $825,000 shall be used to de-

velop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(1) of this Act: *Provided, however*, That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(n) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $215,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000.

"(8) For the programs authorized by section 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, of which amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(p) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(o) of this Act: *Provided, however*, That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1979, 1980, 1981 and 1982 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

ENERGY SHORTAGE LOANS

SEC. 111. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

SEC. 112. (a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after "under subsection (b)" the following ", except as provided in subsection (c),";

(b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:

"(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

"(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first $55,000 of such loan;

"(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum; and

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration: *Provided, further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(3) inserting a new subsection as follows:

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

INTEREST DIFFERENTIAL PAYMENTS

SEC. 113. Section 4(c)(5) of the Small Business Act is amended by striking "each of the funds established by paragraph (1)" and inserting in lieu thereof "the fund established by subparagraph (B) of paragraph (1)".

INVESTMENT OF IDLE FUNDS

SEC. 114. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

SEC. 115. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

SEC. 116. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: Provided, That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

SEC. 117. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

DEVELOPMENT COMPANY DEBENTURES

SEC. 118. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the folowing new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

SEC. 119. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time or render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

SURETY BOND GUARANTEE

SEC. 120. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 121. Section 15(c) of the Small Business Act is amended to read as follows:

"(c)(1) During fiscal years 1980, 1981, and 1982, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Sev-

erely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

"(2) The Administration shall, not later than January 1, 1981, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.".

SEC. 122. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns";

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(c) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside.

"(2) concerns which are small business concerns, on the basis of a total set-aside.

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside.

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(4) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

SEC. 123. (a) Section 2(e)(1)(C) of the Small Busness Act is amended by inserting "Asian Pacific Americans," after "Native Americans.".

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans.".

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95–507); and

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 124. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster. (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent; Provided, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after "*Provided*, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1979".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as "applicants") to assist in establishing small business development centers and to any such body for: small business oriented employment or natural resources development programs: studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1980, 1981, and 1982 financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff, including a director to manage the program activities;

"(B) business analysts to counsel, assist, and inform small business clients;

"(C) technology transfer agents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

"(D) information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintain lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) A small business development center is authorized to utilize and compensate consultants, engineers and testing laboratories for services provided to small businesses on behalf of such small business development center.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS–17 of the General Schedule.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as "Board") which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS–18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(i)(1) Each small business development center may establish an advisory board.

"(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1982.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1979, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided*, That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further*, That no small business development center which was funded in fiscal year 1978 may be funded in excess of $300,000 in fiscal year 1980.".

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1983.

## TITLE III—SMALL BUSINESS ECONOMIC POLICY

### SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1979".

### DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and respon-

sibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

"The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisition by size of acquiring an acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however,* That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS–15, step 10, of the General Schedule;".

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1981, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503 of this title.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 of this title in order to prepare for the Conference.

PURPOSE OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503 of this title, the Conference shall bring together individuals concerned with issues relating to small business: *Provided,* That no small business concern representative may be denied admission to any State or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this title, the Administrator of the Small Business Administration—

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b) of this title;

(2) shall provide for the preparation of background materals for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations, and academic institutions to carry out the provisions of this title.

(c) Upon presentation of vouchers within thirty days of the completion of the Conference, the Administrator of the Small Business Administration is authorized and directed to reimburse Conference delegates for travel to the Conference, and for actual and necessary expenses related to attending

the Conference (including meals and accommodations) not to exceed $44 per day: *Provided*, That, (1) such reimbursement shall be effective for fiscal year 1980 only to the extent or in the amounts as are provided in advance in appropriation Acts, and (2) in the event such appropriated amounts are not sufficient to fully pay each voucher submitted, each voucher shall be paid on a pro-rata basis.

(d)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOW-UP ACTIONS

SEC. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 508. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Such sums as are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this title other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to carry out the provisions of section 20 of the Small Business Act.

TITLE VI—EMPLOYEE OWNERSHIP

SEC. 601. This title may be cited as the "Small Business Employee Ownership Act of 1979".

SEC. 602. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar oganizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

SEC. 603. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

(2) to provide in section 605 of this act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a), of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

SEC. 604. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of a leveraged employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administration which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities (as defined in section 4975(e)(8) of such Code) of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loans was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a non-forfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administration, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Code of 1954),

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradeable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to leveraged employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

SEC. 605. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administration which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administration's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administration which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51

percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management contracts to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this subparagraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

SEC. 606. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following:

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

(b) Not later than January 31, 1980, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

And the House agrees to the same.

NEAL SMITH,
FERNAND J. ST GERMAIN,
RICHARD NOLAN,
RICHARD H. ICHORD,
BILLY L. EVANS,
DOUG BARNARD, JR.
CLAUDE "BUDDY" LEACH,
TONY P. HALL,

Solely for consideration of subsections (c), (d), and (e), of section 113 of the House amendment and modifications committed to conference:

THOMAS S. FOLEY,
ED JONES,
TOM HARKIN,
JERRY HUCKABY,
DAN GLICKMAN,
KENT HANCE,
GEORGE E. BROWN, JR.,
FREDERICK W. RICHMOND,

*Managers on the Part of the House.*

GAYLORD NELSON,
SAM NUNN,
JOHN CULVER,
WALTER D. HUDDLESTON,
DALE BUMPERS,
ROBERT MORGAN,
JIM SASSER,
DONALD W. STEWART,
MAX BAUCUS,
CARL LEVIN,
LOWELL P. WEICKER, JR.,
BOB PACKWOOD,
ORRIN G. HATCH,
S. I. HAYAKAWA,
HARRISON SCHMITT,
RUDY BOSCHWITZ,
LARRY PRESSLER,

*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The principle differences among the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) SBA PROGRAM LEVELS—FISCAL YEAR 1979

*Existing law* establishes program levels for fiscal year 1979 as follows:

| | *Millions* |
|---|---|
| 7(a) Business | $3,757 |
| Direct and immediate participation | 457 |
| Guaranteed | 3,300 |
| 7(h) Handicapped | 55 |
| Direct and immediate participation | 33 |
| Guaranteed | 22 |
| 7(l) EOL | 155 |
| Direct and immediate participation | 66 |
| Guaranteed | 89 |
| Development companies | 94 |
| Direct and immediate participation | 49 |
| Guaranteed | 45 |
| Investment company assistance | 220 |
| Direct purchases of debentures and preferred securities | 22 |
| Guaranteed | 198 |
| 7(l) Solar and energy conservation | 875 |
| Direct and immediate participation | 30 |
| Guaranteed | 45 |
| Total BLIF | 4,356 |
| Direct and immediate participation | 657 |
| Guaranteed | 3,699 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 330 |
| Surety bond guarantees (SBA share of program level) | 2,200 |
| Pollution control bond guarantees | 300 |

[1] Open ended.

To carry out fiscal year 1979 program levels, *existing law* authorizes $1,601.75 million.

The *Senate bill* increased only that portion of the fiscal year 1979 program level relating to the direct purchase of debentures and preferred securities for investment company assistance to $47 million.

The *House bill* contains no comparable provision.

The *conference substitute* includes the Senate provision but a level of $35 million.

The *House bill* redirects the program level for fiscal year 1979 for development companies only to:

| | *Millions* |
|---|---|
| Direct and immediate participation | $45 |
| Guaranteed | 100 |

The *Senate bill* contains no comparable provision.

The *conference substitute* includes the House provision, but retains existing law on direct and immediate participation and $75 million on guaranteed. The conference substitute also includes reference to the new section 503 provision added by this bill.

(2) AMENDMENTS TO FISCAL YEAR 1979 SALARIES AND EXPENSE AUTHORIZATIONS

Of the total of $188 million in salaries and expenses authorized for fiscal year 1979, *existing law* earmarks five specific functions with priorities being given within each function;

(1) Procurement assistance, $14.3 million;

(2) Management and technical assistance, $35.2 million;

(3) Research and advocacy, $6.6 million;

(4) Office of minority small business, $4.4 million; and

(5) Data management, $4.39 million.

The amount which may be transferred from any of the five functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The *House bill* amends the salaries and expenses authorization for fiscal year 1979 by increasing the total to $200 million, of which amount five specific functions with priorities being given within each function are redirected as follows:

(1) Procurement assistance, $17 million;

(2) Management and technical assistance, $25.557 million;

(3) Research and advocacy, $7.3 million;

(4) Office of minority small business, $17 million; and

(5) Data management, $4.5 million, of which amount $1 million shall be used for the development of an indicative small business data base.

The *Senate bill* contains no comparable provision.

The *conference substitute* does not include this provision. The conferees note that these provisions are no longer necessary.

(3) SBA PROGRAM LEVELS—FISCAL YEAR 1980

*The Senate bill* establishes program levels for fiscal fear 1980 as follows:

| | *Millions* |
|---|---|
| 7(a) Business | $3,250 |
| Direct and immediate participation | 50 |
| Guaranteed | 3,200 |
| 7(h) Handicapped | 33 |
| Direct and immediate participation | 22 |
| Guaranteed | 11 |

| | Millions |
|---|---|
| 7(1) EOL | 135 |
| Direct and immediate participation | 65 |
| Guaranteed | 70 |
| 7(1) Solar and energy conservation | 60 |
| Direct and immediate participation | 30 |
| Guaranteed | 30 |
| Development companies | 150 |
| Direct and immediate participation | 50 |
| Guaranteed and guarantees of debentures | 100 |
| Investment company assistance | 240 |
| Direct purchase of debentures and preferred securities | 50 |
| Guaranteed | 190 |
| Tota BLIF | 3,868 |
| Direct and immediate participation | 267 |
| Guaranteed | 3,601 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 60 |
| Surety bond guarantees (SBA share of program level) | 1,900 |
| Pollution control bond guarantees | 100 |

[1] Open ended.

To carry out fiscal year 1980 program levels, the *Senate bill* authorizes $677.453 million. Of this amount, $441 milion shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6): $6 million shall be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $194.453 million for salaries and expenses.

*The House bill* establishes program levels for fiscal year 1980 as follows:

| | Millions |
|---|---|
| 7(a) Business | $4,125 |
| Direct and immediate participation | 495 |
| Guaranteed | 3,630 |
| 7(h) Handicapped | 33 |
| Direct and immediate participation | 22 |
| Guaranteed | 11 |
| 7(1) EOL | 166 |
| Direct and immediate participation | 73 |
| Guaranteed | 93 |
| 7(1) Solar and energy conservation | 75 |
| Direct and immediate participation | 30 |
| Guaranteed | 45 |
| Development companies | 160 |
| Direct and immediate participation | 50 |
| Guaranteed | 110 |
| Investment company assistance | 250 |
| Direct purchase of debentures and preferred securities | 25 |
| Guaranteed | 225 |
| Total BLIF | 4,809 |
| Direct and immediate participation | 695 |
| Guaranteed | 4,114 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 220 |
| Surety bond guarantees (SBA share of program level) | 2,700 |
| Pollution control bond guarantees | 100 |

[1] Open ended.

To carry out fiscal year 1980 program levels, the *House bill* authorizes $1,616 million. Of this amount $42 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $232 million for salaries and expenses.

The *conference substitute* establishes the following program levels for fiscal year 1980:

| | Millions |
|---|---|
| 7(a) Business | $3,905 |
| Direct and immediate participation | 275 |
| Guaranteed | 3,630 |
| 7(h) Handicapped | 33 |
| Direct and immediate participation | 22 |
| Guaranteed | 11 |
| 7(1) EOL | $150 |
| Direct and immediate participation | 69 |
| Guaranteed | 81 |
| 7(1) Solar and energy conservation | 60 |
| Direct and immediate participation | 30 |
| Guaranteed | 30 |
| Development companies | 155 |
| Direct and immediate participation | 50 |
| Guaranteed | 105 |
| Investment company assistance | 245 |
| Direct purchase of debentures and preferred securities | 38 |
| Guaranteed | 207 |
| Total BLIF | 4548 |
| Direct and immediate participation | 484 |
| Guaranteed | 4064 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 100 |
| Surety bond guarantees (SBA share of program levels) | 2,300 |
| Pollution control bond guarantees | 100 |

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1980, $952 million. Of such sum, $715 million shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $20 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958: $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958: and $212.5 million shall be available for salaries and expenses of the Administration. The conferees note that the increase in the guaranteed levels for development company lending is due largely to the addition of the new section 503 program.

(4) FISCAL YEAR 1980 SALARY AND EXPENSE AUTHORIZATIONS

Of the total salary and expenses for fiscal year 1980, the *Senate bill* earmarks eight specific functions with priority being given within each function:

(1) $11,315,000 shall be available for procurement assistance, of which amount no less than $300,000 shall be used to employ ten additional certificate of competency specialists, no less than $900,000 shall be used to employ thirty additional procurement cente rrepresentatives and no less than $450,000 shall be used to employ fifteen additional subcontracting specialists;

(2) $2,800,000 shall be available for technical assistance, of which amount no less than $1,200,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses, and no less than $772,000 shall be used to pay for the continued develoment of a procurement automated source system;

(3) $19,346,000 shall be available for management assistance, of which amount no less than $5,279,000 shall be used for SCORE/ACE program costs, no less than $3,835,000 shall be used for small business institute program costs, no less than $1,611,000 shall be used for management assistance program development costs, and no less than $1 million shall be used to develop and implement a small business export development program and to employ no less than seventeen staff people for the Office of Internatonal Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(4) $8 million shall be available for economic research and analysis and advocacy, of which amount no less than $2,898,000 shall be used to employ sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed by Public Law 94–305, no less than $1,500,000 shall be used to develop an external small business data bank and small business index, no less than $1 million shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $500,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

(5) $24,897,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $12 million shall be used to carry out those functions prescribed by section 7(j) of this Act;

(6) $8,034,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1 million shall be used to pay for development of such indicative small business data base;

(7) $8 million shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program; and

(8) not to exceed $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest product indus-

try. In conducting the study and investigation pursuant to the preceding sentence, particular attention should be given to the ananlysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

Of the total salary and expenses for fiscal year 1980, the House bill earmarks 6 specific functions, with priority being given within each function:

(1) $18,700,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $29,400,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $8 million shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,200,000 shall be available for the Office of Minority Small Business:

(5) $7,400,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration of which amount no less than $1 million shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information; and

(6) $18 million shall be available for grants to small business development centers, and an additional $650,000 shall be available for the administration of the small business development center program.

The *conference substitute* provides:

(1) $12 million shall be available for procurement and technical assistance, including the employment of not less than twenty-seven additional procurement center representatives and subcontracting specialists: $1,800,000 shall be available for technical assistance, of which amount not less than $572,000 shall be used to pay for the continued development of a procurement automated source system; and not less than $750,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and intepret the appropriate technology for such small businesses; and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

(2) $21 million shall be available for management assistance including the development and implementation of a small business export development program of which amount not less than $500,000 shall be used to employ not less than 14 additional staff people for the Office of International Trade, 10 of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

(3) $8 million shall be available for economic research and analysis and advocacy, of which amount not less than $2 million shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,500,000 shall be used to develop an external small business data bank and small business index, and not less than $1,500,000 shall be used for research.

(4) $25 million shall be available for the Office of Minority Small Business and Capital Ownership Development, $10 million of which shall be used to carry out those functions prescribed by section 7(j) of this Act, and $1.285 million for section 7(j) program administration.

(5) $9 million shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1 million shall be used to pay for development of such indicative small business data base.

(6) $12 million shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program.

The conferees note that the salary and expense authorizations for three fiscal years reflect the realignment of certain agency functions as a result of the Administration's internal reorganization.

In this fiscal year, procurement and technical assistance deletes from this function funding for the Office of Business Development. The procurement assistance line-item includes a technology assistance subfunction treated separately by the Senate bill. This subfunction includes an increase of $300,000 for the procurement automated source system is meant to be applied to increase the number of entries into the system. With respect to the additional subcontracting specialists and procurement center representatives mandated, the conferees expect the additional personnel to be devoted specifically to that purpose and not transferred to other divisions or assigned other responsibilities within the Administration. In addition, the agency should review and seriously consider the feasibility of contracting annually with private firms, on a dollar-incentive basis, the procurement center representative function. Since such a large volume of SBA 8(a) contracts are in the fuel-oil area, and the agency has encountered difficulty in this field, serious consideration should be given to hiring at least one of the new subcontracting specialists as a fuel-oil specialist; to date, the conferees are not convinced that any single person within the agency has the expertise to handle this complex, and growing, subcontracting function. With respect to the forest products study, the conferees reiterate that the $200,000 provided for this fiscal year only is meant as a maximum, not a minimum, amount to be spent on the study. The study has been earmarked under the procurement function where the timber set aside program is managed. In conducting the forest products study, particular attention should be given to an analysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

Management assistance has been provided $21 million. However, conferees note it does not include any funds for the operation of the 7(j) program (which has been transferred to the Office of Minority Small Business and Capital Ownership Development) or small business development centers (a separate line-item has been provided). This amount does include an additional $1 million to employ additional personnel and upgrade the Office of International Trade. Such office should carefully address the proper role of the agency in making export assistance available to small business.

Research and advocacy includes funds for at least sixty-nine staff personnel for the Office of the Chief Counsel for Advocacy, including those salaries attributable to other personnel in the central office performing research and advocacy functions. Not less than $3 million is made available for research, of which $1.5 million is specifically to be used to develop an external small business data bank and small business economic index. No funds for the Office of Public Communications are included in this function.

The Office of Minority Small Business and Capital Ownership Development includes the full amount requested by the President for salaries and expenses for this Office. In addition, salaries and expenses for the Office of Business Development, as well as funding for the programs undertaken pursuant to section 7(j) of the Small Business Act, are incorporated in this function. An additional $1.285 million above the President's request is provided for the 7(j) program, but administrative expenses associated with the program are also incorporated in this line item.

Program evaluation and data management includes all the funds requested by the President, plus an additional amount specifically to continue the development of the small business indicative data base. The conferees expect SBA to adhere to the provisions of the Privacy Act of 1974 with respect to the dissemination of this information.

An authorization for matching grants to small business development centers, including administrative expenses, is provided in a separate line-item.

(5) SBA PROGRAM LEVELS—FISCAL 1981

The *Senate bill* establishes the following program levels for fiscal year 1981:

| | *Millions* |
|---|---|
| 7(a) Business | $3,570 |
| Direct and immediate participation | 50 |
| Guaranteed | 3,520 |
| 7(h) Handicapped | 37 |
| Direct and immediate participation | 25 |
| Guaranteed | 12 |
| 7(i) EOL | 148.5 |
| Direct and immediate participation | 71.5 |
| Guaranteed | 77.0 |
| 7(l) Solar and Energy conservation | 63 |
| Direct and immediate participation | 30 |
| Guaranteed | 33 |
| Development companies | 165 |
| Direct and immediate participation | 55 |
| Guaranteed and guarantees of debentures | 110 |

| | Millions |
|---|---|
| Investment company assistance | 264 |
| Direct purchase of debentures and preferred securities | 55 |
| Guaranteed | 209 |
| Total BLIF | 4,147.5 |
| Direct and immediate participation | 286.5 |
| Guaranteed | 3,861.0 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 66 |
| Surety bond guarantees (SBA share of program level) | 2,090 |
| Pollution control bond guarantees | 110 |

[1] Open ended.

To carry out fiscal year 1981 program levels, the *Senate bill* authorizes $850.1 million. Of this amount, $521 million shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6): $63 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program and $224.1 million for salaries and expenses.

The *House bill* establishes the following program levels for fiscal year 1981:

| | Millions |
|---|---|
| 7(a) Business | $4,545 |
| Direct and immediate participation | 545 |
| Guaranteed | 4,000 |
| 7(h) Handicapped | $37 |
| Direct and immediate participation | 25 |
| Guaranteed | 12 |
| 7(1) EOL | 184 |
| Direct and immediate participation | 81 |
| Guaranteed | 103 |
| 7(1) Solar and energy conservation | 75 |
| Direct and immediate participation | 30 |
| Guaranteed | 45 |
| Development companies | 175 |
| Direct and immediate participation | 55 |
| Guaranteed | 120 |
| Investment company assistance | 278 |
| Direct purchase of debentures and preferred securities | 28 |
| Guaranteed | 250 |
| Total BLIF | 5,294 |
| Direct and immediate participation | 764 |
| Guaranteed | 4,530 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 242 |
| Surety bond guarantees (SBA share of program level) | 3,500 |
| Pollution control bond guarantees | 110 |

[1] Open ended.

To carry out fiscal year 1981 program levels, *the House bill* authorizes $1,789 million. Of this amount, $59 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $254 million for salaries and expenses.

The *conference substitute* establishes the following program levels for fiscal year 1981:

| | Millions |
|---|---|
| 7(a) Business | $4,300 |
| Direct and immediate participation | 300 |
| Guaranteed | 4,000 |
| 7(h) Handicapped | 37 |
| Direct and immediate participation | 25 |
| Guaranteed | 12 |
| 7(1) EOL | 166 |
| Direct and immediate participation | 76 |
| Guaranteed | 90 |
| 7 (1) Solar and energy conservation | 63 |
| Direct and immediate participation | 30 |
| Guaranteed | 33 |
| Development companies | $170 |
| Direct and immediate participation | 55 |
| Guaranteed | 115 |
| Investment company assistance | 270 |
| Direct purchase of debentures and preferred securities | 42 |
| Guaranteed | 228 |
| Total BLIF | 5,006 |
| Direct and immediate participation | 528 |
| Guaranteed | 4,478 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 110 |
| Surety bond guarantees (SBA share of program levels) | 2,530 |
| Pollution control bond guarantees | 110 |

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187 million. Of such sum, $865 million shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6): $76 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242 million shall be available for salaries and expenses of the Administration.

### (6) FISCAL YEAR 1981 SALARY AND EXPENSE AUTHORIZATIONS

Of the total salary and expenses for fiscal year 1981, the *Senate bill* earmarks seven specific functions with priority being given within each function:

(1) $12,446,000 shall be available for procurement assistance;

(2) $3,080,000 shall be available for technical assistance, of which amount no less than $1,320,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses;

(3) $20,180,000 shall be available for management assistance, of which amount no less than $5,806,000 shall be used for SCORE/ACE program costs, no less than $4,218,000 shall be used for small business institute program costs, no less than $1,772,000 shall be used for management assistance program development costs, and no less than $1,100,000 shall be used to implement the small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(4) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount no less than $3,187,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed in Public Law 94–305, no less than $1,650,000 shall be used to develop an external small business data bank and small business index, no less than $1,100,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $550,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

(5) $27,386,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $13,200,000 shall be used to carry out those functions prescribed by section 7(j) of this Act;

(6) $8,837,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1 million shall be used to pay for development of such indicative small business data base; and

(7) $18 million shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

Of the total salary and expenses for fiscal year 1981, the *House bill* earmarks five specific functions with priority being given within each function:

(1) $20,600,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $33 million shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $8,900,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,400,000 shall be available for the office of minority small business; and

(5) $8 million shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration, of which amount no less than $1 million shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information.

The *conference substitute* provides:

(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2 million shall be available for technical assistance, and of that amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

(2) $23,100,000 shall be available for management assistance of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2.2 million shall be used to employ at least 69 staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index, and not less than $1,650,000 shall be used for research.

(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,000,000 of which shall be used to carry out those functions prescribed by section 7(j) of this Act, and $1.414 million for section 7(j) program administration.

(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1,100,000 shall be used to pay for development of such indicative small business data base.

(6) $20 million shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

(7) SBA PROGRAM LEVELS—FISCAL YEAR 1982

The *House bill* establishes the following program levels for fiscal year 1982:

| | *Millions* |
|---|---|
| 7(a) Business | $5,000 |
| Direct and immediate participation | 600 |
| Guaranteed | 4,400 |
| 7(h) Handicapped | 42 |
| Direct and immediate participation | 28 |
| Guaranteed | 14 |
| 7(i) EOL | 204 |
| Direct and immediate participation | 90 |
| Guaranteed | 114 |
| 7(l) Solar and energy conservation | 75 |
| Direct and immediate participation | 30 |
| Guaranteed | 45 |
| Development companies | 191 |
| Direct and immediate participation | 61 |
| Guaranteed | 130 |
| Investment company assistance | 306 |
| Direct purchase of debentures and preferred securities | 31 |
| Guaranteed | 275 |
| Total BLIF | 5,818 |
| Direct and immediate participation | 840 |
| Guaranteed | 4,978 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 267 |
| Surety bond guarantees (SBA share of program levels) | 4,000 |
| Pollution control bond guarantees | 125 |

[1] Open ended.

To carry out fiscal year 1982 program levels, the *House bill* authorizes $1,943 million. Of this amount, $69 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $278 million for salaries and expenses.

The *Senate bill* has no comparable provision.

The *conference substitute* establishes the following program levels for fiscal year 1982:

| | *Millions* |
|---|---|
| 7(a) Business | $4,780 |
| Direct and immediate participation | 330 |
| Guaranteed | 4,400 |
| 7(h) Handicapped | 42 |
| Direct and immediate participation | 28 |
| Guaranteed | 14 |
| 7(i) EOL | 182 |
| Direct and immediate participation | 83 |
| Guaranteed | 99 |
| 7(l) Solar and energy conservation | 67 |
| Direct and immediate participation | 30 |
| Guaranteed | 37 |
| Development companies | 186 |
| Direct and immediate participation | 61 |
| Guaranteed | 125 |
| Investment company assistance | 298 |
| Direct purchase of debentures and preferred securities | 47 |
| Guaranteed | 251 |
| Total BLIF | 5,505 |
| Direct and immediate participation | 579 |
| Guaranteed | 4,926 |
| Disaster: | |
| Physical | (1) |
| Nonphysical | 121 |
| Surety bond guarantees (SBA share of program level) | 2,780 |
| Pollution control bond guarantees | 125 |

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375 million. Of such sum, $1,022 million shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (6); $83 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266 million shall be available for salaries and expenses of the Administration.

(8) FISCAL YEAR 1982 SALARY AND EXPENSE AUTHORIZATION

Of the total salary and expenses for fiscal year 1982, the *House bill* earmarks 5 specific functions with priority being given within each function:

(1) $22,600,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $36,100,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $9,800,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,600,000 shall be available for the office of minority small business; and

(5) $9,200,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration of which amount no less than $1,000,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information.

The *Senate bill* authorizes $20,605 million for fiscal year 1982, which shall be available solely for the small business development center program.

The *conference substitute* provides:

(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance of which amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching tecnhology data banks or other sources

to locate, obtain and interpret the appropriate technology for such small businesses.

(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the administration's regional offices being assigned one such specialist.

(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index, and not less than $1,815,000 shall be used for research.

(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,100,000 of which shall be used to carry out those functions prescribed by section 7(j) of this Act and $1.555 million for section 7(j) program administration.

(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

(9) SBA DISASTER ASSISTANCE

The *Senate bill* makes several changes in the disaster assistance programs of the Federal Government.

First, the *Senate bill* amends section 7(b)(1) of the Small Business Act by including a provision requiring SBA to review the ability of business concerns to obtain sufficient credit elsewhere at reasonable rates and terms, taking into account the prevailing private rates and terms for similar purposes and periods of time in the community in or near where the business concern transacts business.

Section 7(b) of the Small Business Act is further amended by changing the formula by which the Small Business Administration calculates the maximum interest rate it is permitted by statute to charge on its share of loans made under this subsection, including both physical disaster and economic injury disaster loans.

The *Senate bill* retroactively establishes interest rates on homeowner loans for disasters occurring on or after October 1, 1978 at three percent on the first $55,000 of assistance. There is no prospective termination date provided.

Further, the interest rate for business disaster loan assistance is similarly made retroactive to loans made for disaster occurring on or after October 1, 1978. If the business is not able to obtain sufficient credit elsewhere, as determined by SBA, then the SBA rate on that loan shall be the rate charged farmers who cannot obtain sufficient credit elsewhere under the Farmers Home Administration emergency loan program, as established by the Consolidated Farm and Rural Development Act. That rate is presently 5 percent.

If the business concern is able to obtain sufficient credit elsewhere, the interest rate will be the cost-of-money to the Federal Government, as revised by the *Senate bill.*

The *Senate bill* also adopts a "graduation" provision which provides that five years after the loan to these businesses is first approved, and every two years thereafter for the life of the loan, if need be, the portfolio managers will review the credit abilities of the business. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request of SBA, apply for and accept such non-Federal loan in an amount sufficient to fully repay SBA for the balance outstanding.

The *Senate bill* requires those eligible for FmHA loans to apply there first; however, if they are not offered an FmHA loan, a borrower may apply to and receive an SBA loan if he/she meets the tests of the SBA administered program.

The *House bill* also makes significant changes in the SBA disaster assistance program.

The interest rates on loans to offset net losses on principal residences and personal property will be 3 percent up to $55,000 and under certain conditions up to an additional $50,000 at cost-of-money under a formula which currently equals 8¼ percent. The SBA will continue to make loans on homes and personal property.

Businesses, including the owners of residential buildings rented to others, unable to obtain sufficient credit elsewhere may receive a loan of 5 percent to offset net losses up to a maximum of $500,000, whether the applicant goes to SBA or is qualified at FmHA.

If a business could obtain credit elsewhere, it shall have a right to obtain up to a maximum of $500,000 at a rate of interest equal to the cost of money to the U.S. Government plus not more than 1 percent under a formula which currently would equal 10½ percent plus an additional amount up to 1 percent. This applies whether the applicant is being processed by SBA or FmHA. After 2 years, these loans are subject to being reviewed to see if the borrower is able to obtain a loan elsewhere at reasonable rates and on reasonable terms.

Those eligible for FmHA loans would be required to apply there first: however, if they are not offered an FmHA loan, a borrower may apply for and receive an SBA loan if he/she meets the tests of the SBA administered program;

An exception to the $500,000 loan limit to businesses could be made by SBA if the applicant is a major employer and is no longer in substantial operation as a result of the disaster.

(10) CREDIT-ELSEWHERE TEST

The *Senate bill* imposes a credit-elsewhere test for businesses under the physical disaster lending program as a means for determining the interest rate to be applied to the loan.

The *House bill* imposes a similar credit-elsewhere test for businesses with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982. The ability to obtain credit-elsewhere is used as a means for determining the interest rate to be applied for loans to repair or replace property damaged or destroyed.

The *conference substitute* adopts the House provision.

(11) INTEREST FORMULA

Under *existing law,* the agency is not permitted to set the interest at a rate in excess of the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 percent plus one-quarter of 1 percent. This rate presently translates into an interest rate of 8⅛ percent.

Under the *Senate bill* this cost-of-money formula is amended to provide for the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus not to exceed 1 percent, as determined by the Administrator, and adjusted to the nearest one-eighth of 1 percent. The Senate bill interest rate formula change would be applicable to all SBA disaster loan programs.

The *House bill* adopts a similarly revised cost-of-money interest rate for business physical disaster loans with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982 where the business is able to obtain sufficient credit elsewhere. The House bill interest formula would be applicable only to the SBA physical disaster loan program.

The *conference substitute* adopts the House provision.

(12) HOMEOWNER INTEREST RATES

The *Senate bill* retroactively establishes interest rates on homeowners loans for disasters occurring on or after October 1, 1978, at 3 percent on the first $55,000 of assistance. There is no prospective termination date provided.

The *House bill* establishes interest rates on homeowner loans for disasters occuring on or after October 1, 1978 and prior to October 1, 1982, at 3 percent on the first $55,000 of assistance.

The *conference substitute* adopts the House provision.

The conferees are aware that, in years past, when adjustment in interest rates were made under different circumstances, the Small Business Administration moved to hold monthly payments the same and accommodate lower interest payments by reducing the term of the loan. While this may have been proper under different circumstances of the past, the conferees direct that, upon enactment, SBA give the borrower the option of selecting lower monthly payments or a reduction in principal.

(13) BUSINESS INTEREST RATES

The *Senate bill* retroactively reduces the interest rates on loans to business on account of a disaster occurring on or after October 1, 1978. If the business is not able to obtain sufficient credit elsewhere, as determined by SBA, then the SBA rate on that loan shall be the rate charged farmers who cannot obtain sufficient credit elsewhere under the Farmers Home Administration emergency loan program, as established by the Consolidated Farm and Rural Development Act. That rate is presently 5 percent.

If the business concern is able to obtain sufficient credit elsewhere, the interest rate will be the cost of money to the Federal Government, as revised by the Senate bill.

The *House bill* retroactively reduces the interest rates on business loans for disasters occurring on or after October 1, 1978 and prior to October 1, 1982. If the loan is to repair or replace property damaged or destroyed, and the business is not able to obtain sufficient credit elsewhere, the interest rate is as determined by SBA, but not in excess of 5 percent per annum. If the business is able to obtain sufficient credit elsewhere, the interest rate is at a rate not to exceed the current average yield on outstanding marketable obligations of the U.S. adjusted.

The *conferense substitute* basically adopts the House provision.

(14) CREDIT AVAILABILITY REVIEW BY SBA

The *Senate bill* adopts a "graduation" provision for review of the credit availability from non-Federal sources for businesses which receive SBA physical disaster loans even though they could obtain credit elsewhere.

Five years after the loan to these businesses is first approved, and every 2 years thereafter for the life of the loan, if need be, the port-

folio managers will review the credit abilities of the business. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request of SBA, apply for and accept such non-Federal loan in sufficient amount to fully repay SBA for the balance outstanding.

The *House bill* contains a similar review provision. However, under the House bill, the initial review is made 2 years after the loan is first approved.

The *conference substitute* provides for the initial graduation review 3 years after the loan is fully disbursed and additional reviews, if appropriate, every 2 years thereafter.

(15) CEILING ON LOAN SIZE

The *House bill* imposes a $500,000 ceiling on the total amount outstanding and committed to any single borrower unless an applicant constitutes a major source of employment in an area suffering a disaster and is no longer in substantial operation as a result of such disaster. In such a case, SBA may waive the limitation.

The *Senate bill* contains no similar provision.

The *conference substitute* adopts a provision similar to the House provision. However, while the House bill provided for a limitation on the total amount outstanding and committed to any single borrower, the conference substitute makes it clear that this limitation is applicable for each disaster. The conferees want to make clear that the limitation is not meant to be cumulative, nor is it meant to be applicable to any other form of assistance which an applicant may receive from other SBA programs, including non-physical disaster loans.

The waiver authority granted to the Administrator has been amended to clarify that the business only needs to be a major source of employment in an area suffering a disaster. The requirement in the House bill that the business also "no longer be in substantial operation" has been deleted as being too restrictive.

(16) FARMER ELIGIBILITY AT SBA

Under *current law*, farmers are statutorily deemed eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain circumstances, farmers are also eligible for assistance from the Farmers Home Administration. However, there is no requirement that farmers first seek assistance from Farmers Home before going to SBA.

The *Senate bill* amends section 18 of the Small Business Act, relating to duplication, to clarify that an agricultural enterprise shall not be eligible for physical disaster loan assistance to repair or replace property other than a residence unless that enterprise is first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration.

The *House bill* contains a similar provision, except that the prohibition is in effect only with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982.

The *conference substitute* basically adopts the Senate provision.

Section 18 of the Small Business Act, relating to duplication, is amended by clarifying the definition of "agricultural enterprises" and "credit elsewhere." In addition, the conference substitute makes these amendments effective through fiscal year 1982 only.

The *conference substitute* makes clear that agricultural enterprises must first seek assistance from the Farmers Home Administration unless the agricultural enterprise is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from FmHA.

There has been some discussion of administratively imposing a minimum loss test at SBA for agricultural producers. In the case of a disaster caused by drought, there is a variation from normal yield which would represent the amount by which yields presumably would be reduced in approximately one-half of the crop years. Conferees understand the Administration is attempting to determine a fair formula to take this natural occurrence into consideration in figuring net losses in those drought disaster cases. However, in disasters not related to drought involving crops, there is no normal reduction or increase from such non-drought causes; and since there is no arbitrary deduction from net loss in calculating the amount of loan eligibility for non-farm businesses, homeowners and other eligible applicants, SBA would not arbitrarily reduce the amount of loan eligibility for non-drought disasters for agricultural producers.

The underlying issue is one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

(17) AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

(*a*) *The Senate bill* amends section 324 of the Consolidated Farm and Rural Development Act to make emergency loans by the Farmers Home Administration available for the first time to farmers who can obtain credit elsewhere. The bill imposes a two-tier emergency loan interest rate structure for loans up to the actual loss covered by the disaster. If a farmer is not able to obtain sufficient credit elsewhere, the interest rate will be in excess of 5 percent as under current law. If a farmer is able to obtain sufficient credit elsewhere, emergency loans will be not in excess of a rate equal to the cost of money to the Federal Government for comparable marketable obligations, plus not to exceed 1 percent as determined by the Secretary.

The *House amendment* contains the same provision, but would place a cap of $500,000 on the total amount of emergency loans covering actual loss that could be outstanding and committed to any one borrower.

The *conference substitute* adopts the $500,000 ceiling on emergency loans contained in the *House amendment* but applies it separately to each disaster.

It is the intent of the conferees that the total amount of disaster loans made to borrowers who are able to obtain sufficient credit elsewhere not exceed the borrowers' actual loss, so that credit worthy borrowers would not be extended credit for restructuring of their farming operations.

It is further the intent that the existing Small Business Administration portfolio of farm loans should remain solely within the Small Business Administration and not be transferred to the Farmers Home Administration.

The provision of the *conference substitute* authorizing a departure from Farmers Home Administration's credit-elsewhere test is expected to result in a 25 percent increase in the workload of that agency based on experience during fiscal year 1979. This is expected to increase the program level by $400 million, increase administrative expenses by $4 million as well as require an additional 200 staff-years to make and service these loans. The conferees have been informed by the Administration that upon approval of the *conference substitute*, the Administration will increase the personnel ceiling for the Department of Agriculture and authorize it to hire the additional 200 staff persons. The conferees fully expect the Administration to meet this commitment so that the amendments to the Consolidated Farm and Rural Development Act can be properly implemented.

(*b*) The *House amendment* provides in the case of FmHA emergency loans to a borrower who can obtain credit elsewhere that if two years after the disaster loan is first approved and every two years thereafter the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall obtain such loan and repay the Secretary.

The *Senate bill* contains no comparable provision but current law provides the Secretary with discretion to exercise similar authority.

The *conference substitute* adopts the House provision, but provides for this authority to be exercised three years after the disaster loan is made or insured and every two years thereafter. The non-Federal sources to which this "graduation" requirement applies includes, among other things, production credit associations, Federal land banks, and similar financial institutions.

(18) SAVINGS CLAUSE

The *House bill* provides that nothing in the disaster loan interest provisions shall be construed to adversely affect the interest of any disaster victim whose application for a loan has been approved prior to the effective date of the act.

The *Senate bill* contains no comparable provision.

The *conference substitute* provides that the amendments made by this section to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) and section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) do not, and shall not, apply to any disaster which commenced on or before the effective date of this Act. The word "commenced" has been used because of the inconsistent position the agency has taken in the past with the term "occurred" in determining whether particular localities are eligible for new benefits.

The conferees emphasize that nothing contained in the conference substitute shall preclude the benefits which will accrue to disaster victims from vesting immediately upon enactment of this Act.

The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA as a non-agricultural business receives from SBA.

(19) INVESTMENT OF IDLE FUNDS

The Senate bill repeals the last sentence of section 412 of the Small Business Investment Act of 1958, thus eliminating the authority of the Small Business Administration to invest temporarily idle funds in the surety bond guarantees revolving fund.

The Senate bill amends section 405 of the Small Business Investment Act of 1958, by adding a new sentence which specifically provides authority for investment of temporarily idle funds in the pollution control guarantee revolving fund.

The House bill contains identical provisions.

The conference substitute adopts the Senate provisions.

(20) AVAILABILITY OF UNEXPENDED FUNDS

The Senate bill amends section 20(a) of the Small Business Act by providing that, except as otherwise specifically authorized

in other subsections of section 20, there are authorized to be appropriated for fiscal years 1979, 1980, 1981 and 1982 such sums as may be necessary to carry out the provisions and purposes of this Act. In addition, it provides that all appropriations, whether specifically or generally authorized, shall remain available until expended.

The House bill amends section 20(a) of the Small Business Act by providing that all appropriations shall remain available until expended.

The conference substitute provides that for fiscal years 1979, 1980, 1981, and 1982 there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.

(21) ENERGY SHORTAGE LOANS

The *Senate bill* amends section 7(b)(8) of the Small Business Act by clarifying that energy shortage loans may be made available to those small business concerns injured by a shortage of any energy source, including coal, unless the shortage is caused by a strike, boycott or embargo directly against such concern.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(22) INTEREST DIFFERENTIAL

The *House bill* amends section 4(c)(5) of the Small Business Act by removing the requirement that SBA pay interest on the outstanding cash disbursements from the disaster loan revolving fund.

The *Senate bill* contains no comparable provision.

The *conference substitute* adopts the House provision.

(23) PRODUCT DISASTER LOANS

The *Senate bill* amends section 7(b)(4) of the Small Business Act by clarifying the circumstances under which product disaster loan assistance may be made available to small businesses unable to market their products.

The *House bill* contains a similar provision, but imposes a ceiling of $500,000 on the size of the loan if the disease or toxicity occurs from other than natural causes.

The *conference substitute* adopts the Senate provision with a proviso that any small business which intentionally adulterates its product in order to attempt to establish eligibility under this section shall not be eligible for loan assistance under this section.

The $500,000 cap in the House provision was inserted in an attempt to comply with OMB objections. This cap did not satisfy these objections and thus instead the conferees are expressly prohibiting a small business which intentionally adulterates its product in order to take advantage of this program from receiving a product disaster loan, as was expressly requested by the SBA Administrator.

The basic reason for the change in this program which was made by both the House and Senate bills is to provide loan assistance to those small businesses whose product is made unfit for human consumption due to other than natural causes. For example, if the Federally imposed ban on saccharin is not delayed, many small businesses, primarily including manufacturers and wholesalers, may suffer injury because they are unable to market products containing saccharin due to actions by the Federal Government. Such small businesses which are adversely affected by this type of action by the Government should receive loan assistance in overcoming the adverse effects of this type of Federal action.

(24) DEVELOPMENT COMPANY DEBENTURES

Under *existing law*, SBA is authorized to make loans, either direct or guaranteed, to local development companies for projects to help a small business concern acquire land, construct a new plant, purchase necessary equipment and machinery, or acquire, expand or convert an existing plant. SBA financing, however, is limited to $500,000 for each such small business to be assisted and the development company must procure the balance of the necessary assistance from other sources.

The *Senate bill* amends the Small Business Investment Act of 1958 to provide for a new "section 503" development program.

The *Senate bill* provides for the formation of local development companies that have: (1) a full-time professional staff; (2) adequate accounting, legal, and business servicing capabilities; and (3) an active board of directors which meets on a regular basis and is actively involved in loan decisions and loan servicing. In addition to SBA's authority to make loans up to $500,000 to the local development company for each small business being assisted by the company, SBA would be authorized to guarantee debentures issued by eligible local development companies. The amount of the debentures to be guaranteed may not exceed one-half of the project cost. The remaining one-half of the project cost would be required to be supplied from non-Federal Government sources.

SBA would still have to approve each individual loan of the development company. However, instead of making a direct loan for the approved amount, the development company would issue a debenture for one-half the amount of the deal. SBA would provide a 100-percent guarantee, and sell the debenture to private markets through the Federal Financing Bank.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision. Conferees intend that the availability of section 503 assistance to fund one-half of the project cost precludes utilizing section 501 and 502 assistance to fund any portion of the balance of that project.

(25) REGULAR BUSINESS LOAN REFORM

Under *current law*, the agency is charged with reviewing and approving de novo all credit and other threshold eligibility decisions prior to guaranteeing a loan already approved by a financial institution under the regular business loan guarantee program. In addition, the Federal Government must initiate any collection action in the event of a default.

SBA has undertaken, on its own initiative, a pilot bank certification program wherein banks are given increased responsibility and authority in making some of these credit and eligibility decisions. That pilot program has been underway for only a limited period of time, however.

The *Senate bill* amends section 5(b)(7) of the Small Business Act to extend the authority of the Small Business Administration in the area of loan making and administration. It authorizes the Administrator to transfer limited loan processing functions from the Administration to qualified financial institutions.

The *Senate bill* further provides that the current 7(a) regular business guarantee program will be sunset on October 1, 1981.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision with respect to granting the Administrator the authority to transfer certain of his responsibilities with repect to deferred participation loans to qualified participating lending institutions.

The conferees have also restated the Administrator's authority to take any and all actions necessary for administering the direct and immediate participation loan-making and servicing functions, but nothing shall be deemed to give the Administrator the authority to delegate or transfer his responsibility for administering the direct or immediate participation loan programs to other than Administration personnel (temporary disaster personnel are deemed to be Administration personnel).

(26) SURETY BOND GUARANTEE

The *Senate bill* amends section 411(c) of the Small Business Investment Act of 1958 to clarify a drafting error in the surety bond guarantees program when the Congress approved H.R. 11318 (Public Law 95-507) in the 95th Congress.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(27) HANDICAPPED ASSISTANCE

The *Senate bill* amends section 15(c) of the Small Business Act to allow small businesses owned by handicapped individuals and sheltered workshops that employ the handicapped to participate in the Small Business Administration procurement set-aside program.

The *House bill* has no comparable provision.

The *conference substitute* extends the authority of non-profit organizations of handicapped individuals to participate in small business procurement set-asides, but restricts the participation to fiscal years 1980, 1981 and 1982, and limits it to not more than $100 million per year. In addition, it requires the SBA to monitor and evaluate the program, and directs the Administrator to require every Federal agency and department having procurement authority to take such actions as the Administrator deems appropriate if the Administrator and the Executive Director of the Committee for the Purchase From the Blind and Severely Handicapped find that the participation of such organizations of handicapped individuals has or may cause severe economic injury to for-profit small businesses. It further requires that by January 1, 1981, SBA prepare and transmit to the Small Business Committees of both the Senate and the House a report on the impact on for-profit small businesses of contracts awarded to such organizations of handicapped.

The conferees were disappointed, however, that the Small Business Administration was not given the cooperation of other Federal departments and agencies, particularly the Office of Federal Procurement Policy, in collecting the fullest possible information in order to be responsive to a previous congressionally mandated study. A new study is ordered, and the conferees fully expect all departments and agencies, including in particular the Office of Federal Procurement Policy, to cooperate fully with SBA in obtaining the necessary information.

(28) PROCUREMENT SYSTEMS

The purpose of the labor surplus area set-aside program is to target procurements to firms doing business in high unemployment areas. The program applies largely to purchases by civilian agencies. Approximately $200 million in Government contracts are being channeled into labor surplus areas through this program.

Under existing law, the Congress integrated the small business and labor surplus area set-aside programs in Public Law 95-89, and established the following scale of priorities

for contracting agencies to use in determining when and what kinds of set-asides should be made:

(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns on the basis of a total set-aside.

(3) Concerns which are small business concerns, on the basis of partial set-aside.

(4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

Under conditions of the International Procurement Code, which was negotiated as part of the multilateral trade agreements, the United States would waive its "Buy American" protection for domestic suppliers for certain items purchased by the Federal Government.

U.S. negotiators were successful in having the small and minority business set-asides excluded from coverage under the Code. They were not successful in obtaining an exclusion for labor surplus area set-asides.

The *Senate bill* restructures section 15 (d) and (e) of the Small Business Act to make it possible to satisfy current terms of the International Procurement Code (a waiver of labor surplus area set-asides for firms) without waiving the small business set-aside program for firms located in these areas. It establishes the first priority as a small business set-aside that is further restricted to labor surplus areas, and thus excludes the small business program from the Code.

The *Senate bill* further amends section 15(f) by providing authority for labor surplus area set-asides for all businesses. This is the authority that would be waived under the terms of the International Procurement Code.

The *House bill* contains no comparable provision.

The reference in the *Senate bill* to "set-aside programs" was to the programs established and defined by Sections 15(a) through (d) of the Small Business Act as limited by the Maybank Amendments contained in the Department of Defense Appropriations Acts. Nothing in the *Senate bill* enlarges the substance of the provisions of sections 15(a) through (d) of the Small Business Act. The *Senate bill* reduces the number of concerns eligible for set-asides under sections 15(e) and (f), and revises the priorities within the small business and labor surplus area set-aside program aimed at preserving the preference for small business contractors in labor surplus areas and removes the sunset provision in existing law.

The *conference substitute* basically adopts the Senate provisions with respect to revising the priorities within the small business and labor surplus area set-aside programs which are as follows:

(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

(2) concerns which are small business concerns, on the basis of a total set-aside;

(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

(4) concerns which are small business concerns, on the basis of a partial set-aside; and

(5) businesses which are not small business concerns and which will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.

The *conference substitute* also repeals the sunset provision of existing law.

Public Law 95–507 directs the President to report to the House and Senate Small Business and Armed Services Committees, on the labor surplus area procurement program on, or before, October 1, 1979. The conferees expect that this statutorily mandated, now postdue, report will be completed and submitted.

Public Law 95–507 also requires that the Department of Defense (DOD) report quarterly on the number and dollar value of formally advertised awards and labor surplus area set-asides for that period. The Defense Department's failure to make these reports indicates the cavalier attitude taken by that Department in carrying out the labor surplus area provisions. The conferees direct that these reports be made current and continue into the future.

Restating the Conference Report accompanying Public Law 95–507, the conferees again express their concern with DOD's utilization of partial labor surplus area procurements. The conferees expect that all applicable laws and regulations regarding the use of labor surplus area set-asides be fully, completely and expeditiously complied with by the Department of Defense, as well as other agencies. The conferees further direct the Department of Defense, in the quarterly report already mandated, to include quarterly labor surplus area set-aside goals by service (Army, Air Force, Navy, Defense Logistics Agency and the Department of Defense), the degrees to which compliance has been reached, and the reasons why goals have not been met.

(29) DUPLICATION OF SBA DISASTER LOAN BENEFITS

The *Senate bill* amends section 7(b) of the Small Business Act and provides that a State grant made on or after January 1, 1979 shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of the Disaster Relief Act of 1974.

The *House bill* has no comparable provision.

The *conference substitute* basically adopts the Senate provision, but changes the date to provide that State grants made on or before July 1, 1979 shall not be considered compensation.

It is the intent of the conferees that the Small Business Administration shall use its authority to aid redevelopment of flood prone areas by transfer of disaster loan liens from properties condemned to new properties acquired with the proceeds of condemnation. Through the use of this lien transfer authority, State and Federal redevelopment initiatives will not place a burden on disaster victims in a redevelopment area while not allowing windfall profits. In addition, it is the intent of the Congress that any moneys issued by a redevelopment authority shall not be considered compensation under this provision.

(30) ELIGIBILITY OF ASIAN PACIFIC AMERICANS

*Existing law* (as amended by Public Law 95–507) establishes or amends certain SBA remedial business development programs for the benefit of "socially and economically disadvantaged" business persons. These programs include specialized management and technical assistance (sec. 7(j)) and procurement assistance (sec. 8). Present law specifies that, subject to certain specified constraints, socially "disadvantaged" persons include "Black Americans, Hispanic Americans, Native Americans and other minorities."

The *House bill* adds "Asian Pacific Americans" to the groups mentioned in existing law.

The *Senate bill* has no comparable provision.

The *conference substitute* adopts the House provision.

SMALL BUSINESS DEVELOPMENT CENTERS

(31) SEPARATE ACT

The *Senate bill* establishes a legislative structure for small business development centers as a separate act.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

(32) CONGRESSIONAL FINDINGS AND PURPOSES

The *Senate bill* amends the Small Business Act by redesignating section 21 as section 30 and by adding a new section 21 providing statutory guidelines for the small business development center program.

New sections 21 (a) and (b) outline findings and purpose.

Congress finds that small businesses do not have access to advice, information and services as do larger corporations, or as do farmers because of assistance provided by the Department of Agriculture extension service program.

Small businesses would benefit from having a local, single source which would provide assistance in such areas as management, marketing, product development, manufacturing, technology development and exchange, finance, and government regulations.

The academic community and private consultants are aware of local small business problems and are better equipped than the Federal Government to provide management and technical assistance to small concerns.

The purpose of the act is to expand the small business sector, stimulate economic diversity and foster competition by establishing a small business development center program to aid in the growth and development of new and existing small businesses.

The *House bill* contains no comparable provision.

The *conference substitute* does not include this provision although conferees recognize the accuracy of the provision with respect to their intent in creating the program.

(33) MATCHING GRANT PROGRAM

The *Senate bill* authorizes SBA to make grants to States to defray 50 percent of the cost of developing and operating a small business development center program, providing no more than 50 percent of the non-Federal contributions can be in-kind contributions. The amount of the grant would be based on a formula by which each State would receive a pro-rata share (determined by population) of the amount authorized in each fiscal year, as compared to the population to be served by all participating States. Notwithstanding this formula, a center which meets the eligibility criteria would be eligible to receive no less than $250,000.

The *House bill* contains similar provisions, except that:

(1) grants would go to any of the named entities rather than only to States;

(2) applicants could include a State-chartered development credit of finance corporation;

(3) the purpose of the grant would be for small business oriented employment or natural resources development programs in addition to assisting development of SBDC's;

(4) the amount of the grant would be based on a pro-rata share (determined by population) of a $65 million program rather than based on a pro-rata share of the dollar amount of the program per year; and

(5) there is no minimum grant per State.

The *Conference substitute* adopts the House provision, except that:

(1) the Administration is authorized to make grants and enter into contracts and cooperative agreements with the named entities included in subsection (a)(1);

(2) reference to fiscal year 1980 in the House bill is deleted:

(3) there is established a minimum grant to any small business development center of $200,000 providing it meets the other requirements of the Act; and

(4) the restriction prohibiting Federal funds from exceeding 50 percent of the total program costs is deleted.

It is the intention of the conferees that SBA encourage all eligible entities in a State to coordinate their applications for assistance. Furthermore, SBA is to make certain that all participating entities agree to cooperate and coordinate their activities within the area to be served before agreeing to accept a plan and naming new small business development centers.

In addition, SBA is directed to monitor the activities of all authorized centers receiving other Federal grant money to insure that the center conforms with the goals of the "Small Business Development Center Act of 1979." The center is not to divert its resources from the types of services it is to provide under this Act in order to manage other Federally funded programs, unless reimbursed by the appropriate Federal agency. If other non-SBA-sponsored programs are included in the center's operations, the costs associated with managing such programs should be allocated to the sponsoring Federal agency or department.

(34) CONSISTENCY WITH STATE PLANS

The *Senate bill* prohibits financial assistance to any applicant if such assistance would be inconsistent with the State plan.

The *House bill* contains a similar provision.

The *conference substitute* adopts the Senate provision, but refers to an area plan rather than a State plan.

(35) APPLICATION PROCEDURE

Under the *Senate bill*, in order to participate in the small business development center program, an applicant may submit to SBA for approval a plan naming those entities authorized to participate, a budget, the area to be served, the services to be rendered, and the method for delivering such services and any other assurances that SBA may, in its discretion, require.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(36) ACTIVITIES OUTSIDE OWN STATE

Under the *Senate bill*, SBA may authorize an SBDC to serve out-of-State clients under certain circumstances.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(37) TYPES OF SERVICES PROVIDED

Under the *Senate bill*, small business development centers must assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters needed by small business for growth and expansion, innovation, increased productivity and management improvement and for decreasing industry concentration.

The *House bill* contains an identical provision, except that it applies to applicants rather than State small business development centers.

The *conference substitute* adopts the House provision.

(38) CAPABILITIES

Under the *Senate bill*, a State center must make its services available as close as possible to small businesses by providing extension services and utilizing satellite locations and State and Federal small business programs whenever possible.

In addition, the State center must have a full-time staff director, and access to business analysts, technology transfer agents, information specialists, part-time professional people, and laboratory and adaptive engineering facilities.

The *House bill* contains a similar provision, except that it requires the SBDC to have "in-house" analysts, technology transfer agents, and information specialists rather than solely "access to" such people.

The *conference substitute* adopts the House provision.

Given the limitation of full-time resources and personnel, the conferees expect the staff of the small business development center to utilize the expertise available in the private sector when appropriate. Specifically in the areas of technology transfer, data research and financial analysis, private sources are usually capable of providing qualified assistance to small firms. Such assistance must be available at reasonable rates and terms, however.

(39) SERVICES TO BE PROVIDED

Under the *Senate bill*, services of a State center shall include: one-on-one counseling; assisting in technology transfer; maintaining information pertaining to Federal, State, and local regulations and providing technology development to assist small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with the financial and investment communities, and small business groups, conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality, and maintaining lists of local and regional private consultants and testing laboratories.

The *House bill* contains a similar provision, except that it does not include the requirements that the SBDC:

(1) maintains lists of private consultants to whom small businesses can be referred; and

(2) utilize private local and regional consultants and testing laboratories when appropriate and applicable.

The *conference substitute* adopts the Senate provision except for the requirement that the center utilize consultants and laboratories. A related provision is incorporated elsewhere in the title.

(40) USE OF CONSULTANTS

The *Senate bill* authorizes the SBDC to utilize the services of private consultants and testing laboratories when appropriate and applicable, and to compensate them for their services.

The *House bill* contains no comparable provision.

The *conference substitute* adopts an amended version of the Senate provision authorizing small business development centers to utilize and compensate consultants, engineers, and testing laboratories for services provided to small businesses on behalf of such small business development center.

When a small business development center utilizes consultants, engineers or testing laboratories, the conferees expect such consulting entities to be qualified small businesses whose services are competitively priced.

(41) REGIONAL CENTERS

Under the *Senate bill* SBA may establish regional centers to provide support for State centers when SBA determines that there is a need for developing information and assistance regarding problems that are capital intensive. Such centers shall have their own staff and charter and render assistance to all State centers.

The *House bill* contains no comparable provision.

The *conference substitute* does not contain this provision.

(42) COOPERATION OF FEDERALLY FUNDED LABORATORIES AND NSF

Under the *Senate bill*, laboratories operated and funded by the Federal Government shall provide services and make their facilities available to small business development centers on a reimbursable cost basis.

National Science Foundation funded innovation centers are authorized and directed to cooperate with small business development centers in their activities. The National Science Foundation shall submit an annual report to Congress and the SBA concerning the performance of these centers, with recommendations for their expansion and improvement.

The *House bill* has a similar provision.

The *conference substitute* adopts the Senate provision.

(43) NASA COOPERATION AND REPORT

Under the *Senate bill*, National Aeronautics and Space Administration industrial application centers are authorized and directed to cooperate with small business development centers in their activities. The National Aeronautics and Space Administration shall submit an annual report to Congress and the SBA concerning the performance of these centers, with recommendations for their expansion and improvement.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(44) SBA DEPUTY ASSOCIATE ADMINISTRATOR

Under the *Senate bill*, the Administrator shall appoint a Deputy Associate Administrator whose sole responsibility shall be to administer the small business development center program. That person shall be responsible for setting the program budget, reviewing State center budgets, selecting States to participate in the center program, establishing program policies, maintaining a clearinghouse to disseminate information generated by the program, concluding agreements with federally supported laboratories and centers and Federal agencies to provide technology assistance, and conducting audits of grant recipients. The Small Business Development Center Advisory Board shall counsel the Deputy Associate Administrator for Management Assistance with regard to the carrying out of the duties of that office.

The *House bill* contains a comparable provision except that:

(1) the new deputy would not be required to be appointed until October 1, 1979;

(2) the new deputy's title would be for management and technical assistance rather than just for management assistance; and

(3) the new deputy's duties would not specifically include concluding agreements between SBDCs and others to provide technology assistance.

The *conference substitute* adopts the Senate provision with the deletion of the duty of the new deputy to conclude agreements between small business development centers and other Federally supported laboratories, centers, or agencies.

(45) NATIONAL ADVISORY BOARD

The *Senate bill* establishes a National Small Business Development Center Advisory Board with nine members, six of whom shall be from small businesses or associations representing small businesses, no more than three of whom shall be from the academic community.

The Board shall elect officers, meet at least quarterly, and shall advise the Deputy Associate Administrator with regard to policies and management of the program.

The *House bill* contains a comparable provision except that membership on the nine member board would be staggered so that the terms of one-third of the members would expire annually.

The *conference substitute* adopts the House provision.

(46) STATE ADVISORY BOARD

The *Senate bill* would require each State small business development center to have an advisory board, no more than one-third of whose members shall be from the academic community and no less than two-thirds shall be from small business or associations representing small businesses.

Each State board shall elect officers and advise, counsel, and confer with the director of the State small business development center with regard to policies and management of the center.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision except that the formation of State advisory boards is made permissive rather than mandatory and reference to the makeup of the State board is deleted.

(47) PROGRAM EVALUATION

Under the *Senate bill* either SBA or a firm retained by SBA shall evaluate the small business development center program to measure quantitatively and qualitatively the impact on small businesses and the socio-economic base of the regions served. The evaluation shall also report to what extent multidisciplinary resources were utilized by the center program. SBDCs and recipients of research grants shall furnish SBA with whatever information is necessary in order to undertake the required evaluations.

A complete evaluation is to be submitted to the Senate and House Small Business Committees no later than January 31, 1982.

The *House bill* contains a similar provision except that:

(1) The evaluation would not specifically include the impact of the SBDC program on private consultants nor the extent to which various types of small businesses were assisted by the program; and

(2) The evaluation would be due in the third year after enactment of this bill rather than on a date specified.

The *conference substitute* adopts the Senate provision with only minor drafting differences.

It is the intention of the conferees that both the House and Senate Small Business Committees will have the opportunity to review the results of the SBA and the General Accounting Office evaluations of this program. The Small Business Committee of the House of Representatives intends to hold hearings on those evaluations and develop legislation appropriate to the findings of the Committee. It is also the intent of the conferees that no more than eighteen States will participate in this program during 1980.

(48) FUNDING RESTRICTION

The *Senate bill* prohibits SBA from funding any SBDC except as provided under the provisions of this bill.

The *House bill* is identical, except that it also expressly provides that existing SBDCs are not affected by this bill other than by a limitation on their funding during fiscal year 1980 which is set at a maximum of $300,000.

The *conference substitute* adopts the House provision.

(49) PROGRAM REPEAL

The *Senate bill* repeals the SBDC program as of October 1, 1982.

The *House bill* has no comparable provision.

The *conference substitute* adopts an amended version of the Senate provision by repealing sections 201 and 202 of the conference substitute on October 1, 1983.

SMALL BUSINESS ECONOMIC POLICY

(50) SMALL BUSINESS ECONOMIC POLICY

The *Senate bill* creates the "Small Business Economic Policy Act of 1979." Under the *Senate bill*, Congress establishes a national economic policy to implement and coordinate the policies, programs, and activities of all Federal departments, agencies, and instrumentalities in order to provide an economic climate conducive to the development, growth, and expansion of small business. To that end, there shall be established incentives to assure that adequate capital at competitive prices and other resources are available to small businesses. The Federal Government is to also undertake to reduce concentration of economic resources and to promote measures that will expand competition.

The *Senate bill* also commits the Federal Government to establish private sector incentives that will promote capital formation at competitive prices. To fulfill this policy, all reasonable means shall be used by the Government to create, coordinate, and sustain policies and programs which promote investment in small businesses. In addition, there shall be created an environment conducive to entrepreneurship, inventiveness, and the creation and growth of small businesses.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

(51) PRESIDENTIAL REPORT ON SMALL BUSINESS AND COMPETITION

The *Senate bill* provides that not later than January 20 of each year, the President shall submit a "Report on Small Business and Competition," focusing on economic issues affecting the small business sector, the efficiency of the Nation's markets, and the state of competition in the economy. Specifically, this report would examine the current role of small business in the economy; present a current and historical perspective of the economic variables influencing small business; identify economic trends affecting small business and the state of competition; examine the effects of, and problems caused by, policies, programs and activities of the Federal Government on small business and competition and recommend legislative and administrative solutions to such problems; and recommend a program for carrying out the small business economic policy provided for in this title.

The report and the recommendations contained therein would be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

The conferees also agree that the report should examine the role of small business in the economy on an industry-by-industry basis. The conferees recognize the value of this information. If data on a particular industry is not available, every effort should be made to assimilate it. Also, the appendix to the report is expanded to include information, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 and all subcontracts exceeding the same amount which are awarded to small, minority-owned and female-owned businesses.

Nothing in this bill is intended to require additional paperwork or data collection from small business. This section is intended to increase executive branch and public awareness that a healthy small business community is vital to our national economy. It calls for the problems of small business to receive the highest policy priority, but in no way is it intended to increase the already monumental paperwork burden small business owners face.

(52) PRESIDENTIAL ASSISTANT FOR SMALL BUSINESS

The *Senate bill* authorizes the President to designate a Special Assistant to the President for Small Business within the White House Office of the President.

This person is to assist the President in preparing the annual report required; gather, analyze, and interpret information concerning the position of small business in the economy; appraise Federal programs as they affect small business; study the availability of various resources to small business; develop and recommend to the President national economic policies that promote small business, and make such additional studies as the President may request.

The *House bill* contains no comparable provision.

The conference substitute does not contain this provision. The conferees recognize the inherent authority of the President to appoint such an assistant.

(53) RESEARCH AND ADVOCACY

The *Senate bill* assigns to the SBA Administrator tne responsibility for establishing and maintaining an economic data base on small business and for annually publishing a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by such data. The Administrator is to also publish on a regular basis national and, to the extent possible, regional small business economic indices which shall include, but need not be limited to data on:

(a) employment, layoffs, and new hires;

(b) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

(c) number of business formations and failures;

(d) sales and new orders;

(e) back orders;

(f) investment in plant and equipment;

(g) changes in inventory and rate of inventory turnover;

(h) sources and amounts of capital investment, including debt, equity, and internally generated funds;

(i) debt to equity ratios;

(j) exports;

(k) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

(l) concentration ratios.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

It is the intention of the conferees that SBA make a more concerted effort to compile existing economic and research data on small businesses. The Departments of Labor Commerce and perhaps others, as well as SBA, already collect a large amount of data which could be useful in gaining a greater understanding of the small business sector of the economy. In addition, SBA could make better use of studies done by educational institutions, State and local governments, business groups and others, to evaluate the small business sector. The conferees wish to stress that all data concerning small businesses collected by Federal agencies should be made readily available to SBA and thus it will not place any additional paperwork burden on individual small business concerns.

(54) OFFICE OF ADVOCACY EMPLOYEES

The *Senate bill* authorizes employees in the Office of the Chief Counsel for Advocacy to be employed at a maximum of step 10 of GS–15.

The *House bill* has no comparable provision.

The *conference substitute* basically adopts the Senate provision, but limits to no more than ten employees at any one time that may be paid at a rate not in excess of GS–15, step 10.

(55) CHIEF COUNCEL FOR ADVOCACY EXECUTIVE LEVEL

The *Senate bill* establishes the Office of the Chief Counsel for Advocacy at executive level IV.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

In establishing the Chief Counsel for Advocacy at executive level IV, the conferees note that the administration expressed concern because this level is the same as SBA's Deputy Administrator and above that of the Associate Administrators. The conferees do not see that this should create any internal problems at SBA and cannot but wonder if the concern is due to a lack of understanding of the advocate's role.

By agreeing to this provision, the conferees do not intend to alter or interfere with the internal line of authority of either the Administrator or Deputy Administrator of the Small Business Administration. The change is intended simply to give the Chief Counsel for Advocacy proper standing within the executive branch and thereby enable him to better carry out the responsibilities imposed upon him by Congress in Public Law 94–305.

The Chief Counsel for Advocacy is not in the SBA chain of command: he is a Presidentially appointed official with Senate confirmation. His mandate is to represent the views of small business. In carrying out this mission, he is expected to present and fight for the views of the small business sector of the economy; the views will not always be the same as those expressed by the SBA on behalf of the administration. He is much like an attorney representing a client and just as the attorney presents his client's position, the Chief Counsel for Advocacy presents his client's position which is that of the small business community.

Viewed in this role, the position of the advocate cannot be equated with that of the Deputy Administrator or the Associate Administrators. He has a different mission than that assigned to the rest of the SBA and since he is a separate part of the SBA team, there should not be any comparison of positions between him and other officials in the SBA hierarchy. The advocate may not necessarily represent the administration's position or that of SBA; however, the SBA and other Federal departments and agencies are required to cooperate fully with him.

(56) STUDY OF SMALL BUSINESS CREDIT NEEDS

The *Senate bill* directs the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to work with SBA and the Bureau of the Census in undertaking studies to determine the credit needs of small business and to what extent such needs are being met. The results of these studies are to be provided to Congress by October 1, 1980.

The three banking regulators are also required to provide recommendations regarding the feasibility of conducting periodic sample surveys by region and nationwide, in order to monitor the number and dollar volume of commercial and industrial loans being extended by banks to smaller concerns.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision but extends the date to January 1, 1981.

The conferees note that the purpose of this section is to accurately gauge, for the first time, whether small business credit needs are being met. If they are not, the Congress and the executive branch can respond by instituting appropriate private sector incentives to induce a sufficient flow of debt to this economic sector.

The conferees antcipate, however, that the responsible agencies, in order to minimize the costs, may conduct the studies required pursuant to the section by the use of an appropriately designed sample to collect such data as may be necessary. Nevertheless, efforts to minimize costs should not affect adversely the quality and integrity of the studies.

The conferees stress that in order to perform the study, Federal agencies are not to solicit any additional information from small business concerns.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

(57) SHORT TITLE

The *Senate bill* provides that the legislation may be cited by the short title "White House Conference on Small Business Act."

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(58) AUTHORIZATION FOR CONFERENCE

The *Senate bill* contains an authorization for the Conference. It provides a concluding date for the Conference of June 30, 1980.

The *House bill* is identical except the term "Administrator" is not specifically defined.

The *conference substitute* adopts the Senate provision.

(59) PURPOSES OF CONFERENCE

The *Senate bill* outlines the purposes of the Conference and identifies the range of small business problems to be addressed. These purposes include identification of the opportunities for advancing national economic and social goals which might be accomplished by the solution of small business problems and encouragement of new, small and family enterprises.

The *Senate bill* also calls for the development of specific and comprehensive recommendations for executive and legislative action.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(60) CONFERENCE PARTICIPANTS

The *Senate bill* outlines the major groups from the private and public sectors that would be participating in the Conference.

The *Senate bill* also prohibits barring any small business concern from any State or regional meeting.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(61) CONFERENCE PLANNING AND ADMINISTRATION

The *Senate bill* covers the planning and administration of the Conference. It authorizes financial assistance for the regional and/or State meetings and provides for the preparation of background materials for the participants. It also provides authority for the appointment of an Executive Director and technical authorization for the staffing of the Conference.

The *House bill* contains a similar provision except that it directs the Administrator to reimburse participants in the National Conference for their costs such as travel, meals, and accommodations.

The *conference substitute* adopts the Senate provisions, but includes a provision relating to reimbursement of expenses for Conference delegates. Upon presentation of vouchers within thirty days of the completion of the Conference, the SBA Administrator is authorized and directed to reimburse Conference delegates only for expenses related to their participation in the Conference. The reimbursement is to be made for travel costs, and for actual and necessary expenses related to attending the Conference, including meals and accommodations. Reimbursement for any expenses is limited, however, to a maximum of $44 per day. Reimbursement shall be effective only to the extent provided in advance in appropriations acts: and in the event such appropriated amounts are not sufficient to fully pay each voucher submitted, each voucher shall be paid on a pro rata basis only.

The conferees note that SBA has publicly told delegates and candidates for delegates that they would have to pay their own way. Nonetheless, it continually had budgeted funds to pay the expenses of some delegates. The latest budget estimate available to the conferees shows approximately $245,000 which which would be available to reimburse delegates.

Due to the public statements of SBA concerning the lack of reimbursement, the conferees direct the Administrator of SBA to notify all delegates as soon as practical after selection that they may receive at least partial reimbursement for their expenses providing that a request is made for reimbursement within 30 days after termination of the Conference meeting. This notification should be in writing and should set forth the procedure to be followed by those seeking reimbursement.

The underlying principle to be followed is that all delegates should be reimbursed as delegates to other conferences have been. However, if full reimbursement for all who request it is not to be provided, then those requesting reimbursement must be treated equally and no one delegate should receive preferential treatment.

(62) REPORTS REQUIRED

The *Senate bill* provides that not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(63) FOLLOW-UP ACTIONS

The *Senate bill* provides that the Small Business Administration shall report annually to the Congress for the 3-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(64) AVAILABILITY OF FUNDS

The *Senate bill* authorizes such sums as may be necessary to carry out the provisions of the title. Such sums appropriated shall remain available until expended. Funds appropriated to the Small Business Administration may not be transferred to carry out the provisions of this title.

The *House bill* has a similar provision, but does not explicitly authorize the appropriation of funds. It further states that no provision of this title shall be construed as authorizing the appropriations of additional funds for fiscal year 1979.

The *conference substitute* adopts the Senate provision.

(65) SMALL BUSINESS EMPLOYEE OWNERSHIP

The *Senate bill* contains a new title creating an act which may be cited as the "Small Business Employee Ownership Act".

The Congress finds that employee ownership of business helps to preserve jobs, increase worker productivity and company profits, provides for the continuity of existing small businesses, creates new enterprises from corporate divestitures and provides a means for broadening participation in the capitalist system. Furthermore, the continued closing of small businesses and the continued decline in productivity present serious problems for the economy. The present concentration of capital has created too great a disparity between the wealthy few and moderate- and low-income majority and loan guarantees for employee ownership from the SBA could help to keep businesses viable and save communities from the loss of jobs and business activity.

The purposes of this title are to: (1) treat employee-owned businesses as small businesses for all purposes of the Small Business Act; (2) assure that in those cases where an employee organization seeks to purchase a company that would otherwise be closed, relocated, or sold to an unrelated outside interest, or whose owner agrees to a transfer to employees, the employee organization, including an employee stock ownership trust, will be eligible for assistance under the Small Business Act; and (3) provide that when guaranteeing loans to employee organizations the SBA will guarantee the loan on the basis of the firm's reasonable prospects of success.

The *Senate bill* also amends section 7 of the Small Business Act by adding a new subsection (m). "Employees" are defined as all full-time employees who have worked for the company for at least thirty days prior to the application for SBA assistance. "Employee Stock Ownership Plans" (ESOPs) and "Employee Stock Ownership Trusts" (ESOTs) are also defined.

The *Senate bill* further authorities the Administration to make assistance under section 7 available to both employee organizations seeking to buy their companies and to employee owned small business firms or ESOTs, provided they otherwise meet the qualifications established by this subsection. In the case of a company using an ESOP, for example, the company must guarantee that it will make available to the ESOP such funds as are necessary to repay the loan guaranteed by the SBA, that the funds loaned to the ESOP will be used solely for the purchase of qualified employer securities, and that no such funds shall be used to acquire a separate company or provide financing for a separate company.

In addition, it provides that loan guarantees will be made to employee organizations, including ESOPs, for the purpose of acquiring a small business or company which, when independently owned, would become a small business, provided that the company would otherwise be closed, relocated, sold to a large business, or the owner agrees to sell to the employees. The decision to grant the guarantee will be based on an application by the ESOP or employee organization to the SBA. The application must include a plan for the employee organization, or ESOP, demonstrating that all employees will be offered an opportunity to participate in the plan; that where stock is distributed, employees must be given non-forfeitable rights to such stock before the loan is fully paid, and any such distribution must comply with all IRS requirements; that generally by the time the loan is repaid a majority of the employees will own a majority of the stock, and that managerial employees who will own 10 percent or more of company stock (owner-employees) will have worked for at least 1 year before such person can become a participant in the plan. The certified plan must also provide for the periodic review of the mode of company organization and adequate management contracts.

Finally, the plan must enable the company to repurchase stock from employees when they leave the firm and provide a method of wage deductions in non-ESOP cases where such deductions are determined to be necessary to repay the loan.

The Senate bill also states that assistance under this section shall be made when the firm or employee organization can demonstrate the likelihood of repayment to SBA and that the firm they intend to operate can provide a reasonable assurance of repayment to SBA. The individual business experience or assets of owners shall not be used as the criteria, except inasmuch as employee owners may assume managerial responsibility, in which case experience and assets may be considered.

The maximum amount of any such loan is $500,000.

It requires SBA to report periodically to Congress on the status of employee-owned firms and those applications denied and approved. The bill also states that guarantees under this subsection may be made directly to the seller of a business when selling under an installment sales contract, provided that in the case of a default the seller has the option: (1) of paying SBA an amount equal to 90 percent of the total amount paid on the contract at the time of default and reassuming title to the business (SBA being relieved of all further obligations); or (2) assigning to SBA the option of assuming title to the business for an SBA lump-sum payment equal to 90 percent of the remaining payments due on the contract.

The Senate bill amends section 8(a) of the Small Business Act and clarifies that a firm in which 51 percent of the stock is owned by socially and economically disadvantaged individuals through an ESOT may also qualify for participation in the SBA 8(a) minority assistance program.

Under existing law, companies in which 51 percent of the stock is owned by socially and economically disadvantaged individuals may be qualified to receive assistance from SBA. This section assures equitable treatment for ESOP companies.

Finally, the Senate bill directs the Small Business Administration to conduct a study of the feasibility of extendng the "guarantee-to-seller" concept incorporated in this bill to any purchaser of a small business concern. Such study is to be completed by January 1, 1980.

The House bill has no comparable provision.

The *conference substitute* adopts the Senate provision with several modifications. This title is very similar to legislation (S. 388) favorably reported by the Senate Select Committee on Small Business on April 24, 1979 (S. Rept. 96-93) and passed unanimously by the Senate on May 1, 1979. The purpose of the bill, and Committee's intent in adding it as a separate title to this bill, are identical to those specified in both the Committee's report and the floor statements except as changed or otherwise noted.

One substantive difference between the conference substitute and the Senate-passed bill is that the provisions for SBA guarantees for installment contracts between sellers and employee-buyers has been dropped. The study provision directing SBA to contract with a consultant to evaluate the desirability of guaranteeing payments on contracts generally under its 7(a) program has been retained. This change was made out of the belief that if the contract idea is a good one, it should apply to all 7(a) cases.

The *Senate bill* also includes a provision specifically directing SBA to make assistance under the 8(a) minority business contract companies owned by socially and economi- procurement assistance program available to cally disadvantaged individuals through ESOP's.

The conferees agree to drop this provision with the understanding that nothing in existing law prohibits SBA from making such assistance available to firms owned and controlled by socially and economically disadvantaged firms through ESOR's. The conferees believe that SBA should expeditiously issue regulations to permit such assistance.

The other differences in the bill are technical in nature. "Employee organization" is now defined as a qualified employee trust", since trusts have a clearer legal status. Various definitions in the bill have been changed so that they are more consistent with existing law on employee benefit plans. Voting right requirements for employee stock ownership plans have also been clarified to eliminate any possibility of conflicts with existing law. Finally, managerial employees are no longer required to work for one year before becoming eligible to participate in the plan, as this was judged to be likely to produce too much confusion with existing law governing employee stock ownership plans.

The amended Title VI of S. 918 is the result of negotiations between Chairman Henry J. Nowak of the House Subcommittee on Access to Equity Capital and Business Opportunities and Senator Donald Stewart of the Select Committee on Small Business of the Senate.

The amended version takes into account changes which were suggested by expert witnesses and administration witnesses who testified before the House Subcommittee on Access to Equity Capital and Business Opportunities at hearings on May 8 and 15.

The Nowak Subcommittee drafted a similar bill and reached consensus with Senator Stewart and Congressman William Stanton, on the language contained in the *conference substitute*.

NEAL SMITH,
FERNAND J. ST GERMAIN,
RICHARD NOLAN,
RICHARD H. ICHORD,
BILLY L. EVANS,
DOUG BARNARD, JR.,
CLAUDE "BUDDY" LEACH,
TONY P. HALL,

Solely for consideration of subsections (c), (d), and (e), of section 113 of the House amendment and modifications committed to conference:

THOMAS S. FOLEY,
ED JONES,
TOM HARKIN,
JERRY HUCKABY,
DAN GLICKMAN,
KENT HANCE,
GEORGE E. BROWN, JR.,
FREDERICK W. RICHMOND,
*Managers on the Part of the House.*

GAYLORD NELSON,
SAM NUNN,
JOHN CULVER,
WALTER D. HUDDLESTON,
DALE BUMPERS,
ROBERT MORGAN,
JIM SASSER,
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S. I. HAYAKAWA,
HARRISON SCHMITT,
RUDY BOSCHWITZ,
LARRY PRESSLER,
*Managers on the Part of the Senate.*

## CONFERENCE REPORT ON H.R. 3875

Mr. REUSS submitted the following conference report and statement on the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96-706)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Housing and Community Development Amendments of 1979".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out "and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978" in the first sentence and inserting in lieu thereof "not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979"; and

(2) by adding at the end thereof the following new sentence: "Of the amounts available for loans under this section during any fiscal year beginning on or after October 1, 1979, the Secretary may utilize not more than $75,000,000 for rehabilitation loans for multifamily properties.".

(b) Section 312(h) of such Act is amended—

(1) by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

(c) Subsections (i) and (j) of section 312 of such Act, as added by section 101(b) of the Housing and Community Development Amendments of 1978, are redesignated as subsection (j) and (k), respectively.

COMPREHENSIVE PLANNING

SEC. 102. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $57,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $57,000,000 for the fiscal year 1979, and not to exceed $50,000,000 for the fiscal year 1980".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SEC. 103. (a) Section 103(c) of the Housing and Community Development Act of 1974 is amended by striking out "a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980" and inserting in lieu thereof "for supplemental grant assistance under section 119 a sum not to exceed $400,000,000 for each of the fiscal years 1978 and 1979, and not to exceed $675,000,000 for the fiscal year 1980".

(b) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by striking out "$250,000,000 for the fiscal year 1980" and inserting in lieu thereof "$275,000,000 for the fiscal year 1980".

(c) Section 104(b)(3) of such Act is amended to read as follows:

"(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) if (A) the application does not involve a comprehensive community development program, as determined by the Secretary, and (B) the Secretary determines that, considering the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this title.".

(d) Section 106(m) of such Act is amended by striking out "or fiscal year 1979" and inserting in lieu thereof ", fiscal year 1979, or fiscal year 1980".

(e) Section 106(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government which is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government which is outside the boundaries of such urban county.".

(f) Section 102(a)(1) of such Act is amended by inserting "the Northern Mariana Islands," after "Guam,".

(f) Section 104(h) of such Act is amended—

(1) by inserting in the first sentence of parapraph (1)—

(A) after "National Environmental Policy Act of 1969" the following: "and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary)"; and

(B) after "such Act" the following: ", and such other provisions of law as the regulations of the Secretary specify,";

(2) by inserting in the second sentence of paragraph (2) after "National Environmental Policy Act" the following: "of 1969 and such other provisions of law as the reguations of the Secretary specify"; and

(3) by inserting in paragraph (3)(D)(1)—

(A) after "National Environmental Policy Act of 1969" the following: "and each provision of law specified in regulations issued by the Secretary"; and

(B) after "such Act" the following: "or other such provision of law".

POCKETS OF POVERTY

SEC. 104. (a) Section 119(b) of the Housing and Community Development Act of 1974 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of paragraph (1), and—

"(A) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county, (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of such city or urban county, and (iii) in which at least 30 per centum of the residents have incomes of below the national poverty level; or

"(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of Census or for which data certified by the United States Bureau of Census are available having at least a population of two thousand and five hundred persons or 10 per centum of the population of such city, whichever is greater, (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income for such city, and (iii) in which at least 30 per centum of the residents have incomes of below the national poverty level.

The Secretary shall utilize up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.".

(b) Section 119(e) of such Act is amended—

(1) by striking out "In" after "(e)" and inserting in lieu thereof "(1) Except in the case of a city or urban county eligible under subsection (b)(2), in";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C); and

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

"(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration among eligible areas, and (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in clause (C) of paragraph (1) of this subsection.

"(3) The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

"(A) the grant will be utilized in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (i) that there is no suitable site for the project within such area, (ii) the project will be located directly adjacent to such area, and (iii) the project will substantially contribute to the physical and economic development of such area;

"(B) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(C) the grant will be utilized in connection with a project which will directly benefit the low- and moderate-income families and individauls residing in the area described in subsection (b)(2); and

"(D) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid pro-

grams, an amount equal to 20 per centum of the grant to be available pursuant to this section to be used in carrying out the activities described in the application.".

URBAN DEVELOPMENT ACTION GRANT PROGRAM

SEC. 105. Section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(l) A grant may be made under this section only where the Secretary determines that there is a strong probability that the non-Federal investment in the project would not be made without such grant and where the Secretary determines that there is a strong probability that the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(m) For purposes of carrying out this section, the Secretary may reduce or waive the requirement, as described in section 102(a)(5)(B)(ii) and applied to recipients of community development grants, that a town or township be closely settled.".

URBAN HOMESTEADING AMENDMENT

SEC. 106. Section 810 of the Housng Community Development Act of 1974 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g)(1) The Secretary is authorized to reimburse the Administrator of Veterans' Affairs, in an amount to be agreed upon by the Secretary and the Administrator, for property which the Administrator conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.

"(2) The Secretary is authorized to reimburse the Secretary of Agriculture, in an amount to be agreed upon by the Secretary and the Secretary of Agriculture, for property which the Secretary of Agriculture conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 107. (a) Section 705 of the Housing and Community Development Amendments of 1978 is amended by striking out "$15,000,000" and inserting in lieu thereof "$13,500,000."

(b) Section 704(d) of such Act is amended by inserting before the period at the end thereof the following: ", except that the Secretary may make such grants and other forms of assistance available without such certification if such assistance is made available for the demonstration of innovative means of assisting in neighborhood conservation and revitalization, but not more than 10 per centum of assistance made available under this title in any fiscal year shall be made available without such certification".

LIVABLE CITIES

SEC. 108. Section 807 of the Housing and Community Development Amendments of 1978 is amended by striking out "$10,000,000" and inserting in lieu thereof "$5,000,000".

REVIEW OF EFFECTS OF RENTAL CONVERSIONS

SEC. 109. (a) Section 104(a)(4)(A) of the Housing and Community Development Act of 1974 is amended by inserting before the comma at the end thereof the following: ", including the impact of conversion of rental housing to condominium or cooperative ownership on such needs".

(b) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress concerning the conversion of rental housing to condominium or cooperative ownership. Such report shall at least include—

(1) an estimate of the number of such conversions which have occurred since 1970;

(2) a projection of the number of such conversions estimated to occur during the period 1980 through 1985;

(3) an assessment of the impact that such conversions have had or are likely to have on the availability of housing for lower income persons;

(4) an assessment of the extent to which such conversions are concentrated in certain areas or types of areas of the country; and

(5) an assessment of the factors contributing to the increase in such conversions.

The Secretary may also include in such report recommendations concerning alternative means to minimize the adverse impact that such conversions may have on lower income persons.

## TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "October 1, 1977,"; and

(2) by inserting after "on October 1, 1978" the following: ", and by $1,140,661,000 on October 1, 1979,".

(b) Section 5(c) of such Act is amended by inserting the following after the third sentence: "Of the additional authority authorized by the first sentence of this subsection on October 1, 1979, not more than $195,053,000 is authorized to be approved in appropriation Acts for units assisted under this Act other than under section 8 (not less than $50,000,000 of which is authorized to be so approved for modernization of such units with a preference being given to the modernization of substandard vacant units). In no case may the Secretary, with respect to the additional authority made available on October 1, 1979, enter into annual contributions contracts aggregating more than $195,053,000 for units assisted under this Act other than under section 8.".

(c) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately after "on or after October 1, 1977,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $741,500,000 on or after October 1, 1979".

AMOUNT OF TENANT CONTRIBUTION FOR RENTAL PAYMENTS

SEC. 202. (a) Section 3(1) of the United States Housing Act of 1937 is amended by striking out the third sentence and inserting in lieu thereof the following: "The rental for any dwelling unit shall not exceed that portion of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family, but such rental shall not exceed 25 per centum of family income in the case of a very low income family or, in the case of other families, 30 per centum of such income.".

(b) Section 8(c)(3) of such Act is amended by striking out the first and second sentences and inserting in lieu thereof the following: "The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and a portion of one-twelfth of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family and on the basis of such other factors as the number of minor children in the household and the extent of medical and other unusual expenses incurred by the family. In carrying out the previous sentence, the Secretary shall provide that—

"(A) in the case of a very low income family, the amount of such assistance payment shall be the difference between such rent and not less than 15 per centum but not more than 25 per centum of such family income, taking into consideration such relative level of income and such other factors;

"(B) in the case of a large very low income family or a lower income family with exceptional medical or other expenses, as determined by the Secretary, the amount of such assistance payment shall be the difference between such rent and 15 per centum of such family income;

"(C) in the case of a very large lower-income family, the amount of such assistance payment shall be the difference between such rent and 20 per centum of such family income; and

"(D) in the case of other families, the amount of such assistance payment shall be the difference between such rent and not less than 20 per centum but not more than 30 per centum of such family income, taking into consideration such relative level of income and such other factors.".

(c) The amendments made by subsections (a) and (b) shall become effective on January 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under the United States Housing Act of 1937 commenced prior to such date shall be determined in accordance with the provisions of such Act in effect on December 31, 1979, so long as such occupancy is continuous thereafter.

SECTION 101 RENT SUPPLEMENT AND SECTION 236 INCOME DEFINITIONS

SEC. 203. (a) Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out the first sentence of subsection (c) and inserting in lieu thereof the following new sentence: "As used in this section, the term—

"(1) 'qualified tenant' means any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the day preceding the date of the enactment of the Housing and Community Development Amendments of 1979, so long as such individual or family continues to meet the conditions for such assistance which were in effect on such day; and

"(2) 'income' means income as determined under section 8 of the United States Housing Act of 1937.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for such unit exceeds one-fourth of the tenant's income as determined by the Secretary pursuant to procedures and regulations established by the Secretary. Notwithstanding the preceding sentence, the amount of the payment made under any contract amended pursuant to subsection (l) with respect to any dwelling unit assisted under this section shall be determined in the same manner as it would be determined under section 8 of the United States Housing Act of 1937 if the tenant on whose behalf such payment is made were receiving assistance with respect to such unit under section 8 of such Act.";

(3) by striking out subsection (e)(1)(B) and inserting in lieu thereof the following:

"(B) whether the individual or family was occupying substandard housing or was involuntarily displaced at the time it was seeking assistance under this section."; and

(4) by adding the following new subsections at the end thereof:

"(k) In making assistance available under this section, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section.

"(1) The Secretary may offer to amend each contract entered into pursuant to this section for the purpose of making such contract contain such terms and conditions as the Secretary deems necessary to implement the amendments made to this section by the Housing and Community Development Amendments of 1979. Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, in order to carry out any changes in contracts as a result of the preceding sentence to the extent necessary to supplement assistance authority available for that purpose under this section.".

(b) Section 236(m) of the National Housing Act is amended to read as follows:

"(m) For the purpose of this section, the term 'income' means income as determined under secion 8 of the United States Housing Act of 1937.".

(c) The amendments made by subsections (a) and (b) shall become effecive on the date of enactment of this Act. The maximum tenant contribution applicable to any family whose occupancy of housing assisted under section 101 of the Housing and Urban Development Act of 1965 or section 236 of the National Housing Act commenced prior to such date shall not exceed the maximum tenant contribution which would have been applicable under such section, as it was in effect on the day preceding the date of enactment of this Act, so long as such occupancy is continuous thereafter.

SECTION 213 ALLOCATION REQUIREMENTS

SEC. 204. (a) Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by inserting after "In allocating financial assistance" in the first sentence the following: "(other than assistance approved in appropriation Acts for use on and after October 1, 1979, under the United States Housing Act of 1937 for the purpose of modernization of low-income housing projects)".

(b) Section 213(d)(1) of such Act is amended by inserting before the last sentence the following: "Any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 205. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended by inserting immediately before the period at the end thereof the following: ", and not to exceed $82,000,000 for the fiscal year 1980".

(b) Section 236(f)(3)(B) of the National Housing Act is amended—

(1) by inserting immediately after "October 1, 1978," in the first sentence the following: "or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978,"; and

(2) by striking out "September 30, 1979" in the third sentence and inserting in lieu thereof "September 30, 1980".

TENANT SELECTION CRITERIA

SEC. 206. (a) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended by inserting after "tenant selection criteria" the following: "which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this Act and which is".

(b)(1) Section 8(d)(1)(A) of such Act is amended by inserting before the semicolon at the end thereof the following: ", except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section".

(2) Section 8(e)(2) of such Act is amended by inserting before the period at the end of the first sentence the following: ", except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section".

DISTRIBUTION OF SECTION 9 OPERATING SUBSIDIES

SEC. 207. Section 9 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(d) If, in any fiscal year beginning after September 30, 1979, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to low-income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.".

DISPLACED TENANTS IN A HUD-OWNED PROJECT

SEC. 208. Section 203(d)(2) of the Housing and Community Development Amendments of 1978 is amended by striking out "The Secretary shall seek to assure the maximum opportunity for any such tenant—" and inserting in lieu thereof the following: "The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—".

ENERGY CONSERVATION

SEC. 209. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"ENERGY CONSERVATION

"SEC. 13. (a) In utilizing contract authority which is provided by section 5(c) and has been approved in appropriation Acts for use in the modernization of low-income housing projects (other than projects assisted under section 8) on or after October 1, 1979, the Secretary shall, to the maximum extent practicable, also take into consideration projects which will be modernized to a substantial extent with weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976.

"(b) The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabiliated projects assisted under this Act with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems.".

VERIFICATION OF INCOME

SEC. 210. Section 8 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.".

PRESERVATION OF LOW-INCOME CHARACTER OF ASSISTED HOUSING

SEC. 211. (a) Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)";

(3) by inserting the following before the period at the end of the third sentence: ", and such contract shall provide that no disposition of the low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary"; and

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

"(2) The Secretary may not make assistance available under this section for any low-income housing project unless such project is being assisted by an annual contributions contract authorized by section 5(c) but not subject to section 8, except that after the duration of any such annual contributions contract with respect to a low-income housing project, the Secretary may provide assistance under this section with respect to such project as long as the low-income nature of such project is maintained.".

(b) The first sentence of section 8(e)(1) of such Act is amended by striking out "one month" and inserting in lieu thereof "two hundred and forty months".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting the following before the semicolon at the end thereof: ", and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage".

RENT STUDIES

SEC. 212. (a) The Secretary of Housing and Urban Development shall conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under the United States Housing Act of 1937. The study shall examine (1) the extent to which tenants in such housing are not required to or do not pay rent, (2) the incentives for greater tenant care of such housing which minimum rents may create, (3) the administrative costs of assessing and collecting minimum rents, and (4) in each of the five fiscal years beginning on October 1, 1980 and ending September 30, 1984, the reductions in appropriations for the payment of annual contributions for assisted housing and for payments for the operation of low-income housing projects which several alternative specifications of minimum rent requirements would allow. The Secretary shall submit a report to the Congress containing the findings and conclusions of such study not later than ten days after the Budget for fiscal year 1981 is transmitted pursuant to section 201 of the Budget and Accounting Act, 1921.

(b) The Secretary of Housing and Urban Development shall conduct a study to provide detailed comparisons between the rents paid by tenants occupying low-income hous-

ing assisted under the United States Housing Act of 1937, and the rents paid by tenants at the same income levels who are not in assisted housing. The comparisons shall be made for differing regions, income levels and family size, and shall include data on utility costs paid by tenants. Data on tenants not in assisted housing shall be further subdivided in accordance with various indicators of housing quality. The Secretary shall transmit a report on such study to the Congress not later than March 1, 1980.

SECTION 235 AMENDMENTS

SEC. 213. (a) Section 235(a)(1) of the National Housing Act is amended by adding the following new sentence at the end thereof: "In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominimum or a membership in a cooperative association.".

(b) Section 235(i)(3)(A) of such Act is amended by striking out ", if the mortgagor qualifies" in the first proviso and all that follows through "public housing".

(c)(1) Section 235 of such Act is amended by adding at the end thereof the following new subsection:

"(o) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.".

(2) Section 235(c)(2) of such Act is amended by inserting after "1 per centum per annum" the following: "(4 per centum per annum in the case of a mortgage described in subsection (o))".

## TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "December 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980".

(b) Section 217 of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 221(f) of such Act is amended by striking out "November 30, 1979" in the fifth sentence and inserting in lieu thereof "September 30, 1980".

(d) Section 235(m) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(e) Section 236(n) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(f) Section 244(d) of such Act is amended—

(1) by striking out "November 30, 1979" in the first sentence and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "December 1, 1979" in the second sentence and inserting in lieu thereof "October 1, 1980".

(g) Section 245 of such Act is amended by striking out "November 30, 1979" where it appears and inserting in lieu thereof "September 30, 1980".

(h) Section 809(f) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(i) Section 810(k) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(j) Section 1002(a) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(k) Section 1101(a) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of Public Law 90-301 is amended by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

RESEARCH AUTHORIZATIONS

SEC. 304. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $62,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $62,000,000 for the fiscal year 1979, and not to exceed $50,300,000 for the fiscal year 1980".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 305. Section 519(f) of the National Housing Act is amended by inserting before the period at the end thereof the following: ", which shall be increased by not to exceed $93,000,000 on October 1, 1979".

HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 306. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $3,300,000,000 on October 1, 1978" and inserting in lieu thereof "to $3,300,000,000 on October 1, 1978, to $3,827,500,000 on October 1, 1979, to $4,777,500,000 on October 1, 1980, and to $5,752,500,000 on October 1, 1981".

(b) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraphs:

"(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

"(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

"(B) will assist in providing housing for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private investment; or

"(C) will assist in the substantial rehabilitation, in an economical manner, of structures having architectural, historical, or cultural significance.

"(7) The Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.".

(c)(1) Section 202(d)(8)(A) of such Act is amended by striking out "or infirmaries or other inpatient or" and inserting in lieu thereof "adult day health facilities, or other".

(2) Section 202(f) of such Act is amended by inserting "(including adult day health services)" after "health".

(d) Section 202(g) of such Act is amended by adding the following new sentence at the end thereof: "At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the Untied States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.".

(e) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit a report to the Congress on the housing needs of the elderly and handicapped in rural areas. Such report shall at least include—

(1) an assessment of the operations of the present programs in rural areas available to the elderly and handicapped;

(2) an assessment of the housing needs of the elderly and handicapped living in rural areas; and

(3) an examination of the various alternatives available to meet the housing needs of the elderly and handicapped in rural areas.

(f) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit a report to the Congress containing recommendations on means to reduce the costs of the program carried out under section 202 of the Housing Act of 1959 without—

(1) unduly burdening sponsors of programs and projects under this section; or

(2) adversely affecting the ability of the program under this section to meet the housing needs of elderly and handicapped families.

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 307. Section 608(a) of the Housing and Community Development Amendments of 1978 is amended by inserting ", and not to exceed $12,000,000 for fiscal year 1980" after "1979".

EXEMPTION FROM STATE USURY LAWS

SEC. 308. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"EXEMPTION FROM STATE USURY LAWS

"SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

"(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.".

STUDIES OF MORTGAGE INSURANCE PREMIUMS AND ALTERNATIVES TO STATUTORY MORTGAGE AMOUNTS

SEC. 309. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall conduct a study of the relative risks of loss which exist with respect to the various classes of mortgages which may be insured under sections 203(b) and 213 of the National Housing Act. Such study shall be conducted for the purpose of making recommendations on the advisability of reducing, in accordance with sound actuarial and accounting practices, some or all of the mortgage insurance premiums required for such classes of mortgages. The Secretary shall transmit such recommendations

to the Congress within eighteen months from the date of the enactment of this Act.

(b) The Secretary shall conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured by the Department of Housing and Urban Development under titles I and II of the National Housing Act. Such study shall include an examination of possible alternatives, including but not limited to flexible mortgage ceilings, prototype cost limits, ceilings based on regional housing costs, sales prices of homes, and construction costs. The Secretary shall report to the Congress on the results of such study, together with recommendations for legislation, no later than March 1, 1980.

MORTGAGE INSURANCE FOR EXISTING DWELLINGS WITH WARRANTY PLANS

SEC. 310. Section 203(b)(2) of the National Housing Act is amended by striking out "the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction" in the third sentence and by inserting in lieu thereof the following: "(i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction".

MODIFICATION OF GRADUATED PAYMENT MORTGAGE PAYMENT

SEC. 311. (a) This section may be cited as the "Homeownership Opportunity Act of 1979".

(b) Section 245 of the National Housing Act is amended—

(1) by inserting "(a)" after "SEC. 245.";

(2) by inserting after "title" in the second sentence the following ", except as provided in subsection (b) of this section,";

(3) by striking out "section" after "pursuant to this" and inserting in lieu thereof "subsection";

(4) by striking out the last sentence; and

(5) by adding at the end thereof the following:

"(b) Notwithstanding the provisions of subsection (a), the Secretary may insure under any provision of this title a mortgage or loan which meets the requirements of the first sentence of subsection (a) and which has provisions for varying rates of amortization if the Secretary determines—

"(1) the mortgagor could not reasonably afford to purchase the dwelling unit by means of a mortgage insured under subsection (a) or any other mortgage insurance program under this title;

"(2) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 203(b) of this title as of the date the mortgage or loan is accepted for insurance;

"(3) the principal obligation of the mortgage or loan thereafter (including all interest to be deferred and added to principal) will not at any time be scheduled to exceed 97 per centum, or, if the mortgagor is a veteran, such higher percentage as it provided under section 203(b)(2) for veterans, of the projected value of the property; and

"(4) the principal obligation of the mortgage thereafter will not exceed 113 per centum of the initial appraised value of the property.

Mortgage insurance under this subsection shall be limited to mortgages executed by mortgagors who, as determined by the Secretary, have not owned dwelling units within the preceding three years. For the purpose of this subsection, the projected value of the property shall be calculated by the Secretary by increasing the initial appraised value of the property at a rate not in excess of 2½ per centum per annum. The number of mortgages which are insured in accordance with this subsection in any fiscal year may not exceed (A) that number of mortgages the aggregate initial principal obligation of which equals 10 per centum of the aggregate amount of the initial principal obligation of all mortgages secured by properties improved by one- to four-family residences which are insured under this title during the preceding fiscal year, or (B) 50,000 mortgages, whichever is greater.

"(c) Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy (1) limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such constitution, statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions, or (2) requiring a minimum amortization of principal under the mortgage or loan."

FEDERAL HOUSING ADMINISTRATION MORTGAGE LIMITS

SEC. 312. (a) Section 203(b)(2) of the National Housing Act is amended by striking out everything through "or $75,000 in the case of a four-family residence," and inserting in lieu thereof the following:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $76,000 in the case of a two-family residence whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $92,000 in the case of a three-family residence, or $107,000 in the case of a four-family residence;".

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out "$60,000" and inserting in lieu thereof "$67,500";

(2) by striking out "$65,000" the first time it appears and inserting in lieu thereof "$76,000";

(3) by striking out "$65,000" the second time it appears and inserting in lieu thereof "$92,000";

(4) by striking out "$75,000" and inserting in lieu thereof "$107,000"; and

(5) by striking out "$7,700" and inserting in lieu thereof "$8,250".

(c) Section 222(b)(2) and section 234(c) of such Act are amended by striking out "$60,000" in each such section and inserting in lieu thereof "$67,500".

LOANS FOR MOBILE HOMES AND LOTS

SEC. 313. (a) Section 2(b) of the National Housing Act is amended—

(1) by striking out "$16,000 ($24,000 in the case of a mobile home composed of two or more modules" in the first sentence and inserting in lieu thereof "$18,000 ($27,000 in the case of a mobile home containing two or more modules";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof the following:

"(A) involve such an amount not exceeding $24,000 ($33,000 in the case of a mobile home composed of two or more modules); and";

(3) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the second paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-five";

(4) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve such an amount not exceeding $27,500 ($36,500 in the case of a mobile home composed of two or more modules); and";

(5) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the third paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-five";

(6) by striking out "5,000 in the case of an undeveloped lot, or (ii) $7,500," in subparagraph (A) of the fourth paragraph and inserting in lieu thereof "$6,250 in the case of an undeveloped lot, or (ii) $9,375"; and

(7) by striking out "ten years and thirty-two days" in subparagraph (B) of the fourth paragraph and inserting in lieu thereof "fifteen years and thirty-two days".

(b) Section 207(c)(3) of such Act is amended by striking out "$3,900" and inserting in lieu thereof "$8,000".

HIGH-COST AREA MAXIMUM MORTGAGE AMOUNTS

SEC. 314. The National Housing Act is amended by striking out "by not to exceed 50 per centum in any geographical area where he finds that cost levels so require" where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section "by not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum in such an area".

COMBINATION FINANCING

SEC. 315. Section 242(d) of the National Housing Act is amended by adding the following new paragraph at the end thereof:

"(5) The Secretary shall not insure any mortgage or approve any modification of an existing mortgage insured pursuant to this section or section 233(f) if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt, except that the Secretary shall not refuse to insure such a mortgage or approve such a modification solely on the basis that such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt if—

"(A) a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979; or

"(B) in the case of a nonprofit mortgagor which is seeking refinancing or modification of an existing mortgage insured pursuant to this section or section 223(f), the mortgagor (i) had engaged an investment banker for the purpose of obtaining such refinancing or modification, or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of ob-

taining such refinancing or modification, and had made written notification of its interest in such refinancing or modification to the Department of Health, Education, and Welfare or the Department of Housing and Urban Development prior to June 7, 1979; and (ii) receives from the programs established under titles XVIII and XIX of the Social Security Act a percentage of its total revenue which is greater than 125 per centum of the national average for hospitals which derive revenue from such titles,".

FEDERAL HOME LOAN MORTGAGE CORPORATION AMENDMENTS

SEC. 316. (a) Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following:

"(e)(1) Any person, trust, or organization created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to this section or pursuant to section 305 of this title to the same extent that such person, trust, or organization is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, or organization, such Corporation mortgages, obligations, and other securities shall be considered to be obligations issued by the United States for purposes of the limitation.

"(2) The provisions of paragraph (1) shall not apply with respect to a particular person, trust, or organization or class thereof in any State which, after the date of enactment of this subsection, enacts a statute which specifically names the Corporation and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by such person, trust, or organization or class thereof than is provided in paragraph (1). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto.

"(3) Any authority granted by paragraph (1) and not granted by any other Federal statute shall expire as of the end of June 30, 1985. Such expiration shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto pursuant to paragraph (1), and shall not affect the validity of any contractual commitment or other action to purchase, hold, or invest pursuant to any other authorization.".

(b) Section 303 of such Act is amended by adding at the end thereof the following:

"(f) All mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to section 305 or section 306 of this title shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any officers thereof.".

(c) Section 302(h) of such Act is amended by adding at the end thereof the following sentence: "Such term shall also include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MAXIMUM MORTGAGE AMOUNT

SEC. 317. The second sentence of section 302(b)(1) of the National Housing Act is amended to read as follows: "Notwithstanding the provisions of clause (3) of the preceding sentence, the Association may purchase a mortgage under section 305 with an original principal obligation which exceeds the otherwise applicable maximum amount per dwelling unit if (1) the mortgage is insured under section 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234((e)(3), or 236, and (2) at least 20 per centum of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937.".

SECTION 203(i) PROGRAM

SEC. 318. Section 203(i) of the National Housing Act is amended—

(1) by striking out "adjacent to a public highway" in the last proviso and inserting in lieu thereof adjacent to an all-weather public road"; and

(2) by striking out "five" in the last proviso and inserting in lieu thereof "two and one-half".

MATURITIES FOR SUPPLEMENTAL LOANS

SEC. 319. Section 241(b)(2) of the National Housing Act is amended by striking out the phrase "but not to exceed the remaining term of the mortgage".

AMENDMENT TO THE NATIONAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974

SEC. 320. Section 620 of the National Mobile Home Construction and Safety Standards Act of 1974 is amended by inserting after "conducting such inspections," the following: "and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections,".

OWNERSHIP OF MOBILE HOME SITES

SEC. 321. Not later than March 31, 1980, the Secretary of Housing and Urban Development shall transmit to the Congress a report containing recommendations for programs and policies which encourage individual ownership of mobile home lots through condominium or cooperative development of mobile home parks or through the development of mobile home subdivisions.

INVALIDATION OF HUD INCREASES IN THERMAL REQUIREMENTS

SEC. 322. The final rule revision 6A of the Department of Housing and Urban Development (entitled "Increases in Thermal Requirements for HUD Minimum Property Standards" and contained in the Federal Register, volume 44, number 74, April 16, 1979, 24 CFR Part 200) is hereby disapproved and invalidated insofar as it applies to masonry construction.

DEPOSIT INSURANCE AND SECURITY EXTENDED TO INDIAN TRIBAL GOVERNMENT DEPOSITS

SEC. 323. (a) Paragraph (2)(A) of section 11(a) of the Federal Deposit Insurance Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;".

(b) Paragraph (1) of section 405(d) of the National Housing Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in an insured institution;".

(c) Subparagraph (2)(A) of section 207(c) of the Federal Credit Union Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in a credit union insured in accordance with this title;".

(d) Section 107(6) of the Federal Credit Union Act is amended by striking out "nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act" and inserting in lieu thereof "nonmember units of Federal, Indian tribal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act".

(e) The amendments made by subsections (a) through (d) are not applicable to any claim arising out of the closing of a bank, savings and loan association, or credit union prior to the date of enactment of this Act, but shall be applicable to any such claim arising on or after such date.

(f) Section 5153 of the Revised Statutes is amended by adding at the end thereof the following paragraph:

"Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe, or any officer, employees, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section.".

AIDING MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 324. Section 11(h) of the Federal Home Loan Bank Act is amended by inserting after "in the stock of the Federal National Mortgage Association," the following: "in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System,".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 325. Section 5(c)(4) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(E) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

SINGLE FAMILY LOAN LIMITATION

SEC. 326. Paragraph (1)(B) of section 5(c) of the Home Owners' Loan Act of 1933 is

amended by striking out "$60,000" and inserting in lieu thereof "$75,000."

STOCK TO ADVANCES RATIO

SEC. 327. Section 6(c)(2)(ii) of the Federal Home Loan Bank Act is amended by striking out "twelve" and inserting in lieu thereof "twenty".

PAPERWORK REDUCTION

SEC. 328. Section 905 of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"PAPERWORK REDUCTION

"SEC. 905. (a) The Congress finds and declares—

"(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for application, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

"(2) that unnecessary paperwork impairs the effectiveness of Federal housing finance programs;

"(3) that both single-family and multifamily programs are affected; and

"(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

"(b)(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

"(A) uniform single-family and multifamily note and mortgage forms;

"(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

"(C) a uniform form for computation of the monthly net effective income of applicants;

"(D) a uniform property appraisal form;

"(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

"(F) such other consolidated or simplified forms, particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

"(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available from other available sources through indexing or other means of identifying such forms.

"(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

"(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93-556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.".

## TITLE IV—INTERSTATE LAND SALES

DEFINITIONS

SEC. 401. Section 1402 of the Interstate Land Sales Full Disclosure Act is amended by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively, and by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) 'subdivision' means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;

"(4) 'common promotional plan' means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;".

EXEMPTIONS

SEC. 402. Subsections (a) and (b) of section 1403 of the Interstate Land Sales Full Disclosure Act are amended to read as follows:

"(a) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions of this title shall not apply to—

"(1) the sale or lease of lots in a subdivision containing less than twenty-five lots;

"(2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;

"(3) the sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate;

"(4) the sale of securities issued by a real estate investment trust;

"(5) the sale or lease of real estate by any government or government agency;

"(6) the sale or lease of cemetery lots;

"(7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or

"(8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official record of the city or county in which such real estate is located, when—

"(A) local authorities have approved access from such real estate to a public street or highway;

"(B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

"(C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

"(D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

"(E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

"(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions requiring registration and disclosure (as specified in section 1404(a)(1) and sections 1405 through 1408) shall not apply to—

"(1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a);

"(2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection or on such other date within that twelve-month period as the Secretary may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;

"(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

"(4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

"(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except, that, in any case in which a homeowners association has accepted or is obligated to

accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;

"(C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days, and, for subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

"(D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and eighty days after the signing of the sales contract;

"(E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee at the time of closing, marketable title to the lot is vested in the seller or lessor;

"(F) the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and

"(G) there are no offers, by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot;

"(6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected or placed on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the mobile home erected or placed thereon is not conveyed within such two-year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, must provide potable water, sanitary sewage disposal, electricity, access by roads, the purchaser must receive marketable title to the lot, and where common facilities are to be provided, they must be completed or fully funded;

"(7)(A) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

"(i) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(ii) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

"(iii) each purchase or lease agreement contains—

"(I) a clear and specific statement describing a good faith estimate of the year of completion of, and the party responsible for, providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and

"(II) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws; and

"(iv) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing the receipt of a written statement by the developer containing good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot.

"(B) As used in subparagraph (A)(i) of this paragraph, the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such liens, reservations, taxes, assessments and restrictions which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.

"(C) For the purpose of this paragraph, a sales operation is 'intrastate in nature' if the developer is subject to the laws of the State in which the land is located, and each lot in the subdivision, other than those which are exempt under section 1403 (a), (b)(6), or (b)(8), is sold or leased to residents of the State in which the land is located; or

"(8) the sale or lease of a lot in a subdivision containing fewer than three hundred lots if—

"(A) the principal residence of the purchaser or lessee is within the same standard metropolitan statistical area, as defined by the Office of Management and Budget, as the lot purchased or leased;

"(B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease expires. As used in this subparagraph, the term 'liens' does not include (i) United States land patents and similar Federal grants or reservations, (ii) property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or (iv) other interests described in regulations prescribed by the Secretary;

"(C) the purchaser or lessee (or spouse thereof) has made a personal on-the lot inspection of the lot to be purchased or leased;

"(D) each purchase or lease agreement contains (i) a clear and specific statement describing a good faith estimate of the year of completion of and the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and (ii) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws;

"(E) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing receipt of a written statement by the developer setting forth (i) in descriptive and concise terms all liens, reservations, taxes, assessments, beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;

"(F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and

"(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the Secretary, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; an affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale or lease; and the signature of the developer.".

REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

SEC. 403. Section 1404 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

"SEC. 1404. (a) It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce, or of the mails—

"(1) with respect to the sale or lease of any lot not exempt under section 1403—

"(A) to sell or lease any lot unless a statement of record with respect to such lot is in effect in accordance with section 1407;

"(B) to sell or lease any lot unless a printed property report, meeting the requirements of section 1408, has been furnished to the purchaser or lessee in advance of the signing of any contract or agreement by such purchaser or lessee;

"(C) to sell or lease any lot where any part of the statement of record or the property report contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein pursuant to sections 1405 through 1408 of this title or any regulations thereunder; or

"(D) to display or deliver to prospective purchasers or lessees advertising and promotional material which is inconsistent with information required to be disclosed in the property report; or "(2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1403(a)—

"(A) to employ any device, scheme, or artifice to defraud;

"(B) to obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the state-

ments made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision;

"(C) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser; or

"(D) to represent that roads, sewers, water, gas, or electric service, or recreational amenities will be provided or completed by the developer without stipulating in the contract of sale or lease that such services or amenities will be provided or completed.

"(b) Any contract or agreement for the sale or lease of a lot not exempt under section 1403 may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable laws, and such contract or agreement shall clearly provide this right.

"(c) In the case of any contract or agreement for the sale or lease of a lot for which a property report is required by this title and the property report has not been given to the purchaser or lessee in advance of his or her signing such contract or agreement, such contract or agreement may be revoked at the option of the purchaser or lessee within two years from the date of such signing, and such contract or agreement shall clearly provide this right.

"(d) Any contract or agreement which is for the sale or lease of a lot not exempt under section 1403 and which does not provide—

"(1) a description of the lot which makes such a lot clearly identifiable and which is in a form acceptable for recording by the appropriate public official responsible for maintaining land records in the jurisdiction in which the lot is located;

"(2) that, in the event of a default or breach of the contract or agreement by the purchaser or lessee, the seller or lessor (or successor thereof) will provide the purchaser or lessee with written notice of such default or breach and of the opportunity, which shall be given such purchaser or lessee, to remedy such default or breach within twenty days after the date of the receipt of such notice; and

"(3) that, if the purchaser or lessee loses rights and interest in the lot as a result of a default or breach of the contract or agreement which occurs after the purchaser or lessee has paid 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, the seller or lessor (or successor thereof) shall refund to such purchaser or lessee any amount which remains after subtracting (A) 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, or the amount of damages incurred by the seller or lessor (or successor thereof) as a result of such breach, whichever is greater, from (B) the amount paid by the purchaser or lessee with respect to the purchase price of the lot, excluding any interest paid under the contract or agreement,

may be revoked at the option of the purchaser or lessee for two years from the date of the signing of such contract or agreement. This subsection shall not apply to the sale of a lot for which, within one hundred and eighty days after the signing of the sales contract, the purchaser receives a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her).

"(e) If a contract or agreement is revoked pursuant to subsection (b), (c), or (d), if the purchaser or lessee tenders to the seller or lessor (or successor thereof) an instrument conveying his or her rights and interests in the lot, and if the rights and interests and the lot are in a condition which is substantially similar to the condition in which they were conveyed or purported to be conveyed to the purchaser or lessee, such purchaser or lessee shall be entitled to all money paid by him or her under such contract or agreement.".

CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

SEC. 404. Section 1409 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

"SEC. 1409. (a)(1) A State shall be certified if the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 require the seller or lessor of of such lots to disclose information which is at least substantially equivalent to the information required to be disclosed by section 1408; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

"(2) In the case of any State which is not certified under paragraph (1), such State shall be certified if the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 provide sufficient protection for purchasers and lessees with respect to the matters for which information is required to be disclosed by section 1408 but which is not required to be disclosed by such State's laws and regulations; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

"(3) Any State requesting certification must agree to accept a property report covering land located in another certified State but offered for sale or lease in the State requesting certification if the property report has been approved by the other certified State. Such property report shall be the only property report required by the State with respect to the sale or lease of such land.

"(b) After the Secretary has certified a State under subsection (a), the Secretary shall accept for filing under sections 1405 through 1408 (and declare effective as the Federal statement of record and property report which shall be used in all States in which the lots are offered for sale or lease) disclosure materials found acceptable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. The Secretary may accept for such filing, and declare effective as the Federal statement of record and property report, such materials and documentation found acceptable by the State in connection with the sale or lease of lots located outside that State. Nothing in this subsection shall preclude the Secretary from exercising the authority conferred by subsections (d) and (e) of section 1407.

"(c) If a State fails to meet the standards for certification pursuant to subsection (a), the Secretary shall notify the State in writing of the changes in State law, regulation, or administration that are needed in order to obtain certification.

"(d) The Secretary shall periodically review the laws and regulations, and the administration thereof, of States certified under subsection (a), and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a).

"(e) Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce with regard to the sale of land any law, ordinance, or code not in conflict with this title. In administering this title, the Secretary shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this title.".

CIVIL LIABILITIES

SEC. 405. Section 1410 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CIVIL LIABILITIES

"SEC. 1410. (a) A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1404(a). In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court may take into account, but not be limited to, the following factors: the contract price of the lot or leasehold; the amount the purchaser or lessee actually paid; the cost of any improvements to the lot; the fair market value of the lot or leasehold at the time relief is determined; and the fair market value of the lot or household at the time such lot was purchased or leased.

"(b) A purchaser or lessee may bring an action at law or in equity against the seller or lessor (or successor thereof) to enforce any right under subsection (b), (c), (d), or (e) of section 1404.

"(c) The amount recoverable in a suit authorized by this section may include, in addition to matters specified in subsections (a) and (b), interest, court costs, and reasonable amounts for attorneys' fees, independent appraisers' fees, and travel to and from the lot.

"(d) Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.".

LIMITATION OF ACTIONS

SEC. 406. Section 1412 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"LIMITATION OF ACTIONS

"SEC. 1412. (a) No action shall be maintained under section 1410 with respect to—

"(1) a violation of subsection (a)(1) or (a)(2)(D) of section 1404 more than three years after the date of signing of the contract of sale or lease; or

"(2) a violation of subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of section 1404 more than three years after discovery of the violation or after discovery should have been made by the exercise of reasonable diligence.

"(b) No action shall be maintained under section 1410 to enforce a right created under subsection (b), (c), (d), or (e) of section 1404 unless brought within three years after the signing of the contract or lease, notwithstanding delivery of a deed to a purchaser.".

ADMINISTRATIVE PROCEDURE

SEC. 407. Section 1416 of the Interstate Land Sales Full Disclosure Act is amended by adding at the end thereof the following:

"(c) The Secretary shall conduct all actions with respect to rulemaking or adjudication under this title in accordance with the provisions of chapter 5 of title 5, United States Code. Notice shall be given of any adverse

action or final disposition and such notice and the entry of any order shall be accompanied by a written statement of supporting facts and legal authority.".

CRIMINAL PENALTIES

SEC. 408. Section 1418 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"PENALTIES

"SEC. 1418. Any person who willfully violates any of the provisions of this title, or the rules and regulations prescribed pursuant thereto, or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both.".

REPORT TO CONGRESS

SEC. 409. The Interstate Land Sales Full Disclosure Act is amended by redesignating sections 1421 and 1422 as section 1422 and 1423, respectively, and by inserting the following new section after section 1420:

"REPORT TO CONGRESS

"SEC. 1421. The Secretary shall prepare and submit to the Congress on March 1, 1981, and biennially thereafter a report on the administration of this title and its impact upon the land development industry and purchasers and lessees of undeveloped land. Such report shall include but not be restricted to the analysis of—

"(1) consumer and industry complaints and their resolution, with particular emphasis on the impact of various statutory and regulatory exemptions;

"(2) the effect the State certification has had in encouraging States to provide protection to purchasers of undeveloped land; and

"(3) efforts by the Secretary to simplify registration and disclosure procedures.

The report shall also contain such legislative recommendations as the Secretary deems advisable.".

EFFECTIVE DATE

SEC. 410. The amendments made by this title shall become effective on the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act, except that section 1403(b)(7) of the Interstate Land Sales Full Disclosure Act, contained in the amendment made by section 402, shall become effective on the date of enactment.

## TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 513. (a) The Secretary may, as approved in appropriation Acts, insure and guarantee loans under the authorities provided in this title in an aggregate principal amount not to exceed $4,484,000,000 with respect to fiscal year ending September 20, 1980; except that—

"(1) not less than $3,070,000,000 of any amount so approved in appropriation Acts for such year shall be made available for loans insured or guaranteed on behalf of borrowers receiving assistance pursuant to subparagraph (B) or (C) of section 521(a)(1);

"(2) not more than $38,000,000 of such amount so approved for such fiscal year may be made available for loans insured under section 514; and

"(3) not more than $5,000,000 of such amount so approved shall be available for making advances under section 501(e) for such fiscal year.

"(b) There are authorized to be appropriated—

"(1) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(2) not to exceed $48,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980;

"(3) not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980;

"(4) not to exceed $1,500,000 for the purposes of section 525(a), of which not less than $750,000 shall be used for counseling purchasers and delinquent borrowers, and not to exceed $1,000,000 for the purposes of section 525(b) for the fiscal year ending September 30, 1980; and

"(5) such sums as may be required by the Secretary to administer the provisions of sections 235 and 236 of the National Housing Act and section 8 of the United States Housing Act of 1937.".

(b) Section 514(d) of such Act is repealed.

(c)(1) Section 521(a)(1)(C) of such Act is amended by adding the following new sentences at the end thereof: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $985,000,000 for contracts entered into with respect to fiscal year 1979 and an aggregate amount of $500,000,000 for contracts entered into with respect to fiscal year 1980. Such additional assistance may not be so approved with respect to any fiscal year after fiscal year 1980.".

(2) Section 521(c) of such Act is amended by inserting the following new sentence after the first sentence thereof: "There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse such fund for the amount of assistance payments described in subsection (a)(1)(C).".

(3) Section 521(a)(1) of such Act is amended by striking out subparagraph (H).

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

(1) by striking out the first sentence and inserting in lieu thereof the following: "There is authorized to be appropriated an amount to carry out this section not to exceed $5,000,000 for the fiscal year ending September 30, 1980."; and

(2) by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(e) Section 523(g) of such Act is amended by striking out "and not to exceed $3,000,000 for the fiscal year ending September 30, 1979" and inserting in lieu thereof "not to exceed $3,000,000 for the fiscal year ending September 30, 1979, and not to exceed $1,000,000 for the fiscal year ending September 30, 1980".

(f) Section 515(b)(5) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(g) Section 517(a)(1) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

INTEREST RATE; DEFINITION OF LOW INCOME

SEC. 502. (a) Section 521(a)(1)(A) of the Housing Act of 1949 is amended by inserting before the period at the end of the first sentence the following: ", except that such loans to provide housing and related facilities for persons or families of moderate income shall bear interest at the rate established by the Secretary of Housing and Urban Development under section 3(a) of Public Law 90-301 with respect to maximum interest rates established for mortgages insured under section 203(b) of the National Housing Act if the Secretary determines that the borrower can afford such higher interest charges".

(b) Section 501(b) of such Act is amended by adding at the end thereof the following:

"(4) For the purpose of this title, the term 'persons of low income' and the term 'persons and families of low income' means families and persons whose income do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that (A) if the Secretary determines that it is impracticable to use the median income for any area, the Secretary may use such area the median income of all the nonmetropolitan areas in the State, and (B) the Secretary may establish income ceilings higher or lower than 80 per centum of median income on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

"(5) For the purpose of this title, the term 'income' means income from all sources of each member of a household, as determined in accordance with criteria prescribed by the Secretary.".

PREPAYMENT AND REFINANCING OF LOANS UNDER SECTIONS 514 AND 515

SEC. 503. (a) Section 502(b)(2) of the Housing Act of 1949 is amended by inserting the following before the semicolon at the end thereof: ", except that any prepayment of a loan made or insured under section 514 or 515 shall be subject to the provisions of subsection (c)".

(b) Section 502 of such Act is amended by inserting the following new subsection at the end thereof:

"(c)(1) Except as provided in paragraph (2), the Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 of this title pursuant to a contract entered into before or after the date of enactment of this subsection, unless the Secretary takes appropriate action which will obligate the borrower (and successors in interest thereof) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period of—

"(A) 15 years from the date on which the loan was made in the case of a loan made or insured pursuant to a contract entered into before or after the date of enactment of this subsection and utilized for housing and related facilities which have not received assistance under section 521(a)(1)(B) or (a)(2) of this title or section 8 of the United States Housing Act of 1937; or

"(B) 20 years from the date on which the loan was made in the case of any other such loan;

or until the Secretary determines (prior to the end of such period) that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the presidents of such housing will no longer be provided.

"(2) In the case of any such loan made or insured pursuant to a contract entered into before the date of enactment of this subsection, the Secretary, after examining an offer to prepay such loan and the likely consequences of accepting such offer, shall accept such offer without taking the appropriate action described in paragraph (1) unless, after such examination, the Secretary determines that—

"(A) due to a change in the use of such housing and related facilities, or to an in-

crease in rental or other charges, likely to occur as a result of prepayment, the low and moderate income and elderly tenants occupying the assisted housing and related facilities at the time of such offer cannot reasonably be expected to remain in occupancy for the applicable period described in paragraph (1), but notwithstanding such a determination, the Secretary shall accept such an offer without taking such appropriate action if such tenants who are likely to be displaced as a result of such changes or increases will be provided with affordable, decent, safe, sanitary, and available alternative housing; or

"(B) in the case of housing and related facilities containing more than 10 dwelling units, the changes likely to occur as a result of such prepayment will have a substantial, adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low and moderate income and elderly persons in the area in which such housing and related facilities are located.".

RENTAL ASSISTANCE

SEC. 504. (a) The first sentence of section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "public and private nonprofit owners' and inserting in lieu thereof "the owners"; and

(2) by inserting a comma before "congregate".

(b) Section 521 (a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "20 per centum" each place it appears in the second sentence and inserting in lieu thereof "70 per centum";

(2) by inserting "to a public or private nonprofit owner" after "section 514" the first time it appears in clause (i) of the second sentence; and

(3) by inserting after the second sentence the following: "In approving projects for assistance under this paragraph, the Secretary shall give a priority to projects in which assistance is provided to 40 per centum or fewer of the units contained in the project.".

TRAINING FOR SELF-HELP HOUSING

SEC. 505. Section 523(b) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and".

REFINANCING

SEC. 506. Section 501(a)(4) of the Housing Act of 1949 is amended by inserting "and" after the comma at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B)(i) if not refinanced, is likely to result (because of circumstances beyond the control of the applicant) at an early date in the loss of the applicant's necessary dwelling or essential farm service buildings, or

"(ii) if combined (in the case of a dwelling that the Secretary finds not to be decent, safe, and sanitary) with a loan for improvement, rehabilitation, or repairs and not refinanced, is likely to result in the applicant's continuing to be deprived of a decent, safe, and sanitary dwelling.".

PROPERTY DISPOSITION

SEC. 507. Section 510(e) of the Housing Act of 1949 is amended—

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

(2) by inserting before the semicolon at the end thereof the following: "; except that the Secretary may not sell or otherwise dispose of such property unless (1) the Secretary assures that such property will meet decent, safe, and sanitary standards, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for residential purposes".

CONSTRUCTION DEFECTS

SEC. 508. Section 509(c) of the Housing Act of 1949 is amended by striking out "within eighteen months after such date of enactment" in the first sentence and inserting in lieu thereof "within thirty-six months after such date of enactment".

FARM LABOR HOUSING ASSISTANCE

SEC. 509. Section 516 of the Housing Act of 1949 is amended by adding at the end thereof the following:

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

INCREASE IN THE CEILING FOR SECTION 504(a) LOANS AND LOAN-GRANT COMBINATIONS

SEC. 510. The second sentence of section 504(a) of the Housing Act of 1949 is amended to read as follows: "No assistance shall be extended to any individual or family under this subsection in the form of a grant in excess of $5,000, and no assistance shall be extended to any individual or family under this subsection in the form of a loan or a combined loan and grant in excess of $7,500.".

ASSISTANCE ALLOCATION

SEC. 511. Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" before "At"; and

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

"(2) At least 30 per centum of the assistance made available in any area of any State pursuant to this title in any fiscal year shall, to the extent practicable, benefit persons with incomes below 50 per centum of the medium income which is determined for that area in accordance with section 501(b)(4).".

## TITLE VI—CRIME INSURANCE, RIOT REINSURANCE, AND FLOOD INSURANCE EXTENSIONS

EXTENSIONS OF CRIME AND RIOT INSURANCE PROGRAM

SEC. 601. Section 1201 of the National Housing Act is amended—

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

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

(3) by striking out, in subsection (b)(2), "or as soon thereafter as possible,".

EXTENSION OF FLOOD INSURANCE PROGRAM

SEC. 602. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

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

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

TRANSFER OF FLOOD INSURANCE ADMINISTRATOR

SEC. 603. (a) Section 1105(a) of the Urban Property Protection and Reinsurance Act of 1968 (title XI of the Housing and Urban Development Act of 1968) is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency".

(b) Section 5315(91) of title 5, United States Code, is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency".

And the Senate agree to the same.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
LES AUCOIN,
STANLEY LUNDINE,
BRUCE F. VENTO,
BILL STANTON,
CHALMERS WYLIE,
STEWART MCKINNEY,
TOM EVANS,

For consideration of provisions relating only to title IV and Senate modifications relating thereto:

JOE MINISH,
CARROLL A. CAMPBELL, JR.,

*Managers on the Part of the House.*

WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ALAN CRANSTON,
JOHN TOWER,

*Managers on the Part of the Senate.*

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3875) to amend and extend certain federal laws relating to housing, community and neghborhood development and preservation, and related programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, and the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

### TITLE I—COMMUNITY DEVELOPMENT

SECTION 312 REHABILITATION LOANS

*Authorization*

The House bill contained a provision authorizing for appropriation for section 312

rehabilitation loans an amount not to exceed $150 million for fiscal year 1980. The Senate amendment contained a provision authorizing for appropriation an amount not to exceed $130 million for Fiscal Year 1980. The conference report contains the Senate provision amended to authorize for appropriation an amount not to exceed $140 million for Fiscal Year 1980.

*Limitation on multi-family loans*

The House bill contained a provision, not in the Senate amendment, limiting the amount that the Secretary may utilize after October 1, 1979, for rehabilitation loans for multi-family properties to $50 million. The conference report contains a provision limiting the amount that may be utilized for multi-family rehabilitation loans after October 1, 1979, to $75 million.

COMPREHENSIVE PLANNING AUTHORIZATION

The House bill contained a provision authorizing for appropriation for comprehensive planning grants an amount not to exceed $45 million for Fiscal Year 1980. The Senate amendment contained a provision authorizing for appropriation an amount not to exceed $50 million. The conference report contains the Senate provision.

COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENTS

*CDBG metropolitan balances*

The House bill contained a provision not contained in the Senate amendment increasing the CDBG setaside of funds for nonentitlement metropolitan communities from $250 million to $290 million in Fiscal 1980. The conference report contains the House provision reduced to $275 million.

This figure was adopted as a result of new information provided by HUD that such a level would keep the total funding for nonentitlement metropolitan communities at the level existing in Fiscal 1979. The conferees also direct the Secretary to utilize $10 million of the Secretary's discretionary fund under section 107 to offset the effects of the increase in the metropolitan balances setaside by transferring the $10 million into the basic grant portion of the program. It is not the intent of the conferees to designate which of the HUD budgeted eligible categories, under section 107, should be reduced to make up the $10 million.

*Eligibility*

The Senate amendment contained a provision which would have made local governments which are part of, but are not located entirely within the boundaries of an urban county, eligible for grants out of the CDBG metropolitan balances, on the condition that (1) the funds will be used in that part of the unit of local government for which the grant was made, and (2) the funds received by the urban county will not be used in that part of the unit of local government which is not located within the boundaries of the urban county.

The House bill did not contain a similar provision. The conference report includes the Senate provision amended to provide that in computing the amount of assistance with respect to any urban county, a unit of local government not entirely located within the urban county may be included, except if the unit of local government is included as part of any other unit of local government for the purpose of computing such assistance. Furthermore, any amount received by the urban county may be used in the area not located entirely within the urban county's boundaries.

*Definition of unit of general local government*

The House bill contained a provision not in the Senate amendment redefining the term "unit of general local government" to also include the Northern Mariana Islands as eligible CDBG recipients. The conference report contains this provision.

*Delegation of the environmental review authority*

The House bill contained a provision that was not contained in the Senate amendment clarifying the authority of the Secretary to delegate to local governments his responsibility over the conduct of environmental reviews. The conference report contains the House provision.

The conferees are aware that there has been some confusion over whether the Secretary has the authority to delegate such authority with regard to Acts other than the National Environmental Policy Act of 1969 (NEPA). Specifically, the conferees wish to make clear that delegations can also be made with regard to the National Historic Preservation Act of 1966, Coastal Zone Management Act of 1972, Wild and Scenic Rivers Act, Flood Disaster Protection Act and Clean Air Act, as well as other Acts which further the purposes of the NEPA.

In clarifying the delegation of environmental review authority under the CDBG program, the conferees have been made aware that discussions are presently underway within the Administration regarding the procedural treatment of environmental matters in the UDAG program. The conferees expect HUD to assist in resolving outstanding issues regarding conformance of the UDAG program with the purposes and requirements of the National Environmental Policy Act and other provisions of law which further the purposes of such Act. The conferees expect that the appropriate committees of Congress will be consulted on these discussions in advance of the reauthorizations of these programs during 1980.

URBAN DEVELOPMENT ACTION GRANTS

*Pockets of poverty A*

*Eligibility.*—The House bill contained a provision not contained in the Senate amendment which provided that a city or urban county may be considered severely distressed, and therefore, eligible for assistance under the UDAG program, if it contains one or more areas, as defined in the House provision, which have the levels of physical and economic distress set forth in the minimum standards. The conference report does not contain the House provision.

*Direct benefit.*—The House bill also contained a provision not in the Senate amendment which required that assistance received under the pockets of poverty be utilized for the direct benefit of the area or areas that have qualified for such assistance. The conference report does not contain this provision.

*Comparable services.*—The House bill, but not the Senate amendment, required the Secretary, before providing such assistance, to determine that the recipient will provide comparable services to the distressed areas commensurate with those provided to other parts of the cities. The conference report does not contain this provision.

*Limitations and effective dates.*—The House bill further provided that the Secretary make up to 20 percent of the funds authorized for the UDAG program available for grants to cities eligible under pockets of poverty; furthermore, that the provisions of pockets of poverty assistance would become effective October 1, 1979. The conference report does not contain these provisions.

*Pockets of poverty B*

*Authority.*—The House bill contained a provision not included in the Senate amendment limiting assistance provided on the basis of severely distressed areas to grants made under the pockets of poverty provision. The conference report does not contain the House provision.

*Eligible areas.*—The House bill provided that grants under this section may be made only if determined by the Secretary that funds will only be utilized in an area (1) for a metropolitan city or urban county, that consists of one or more contiguous census tracts having a population of at least 10,000 persons or 10 percent of the population, whichever is less; for a nonmetropolitan city, that consists of one or more contiguous census tracts having a population of at least 2,500 persons or 10 percent of the population, whichever is greater, (2) in which at least 70 percent of the residents have incomes below 80 percent of the city or county's median income, and (3) in which at least 30 percent of the residents have incomes below the national poverty level. The Senate amendment contained a similar provision, except that (1) rather than defining a qualified area in terms of contiguous census tracts, any defined geographic vicinity could qualify if it meets the other eligibility requirements, and (2) rather than income requirements, the vicinity must meet minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing, and levels of unemployment within the area.

The conference report contains the House provision, with the amendment that specifies (1) that for cities with a population of 50,000 or greater or an urban county, qualified areas may be composed of one or more contiguous census tracts, enumeration districts or block groups as defined by the Bureau of Census which have at least a population of 10,000 persons or 10 percent of the population of the city or urban county, whichever is less, and (2) that in the case of a city with a population of less than 50,000, that consists of one or more contiguous census tracts, enumeration districts or block groups as defined by the Bureau of Census which have a population of at least 2,500 persons or 10 percent of the city's population, whichever is greater. The House provision was further amended to provide that the Secretary may waive the requirement that the grant only be utilized in connection with a project located in a qualified area where the Secretary determines (1) that there is no suitable site for the project within such area, (2) the project will be located directly adjacent to such area, and (3) the project will substantially contribute to the physical and economic development of such area.

The conferees wish to make clear that the Department should accept for purposes of determining the eligibility of an individual area data supplied by the locality and verified by the Bureau of the Census as to its accuracy, as well as information available from special census surveys and the 1970 census.

In addition, the conferees believe that in all but very rare instances, the project should be located within the area to be assisted. The UDAG program is intended not only to provide employment but to also provide the physical and economic stimulus to encourage further development in the area. Clearly this aim is best achieved when the project is located directly in the area. The conferees believe, however, that there are limited circumstances in which a project could be funded if it were outside the area. Admittedly the conditions placed on the exception are strict. There must be no other suitable site in the area and the site chosen must be directly adjacent to the area. The project would also have to be shown to substantially contribute to the physical and economical development of the area even though it is located outside the area. These conditions are intended to assure that the assisted area receive the maximum possible benefit from the UDAG project. The conferees are also concerned that even though the project may be within the pocket it may not serve the development needs of the pocket. This could be the case where the pocket includes a portion of the central business district or an industrial park which have little relationship to the distressed portion of the pocket. The Secretary

should in such situations employ a similar test to that required for projects outside the pocket.

*Benefit to low and moderate income.*—The House bill contained a provision that required that the project to be funded will directly benefit low and moderate income families and persons residing in the area in which the project is located, while a similar Senate provision provided that the project must benefit low and moderate income persons residing in the severely distressed defined geographic vicinity. The conference report contains the House provision.

*Comparable services.*—The House bill included a provision not contained in the Senate amendment providing that the applicant supply services to the assisted area to an extent at least comparable to the services supplied by such applicant to other areas of the city which are similar to the assisted area in population and size and have a median income which is above the median income for the city. The House provision is included in the conference report, with an amendment which provides that no grant may be approved unless the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area to be assisted as described in paragraph (b)(2) are at least equivalent, as measured by per capita expenditure, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have a median income which is above the median income for the city or urban county.

The basic services to be compared include fire, police, sanitation and road repair. A city, however, will only be required to demonstrate comparability with regard to those services it has direct control over. In establishing comparability, the community may make adjustments based on the needs of the areas as affected by the physical characteristics of those areas. The conferees also wish to make clear that the city need only demonstrate comparability at the time of application.

*Conformance.*—The Senate amendment included a provision that is not contained in the House bill providing that applications for grant assistance be made in accordance with such requirements for the UDAG program, as specified in subsections (b), (c), and (f) of section 119 of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

*Selection criteria.*—The Senate amendment but not the House bill provided that in making grants under this program, the Secretary shall establish criteria, which must include: (1) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economical deterioration among eligible areas, and (2) such other criteria as the Secretary may determine, including at a minimum the criteria listed in section 119(e)(3) of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

The conferees recognize that by their action projects in pocket cities will be ranked in the selection process only with each other rather than together with projects in all cities. However, the conferees believe that no project should be funded unless on its own merits it would compete favorably with not only the other projects in pocket cities but also with projects competing in the basic program. The Secretary should not fund projects simply to fully exhaust the 20 percent funding limitation. Should there be an insufficient number of high quality projects in pocket cities the Secretary should simply fund worthy projects in severely distressed cities even though the result may be that less than 20 percent of the fundings goes to pocket cities.

*Exclusivity of UDAG eligibility.*—The Senate amendment, but not the House bill, provided that a city or urban county eligible for assistance under section 119(a) of the 1974 Act shall not be eligible for assistance under the 'pockets of poverty' provision. This provision is contained in the conference report.

*Local contribution.*—The Senate amendment included a provision not contained in the House bill requiring a UDAG applicant to make available, from its own funds or from funds received from the state of from federal programs which permit the use of funds to meet the non-federal share requirements of a federal grant-in-aid program, an amount equal to 20 percent of the grant provided under this program. The conference report contains the Senate provision.

*UDAG selection, criteria*

The House bill contained a provision restricting grants made under the UDAG program to cases where the Secretary has determined that: (1) such grant is essential to the initiation of the project; and (2) funds from such grant will not be used in lieu of private or non-federal public funds which would otherwise have been expended.

The Senate amendment did not include a similar provision. The House provision is included in the conference report, amended to provide that a grant made under this section may be made only where the Secretary determines that there is a strong probability that the non-federal investment in the project would not be made without such grant and where the Secretary determines that there is a strong probability that the grant would not substitute for non-federal funds which are otherwise available to the project.

The conferees expect that the Secretary will employ this provision to assure that federal funds will serve as the driving force behind the initiation of local development projects and will not be used to substitute for either private funds or local public funds which are otherwise available to the project. In undertaking the required determinations, the Secretary should, at a minimum, consider the financial characteristics of the project and reviews undertaken by the area and central office staff and should seek assurances from the investors and the local government that they would not provide the funds were it not for the inducement of a UDAG grant, and that other funds would not be available if the grant were not approved. Neither with regard to the availability of the private funds nor the availability of public funds would the conferees expect the Secretary to reach a conclusion to a certainty. Rather, the conferees expect the Secretary to make a reasoned judgment based on a thorough examination of available information. It is not the intent of this provision to require any lengthy and difficult administrative procedure. Much of the information needed to make the judgments involved is already available through the UDAG application process and the conferees expect minimal additional paperwork to occur through the implementation of this provision.

*Definition of "townships"*

The Senate amendment redefined the term "cities" as it applies to the UDAG program to also include townships, as determined by the Secretary. The House bill did not contain a similar provision. The conference report contains the Senate provision with an amendment which allows the Secretary to reduce or waive the requirement that a town or township be closely settled, for the purposes of carrying out this section.

The conferees believe that the UDAG program should be available to severely distressed towns and townships which are capable of undertaking a local development project. Those towns and townships which are eligible for the basic CDBG program should in the opinion of the conferees not be barred from UDAG participation simply on the basis that they do not meet the "closely settled" test which is applied for purposes of community development grants. Therefore, the Secretary is given the authority to reduce or waive that test to the extent and in a manner necessary to carry out the purposes of the UDAG program. The conferees also anticipate that a change in the closely settled test will permit municipios in Puerto Rico to also participate in the UDAG program since they are considered to be the equivalent of a town or township.

URBAN HOMESTEADING PROGRAM

*Reimbursements*

The Senate amendment contained two provisions not in the House bill authorizing the Secretary to reimburse the Administrator of Veterans Affairs, in an amount to be agreed upon by the Secretary and the Administrator, for property which the Administrator conveys to a unit of local government, state, or agency for use in an urban homesteading program. In addition, the Secretary is authorized to reimburse the Secretary of Agriculture. The conference report contains the Senate provision with the amendment that such reimbursement is limited to urban homesteading programs approved by the Secretary of HUD.

The Secretary should base such reimbursement upon the lesser of the market value of the property and the amount of the claim plus the expenses connected with federal ownership.

*Relocation assistance waiver*

The Senate amendment contained a provision not in the House bill exempting from the provisions of title III of the Uniform Relocation Assistance Act of 1970 any property acquired for use in an urban homesteading program if it was not acquired through the use of eminent domain and where in accordance with regulations prescribed by the Secretary the seller knowingly waives his or her rights under the title. The conference report does not contain this provision.

The conferees have been concerned that certain administrative practices under the Uniform Act had the effect of unduly delaying or barring the acquisition of certain properties from owners willing to sell them to local governments for inclusion in local urban homesteading programs. The conferees, however, are pleased to note that recently proposed regulations of the Department together with administrative improvements appear to provide a solution to this problem and to obviate the need for the provision proposed in the Senate amendment.

NEIGHBORHOOD SELF-HELP DEVELOPMENT

*Authorization*

The Senate amendment contained a provision not contained in the House bill which would reduce the authorization for neighborhood self-help development from $15 million to $13.5 million for Fiscal Year 1980. The conference report contains this provision.

*Innovative grants*

The House bill contained a provision not in the Senate amendment allowing the Secretary to make innovative grants for neighborhood conservation and revitalization projects without certification by the local government, but limiting the amount of assistance that may be made without certification to 10 percent. The conference report contains this provision.

LIVABLE CITIES

The Senate amendment contained a provision not in the House bill reducing the

existing authorization for the livable cities program from $10 million to $4.5 million for fiscal year 1980. The conference report contains the Senate provision with an amendment reducing the existing authorization from $10 million to $5 million for Fiscal Year 1980.

RENTAL CONVERSIONS

*Review of effects*

The Senate amendment contained a provision directing the Secretary, in reviewing local HAPs, to evaluate whether applicants have accurately assessed the effect of the conversion of rental units to condominiums, cooperatives, and other ownership forms. The House bill did not include a similar provision. The conference report contains a provision which requires CDBG applicants to include in the HAP an assessment of the effect of such conversions on the housing needs of lower-income persons.

*Report*

The Senate amendment also required the Secretary to submit to Congress, within 6 months after enactment, a report on the present and anticipated availability of affordable rental units for low, moderate, and middle income Americans. The House bill did not include a similar provision.

The conference report adopts the Senate provision, with an amendment providing that a report shall be submitted to Congress within 6 months after enactment concerning the conversion of rental housing to condominium or cooperative ownership. The report shall include at least the following: (1) an estimate of the number of such conversions which have occurred since 1970; (2) a projection of the number of such conversions estimated to occur during the period 1980–1985; (3) an assessment of the impact that such conversions have had or are likely to have on the availability of housing for lower income persons; (4) an assessment of the extent to which such conversions are concentrated in certain areas or types of areas of the county; and (5) an assessment of the factors contributing to the increase in such conversions. In addition, the Secretary may also include in the report recommendations concerning alternative means to minimize the adverse impact that such conversions may have on lower income persons.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW INCOME HOUSING ASSISTANCE

*Authorization*

The House bill contained a provision increasing the authorization for the Secretary to enter into contracts for annual contributions contracts, subject to appropriation, of not to exceed $1,286,155,000 after October 1, 1979, for low income housing assistance. The Senate amendment contained a similar provision, except that it authorized an increase of not to exceed $1,140,661,000. The conference report includes the Senate provision.

*Limitations on authority*

*Public housing.*—The House bill contained a provision which provided that of the additional authority authorized to be appropriated after October 1, 1979, for low income housing assistance, not more than $223,142,000 is authorized to be appropriated for use in assisting public housing units and in no case may the Secretary enter into annual contribution contract authority aggregating more than such amount. The Senate amendment contained no similar provision. The conference report contains the House provision amended to provide that no more than $195,053,000 be available for assisting public housing units and that the Secretary may not enter into contracts aggregating more than that amount.

*Set-aside for modernization.*—The House bill contained a provision not contained in the Senate amendment providing that not less than $55 million of the amount available for public housing units is to be used for modernization of such units, with a preference being given to the modernization of substandard vacant units. The conference report contains the House provision with an amendment establishing the amount available for public housing modernization at not less than $50 million.

In awarding contracts under the modernization program, the Secretary is directed to give preference to projects involving substandard vacant units. This preference, however, does not require the Secretary to serve exclusively projects with substandard vacant units nor does it require that an individual modernization contract include only improvements to substandard vacant units.

*Section 8.*—The House bill contained a provision not found in the Senate amendment requiring that of the additional authority authorized to be appropriated after October 1, 1979, not more than $1,063,013,000 be authorized to be appropriated in annual contract authority for section 8 units. The conference report does not contain the House provision.

TENANT CONTRIBUTION

*Public housing*

The House bill contained a provision not contained in the Senate amendment which provided that based on the relative level of the family's income, the maximum tenant contribution to rent is increased to 30 percent, except that very low income families (families whose income is less than 50 percent of area median income) shall contribute no more than 25 percent of family income. The conference report contains the House provision amended so that the provision will not be implemented until January 1, 1980, and to exempt from this amendment families occupying housing units assisted under the U.S. Housing Act of 1937, so long as such occupancy is continuous thereafter.

*Section 8*

The House bill contained a provision requiring that in the section 8 housing program, (1) a very large low income family will contribute to the rent an amount equal to 20 percent of family income, and (2) a family having income above 50 percent of the area median will be required, based on its relative level of income, to contribute at least 20 percent, but not more than 30 percent of its family income. The Senate amendment did not have a similar provision. The conference report contains the House provision amended so that the provision will not be implemented until January 1, 1980, and that tenants residing in section 8 assisted units as of December 31, 1979, are exempted from this amendment.

SECTION 101 RENT SUPPLEMENTS

*Eligibility*

The House bill contained a provision which redefined standards for tenants eligible for section 101 rent supplements to require that a tenant, in order to be eligible for such assistance, must meet the standards for eligibility under section 8 of the U.S. Housing Act of 1937, except that any individual or family receiving assistance under section 101 on the date of enactment of the Housing and Community Development Amendments of 1979 will continue to be eligible for such assistance. The Senate amendment did not contain a similar provision. The conference report contains the House provision, amended so that qualified tenant" shall mean any individual or family who was receiving section 101 assistance on the day preceding the date of enactment of the Housing and Community Development Amendments of 1979, so long as such individual or family continues to meet the conditions for eligibility in effect prior to enactment.

*Tenant income*

The House bill included a provision not contained in the Senate amendment which provided that the income of tenants receiving section 101 assistance be the same as determined under section 8 of the U.S. Housing Act of 1937. The conference report includes the House provision.

*Payment*

The House bill contained a provision which provided that the amount of assistance payments made under section 101 be determined in the same manner as under section 8 of the U.S. Housing Act of 1937. The Senate amendment did not include this provision. The House provision is contained in the conference report with an amendment to clarify that until the rent supplement contract is amended pursuant to this provision, the determination of assistance payments shall be undertaken in accordance with existing law.

*Certification*

The House bill included a provision not contained in the Senate amendment which deleted the requirement that, upon request by a housing owner, the Secretary must certify to the owner that the tenant is either elderly, handicapped, an Armed Forces, family, or situated in a disaster area. The conference report adopts the House provision.

*Priority*

The House bill contained a provision not contained in the Senate amendment which provided that in making section 101 assistance available, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking such assistance and deletes the existing restrictions on eligibility. The House provision is contained in the conference report.

*Contracts*

The House bill but not the Senate amendment contained a provision which authorized the Secretary to amend contracts made under section 101 for the purpose of conforming such contracts to those entered pursuant to section 8 of the U.S. Housing Act of 1937 and to permit the Secretary to utilize in this connection funds authorized on or after October 1, 1979, under section 5(c) of the U.S. Housing Act of 1937. The conference report contains the House provision amended to provide that the Secretary may amend such contracts and utilize such funds only to the extent necessary to carry out the provisions of this section.

SECTION 236 ELIGIBILITY

The Senate amendment contained a provision not in the House bill redefining income for the purposes of determining "qualified tenant" under the section 236 rental and co-operative housing programs to mean any individual or family having an income which would qualify such individual or family for assistance under section 8 of the U.S. Housing Act of 1937, except such term would also include any individual or family who was receiving assistance under this section on the date of enactment of the Housing and Community Development Amendments of 1979.

The conference report adopts the Senate provision with an amendment which defines "income" as income as determined under section 8 of such Act. This provision also provides that with regard to the section 101 rent supplement program and the section 236 mortgage insurance program, no tenant in occupancy prior to enactment and whose occupancy is continuous thereafter shall be required to contribute more towards their rent than they would be required to pay under the law which existed prior to these amendments.

SECTION 213 ALLOCATION REQUIERMENTS

*Compliance with local HAP's*

The House bill contained a provision not found in the Senate amendment which reemphasized the requirement in existing law that housing assistance funds be distributed in accordance with local Housing Assistance Plans. The conference report does not contain the House provision.

The conferees believe that the requirement in existing law should be sufficient to assure that funds are distributed in accordance with the HAP's. The conferees believe, however, that the Department must take steps to strengthen the HAP process. As part of the CDBG application requirements, the HAP is intended to link the housing programs to the overall community development strategy of a community. The assessment of local needs and the development of local goals through the HAP are intended to be based upon the judgment of the local officials. Their judgments with regard to the HAP, as with the CD application as a whole, are by statute subject only to the review of the Secretary to determine that they are plainly inconsistent with the available facts and data or are plainly inappropriate to meet the needs as outlined in the plan. It is the local nature of this assessment that the conferees wish to reemphasize. Ultimately, it must be the community which establishes its housing assistance goals. These goals, must, however, be realistic. They must not only take into consideration the objective needs of the community, but also the availability of housing assistance funds. The most important role for the Department in this process is to provide the technical support and advice necessary to assist the community to develop its Housing Assistance Plan into a realistic and effective instrument.

*Exemption for modernization funds*

The House bill contained a provision not found in the Senate amendment exempting from the section 213 allocation procedure funds for the modernization of public housing projects. The conference report contains this provision.

The conferees expect the Secretary to distribute the modernization funds based upon an objective national competitive funding procedure. This procedure should be designed to assure that funds will be awarded only to PHAs which have a capacity to effectively employ them. In addition, the procedure should take into consideration at least the extent of modernization need, the quality of design, the cost efficiency of the proposed program and the extent to which the proposal would improve the energy efficiency of the project. The procedure must also be designed to give preference in awarding contracts to proposals involving the modernization of substantial vacant units.

*State allocation of housing assistance*

The Senate amendment contained a provision not in the House bill which (1) maintained a state's section 213 allocation of housing assistance funds unless the Secretary determines that other areas or communities within the state cannot utilize the amounts in accordance with local housing assistance plans and (2) authorized the Secretary to allow amendments to housing assistance plans under an expedited review procedure. The conference report contains only the first part of the Senate provision.

The conferees emphasize, however, that the Secretary has authority to allow amendments to local housing assistance plans and that local communities' requests for amendments to housing assistance plans should be reviewed and acted upon promptly by the Secretary. Prompt approval of amendments to housing assistance plans will respond to changing local housing needs or changing locally determined annual goals to meet those needs. This will facilitate full utilization of housing assistance funds allocated to a state by allowing, for example, swaps between a community which needs additional new construction to meet a tightening housing market and one which has sufficient supply to use additional existing housing assistance. Communities may also find it appropriate to adjust the distribution of funds between type of construction after learning the actual amount of assistance available during a fiscal year.

*Eligibility for section 8*

The Senate amendment contained a provision not contained in the House bill reducing the maximum income with which a family could qualify for section 8 assisted housing from 80 percent to 70 percent of median area income with adjustment for family size, except that the eligibility of any family presently receiving assistance is not affected. The Senate provision is not contained in the conference report.

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY PROJECTS

The House bill provided an authorization of not to exceed $92 million for Fiscal Year 1980 for the Troubled Projects Program while the Senate amendment provided an authorization of not to exceed $82 million for the program in Fiscal Year 1980. The conference report contains the Senate provision.

The conferees, in accepting the lesser authorization level, wish to make clear that they do not intend to imply that funds should not be made available under the program to assist state-aided uninsured projects.

TENANT SELECTION CRITERIA

The House bill contained a provision not contained in the Senate amendment amending the selection criteria for the public housing and section 8 programs to give preference to families occupying substandard housing or who are involuntarily displaced. The conference report contains the House provision.

The conferees believe that during a period of reduced funding for assisted housing, the programs should be directed toward those families who have the most urgent housing need. The priority is intended to guide the owner or PHA in determining which potential tenants to select. The priority is not intended nor should it be used to allow the Department to direct an owner or PHA to select certain tenants. It would be unacceptable and clearly not authorized by this provision for the Department to require a PHA or owner to select tenants from a list developed by the Department. This provision is not intended to alter the basic responsibility over tenant selection which, under current law, rests solely with the PHA and owner. It is simply intended to have owners and PHAs give priority to meeting the urgent housing needs of those families living in substandard conditions or being involuntarily diplaced.

DISTRIBUTION OF OPERATING SUBSIDIES

The House bill contained a provision not in the Senate amendment requiring that in any fiscal year beginning with Fiscal Year 1980, any funds appropriated for public housing operating subsidy remaining after distribution in accordance with the performance funding system shall be distributed to low-income housing projects incurring excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution funds for such fiscal year. The conference report contains this provision.

DISPLACED TENANTS IN HUD-OWNED PROJECTS

The House bill contained a provision not in the Senate amendment requiring the Secretary to assure, for any tenant displaced from a HUD-owned formerly subsidized multifamily housing project as the result of disposition or repair of such project, the right to return to a repaired unit, occupy another unit, obtain housing assistance under the U.S. Housing Act of 1937, or receive any other available relocation assistance which the Secretary determines to be appropriate. The conference report contains the House provision.

The conferees wish to make clear that the obligation imposed by the provision is imposed upon the Secretary and not upon the community in which the housing project is located. While communities are permitted to use Community Development Block Grant funds or their own resources for relocation benefits, the Secretary may not require communities to use such funds or resources for this purpose.

ENERGY CONSERVATION

*Modernization of projects with weatherization materials*

The House bill contained a provision not in the Senate amendment requiring that the Secretary, in utilizing contract authority approved for appropriation for use in the modernization of low-income housing (other than section 8 assisted projects) on or after October 1, 1979, shall, to the maximum extent practicable, also take into consideration projects which will be modernized to a substantial extent with weatherization materials. The conference report adopts this provision.

*Life cycle cost analysis*

The House bill contained a provision not found in the Senate amendment providing that the Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under the U.S. Housing Act of 1937 with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which includes a life cycle cost analysis of such systems. This provision is contained in the conference report.

DISPOSITION OF PUBLIC HOUSING PROJECTS

The House bill provided that no low-income housing project that has received operating subsidies pursuant to section 9 of the U.S. Housing Act of 1937 after the date of enactment of this provision shall be disposed of (either during or after the term of the contract governing the availability of operating subsidies) unless approved by the Secretary. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which provides that no low-income housing project shall be disposed of prior to ten years after the last payment of an operating subsidy pursuant to the 1937 Act without the approval of the Secretary.

STUDY OF MINIMUM RENTS

The Senate amendment but not the House bill contained a provision requiring the Secretary of HUD to conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under the U.S. Housing Act of 1937. The study shall examine (1) the extent to which tenants in such housing are not required to or do not pay rent. (2) the incentives for greater tenant care of such housing which minimum rent may create. (3) the administrative costs of assessing and collecting minimum rents, and (4) for each of the five fiscal years beginning October 1, 1980, and ending September 30, 1984, the reductions in appropriations for the payment of annual contributions for assisted housing and for payments for the operation of low-income housing projects which would be allowed by several alternative specifications of minimum rent requirements; the report shall be submitted to Congress not later than 10 days after Fiscal Year 1981 budget is transmitted. The conference report includes the Senate provisions.

The conference report also contains a provision to require HUD to conduct a study

to provide detailed comparisons between the rents paid by tenants occupying assisted housing, and the rents paid by tenants at the same income levels outside of assisted housing. The comparisons shall be made for differing regions, income levels and family size, and shall include data on utility costs. Data on tenants not in assisted housing shall be further subdivided in accordance with various indicators of housing quality. The Secretary shall transmit a report on such study to the Congress not later than March 1, 1980.

SECTION 235 PROGRAM AMENDMENTS

*Priority for assistance*

The House bill contained a provision not in the Senate amendment requiring the Secretary, in making section 235 home ownership assistance available, to give preference to low-income families who, without such assistance, would be likely to be displaced from rental units which are to be converted into a condominium or co-operative; such assistance may include the acquisition of a condominium or a membership in a cooperative.

The conference report adopts this provision with an amendment that in making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be involuntarily displaced from rental units which are to be converted into a condominium or cooperative). Such assistance may include the acquisition of a condominium or membership in a cooperative.

*Availability*

The House bill but not the Senate amendment provided that section 235 assistance for an existing dwelling unit or condominium project is no longer restricted to certain displaced families, families with 5 or more minor children, or families living in public housing. The conference report adopts this provision.

*Mortgage limits in revitalization areas*

The Senate amendment but not the House bill permitted the Secretary to insure under section 235 of the National Housing Act mortgages involving principal which exceeds the current maximum limits by not more than 25 percent if the dwelling is an area designated by the Secretary to be undergoing significant revitalization activity and the Secretary determines that such action is necessary to enable eligible families to remain in the area as home owners. The conference report contains this provision amended to permit the Secretary to insure a mortgage involving a principal obligation which exceeds the current maximum limits by not more than 20 percent, if (1) such mortgage bears an interest rate of at least 4 percent per annum, (2) the insured property is located in an area in which a community sponsored program of concentrated redevelopment or revitalization is being undertaken, and (3) such action would enable eligible families living in the area in substandard housing, or who are being involuntarily displaced, to remain in the area in decent, safe, and sanitary housing.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

RESEARCH AUTHORIZATION

The House bill contained a provision authorizing appropriations of not to exceed $51,000,000 for research in fiscal year 1980, while the Senate amendment authorized appropriations of not to exceed $50,300,000. The conference report contains the Senate provision.

FHA GENERAL INSURANCE FUND

The House bill contained a provision which provided that the existing overall limitation on appropriations authorized to cover losses of the General Insurance Fund is increased by $93 million on October 1, 1979. The Senate amendment authorized to be appropriated such sums as may be necessary from time to time to cover losses sustained by the Fund. The conference report contains the House provision.

SECTION 202 HOUSING FOR THE ELDERLY OR HANDICAPPED

*Authorization*

The House bill contained a provision increasing the limits on authority to borrow subject to appropriations for the section 202 program to $3,835,000,000 for fiscal year 1980; $4,785,000,000 for fiscal year 1981; and $5,760,000,000 for fiscal year 1982. The Senate provision was similar, except that the limits were increased to $3,820,000,000 for fiscal year 1980; $4,770,000,000 for fiscal year 1981; and $5,745,000,000 for fiscal year 1982. The conference report adopts the Senate provision amended to increase the limits on borrowing authority to $3,827,500,000 for fiscal year 1980; $4,777,500,000 for fiscal year 1981; and $5,752,500,000 for fiscal year 1982.

*Technical assistance*

The House bill provided that the Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the section 202 program. The Senate amendment contained a similar provision, except that the Secretary would make assistance available to applicants lacking prior housing management experience, as well as having limited resources. The conference report contains the House provision.

*Adult day care health facilities*

The Senate amendment contained a provision not in the House bill allowing sponsors of elderly housing to utilize community space for adult day health care facilities and to delete references in existing law to the use of such space for infirmaries and other inpatient facilities. The conference report contains the Senate provision.

*Report on rural housing needs of elderly*

The Senate amendment but not the House bill contained a provision that not later than six months after the date of enactment, the Secretary shall submit to Congress a report on federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas. Such a report shall contain: (1) an assessment of present programs in rural areas, (2) an assessment of the housing needs and desires of the elderly and handicapped people residing in rural areas, (3) an evaluation of how federal programs can be used most effectively to meet the needs of such people, (4) an examination of the various alternatives in housing programs available to meet the needs of such people in rural areas, and (5) an assessment of the rehabilitation needs of the 202 projects constructed before 1976 and of the adequacy of the section 8 subsidy mechanism for these projects. Such report shall include a study of how elderly housing can be developed and operated in a cost-effective manner in rural areas, and shall be developed after consultation with other federal agencies involved in housing and rural development, federal, state, and local agencies involved in housing assistance, and other agencies that provide services to the elderly and handicapped.

The conference report contains the Senate provision amended so that, not later than six months after the date of enactment, the Secretary shall transmit a report to the Congress on the housing needs of the elderly and handicapped in rural areas. Such report shall at least include (1) an assessment of the operations of the present programs in rural areas available to the elderly and handicapped; (2) an assessment of the housing needs of the elderly and handicapped living in rural areas; and (3) an examination of the various alternatives available to meet those needs.

*Report on reducing program costs*

The Senate amendment, but not the House bill, required the Secretary to transmit a report to Congress containing recommendations on means to reduce the costs of the section 202 program without:

(1) Unduly burdening sponsors or projects; or

(2) Adversely affecting the ability of the section 202 program to meet the housing needs of elderly handicapped families, such report to be transmitted not later than six months after the date of enactment.

The conference report adopts this provision.

*Office of elderly housing*

The Senate amendment contained a provision not found in the House bill which would create within the Office of the Secretary of HUD an Office of Elderly Housing under the direction of an Assistant to the Secretary.

While the conferees did not adopt the Senate provision, they do believe that increased coordination of the Department's response to the housing needs of the elderly is warranted. It is in this regard that the conferees are pleased by the decision of the Assistant Secretary for Housing—FHA Commissioner to appoint a special assistant to coordinate the elderly housing programs of the Department. A special assistant to the Assistant Secretary should not only enhance coordination both within and outside the Department, but, also should enhance the visibility of the elderly housing activities of the Department. It is the conferees expectation that the role of the special assistant will be at least comparable to the Director of the Office of Independent Living for the Disabled. The conferees believe that there should be no need to increase staffing nor administrative expenditures to implement this decision.

*Waiver of minimum capital requirements*

The Senate amendment contained a provision not in the House bill which authorized the Secretary to waive any minimum capital investment requirement imposed in connection with the program for housing for the elderly. The conference report does not contain the Senate provision. However, the conferees wish to emphasize that the Secretary should not set such minimum capital investment requirements at a level which would unduly restrict access to the program of sponsors which (1) have a creditable reputation for satisfactory job performance; (2) have not defaulted on any contract; (3) have proven stability in the community and have community acceptance and support; and (4) have the endorsement of the appropriate local or state authorities.

NEIGHBORHOOD REINVESTMENT CORPORATION

The House bill provided authorization for appropriations not to exceed $9.5 million for the Neighborhood Reinvestment Corporation for fiscal year 1980, while the Senate amendment provided authorization for appropriations not to exceed $12 million for fiscal year 1980. The conference report contains the Senate provision.

EXEMPTION FROM STATE USURY LAWS

Both the House bill and the Senate amendment contained a provision exempting any loan, mortgage or advance made under title I or II of the National Housing Act from state and local usury laws.

The conferees wish to indicate that the phrase "interest, discount points or other charges" contained in the provision includes credit sale finance charges, and the phrase "loan, mortgage or advance" includes installment credit sale obligations. The provision applies to all types of obligations insured under Titles I and II, including those evidenced by installment credit sale agreements. The provision does not, however, preempt any state law limiting or otherwise regulating re-

financing or prepayment penalties, or the calculation of prepayment rebates or credits.

The conferees are aware that, in general, installment credit sale contracts have been criticized for frequently containing provisions which do not adequately protect consumers. However, the conferees note that with respect to such contracts used to finance mobile homes under Title I of the National Housing Act, FHA regulations already provide significant protections by prohibiting both the Rule of 78 and balloon payments, and by limiting late charges. FHA also provides an interest rate ceiling. In addition, the conferees are pleased by the decision of the Assistant Secretary for Housing—FHA Commissioner to amend FHA's mobile home regulations to provide at least a 30 day notice prior to instituting any action leading to repossession and/or foreclosure (except in the case of abandonment), and to insert into the mobile home park approval instructions, a requirement prohibiting unfair or prejudicial marketing methods, procedures, requirements or practices.

STUDY OF ALTERNATIVES

The Senate amendment contained a provision requiring the Secretary to conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured by HUD under Titles I and II of the National Housing Act, and report to the Congress with recommendations for legislation not later than March 1, 1980. The House bill contained no similar provision. The conference report contains the Senate provision, amended to clarify that the Secretary, when examining the use of sales price data, need not limit this examination to median sales price data.

MODIFICATION OF GRADUATED PAYMENT MORTGAGE PROGRAM (GPM)

*Title*

The Senate amendment included a provision not contained in the House bill to title the modifications to the GPM Programs contained in this section as "The Home Ownership Opportunity Act of 1979". The conference report adopts the Senate provision.

*Findings of Congress*

The Senate amendment, but not the House bill, included a provision establishing the findings of Congress for modifying the existing GPM Program. The conference report does not contain the Senate provision.

*New GPM program*

The Senate amendment contained a provision which provided that notwithstanding the present requirement that the principal obligation including deferred payments of the insured loan not exceed 97 percent of original appraised value of the property, the Secretary may insure a mortgage with varying rates of amortization where (1) the principal obligation of the mortgage or loan initially does not exceed the percentage of the appraised value of the property in section 203(b) as of the date the mortgage is accepted for insurance, and (2) the principal obligation thereafter (including all interest to be deferred and added) will not at any time be scheduled to exceed 97 percent, or, if the borrower is a veteran, such higher percentage as is provided under section 203(b)(2). The House bill did not contain this provision.

The conference report adopts the Senate provision with an amendment which provides that this program is further limited (1) to mortgagors who, as determined by the Secretary, have not owned a home within the last three years, and (2) to where the Secretary determines that the mortgagors for 245(b) mortgage insurance cannot reasonably afford to purchase the home by utilizing subsection (a) or other FHA insurance programs; in addition, the loan balance for such mortgagors can never exceed 113 percent of the original appraised value of the home.

Although the new GPM is limited to persons who have not owned a home within the last three years, the conferees intend that HUD should apply a liberal interpretation of this provision. For example, where two persons apply for a mortgage and one has owned a home in the past three years and the other has not, as a unit they should not be considered ineligible because of this provision. Furthermore, a mortgagor should not be ineligible solely because he or she has had an incidental or partial interest in a home.

In all cases, applicants must not reasonably be able to purchase the home using other FHA insurance programs as required by the Secretarial finding. The conferees expect these conditions to assure that the limited number of mortgages to be insured under section 245(b) are targeted to those most in need.

*Projected property value*

The Senate amendment contained a provision not found in the House bill providing that for the purpose of this subsection, the projected property value shall be calculated by increasing the initial appraised value at a rate not more than two and one-half percent per year. The conference report adopts the Senate provision.

*Aggregate amount to be insured*

The Senate amendment contained a provision limiting the initial aggregate principal amount of mortgages which are insured under this program in any fiscal year to an amount not to exceed 20 percent of the amount of all mortgages secured by properties improved by one-to-four-family residences which are insured in that year. The House bill did not contain a similar provision.

The conference report adopts the Senate provision with an amendment which limits the activity level to 10 percent of the total amount of FHA one-to-four-family mortgages insured in the preceding fiscal year, or 50,000 mortgages, which ever is greater.

*Exemption from State laws*

The Senate amendment, but not the House bill, contained a technical amendment to add the word "constitution" to the second enumeration of laws or rules governing negative amortization from which GPM's are exempt.

FHA MORTGAGE LIMITS

*Section 203(b) single family housing insurance*

The House bill contained a provision to amend section 203(b) of the National Housing Act to increase the mortgage ceilings for single-family housing from: $60,000 to $65,000 for a single-family home; $65,000 to $73,500 for two-family homes; $65,000 to $87,500 for a three-family residence; and $75,000 to $100,000 for a four-family residence. The Senate amendment contained a similar provision, except that the limits are increased from: $60,000 to $70,000 for a single-family home; $65,000 to $80,000 for two-family homes; $65,000 to $99,000 for a three-family residence; $75,000 to $120,000 for a four-family residence. The conference report adopts the Senate provision, amended to increase the limits to $67,500 for a single-family home; $76,000 for two-family homes; $92,000 for a three-family residence; $107,000 for a four-family residence.

*Section 220(d)(3) urban and renewal areas housing insurance*

The House bill contained a provision to amend section 220(d)(3)(A)(i) of the National Housing Act to increase the mortgage insurance ceilings from: $60,000 to $65,000 for a single-family residence; $65,000 to $73,500 for a two-family residence; $65,000 to $87,500 for a three-family residence; $75,000 to $100,000 for a four-family residence; $7,700 to $8,000 per unit in a residence with more than four units. Under the Senate amendment, the limits were increased from: $60,000 to $70,000 for a single-family residence; $65,000 to $80,000 for a two-family residence; $65,000 to $99,000 for a three-family residence; $75,000 to $120,000 for a four-family residence; $7,700 to $8,500 per unit in a residence with more than four units. The conference report contains the Senate provision, amended to increase the limits to $67,500 for a single-family residence; $76,000 for a two-family residence; $92,000 for a three-family residence; $107,000 for a four-family residence; $8,250 per unit in a residence with more than four units.

*Section 222(b) serviceman and section 234(c) condominium housing insurance*

The House bill contained a provision to amend sections 222(b)(2) and 234(c) of the National Housing Act to increase the mortgage insurance ceilings from $60,000 to $65,000. Similarly, the Senate amendment provided that the limit is increased from $60,000 to $70,000. The conference report contains the Senate provision, amended to increase the mortgage insurance ceiling from $60,000 to $67,500.

LOANS FOR MOBILE HOMES AND LOTS

*Mobile homes*

The House bill contained a provision to increase the maximum loan for a single module mobile home from $16,000 to $17,300; for a mobile home with two or more modules, from $24,000 to $25,920. The Senate amendment contained a provision to increase the maximum loan from $16,000 to $20,000 for a single module mobile home; from $24,000 to $30,000 for a mobile home with two or more modules or a mobile home that contains more than 1,100 square feet. The conference report contains the Senate provision amended to increase the maximum loan to $18,000 for a single module mobile home, and to $27,000 for a mobile home with two or more modules. Under this provision, a mobile home that contains more than 1,100 square feet does not qualify for the higher loan limits.

The conferees believe that the Department should examine the basis upon which a mobile home may qualify for the higher loan limits. Presently, single module mobile homes generally range from 775 to 1,050 square feet, while two module or "double wide" homes range from 900 to 1,450 square feet in size. However, some single module homes or homes composed of one and one-half modules are presently being built which provide over 1,100 square feet of living space. Under existing law these homes only qualify for the lower loan limits. It may be that as an alternative to multiple module construction, other factors such as total square footage or attachment to a permanent foundation should be used to define eligibility for higher loan limits.

*Mobile homes with lots*

The House bill contained a provision to increase the maximum loan for a single module home or an undeveloped lot to $23,550; to $32,170 for a mobile home composed of two or more modules on an undeveloped lot; to $26,675 for a single module home on a developed lot; to $35,295 for a mobile home with two or more modules on a developed lot. The Senate amendment contained a similar provision to increase the maximum loan: to $26,250 for a single-module home on an undeveloped lot; to $36,250 for a mobile home with two or more modules or containing more than 1,100 square feet on an undeveloped lot; to $28,750 for a single module home on a developed lot; to $39,375 for a mobile home with two or more modules or more than 1,100 square feet on a developed lot. The conference report adopts the Senate provision, amended to in-

crease the maximum loan for a single module home on an undeveloped lot to $24,000; to $33,000 for a mobile home composed of two or more modules; to $27,500 for a single module home on a developed lot; to $36,500 for a mobile home with two or more modules.

*Maximum maturity of loans*

The Senate amendment but not the House bill provided that the maximum maturity permitted for loans on mobile homes on undeveloped lots be increased from 15 years and 32 days to 20 years and 32 days for a single module home and from 23 years and 32 days to 28 years and 32 days for a home with two or more modules; for loans on mobile homes on developed lots, it is increased from 15 years and 32 days to 20 years and 32 days for a single module home and from 23 years and 32 days to 28 years and 32 days for a home with two or more modules. The conference report contains this provision, amended to increase the maximum maturity permitted for loans on mobile homes on undeveloped lots to 25 years and 32 days for a home with two or more modules, and for loans on mobile homes on developed lots to 25 years and 32 days.

*Insurance of mobile home sites under section 207*

The Senate amendment but not the House bill contained a provision to amend section 207(c)(3) of the National Housing Act to raise the maximum for mortgage insurance for a mobile home site from $3,900 to $8,000 per space. The conference report contains this provision.

MORTGAGE LIMITS FOR MULTIFAMILY HOUSING INSURANCE

*Sections 207(c), 213(b), 220(d)(5), and 234(e)*

The Senate amendment contained a provision not included in the House bill which increased the mortgage ceilings under these programs for non-elevator structures from $19,500 to $23,930 per family unit without a bedroom; $21,600 to $26,500 per unit with one bedroom; $25,800 to $31,660 per unit with two bedrooms; $31,800 to $39,020 per unit with three bedrooms; $36,000 to $44,170 per unit with four or more bedrooms. For structures with elevators, from $22,500 to $27,600 per family unit without a bedroom; $25,200 to $30,900 per unit with one bedroom; $30,900 to $37,910 per unit with two bedrooms; $38,700 to $47,480 per unit with three bedrooms; $43,758 to $53,690 per unit with four or more bedrooms. The conference report does not contain the Senate provision.

*Section 221(d)(4)*

The Senate amendment contained an additional provision not contained in the House bill which increased the mortgage ceilings under the section 221(d)(4) program for structures with elevators from $20,962 to $25,700 per family unit without a bedroom; $24,030 to $29,480 per unit with one bedroom; $29,220 to $35,850 per unit with two bedrooms; $37,800 to $46,380 per unit with three bedrooms; $41,494 to $50,910 per unit with four or more bedrooms. The conference report does not contain the Senate provision.

HIGH COST AREAS

The House bill contained a provision to amend the National Housing Act to allow the maximum mortgage limits for high cost areas to exceed statutory limits up to 75 percent, while the Senate amendment allowed the mortgage limits for those areas to exceed the statutory limits up to 90 percent. The conference report contains the Senate provisions, with an amendment which provides that mortgage limits may exceed the statutory limits up to 75 percent in any geographical area. In addition, where determined by the Secretary on a project-by-project basis, the maximum mortgage limits for high cost areas may exceed the statutory limits up to 90 percent.

HOSPITAL COMBINATION FINANCING

The House bill contained a provision not contained in the Senate amendment prohibiting the use of FHA section 242 or section 223(f) loan insurance and GNMA mortgage guarantees to collaterize tax-exempt bonds, a practice commonly referred to as combination financing, unless applications for the issuance or modification of such loan insurance had been submitted at the express direction of the hospital to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979.

The conference report contains the House provision with an amendment which exempts from this prohibition additional hospitals which are presently seeking to utilize this form of combination financing. Any nonprofit hospital which is seeking to use combination financing to refinance its facility or modify the interest rate on a mortgage which is presently insured under the FHA section 242 or section 223(f) programs would not be prohibited from utilizing combination financing provided that the hospital meets the following conditions: (1) prior to June 7, 1979, the hospital engaged an investment banker for the purpose of obtaining combination financing or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of combination financing; (2) prior to June 7, 1979, the hospital had made written notification of its interest in combination financing to the Department of Health, Education, and Welfare or the Department of Housing and Urban Development; and (3) the hospital receives from Medicare and Medicaid a percentage of its total revenue which is greater than 125 percent of the national average for hospitals.

Certain hospitals which were seeking combination financing applied for insurance or modification of existing insurance agreements prior to March 29, 1979, as a necessary step in their overall plan of obtaining combination financing. The conferees intend that any hospital which had made written application to the appropriate HEW office, prior to March 29, 1979, for FHA 242 insurance as part of its effort to obtain combination financing should be regarded as having submitted a written application for combination financing as of that date.

In providing for additional exemptions from the prohibition for nonprofit hospitals with existing FHA insurance agreements, the conferees recognize that certain hospitals may have engaged investment bankers for the purpose of obtaining combination financing by entering into a contract with an investment banker, or by otherwise authorizing the investment banker to act on the hospital's behalf. As an alternative to engaging an investment banker, a hospital may have undertaken, or may have arranged for another party to undertake, a study designed to measure the cost savings which the hospital would experience as a result of utilizing combination financing. With respect to Medicare and Medicaid revenues, to qualify for the exemption from the prohibition, a nonprofit hospital, during its most recent accounting year ending on or before June 30, 1979, must have received from the Medicare and Medicaid programs a proportion of its total net patient revenue which is greater than 125 percent of the average proportion of revenues received by the Nation's hospitals through Medicare and Medicaid during the calendar year 1978.

The conferees believe that in the event revenues from Medicare and Medicaid are not separately identified in a hospital's financial statement covering this period, hospitals should utilize the Medicare and Medicaid data reported to the Department of Health, Education, and Welfare or the state Medicaid agency for a time period identical to or as close as possible to that encompassed by the hospital's financial statement as the basis for determining compliance with this requirement.

The conferees note that the Health Care Financing Review (Vol. 1, No. 1, Summer, 1979, page 26), published by the Department of Health, Education, and Welfare, indicates that the nation's hospitals received 33 percent of their total revenue from Medicare and Medicaid during calendar year 1978, and that in excess of 95 percent of the Nation's hospitals receive revenue under the Medicare and Medicaid programs. The conferees intend that this base figure of 33 percent be used by the Department of Health, Education, and Welfare and the Department of Housing and Urban Development in determining, in part, whether a hospital qualifies for the additional exemption which has been included within this section.

The conferees also intend that a hospital may meet the requirement of having provided written notification of its interest in combination financing prior to June 7, 1979, by having made this notification in the form of a letter, telegram, or other document, intended to put either of these Departments on notice of the hospital's interest in combination financing.

With respect to those hospitals which are exempted from the prohibition against combination financing contained in this section, the conferees intend that the Departments of Health, Education, and Welfare and Housing and Urban Development initiate processing of these hospitals' applications promptly upon receipt and that this processing be completed as expeditiously as possible.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC) ACT AMENDMENTS

*Authority to purchase FHLMC obligations*

The House bill contained a provision not contained in the Senate amendment to authorize any person, trust or organization existing under the laws of the United States or any State to purchase, hold and invest in mortgages, obligations or other securities sold by the Federal Home Loan Mortgage Corporation to the same extent any such entity is authorized to purchase, hold or invest in obligations issued or guaranteed by the United States or any agency or instrumentality thereof. The conference report contains the House provision with an amendment to (1) provide that any state may enact legislation to prohibit or limit this authority for entities existing under such state's laws; (2) provide that any authority granted by this provision shall expire as of the end of June 30, 1985; and (3) clarify that for the purpose of determining compliance with a limitation in state law on investment in United States obligations, FHLMC securities shall be considered as United States obligations for the purposes of any such limitation.

The conferees note that mortgages, obligations and other securities sold by FHLMC move in commerce in a similar fashion to securities issued or guaranteed by the United States. Nevertheless, the conferees concluded in this case that a permanent preemption of state law should not be adopted. The conferees believe that the more than five-and-a-half year sunset period should be adequate time for states to decide on the investment authority they wish to grant with respect to FHLMC securities. Thus, after June 30, 1985, investment authority must either be based on state law in effect at that time or on some other authority derived from federal law, such as for example, from section 805(c) of the Housing and Community Development Act of 1974.

*Cooperative loans*

The Senate amendment included a provision which was not contained in the House bill to amend the term "residential mortgage", which defined those mortgages the

Corporation may purchase and sell to include a mortgage, lien or other security interest on the stock of membership certificates issued to a tenant stockholder or resident-member by a cooperative housing corporation, and on the instrument granting a right of tenancy in the dwelling unit. The conference report contains the Senate provision.

The conferees do not intend that the implementation of this authority should delay the implementation of other programs planned by the Corporation. The conferees expect the Corporation will carefully assess the risks associated with such a loan purchase program prior to fully implementing the program and will move cautiously in implementing it. The Corporation also should take into consideration the differing levels of experience among lenders in various parts of the country in designing the program.

GNMA LIMITS

*Purchases under section 305*

The House bill contained a provision to amend the National Housing Act to allow GNMA to purchase mortgages under section 305 which exceed the existing statutory limitation if (1) the mortgage is insured under sections 221(d)(3)(ii) and 224(d)(4)(ii) of the Act, and (2) at least 20 percent of the units covered by such mortgage are section 8-assisted units. The Senate amendment contained a similar provision, except that it also exempted from the purchase limits mortgages insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 231(c)(2), 234(c)(3), or 236 and where at least 20 percent of the units covered by such mortgage are section 8-assisted units. The conference report contains the Senate provision.

*Purchases under section 313*

The Senate amendment contained a provision not contained in the House bill which amended section 313 of The National Housing Act to allow GNMA to purchase a mortgage under section 313 which has a principal obligation that exceeds the statutory limit, if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3), 221(d)(3), 221(d)(4), 231(c)(2), 234(c)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the U.S. Housing Act of 1937. The conference report does not contain this provision.

MORTGAGE INSURANCE IN OUTLYING AREAS

*Home location*

The House bill included a provision not contained in the Senate amendment providing that a home insurance under the section 203(i) mortgage insurance program may be located adjacent to an all-weather public road rather than adjacent, as in existing law, to a public highway. The conference report contains the House provision.

*Minimum lot size*

The House bill but not the Senate amendment contained a provision reducing the minimum lot size with respect to a section 203(i) farm home mortgage from 5 acres to two and one-half acres. The conference report contains this provision.

SUPPLEMENTAL LOANS

The Senate amendment contained a provision not included in the House bill to delete the restriction on supplemental mortgage insurance which limits the term of the supplemental loan to the remaining term of the original mortgage. This provision is contained in the conference report.

AMENDMENT TO THE NATIONAL MOBILE HOME CONSTRUCTION ACT OF 1974

The Senate amendment, but not the House bill, contained a provision to amend the Act to clarify that fees collected from the manufacturer for in-plant inspection may be used to cover the expenses incurred by private and State agencies in conducting the inspections and administratively enforcing the Federal standards. The Senate provision is included in the conference report.

OWNERSHIP OF MOBILE HOME SITES

The Senate amendment, but not the House bill, required the Secretary to make recommendations by March 31, 1980, on programs and policies which would encourage individual home ownership of mobile home lots through condominium or cooperative development of mobile home parks, or through the development of mobile home subdivisions. The conference report adopts the Senate provision.

THERMAL REQUIREMENTS

The House bill contained a provision not contained in the Senate amendment to disapprove HUD's interim regulations as published on April 16, 1979, on thermal requirements for the masonry components of construction. The conference report contains the House provision.

The objective of the provision is not to exempt the masonry components of construction from increased thermal energy requirements. Rather, the conferees expect the Secretary of HUD, after consulting with the Farmers Home Administration and the Department of Energy, and after carefully reviewing data that has become available since the interim rule was published, and other data developed pursuant to the recent National Bureau of Standards cost benefit analysis, to move immediately to issue final thermal standards for the masonry components of construction no later than one month after enactment of this Act. During the interim period and prior to the issuance of the revised standards, masonry components shall comply with those thermal requirements existing prior to April 16, 1979, except that any local acceptable standard exemptions granted by HUD as of June 8, 1979, may remain in effect until the revised standards become final.

The conferees believe that the three agencies involved in developing conservation standards for new and rehabilitated residential construction—the Department of Housing and Urban Development, the Farmers Home Administration and the Department of Energy—should develop standards for various programs that are consistent. In order for the Federal Government to develop a rational and consistent approach to energy conservation, these three agencies should work closely together and reach a consensus on the assumptions and data used in various residential conservation standards.

PAPERWORK REDUCTION

The House bill contained a provision providing that, not later than one year after enactment, the Secretaries of HUD, Agriculture and the Administrator of Veterans Affairs shall (1) index and maintain a file on all forms used by such Secretaries to solicit information on the conduct of housing programs, (2) to the extent practicable, provide for the consolidation of forms which solicit identical or nearly identical information from the same person in the conduct of two or more housing programs, and (3) eliminate forms which solicit information already available from other sources and provide for further such simplification as may be possible. The House provision further required the Secretaries to reduce their respective agencies' fiscal year 1979 level of paperwork burden hours by not less than 5.7 percent, and authorizes interdepartmental access to "forms" files for the purposes of carrying out this section. The Senate amendment did not contain a similar provision.

The conference report contains the House provision amended to incorporate certain of the provisions of the House bill into the paperwork reduction provisions contained in section 905 of the Housing and Community Development Amendments of 1978.

The revised section 905 now provides that the Secretaries of HUD and Agriculture and the Veterans' Administration are required within one year to provide for the consolidation of certain forms utilized in single and multifamily housing programs, and to eliminate forms which solicit information already available from other sources.

In addition, OMB is responsible for coordinating efforts in this area and for reporting to the Congress on the implementation of this section and any legislative recommendations.

The conferees expect that these agencies will index their various application forms, information requests and other forms used to solicit information in their programs with a view toward reducing such forms and the paperwork burden hours of the agencies by 5.7 percent below fiscal year 1979 levels.

TEMPORARY MORTGAGE PAYMENT ASSISTANCE

*The program*

The Senate amendment included a provision not contained in the House bill which provided that as an alternative to acquiring the mortgage, the Secretary, in his discretion, may make all or part of the monthly mortgage payments on behalf of a borrower who has defaulted on his mortgage directly to the lender where the default was caused by circumstances beyond the borrower's control and which renders the borrower temporarily unable to correct a mortgage delinquency and resume full payments. The conference report does not contain the Senate provision.

*Conditions*

The Senate amendment contained a provision not in the House bill which provided that no payments may be made unless the Secretary has determined that: (1) such payments are necessary to avoid foreclosure; and (2) there is a reasonable prospect that the borrower will be able to (a) resume full payments upon termination of this assistance, (b) commence repayment of the payments made under this program at a time designated by the Secretary, and (c) pay the mortgage in full by its maturity date or by a later date previously approved by the Secretary under section 204(a). The conference report does not include the Senate provision.

*Amount of assistance*

The Senate amendment but not the House bill provided that assistance payments may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, and mortgage insurance premiums due under the mortgage and the initial payment may include an amount necessary to make the mortgage current and that payments may not exceed amounts which the Secretary determines to be reasonably necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments. The conference report does not include the Senate provision.

*Period of assistance*

The Senate amendment contained a provision not in the House bill providing that payments may be made for up to 18 months, inclusive of any period of default; where determined by the Secretary such period may be extended for up to 18 months; the Secretary shall establish procedures for periodic review of the borrowers' financial circumstances; where determined by the Secretary, payments shall be discontinued. The conference report does not contain this provision.

*Repayment conditions*

The Senate amendment contained a provision not included in the House bill which provided that all payments by the Secretary shall be secured by such obligation as the Secretary may require, and shall include a lien on the mortgaged property; the Secretary shall prescribe the terms and conditions of repayment, which may include requirements for repayment of any amounts that

the Secretary has paid toward the lender's expenses; the Secretary may establish interest charges on such payments which shall not be governed by any state or local interest ceiling on loans or credit advances, except that the interest shall not exceed the maximum rate for section 203(b). This privision is not contained in the conference report.

*Future availability*

The Senate amendment but not the House bill provided that if a mortgage has been previously assisted under this subsection (TMAP), the Secretary may only provide such payments under limited conditions as he prescribes. The Senate provision is not included in the report.

*Source of expenditures*

The Senate amendment contained a provision not included in the House bill which provided that all expenditures under the TMAP shall be made from the insurance fund chargeable for insurance benefits on the mortgage for which the payments are made, and repayments shall be credited to such fund; expenditures may include amounts paid by the Secretary toward the lender's expenses in connection with payments or repayments under this subsection. The conference report does not include the Senate provision.

*Sunset*

The Senate amendment but not the House bill provided that no payments shall be made after September 30, 1984, except that payments which have been commenced on or before such date may be continued beyond such date. The conference report does not contain the Senate provision.

LEGISLATIVE REVIEW

The Senate amendment contained a provision not found in the House bill which reduced the time period for which regulations can be suspended by Committee action to 45 days from 90 days. The conference report does not contain the Senate provision.

The conferees wish to clarify the meaning of the term "reported out" as used in section 7(o)(3) of the Department of Housing and Urban Development Act. Notwithstanding any other interpretations, it is the intent of the conferees that "reported out" means the vote of either committee to report out a bill or resolution containing a disapproval provision, and it does not mean the filing of the committee report with the Clerk of the House or Secretary of the Senate. Thus, if either committee, within 20 days after publication of a regulation as final, votes to report out a bill or resolution intended to disapprove a regulation, it shall be considered a timely action which would keep the regulation from becoming effective for 90 days.

LIMITATION ON SOUL CITY ASSISTANCE

The Senate bill contained a provision not contained in the House bill prohibiting the Secretary, in determining the acceptability of financial risk, from taking into account any funds which would be provided under federal financial assistance programs, or from approving any loan guarantee under the New Communities Act, with respect to or for the benefit of the new community at Soul City, North Carolina. The conference report does not contain the Senate provision.

The conferees are concerned about HUD's disposition policies and plans for all of the title VII new communities that it has found to be financially infeasible. The conferees believe that in developing and carrying out a plan for disposition of any new community, the Secretary should take care to minimize the financial exposure of the federal government, while assuring that the reasonable interests of the surrounding local governments and the states are protected.

DEPOSIT INSURANCE FOR INDIAN TRIBAL GOVERNMENT

*Coverage*

The Senate amendment contained a provision not contained in the House bill which extends deposit insurance and security to Indian tribal government deposits. The conference report adopts the Senate provision.

*Effective date*

The Senate amendment contained a provision not contained in the House bill to provide that such coverage shall only be applicable on or after the date of enactment of this Act. The conference report includes the Senate provision.

*Security*

The Senate amendment, but not the House bill, also provided that any national banking association may, upon deposit with it of any funds by any Indian tribe or official representative, give security for the safekeeping and prompt payment of deposited funds by the deposit of U.S. bonds and otherwise. The conference report contains the Senate provision.

SMALL BUSINESS INVESTMENT COMPANIES ASSISTANCE

*Investments by FHLB's*

The Senate amendment contained a provision not contained in the House bill to permit the Federal Home Loan Banks to invest in any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of the FHLB System. The conference report contains the Senate provision.

*Investments by savings and loans*

The Senate amendment, but not the House bill, included a provision to enable savings and loan associations to invest in any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this section if its aggregate outstanding investment under this section would exceed one percent of the assets of such association. The Senate provision is included in the conference report.

LOANS BY SAVINGS AND LOANS

The Senate amendment, but not the House bill, contained a provision to raise the ceiling for single-family loans for federally-chartered savings and loan associations from $60,000 to $75,000. The conference report contains the Senate provision.

FEDERAL HOME LOAN BANKS

*Advances*

The Senate amendment contained a provision not contained in the House bill permitting the Federal Home Loan Banks to have discretion to determine the amount of any secured advance to a member institution. The conference report does not contain the Senate provision.

*Collateral*

The Senate amendment contained another provision not included in the House bill permitting the Federal Home Loan Banks to accept as collateral for an advance any residential mortgage, or U.S. Government obligation or guaranteed obligation. The conference report does not include this provision.

STOCK TO ADVANCES RATIO

The Senate amendment contained a provision not contained in the House bill providing for a decrease from 1-12 to 1-20 the ratio of stock required to be purchased by a member institution to be eligible for advances of funds from the Federal Home Loan Banks. The conference report contains the Senate provision.

TITLE IV—INTERSTATE LAND SALES

DEFINITIONS

The House bill contained a provision to (1) amend the definition of "subdivision" so that it is not restricted to land divided into 50 or more lots but applies to all land divided or proposed to be divided into lots, and (2) clarify the term "common promotional plan" as it applies to a subdivision to mean a plan undertaken by a single developer or a group of developers acting together to offer lots for sale or lease. The Senate amendment did not contain a similar provision. The conference report contains the House provision. The conferees believe that a common promotional plan does not exist when the sole connection between two or more parcels of land is that they share a common equity investor.

EXISTING EXEMPTIONS

The House bill deleted two exemptions from the registration, disclosure and fraud provisions of the Act: (1) sale or lease of real estate under or pursuant to a court order, and (2) sale or lease of real estate which is free and clear of all liens, encumbrances, and adverse claims, if each purchaser or spouse has made a personal on-the-lot inspection of the real estate. The Senate amendment did not contain a similar provision. The conference report contains the House provision.

EXEMPTIONS

*Less than 100 lots*

The House bill contained a provision not contained in the Senate amendment to amend existing law to exempt only from the registration and disclosure requirements of the Act the sale of lots in a subdivision containing less than 100 lots which are not otherwise exempt under Section 1403. The conference report contains the House provision with an amendment to exempt from all provisions of the Act subdivisions containing less than 25 lots, and to exempt, only from registration and disclosure requirements, lots in a subdivision containing less than 100 lots which are not exempt under section 1403(a) of the Act.

The conferees believe that the 100 lot exemption should not be combined with the exemptions in section 1403(b). However, when only a small number of lots in a subdivision cannot qualify for any exemption, the conferees believe such small number of lots should be exempt. Thus, the conferees direct the Secretary to use the authority available under section 1403(c) to issue exemptions so that such lots can be sold without the need for complying with the registration and disclosure requirements of the Act. Consistent with this objective, the Secretary should issue regulations providing procedures whereby developers may apply for an exemption for a small number of lots. In addition, when appropriate, the Secretary should issue a No-Action Letter.

*First 12 lots*

The House bill, but not the Senate amendment, contained a provision exempting the sale or lease of the first 12 lots of a subdivision which are sold or leased, or both, in any calendar year from the registration and disclosure requirements, if not more than 12 lots have been sold or leased, or both, from that subdivision in any previous calendar year.

The conference report contains the House provision amended to provide that the exemption is available in the first year of sale or lease after the effective date of this provision only if 12 or fewer lots are sold or leased during that year and that in any subsequent year the first 12 lots sold or leased will be exempt if no more than 12 lots were sold or leased in any previous year and all of the above 12 which are sold or leased are registered or qualify for another exemption. The conferees wish to make clear that if the de-

veloper increased the pace of sale so that more than 12 lots are sold or leased in a year, this exemption would be available (other than during the first year) for only the first 12 lots sold or leased in that year but would not be available for the sale of any subsequent lot even though the developer may sell only 12 lots in any other year. The Secretary, consistent with the intent of this provision, should permit a developer to establish a twelve month period in a manner which allows that period to conform with the developer's fiscal or tax year. For example, if the first sale of a lot were made on January 1, but the developer's tax year began on July 1 and no more than 6 lots were sold in the interim, the next twelve-month period could be established beginning on July 1.

*Sale of lots from noncontiguous parcels*

The House bill contained a provision not contained in the Senate amendment to exempt from the registration and disclosure requirements of the Act the sale or lease of lots where each noncontiguous part of a subdivision contains not more than 10 lots, and where each purchaser or lease (or spouse) has made an on-the-lot inspection of the lot prior to signing the contract to purchase or lease. The conference report contains the House provision with an amendment which raises from 10 to 20 lots the maximum size of any noncontiguous parcel exempted from such provisions.

*Large lots*

The House bill contained a provision to exempt from the registration and disclosure requirements the sale or lease of lots in a subdivision where at least 90 percent of the lots are each 40 acres or more in size (inclusive of easements) and any remaining lots are each 30 acres or more in size (inclusive of easements). The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which exempts from such provisions any subdivision where all the lots are at least 20 acres in size (inclusive of easements).

*Regulated jurisdictions*

*Limitation to Single Family.*—The House bill contained a provision to amend the regulated jurisdictions exemption in existing law to provide that "each lot" (rather than the subdivision) is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences. The Senate amendment was similar. The conference report contains the House provision. The conferees wish to emphasize that the phrase "each lot" refers to each lot which qualifies for this exemption, but does not require that every lot in the subdivision must be zoned for or limited to single family residences. Lots that are not single family must either qualify for some other exemption (including an exemption pursuant to section 1403(c)) or be registered (or, under the appropriate circumstances, receive a No-Action Letter). The phrase "single family residences" as used in this provision refers to 1–4 family dwellings.

While lots zoned for multi-family dwellings technically are not eligible for this exemption, the conferees believes that where the other requirements of the regulated jurisdictions exemption are met, the Secretary should use the authority of section 1403(c) to exempt such lots in cases where such exemption would not be inconsistent with the provisions of section 1403(c).

*Street Construction and Maintenance.*—The House bill contained a provision to amend the existing regulated jurisdictions exemption to provide that the lot must be situated on a paved street which (1) meets the standards of streets maintained by the applicable local government and is acceptable to such government and (2) is maintained by the local government or a homeowner's association except that where a homeowner's association is responsible, the purchaser or lessee (prior to signing the contract) is provided with a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease. The Senate amendment contained a similar provision, except it provided that the paved street (1) must be built to a standard acceptable to the unit of local government in which the subdivision is located, and (2) must be maintained by the unit of local government or the local government has approved other provisions to insure perpetual maintenance of the street; the provisions did not require a good faith estimate. The conference report contains the House provision. The conferees wish to clarify that the requirements that the lot be situated on a road which is acceptable to the unit of local government where the land is located can be met by the local government following whatever practice it has presently in existence for approving new roads. The conferees do not intend that any new procedure be established by the local government.

*Deed.*—The House bill contained a provision that the contract of sale requires delivery of a warranty deed or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him to the purchaser within 180 days after the signing of the sales contract. The Senate amendment contained a similar provision, except that it provided that the alternative to a warranty deed is a grant or similar deed conveying title to real property and commonly accepted in the State in which the subdivision is located. The conference report contains the House provision with an amendment deleting the phrase "at least." The conferees wish to emphasize that in all cases the seller must use a warranty deed, except where a warranty deed is not commonly used in the jurisdiction he must use a deed that warrants that the gantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him. The deed may include any other warranties commonly used in the jurisdiction where the lot is located but HUD may not require the inclusion of any other warranties in the deed. Quit claim deeds may not be used to qualify for this exemption.

*Title.*—The House bill contained a provision requiring that at the time of closing, a title insurance binder or title opinion shall be in existence and issued or presented to the purchaser or lessee showing that, subject to such exceptions as may be approved in writing by the purchaser or lessee prior to the recordation of the deed or execution of the lease, marketable title is vested in the seller or lessor. The Senate amendment contained a similar provision, except it provided (1) that this subsection must be complied with prior to the time of closing, (2) no reference to lessee as well as purchaser, and (3) no provision for exceptions to the marketable title approved in writing by the buyer prior to recordation. The conference report contains the House provision with an amendment which provides that the exceptions to title will be approved in writing at the time of closing rather than prior to the recordation of the deed.

*Sales promotion.*—The House bill contained a provision prohibiting direct mail or telephone solicitations which offer gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which clarifies that the prohibition is with regard to direct mail or telephone solicitations which offers gifts, trips, dinners, or other promotional items to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. This restriction applies to the sale or lease of all lots in the subdivision. However, under this provision, financing incentives are not to be considered promotional items.

*Mobile homes*

The House bill contained a provision that was not contained in the Senate amendment to exempt from registration and disclosure provisions the sale or lease of a lot if a mobile home is to be placed there as a primary residence, and the lot is sold by one party and the mobile home by another under contracts that obligate both such sellers to carry out their contracts within 2 years: the contracts must provide that all funds received by the sellers will be held in escrow by parties independent of the sellers until the transactions are completed, and such funds will be released to the buyer without prejudice if the land with a residential home is not conveyed within 2 years. Such homesite must conform to all local codes for mobile home subdivisions, if any, and must provide potable water, sewage disposal, access by roads and where common facilities are to be provided, they must be completed or fully funded. In addition, the purchaser must receive marketable title to the lot. The conference report adopts the House provision with an amendment which deletes the term "primary." For the purposes of this section, a mobile home used as a "residence" means that the mobile home is capable of being lived in throughout the year.

*Intrastate sales*

The House bill contained a provision which exempts from the registration and disclosure requirements of the Act the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature if the lot is free and clear of all liens, encumbrances, and adverse claims, the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot to be purchased, and each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing amenities or promised amenities. The provision further provided that, as used in connection with this exemption, the terms "liens", "encumbrances", and "adverse claims" do not include U.S. land patents and similar federal grants or reservations, property reservations dedicated to local bodies or public utilities for the purpose of bringing public services to the development, taxes and assessments imposed by the State or any other such authority, including a property owner's association, which, under applicable State or local law, constitute liens on the land before they are due, or beneficial property restrictions enforceable by other lot owners or lessees in the subdivision, if (1) the developer prior to entering the contract, has furnished each buyer with a statement of all such reservations, taxes, and assessments applicable to the lot to be purchased or leased, and (2) receipt of such statement has been acknowledged in writing by the buyer or lessee. Furthermore, the term "intrastate in nature" was defined to mean sales or lease by residents of a State to residents of that State of land situated within the State, provided that such State required delivery of a disclosure document, as determined to be necessary by the State, to purchasers or lessees.

The Senate amendment contained a provision similar to the provision in the House

bill, except there was no definition of "intrastate in nature", and there was no requirement that the State provide for the delivery of a disclosure document to purchasers. The conference report contains the Senate provision, amended (1) to require that the purchaser or lessee receive a good faith estimate of the cost of providing electric, water, sewer, gas and telephone service to the lot, and that each purchase or lease agreement contain a clear specific statement describing a good faith estimate of the year of completion of the roads, water facilities, sewer facilities, and other promised amenities, and a period in which the purchaser or lessee may revoke the contract which is 7 days or such longer period as required pursuant to State laws, and (2) to provide that a sales operation is "intrastate in nature" if the developer is subject to the laws of the State in which the land is located and each lot in the subdivision, other than those which are totally exempt from the Act under section 1403(a), or exempt from registration and disclosure pursuant to the mobile home sites or the SMSA exemption, is sold to residents of the State in which the land is located.

The amended definition of what makes a sales operation "intrastate in nature" eliminates the need for complicated regulations or interpretations specifying allowable and prohibited marketing practices. Instead the test is intended to be result oriented. If a lot qualifies for any of the exemptions under section 1403(a), or if it qualifies for the mobile home site exemption or the SMSA exemption, then all such lots may be marketed and sold to out-of-State residents. However, any lot in the subdivision which does not qualify for one of these exemptions must be sold to a resident of the State in order for the subdivision to be eligible for the intrastate exemption. For this purpose, a developer may rely on a signed certification by the purchaser or lessee as to the State of his or her residence.

It is the intent of the conferees that the provision requiring the lot to be free and clear of liens, encumbrances and adverse claims means that the lot must remain free and clear of liens from the date the contract is signed until a deed is delivered or the lease expires (unless the lien is subordinate to the leasehold interest and would not affect the lessee's right to use or enjoy the lot).

Further, the conferees urge the Secretary to use the authority under section 1403(c) to specify further exemptions from the free and clear requirements so that the requirement is focused on those liens specified in the new SMSA exemption.

*Sales within 100-mile radius*

The Senate amendment contained a provision, not contained in the House bill, which exempted from the registration and disclosure requirements of the Act the sale or lease of not to exceed 500 lots in a subdivision to a resident of another state whose principal residence is within a radius of 100 miles from the property if; (a) the lot is free and clear of all liens, encumbrances, and adverse claims; (b) the purchaser (or his or her spouse) has made a personal on-the-lot inspection; (c) each contract contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water and sewer facilities, and any promised or existing amenities; (d) the developer executes and delivers to the purchaser a written designation of a person within the state of residence of the purchaser to act as the developer's agent of service or process, and the developer acknowledged that he submits to that state's legal jurisdiction; and (c) the developer affirms (in writing, on a form provided by the Secretary and kept on file by the Secretary) that he has complied with the above conditions and requirements.

The Senate provision also provided that, as used in connection with this exemption, the terms "liens", "encumbrances", and "adverse claims" do not include U.S. land patents and similar federal grants or reservations, property reservations dedicated to local bodies or public utilities for the purpose of bringing public services to the development, taxes and assessments imposed by the state or any other such authority, including a property owner's association, which, under applicable state or local law, constitutes liens on the land before they are due, or beneficial property restrictions enforceable by other lot owners or lessees in the subdivision, if: (1) the developer, prior to entering the contract, has furnished each buyer with a statement of all such reservations, taxes and assessments applicable to the lot to be purchased, and (2) receipt of such statement has been acknowledged in writing by the buyer.

The conference report contains the Senate provision with an amendment to provide that the exemption applies to subdivisions containing fewer than 300 lots and in order for a lot to qualify for the exemption, the principal residence of the purchaser or lessee must be within the same SMSA as the lot purchased or leased. The amendment also provides that in addition to the disclosure requirements specified in the Senate provision, all liens, reservations, taxes, assessments and beneficial property restrictions which would be ---------- by such lot owners or lessees in the subdivision, and adverse claims must be disclosed, and each agreement must include a good faith estimate of the year of completion of promised amenities and a seven day cooling off period or such longer period as may be required pursuant to State laws. The developer must also provide a good faith estimate of the cost of providing utility service to the lot. The lot must be clear of liens, but not encumbrances and adverse claims as provided in the Senate provision, from the date the contract is signed until the deed is delivered or the lease expires. In addition to the exceptions to the term "liens" contained in the Senate provision, the conference report also provides for the exception of other interests described in regulations prescribed by the Secretary.

The conferees direct the Secretary to use this authority to exempt liens which are subordinate to the leasehold interest and which would not affect the lessee's right to use or enjoy the lot.

The conferees intend in regard to both the intrastate and SMSA exemptions that if there is a blanket lien with release provisions, the lot may qualify for the exemption if the contract requires delivery of the deed within 180 days of signing of the contract and all payments are put in escrow. In addition, the conferees wish to clarify that the requirement that a lot be "free and clear" until the deed is delivered or the lease expires would not be violated if a purchaser or lessee encumbers the lot.

Examples of the types of reservations, encumbrances, assessments and adverse claims that must be disclosed include, but are not limited to, easements for ingress, egress and utilities, state and local property taxes, mineral rights, homeowner association assessments, and any restrictions on property use.

For purposes of this exemption a developer may rely on a signed certification by the purchaser or lessee of his or her residence.

Under both the intrastate and the SMSA exemptions, developers must provide purchasers and lessees with good faith estimates of the cost of installing electric, water, sewer, gas and telephone services. The conferees believe that to comply with this requirement, a developer could provide estimates for the types of utility service reasonably expected to be utilized in that location. For example, where septic systems or water wells are suitable, good faith estimates of their cost would satisfy this requirement. The conferees also wish to clarify that good faith estimates of the cost of installing electric, water, sewer, gas and telephone services need not be based on information obtained at the date of signing the contract of sale or lease. Instead, the developer may fulfill the requirement by providing a reasonably current estimate of such costs. For lots not yet sold, estimates should be updated every two years, or more frequently if the developer has reason to believe that significant cost increases have occurred. Further, the purchaser or lessee should be informed of the date on which the estimate was made.

*Operation of exemptions*

The conferees intend that the provisions of section 1403 shall be applied on a lot-by-lot basis except where the context indicates a requirement that applies to a whole subdivision. Some exemptions apply solely on a lot-by-lot basis so that each lot meeting the requirement is exempt regardless of the status of other lots in the subdivision. The exemptions under section 1403(a)(2), (a)(5) through (a)(8) and (b)(6) fall into this category.

Some exemptions are subdivision exemptions and apply only where each and every lot in the subdivision meets the requirements; for example, the large lot exemption in section 1403(b)(4) or the exemptions based solely on the number of lots in a subdivision such as section 1403(a)(1) and (b)(1). None of these pure subdivision exemptions may be used in combination with any other exemption.

Other exemptions combine an initial subdivision test or tests with lot-by-lot requirements. Particular lots that do not meet these lot-by-lot requirements must either qualify under some other exemption or be registered. Where such a hybrid exemption exists and the initial subdivision test is not satisfied, then no lots in that subdivision are eligible for that exemption.

In the regulated jurisdictions exemption, section 1403(b)(5), there are three subdivision tests: (1) the unit of local government must specify minimum standards for the development of subdivision lots within its boundaries; (2) the subdivision must meet all local codes and standards; and (3) there must be no offers by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. All other requirements in the regulated jurisdictions exemption provision are lot-by-lot requirements.

In the SMSA exemption, section 1403(b)(8), the only subdivision test is that the subdivision must contain fewer than 300 lots. If this test is satisfied, then the particular lots that meet all other requirements specified in section 1403(b)(8) are exempt from registration and disclosure.

In the intrastate exemption, section 1403(b)(7), the only subdivision test is that the sales operation must be "intrastate in nature". This test permits the sale or lease of individual lots pursuant to section 1403(a), (b)(6) or (b)(8) even though they are sold or leased outside the state in which the land is located. However, all other lots in the subdivision which do not qualify for these specified exemptions must be sold or leased to a resident of such state. If this subdivision test is satisfied, then the particular lots which meet all other requirements specified in section 1403(b)(7) are exempt from registration and disclosure.

For example, if a subdivision contained 500 lots, 50 of which were sold pursuant to a contract to build a home within two years as provided under section 1403(a)(2) and 50 were zoned for commercial use as provided under section 1403(a)(8) the remaining 400 lots would be exempt if they were sold only to persons residing in the state where the land was located and met the

other requirements of the intrastate exemption. However, the SMSA and intrastate exemptions could only be combined if the subdivision contains less than 300 lots, since the SMSA exemption is only available for a subdivision of that size.

As a general principle applying to exemptions, the conferees expect HUD to use discretion and not punish a developer for minor violations that occur through inadvertence. HUD may determine in these cases that the developer may retain an exemption if the developer corrects the mistake or offers to repurchase the offending lot or lots. In addition, where a developer has fully complied with the requirements regarding exempt lots but has a small number of lots which do not qualify for any exemption, the conferees direct the Secretary to use the authority available under section 1403(c) to provide exemptions, or to issue no action letters so that these small number of lots may be sold without registration or disclosure.

The conferees intend that the transition from exemptions and requirements under present law to the amended law should not affect real estate already sold or leased as of the executive date of the amendments. For example, lots sold before the effective date of the amendments pursuant to the present on-site inspection exemption would not be brought under requirements of the amended Act. If, as of the effective date of the amendment, the number of lots in the subdivision that have not yet been sold under the on-site inspection exemption is less than 100, then these lots will be exempt. However, if the number of such remaining lots is 100 or more, then all these lots must either qualify under other exemptions or be registered.

Since many of the new exemptions being enacted are complex and self-determining, the conferees direct the Secretary to make very clear to developers how they may take advantage of these exemptions without needing advisory opinions.

REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

*Lots registered with OILSR*

The House bill contained a provision not contained in the Senate amendment to include in the requirements for sales or lease of lots not exempt from the registration and disclosure provisions of the act prohibitions against: (a) selling or leasing any lot where any part of the statement of record of the property report contains an untrue statement of a material fact required to be stated therein; and (b) displaying or delivering to prospective purchasers or lessees advertising and promotional material which is inconsistent with the information required to be disclosed in the property report.

The conference report contains the House provision with an amendment which clarifies that this section applies to information required to be included in the property report and statement of record pursuant to sections 1405 through 1408 of the act and any rules and regulations promulgated pursuant to those sections. The conferees wish to further clarify that advertising may include information not required by law to be disclosed in the property report and need not include all the information that is required to be included in the property report. However, when the advertising deals with a subject required to be addressed in the property report, the information in the advertising should not be inconsistent with information in the property report.

*Lots not exempt from the act*

*Untrue statements.*—The House bill contained a provision not contained in the Senate amendment providing that the existing prohibition against obtaining money or property by means of a material misrepresentation with respect to any information upon which a purchaser relies in regard to the sale or lease of a lot not exempt from the act is amended to prohibit the obtaining of money or property by means of any untrue statement or omission of a material fact that would (in light of the circumstances in which it was made and in the context of the overall offer and sale or lease) be misleading with respect to any information pertinent to the lot or subdivision. The conference report contains the House provision.

While the purchaser's actual reliance would no longer have to be an element of proof, it is clear that in proving that an untrue or omitted fact was material, it must be established that the fact was important enough that a reasonable person would have relied upon it in making a decision to purchase or lease that particular piece of land.

The language "in the context of the overall offer and sale or lease" was included to clarify how to determine the materiality of a fact and to make clear that a developer is not required to say everything about the subdivision in each discrete contact with the purchaser, but rather that what the developer does choose to say must not omit important facts that would be needed so that the purchaser would not be misled. Clearly, when a seller draws attention to information which is favorable to the sale of the lot and delays providing contradictory information, a purchaser may be misled. Any subsequent information of a countervailing nature must be highlighted; it is not sufficient simply to deliver the information to the purchaser. The seller by omission has taken on an affirmative obligation to make the statements clear and unambiguous to the purchaser. This is particularly important where the primary contact between the purchaser and the seller is through advertising or the mails. In this circumstance an advertisement for "lakeside property" which omits to state that the lake was dry for 6 months of the year or an advertisement for "home-sites" which fails to mention that the land was inappropriate for septic tanks and a municipal, sewage system was unavailable would be misleading.

*Services and amenities.*—The House bill contained a provision not contained in the Senate amendment providing that in addition to the existing prohibitions against employing schemes and artifices to defraud and engaging in any practice or course of business that would operate as a fraud with regard to the sale or lease of lots not exempt from the act, it would be a prohibited act to represent that roads, sewers, water, electric services, or recreational amenities will be provided or completed by the developer without so stipulating in the contract of sale or lease.

The House provision is contained in the conference report. It is not the intention of the conferees to impose a new substantive requirement on the developer to provide roads, services, water, electric, sewer, or recreational amenities, but where the developer represents in any manner that such facilities will be provided or completed by the developer the contract of sale or lease utilized in the transaction must contain provisions so obligating the developer.

REVOCATION OF THE CONTRACT

*Cooling-off period*

The House bill contained a provision to amend the existing requirement that a purchaser may revoke his contract until midnight of the third business day where a property report has been received less than 48 hours before he signed the contract to provide that: (1) any contract for the sale or lease of a lot not totally exempt from the Act may be revoked at the option of the purchaser or lessee until midnight of the 10th day following the signing of such contract and such contract shall clearly provide this right; and (2) no other revocation period shall be imposed by Federal or State law, except that any State may permit a longer period within which such right may be invoked. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which reduces the cooling-off period from 10 to 7 calendar days or such later time as may be required pursuant to state laws and which deletes the requirement that no other period be imposed pursuant to Federal law.

*Nondelivery of property report*

The House bill contained a provision to amend the existing requirement that a 2-year option to void a contract be provided where a property report has not been given to a purchaser or lessee in advance of or at the time of signing a contract or agreement for purchase or lease to provide the right of revocation where the property report is required to be provided and has not been given in advance of signing the contract or agreement. The Senate amendment contained a similar provision which provided that the option to void exists only where the property report is required to be provided and has not been given to the purchaser in advance or at the time of his signing. The conference report contains the House provision.

*Contracts not containing certain provisions*

The House bill contained a provision not contained in the Senate amendment providing that any contract for the sale or lease of a lot not exempt from the act may be revoked by the purchaser or lessee for 2 years from signing the contract where the contract does not provide: (1) a legally sufficient and recordable description of the boundaries of the lot, (2) that, in the event of a contract breach by the purchaser or lessee, the seller or lessor will inform the purchaser in writing of such breach and of the opportunity to remedy such breach within 30 days, and (3) that, if the purchaser or lessee loses his or her interest or rights in the lot as a result of a breach of contract which occurs after the purchaser or lessee has paid 15 percent of the lot's purchase price (excluding any interest owed under the contract), the seller shall refund to such purchaser any amount remaining after subtracting the amount of damages incurred by the seller or lessor as result of such breach from the amount paid by the purchaser with respect to the lot's purchase price (excluding any interest). The House provision further provided that this subsection shall not apply to the sale of any lot for which the purchaser receives a warranty deed within 180 days after the signing of the contract.

The conference report contains the House provision, with an amendment which provides that such contracts may be revoked by the purchaser or lessee for 2 years from signing the contract where the contract does not provide: (1) a description of the lot that is clearly identifiable and in a form that is acceptable for recording by the appropriate public officials responsible for maintaining land records in the jurisdiction in which the land is located, (2) that, in the event of default or breach of contract or agreement, the buyer must be given 20 days after receipt of written notice to cure the default or breach, and (3) that, in the case of default or breach after the purchaser has paid 15 percent of the purchase price of the lot, the seller or lessor may retain 15 percent of the purchase price of the lot or actual damages, whichever is greater.

The conferees intend that in defining the term "purchase price" the Secretary be guided by the concept of "cash price" as defined pursuant to the Truth in Lending Act and Regulation Z. In calculating the amount of money paid which shall be excluded as interest for the purpose of determining the amount of funds retainable as liquidated damages, the actuarial method shall be utilized.

*Reimbursement*

The House bill contained a provision not contained in the Senate amendment providing that upon revocation of the contract under any of the provisions of this section, and upon tender of an instrument by the purchaser to the developer conveying his or her rights and interests in the lot, such purchaser shall be entitled to all money paid by him or her under such contract. The conference report contains the House provision with an amendment which provides that when the purchaser, exercising his or her right of revocation, conveys his or her right and interest in the lot to the developer, the property and the legal interest conveyed must be in a condition substantially similar to the condition in which it was conveyed or purported to be conveyed to the purchaser. It is the intention of the conferees that the responsibility of the purchaser to correct conditions would go only to restoring those items or correcting those conditions which resulted in diminished value as a result of his or her voluntary and deliberate or negligent actions.

CERTIFICATION OF STATE LAW

*Requirements*

The House bill contained a provision not contained in the Senate amendment providing that the Secretary shall certify a State when he determines that: (a) when taken as a whole, the laws and regulations of the State which are applicable to the sale or lease of lots, not exempt from the registration and disclosure provisions of the act, require the seller or lessor to disclose informawhich is substantially equivalent or greater than the requirements of section 1408; and (b) the State's administration of such laws provides, to the maximum extent practicable, that such information is accurate. In addition, in the case of a State whose disclosure laws are less than the federal requirements, the Secretary shall certify such a State when he determines that: (a) taken as a whole, the laws of the State applicable to the sale or lease of lots not exempt from federal disclosure and registration requirements provide sufficient protection for purchasers and leases with respect to the matters for which information is not required to be disclosed by such laws; and (b) the State's administration of such laws provides that the information required to be disclosed is accurate, and sufficient protection for purchasers is made available with respect to those matters about which there is disclosure.

The conference report contains the House provision, amended, so that to be certified, in addition to other requirements, a State's laws must require disclosure which is substantially equivalent to (but not greater than) the federal requirements, and a State must agree to accept and allow to be distributed for disclosure purposes the property report covering land located outside that State and offered for sale or lease inside that State when the land is located in a second certified State and the property report has been approved by the second certified State.

*Substitute filings*

The House bill provided that after certification of a State, the Secretary shall accept for filing under sections 1105 through 1408 (and declare effective as the statement of record and property report) and disclosure materials found acceptable by such State (in connection with the sale or lease of lots located within the State), and further, nothing in this subsection shall preclude the Secretary from exercising the authority conferred by sections 1407(d) and 1407(e) to investigate and suspended the statement of record after a hearing if it contains untrue statements or omissions of material fact. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which provides, in addition, that in the case of land located in a non-certified State but offered for sale in a certified State, the Secretary may accept for purposes of federal filing a statement of record and a property report containing information required by the certified State. These certified State property reports become the federal property report and must be used as such in all State where that property is offered for sale or lease. In addition, when a State fails to be certified by the Secretary, the Secretary must inform the State in writing of changes in State law, regulation, or administration that are needed in order to obtain certification. The conferees wish to make clear that the Department has discretion regarding whether to declare effective as a federal property report, the certified State's property report covering land located in a non-certified State but sold in the certified State. Thus, a State may be certified only for sales of land located within the State or for both sales of land located within and outside that State.

*Review*

The House bill contained a provision not contained in the Senate amendment requiring the Secretary to periodically review the laws, and the administration thereof, of States certified under this section, and such certification may be withdrawn if such laws and their administration no longer meet this section's requirements. The conference report contains the House provision.

*State authority*

The House bill contained a provision not contained in the Senate amendment providing that nothing in this title may be construed to limit the authority of any State or local government to enact any law with regard to land sales not in conflict with this title; and which requires the Secretary in administering this title, to cooperate with state authorities responsible for regulating land sales. The conference report contains the House provision.

It is the intention of the conferees that nothing in the provisions of this section will limit any State's power to impose strict registration requirements or substantive development standards on developers who want to sell land within that State. Once a State is certified and that State's property report becomes for all purposes the Federal property report, the Secretary may require a Federal cover sheet similar to the one presently in use.

CIVIL LIABILITIES

*Specific performance*

The House bill contained a provision not contained in the Senate amendment to add to the relief available under existing law specific performance, or other relief which the court deems equitable. The conference report contains the House provision.

*Determining relief*

The House bill contains a provision not contained in the Senate amendment requiring that in a determining relief, the court will take into account, but not be limited to the following factors: the contract price of the lot; the amount the purchaser actually paid; the cost of any improvements to the lot; the fair market value of the lot at the time of sale; and the fair market value of the lot at the time the lot was purchased.

The conference report contains the House provision with an amendment which provides that the court "may" rather than "will," take these factors into account; which provides that the court may consider the fair market value of the lot at the time relief is determined in addition to the value at the time the lot was purchased; and that the court may consider the value of "leaseholds," as well as the value of "lots."

*Additional relief*

The House bill contained a provision not contained in the Senate amendment to amend existing law to permit recovery for interest, reasonable attorney's fees, independent appraiser's fees and travel costs. The conference report contains the House provision with an amendment which clarifies that in addition to recovery for interest, the court may award reasonable amounts for attorney's fees, independent appraiser's fees and travel to and from the lot in connection with the suit.

STATUTE OF LIMITATIONS

*Limitations on civil action*

The House bill contained a provision not contained in the Senate amendment providing that the statute of limitations for violations of registration, disclosure, fraud, and misrepresentation, is 3 years after discovery or after discovery should have been made, whichever is later. The House bill also included a provision not in the Senate amendment which deleted the existing requirement that in no event may any action be brought by a purchaser more than 3 years after the sale or lease to such purchaser, and which provides that in no case shall actions be brought more than 3 years after the last payment has been made on a contract of sale or lease or 3 years after conveyance of a warranty deed, whichever is shorter.

The conference report contains the House provision with an amendment providing that—

(1) The statute of limitations would be 3 years from the date of signing the contract for violations regarding any sale or lease:

(a) without an effective statement of record;

(b) without delivering a property report to the purchaser or lessee prior to signing the contract;

(c) where the property report or statement of record contains an untrue statement of material fact or omits to state a material fact;

(d) where advertising is used that is inconsistent with information required to be in the property report or statement of record; or

(e) where the developer represents that utilities and amenities will be provided or completed by the developer without so stipulating in the contract of sale or lease; and

(2) That the statute of limitations would be 3 years after discovery of the violation or after discovery should have been made by exercise of reasonable diligence for violations regarding any offer or sale or lease that involves:

(a) employing any device, scheme or artifice to defraud;

(b) obtaining money by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made not misleading with respect to any information pertinent to the lot or subdivision; or

(c) engaging in any transaction, practice, or course of business that would operate as a fraud or deceit.

The conferees wish to clarify that the purpose of the amendment contained in the conference report is to limit to 3 years after the date of signing the contract those suits based on requirements related to advertising, to contract terms or to information reviewed by the Department of Housing and Urban Development prior to sale. The fact of a material omission or the use of an untrue statement of material fact in the property report or the statement of record would be covered under this statute of limitations.

The longer statute of limitations which requires a suit to be filed within 3 years from discovery of the violations applies to a variety of fraudulent practice. In bringing an action under the longer statute of limitations, a

plaintiff could use evidence based on violations covered by the shorter statute of limitations period to establish that a fraud had occurred. For example, since clear prohibitions exist in the law against the use of untrue statements or omissions of material fact in the statement of record or property report, these violations would be relevant in establishing whether a fraud existed in the context of the whole offer and sale or lease.

*Revocation*

The House bill contained a provision not contained in the Senate amendment providing that actions to enforce rights of revocation under section 1404(b), (c) or (d) must be brought within 3 years after signing the contract or lease, notwithstanding delivery of a deed to a purchaser. The conference report contains the House provision with an amendment which includes actions to enforce rights under section 1404(e).

ADMINISTRATIVE PROCEDURE

The Senate amendment contained a provision not contained in the House bill providing that in discharging his responsibilities under the Act, the Secretary shall conduct all rulemaking and adjudication in accordance with the Administrative Procedures Act; and which provided further that in the case of other actions not required to be determined on the record, the Secretary shall provide the procedure applicable to every case after notice and opportunity for hearing; prompt notice shall be given of any adverse action or final disposition, and shall be accompanied by a statement of legal authority and other written reasons.

The conference report contains the Senate provision with an amendment which would delete the statutory language referring to actions not required to be determined on the record, and which clarifies that any notice of adverse action or final disposition shall be accompanied by a written statement of supporting facts and legal authority.

The conferees believe that the Office of Interstate Land Sales needs to be more sensitive to the objectives of the Administrative Procedures Act. Several important federal policies which affect substantive rights have been established by HUD through guidelines or advisory letters which are not subject to the public comment and review procedure. OILSR should seek to maximize the opportunity fo public participation in its policy making.

CRIMINAL PENALTIES

The House bill contained a provision not contained in the Senate amendment to increase the criminal penalties for willfully violating the provisions of the title (including any cease and desist order issued under section 1415) from $5,000 to $10,000 and from a maximum of 5 years to 7 years imprisonment. The conference report contains the House provision with an amendment which deletes the reference to cease and desist orders and which provides a maximum penalty of 5 years imprisonment.

REPORT TO CONGRESS

The House bill contained a provision not contained in the Senate amendment requiring the Secretary to report to Congress by March 1, 1981, and biennially thereafter, on the administration of this title and its impact upon the land development industry and purchasers and lessees of undeveloped land, and that such report shall also contain legislative recommendations. The conference report contains the House provision.

EFFECTIVE DATE

The conference report also contains a provision which provides that the effective date for all amendments to the Interstate Land Sales Full Disclosure Act made by this title shall be the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act, except that the intrastate exemption shall take effect on the date of enactment of this Act.

Since the effective date of the intrastate exemption is the date of enactment and HUD will not have an opportunity to issue regulations by that date, the conferees urge developers who believe they may qualify for the exemption to act cautiously so they will not be in violation of the law.

In order to provide guidance to developers, the conferees direct the Secretary to move expeditiously to issue guidelines relating to the provision requiring the absence of liens as soon as possible after enactment (and prior to the development and final regulations) and to respond quickly to any requests from developers for advisory opinions regarding the applicability of this exemption.

TITLE V—RURAL HOUSING

INDIVIDUAL PROGRAM AUTHORIZATION

*Guaranteed and insured loans*

*General authorization.*—The House bill contained a provision authorizing, subject to limitation by appropriations Acts, the Secretary to insure or guarantee loans with an aggregate principal amount not to exceed $3,906,000,000 for fiscal year 1980. The Senate amendment did not include a similar provision. The conference report contains this provision, amended to establish the limitation for insured or guaranteed loans at an amount not to exceed $4,484,000,000.

*Low and moderate income or elderly rental and cooperative housing assistance.*—The House bill, but not the Senate amendment, provided for an authorization subject to appropriation Acts of not less than $2,857,000,000 for loans insured in connection with interest credits and assistance payments authorized pursuant to section 521. The conference report adopts this provision amended to establish an amount not less than $3,070,000,000 of any amount approved by appropriations Acts for loans pursuant to section 521(a)(1)(B) or (C).

*Section 516 domestic farm labor assistance*

The House bill contained a provision which authorized to be appropriated not to exceed $25,000,000 for fiscal year 1980 for section 516 grants, while the Senate amendment extended the existing authorization of not to exceed $30,000,000 for fiscal year 1980. The conference report contains the Senate provision.

*Research*

The House bill included a provision not contained in the Senate amendment which authorized to be appropriated not to exceed $1,000,000 for fiscal year 1980 research activities under section 506. This provision is not contained in the conference report.

*Advance expense payments*

The House bill included a provision, not in the Senate amendment, which authorized an appropriation of not to exceed $5,000,000 for fiscal year 1980 for advances to certain FmHA borrowers for taxes, insurance and other expenses. The conference report adopts this provision with an amendment providing that such funds be available to the extent approved in Appropriations Act, out of the Rural Housing Insurance Fund.

*Construction defects*

Included in the House bill was a provision not contained in the Senate amendment, which authorized an appropriation of not to exceed $5,000,000 for fiscal year 1980 for construction defects payments. The conference report does not contain the House provision.

*Technical assistance and counseling*

The House bill contained a provision which authorized to be appropriated not to exceed for fiscal year 1980: $1,200,000 for technical assistance outreach grants; $3,800,000 for prepurchase and delinquency counseling; and $1,000,000 for technical assistance loans. A similar provision in the Senate amendment extended the existing authorization of $5,000,000 for both technical assistance and counseling pursuant to existing section 525(a) and $5,000,000 for technical assistance loans for fiscal year 1980. The conference report contains the Senate provision with an amendment providing (1) $1.5 million for technical assistance grants of which not less than $750,000 must be used for counseling FmHA prepurchasers and delinquent borrowers; and (2) $1 million for technical assistance loans.

The conferees are aware that FmHA still has a serious delinquency problem that could be substantially reduced by providing counseling services to prospective and delinquent FmHA borrowers. FmHA may find it useful to review HUD's experience with such counseling. The conferees expect that counseling funds will be used to complement existing FmHA staff counseling capacity. The conferees further expect FmHA to allocate counseling funds to the field in accordance with the need generated by factors such as the volume of new loan activity, the extent of delinquencies and other similar factors. The conferees also urge FmHA to assure that organizations and agencies that are to provide prepurchase and delinquency counseling have expert counseling capacity and develop comprehensive counseling services, in addition to home ownership counseling, where such services are required in other housing assistance programs.

*Sections 235 and 236 of the National Housing Act and section 8 of the U.S. Housing Act of 1937*

The House bill contained a provision, not included in the Senate amendment, which added section 8 to the existing authorization for appropriation of sums as may be required to administer sections 235 and 236. The conference report adopts the House provision.

*Mutual self-help grants and loans*

The House bill included a provision which authorized an appropriation not to exceed $1 million for fiscal year 1980 for mutual and self-help housing loans and grants, while the Senate amendment contained a similar provision which authorized an appropriation for fiscal year 1980 of not in excess of $7,500,000. The conference report provides an authorization of $5 million for fiscal year 1980.

*Mutual self-help site development loans*

The Senate bill contained a provision which authorized for appropriation $3 million for the self-help development loan fund for fiscal year 1980, while the House bill did not include a similar provision. The conference report contains the Senate provision, amended to establish the amount authorized for appropriation at $1 million for fiscal year 1980.

HOAP FUNDING PROCESS

*Limitation of contract authority for HOAP assistance*

The House bill included a provision, not contained in the Senate amendment, which limited the amount of contract authority for home ownership subsidies to an aggregate amount of $985 million for fiscal year 1979 and $500 million for fiscal year 1980, as approved in appropriation acts; and which provides that no such assistance may be approved for any year after fiscal year 1980. The conference report adopts the House provision.

*Authorization to reimburse RHIF*

The House bill contained a provision, not included in the Senate amendment, which authorized to be appropriated such sums as may be necessary to reimburse the RHIF for

HOAP assistance payments. The conference report contains the House provision.

*Loan limitations*

The House bill contained a provision which deleted the existing limitation on the aggregate principal amount of loans made in connection with HOAP. The provision included in the Senate amendment provided that the existing limit of $440 million on the principal amount loans made in connection with HOAP shall apply to new loans made in any year. The conference report contains the House provision.

FMHA HOUSING LOAN INTEREST RATES

The House bill contained a provision not contained in the Senate amendment establishing the interest rate applicable to FmHA rural housing loan as the same as that which is applicable to HUD insured mortgages pursuant to section 203(b)(5) of the National Housing Act. The conference report contains the House provision, amended to maintain the interest rate at the level provided in existing law but to permit the Secretary to raise the interest rate to the maximum of the FHA 203(b) rate upon a finding that the borrower for any single-family or multifamily loan has the ability to pay such a rate.

DEFINITION OF LOW INCOME

The House bill contained a provision not contained in the Senate amendment which defined "persons of low income" and "persons and families of low income" as families and persons having incomes not exceeding 80 percent of the area median income as determined by the Secretary of the Department of Agriculture with adjustments for smaller and larger families; however, the House provision would have permitted the Secretary to establish income ceilings higher or lower than 80 percent upon finding such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes or other factors. The House provision further defined "income" as income from all sources of each member of the household in accordance with criteria established by the Secretary.

The conference report contains the House provision amended to provide that the Secretary may use State nonmetropolitan median income wherever he determines that it is impracticable to use median income for the area.

For the purposes of this section, nonmetropolitan median income for a substate district may be substituted for the median income for the area wherever it is determined appropriate by the Secretary.

LIMITATION ON RENTAL ASSISTANCE UNITS

The House bill contained a provision that increased the percentage of family units that may receive rental assistance from 20 to 40 percent of the units in a project. The Senate bill provided that up to 100 percent of the units in a project including units designated for families, the elderly, or farmworkers, may receive rental assistance, and established a priority for those projects in which 40 percent or less of the units receive rental assistance. The conference report contains the House provision with an amendment increasing from 20 to 70 percent the percentage of units that may receive rental assistance in FmHA rental projects and giving a priority to multifamily projects in which 40 percent or less of the units will receive rental assistance.

The conferees reaffirm their commitment to the objective of achieving, where feasible, an economic and social mix in projects receiving rental assistance. The conferees also recognize that market and economic conditions in some communities, particularly those with relatively low median income, may require the Secretary to exercise the authority contained in this section to permit rental assistance on a project-by-project basis in up to 100 percent of family units. The conferees expect that, in selecting rental projects that are to receive FmHA assistance, especially with respect to large rental projects to be occupied by families, the Secretary will give priority to projects in which 40 percent or less of the families will receive rental assistance.

*Definition of rural area*

The Senate amendment, but not the House bill, provided that the Secretary may waive the requirement that a community of between 10,000 and 20,000 persons must be outside of an SMSA in order to be eligible for FmHA programs, (1) if the community is eligible for assistance under section 119 of the Housing and Community Development Act of 1974 or other Federal programs targeted to areas of distress, and (2) if the application shows the rural character, need for low income housing, lack of mortgage credit, and lack of sufficient funding from other Federal housing programs in such community. The Senate provision is not contained in the conference report.

PREPAYMENT OF SECTION 514 AND SECTION 515 LOANS

The House bill contained a provision which required that, where the owner of a project covered by a section 514 or section 515 loan offers or is requested by the Secretary to prepay the mortgage loan, the Secretary may not accept such prepayment unless the owner or its successor is obligated to use the assisted housing for the purposes specified in section 514 and section 515 for the duration of the original loan repayment schedule, or until the Secretary determined there is no longer a need for such housing or that Federal or other financial assistance to the residents of such housing would no longer be provided.

The Senate amendment contained a similar provision, except that it (1) made a declaration of the intent of Congress to be that prepayment or refinancing under section 502(b) should not operate to deprive low-income occupants of rural rental or farm labor housing, of their right to continue residency in that housing, (2) provided that the Secretary shall require the borrower and any successors in interest: (a) to continue to use the housing for its original purposes for a 15-year period beginning on the date the loan is made or insured, and (b) to give assurance that prepayment won't force an occupant to vacate prior to the close of such 15-year period, except that the provision would not have applied where the Secretary determined there is no longer a need for such housing, and (3) limited the requirement to projects which are approved for section 514 and section 515 loans after the date of enactment.

The conference report contains the House provision amended to provide that, where the owner of a project covered by section 514 or section 515 loan offers to prepay the mortgage loan, the Secretary may not accept such prepayment unless the owner or its successor is obligated to use the assisted housing for the purposes specified in section 514 or section 515 for a period of 20 years from the date on which the loan was made, or for a period of 15 years from the date on which the loan was made in the case of housing which has not received interest credit, rental assistance or section 8 assistance, or until the Secretary determines there is no longer a need for such housing, or that Federal or other financial assistance to the residents of such housing will no longer be provided. But in the case of loans made prior to the date of enactment of this section, the Secretary shall accept offers to prepay after examining the offer and its likely consequences (a) unless the Secretary determines that due to a change in the use of such housing and related facilities, or to an increase in rental or other charges, likely to occur as a result of prepayment, the low and moderate income and elderly tenants occupying the assisted housing and related facilities at the time of such offer cannot reasonably be expected to remain in occupancy for such period, however, notwithstanding such a determination, the Secretary shall accept an offer to prepay if the tenants who are likely to be displaced as a result of such changes or increases will be provided with affordable, decent, safe, sanitary, and available alternative housing; or (b) in the case of housing and related facilities containing more than ten dwelling units, unless the Secretary determines that the changes likely to occur as a result of such prepayment will have a substantial adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low and moderate income and elderly persons in the area in which such housing and related facilities are located.

In determining whether affordable housing will be available to low or moderate income or elderly tenants likely to be displaced by a prepayment, the Secretary shall only consider nonassisted housing units and such vacant assisted units for which there is no waiting list. If such housing is not available at the time of the request for a prepayment, or is not expected to be available at the time the prepayment would occur if approved by the Secretary, the Secretary nevertheless may approve a prepayment upon the finding condition that any such tenants who are not able to relocate into decent, safe and sanitary housing that they can afford will be allowed to remain in the project, at a rental charge not in excess of what they would have paid if the loan had not been prepaid, for such time as the Secretary shall determine, up until the expiration of the 15 or 20 year period, whichever is applicable, or until such housing becomes available, whichever first occurs.

TECHNICAL ASSISTANCE, COUNSELING, AND TRAINING

*Counseling*

The House bill contained a provision, not included in the Senate amendment, permitting the Secretary to allocate funds for the purpose of providing counseling to FmHA loan recipients. The conference report does not contain this provision.

*Training for self-help housing agencies and organizations*

The Senate amendment contained a provision that was not included in the House bill which authorizes grants to national or regional private nonprofit corporations for providing training and technical assistance to local public or nonprofit corporations, agencies and institutions, organizations and other associations eligible to receive funds under section 523 to provide to rural low income families technical assistance in constructing their homes. The conference report contains the Senate provision.

The conferees are aware that self-help housing activities require highly technical staff who have a broad knowledge of housing, construction, and related matters. Many local eligible self-help housing groups often are found to be in need of training and technical assistance to qualify new staff or to upgrade the knowledge of existing staff, however, they may not have the capability to provide such assistance from within. A number of national and regional groups involved in rural housing having special expertise in self-help housing could provide the training and technical assistance to such regional and local self-help groups if FmHA was permitted to provide them with the necessary funding.

The conferees expect that in providing such funding the Secretary will be mindful of

the sizeable costs per unit that has been experienced in the self-help housing program and will utilize this assistance to aid in reducing those costs. It is further expected the Secretary will assure that the local and regional groups that receive the assistance provided herein will be selected for assistance on the basis of specific need criteria developed by FmHA to assure that those most in need of actual self-help construction training are given priority.

REFINANCING

The Senate and House bills both contained a provision to delete the prohibition in existing law barring FmHA from refinancing loans that are 5 years old or less. The House bill contained specific conditions not contained in the Senate amendment limiting refinancing (1) to circumstances in which the applicant will lose his home, at an early date, for reasons beyond his control, and (2) in the case of substandard dwellings, where the lack of refinancing is likely to result in the applicant continuing to be deprived of a decent, safe and sanitary dwelling. The conference report contains the House provisions.

The conferees, in approving the new refinancing authority, expect the Secretary to use the authority to assist rural home owners threatened with the loss of their homes or continuing housing deprivation under certain circumstances. At the same time, the conferees desire the Secretary to use the new authority prudently and in a manner that does not encourage borrowers to relax in managing their finances and fully meeting their loan obligations.

The conferees intend that the Secretary should provide applicants refinancing assistance where, because of illness, loss of employment or income resulting from a local or national economic downturn, or such other similar events or unforeseen circumstances, the applicant might lose the dwelling.

The conferees also expect the Secretary not to deny refinancing assistance to an applicant because his or her dwelling is not found to be dilapidated or uninhabitable. A deteriorating dwelling with major deficiencies in decent, safe and sanitary standards should, if otherwise eligible, be permitted to be refinanced.

PROPERTY DISPOSITION

The House bill required the Secretary to assure, in disposing of properties that are to be continued as residential, that such properties not be substandard before or within a reasonable time after such sale or disposition. The Senate amendment was similar except that it precluded the Secretary from such sale or disposition unless (1) the property meets FmHA standards for hability, (2) the purchaser is obligated to meet such standards before the property is occupied, or (3) the purchaser is precluded from using the property for residential purposes. The conference report contains the House provision, amended to require that such assurance be made prior to sale or disposition.

CONSTRUCTION DEFECTS

The House bill and the Senate amendment both contained provisions to extend by 18 months the period during which an FmHA assisted home owner could request assistance for construction defects, but the Senate amendment contained an additional provision extending from 18 to 36 months during which an owner assisted after October 12, 1977, could request such assistance. The conference report does not contain the additional Senate provision.

The conferees also express continuing concern about the problem of construction defects in FmHA assisted housing, and urge the Secretary to consider establishing a warranty program to protect homebuyers from construction defects.

Both the House bill and the Senate amendment approved extension of the period during which an FmHA assisted home owner could request assistance because it was found that some of the intended beneficiaries of the program were denied the full 18 months that Congress had initially provided.

FARM LABOR HOUSING

The Senate amendment contained two provisions dealing with farm labor housing not included in the House bill. The first provision would have authorized the Secretary to provide financial assistance, not exceeding 90 percent of total development cost, for the construction of farmworker housing that would be adequate for seasonal occupancy by migrant farmworkers. The second provision would have prohibited the Secretary from approving rental charges for farm labor housing that exceed 25 percent of the tenant's income unless the tenant is receiving housing assistance or a good faith effort has been made to secure such assistance.

The conference report contains the first provision with an amendment deleting the requirements concerned with the location of the housing and the availability of recreation in the area.

In adopting the provision authorizing the Secretary to aid in the construction of housing for migrant farmworkers, the conferees intend that the Secretary shall give appropriate recognition to the need for seasonally occupied housing, in addition to housing suitable for year-round occupancy. The conferees expect the Secretary to encourage sponsors under this program to provide housing that is safe, weatherproof, equipped with potable water, modern sanitation and such other reasonable amenities but also, wherever practicable, to provide sites which offer a safe and sanitary enivornment, and include areas appropriate for recreation purposes.

The conferees did not adopt the statutory language limiting rent payments in farmworker housing. The conferees expect the Secretary, before approving any rent increases, to give "due consideration to the income and earning capacity of the tenants", as specified in existing law, and to require applicants seeking such increases to make reasonable efforts to obtain FmHA or HUD rental assistance for tenants whose rental charges are likely to be excessive for low-income migrant farmworkers. The conferees further direct the Secretary to complete, in an expeditious manner, the study of Farmworker Housing Needs contained in the Housing and Community Development Amendments of 1978.

The conferees intend that if the housing for agricultural workers for which construction grants are made comes under the control of employers of such workers or of farm labor contractors, the Secretary of Labor's enforcement authority regarding the maintenance of such housing in safe and healthful conditions shall not be preempted.

SECTION 504 LOAN CEILINGS

The Senate amendment contained a provision not included in the House bill to increase from $5,000 to $7,500 the limit for a section 504 home repair loan or a combined loan and grant. The conference report contains the Senate provision.

The conferees intend that section 504 loans and grants be used to assist all eligible very low-income families and individuals to meet their housing repair needs. The conferees recognize that by limiting the use of section 504 loans and grants exclusively to the very low-income elderly, the present program is failing to serve the very real needs of non-elderly very low-income families and individuals. These needs have substantially increased in recent months as a result of the rising home heating costs and the need of many very low-income families to weatherize their homes. The conferees do not intend that the Secretary de-emphasize the program for elderly persons but rather that the Secretary also consider the needs of other very low-income families in carrying out the program.

ALLOCATION OF ASSISTANCE

The Senate amendment contained a provision not contained in the House bill which provided that notwithstanding any other provision of law in each fiscal year, at least 30 percent of the eligible households assisted under the Farmers Home Administration programs must have incomes below 50 percent of the national median income, and no more than 15 percent of the eligible households assisted may have incomes above 80 percent of the national median income, except that the percentage requirements of this section would have applied to State or area median income rather than national median income in those States or areas with extremely high prevailng incomes, as determined by the Secretary.

The conference report contains the Senate provision amended to provide that at least 30 percent of the assistance made under the Farmers Home Administration in any fiscal year shall, to the extent practicable, benefit persons with incomes below 50 percent of the area median income. The conferees believe that the Farmers Home Administration should strive to achieve the 30 percent goal, but acknowledge that funding limitations and cost constraints could limit its ability to do so.

The conferees intend that in implementing this provision, the Secretary take reasonable steps to assure that funds are provided to meet existing formal or conditional commitments where subdivisions have been approved by FmHA and the houses have been constructed and inspected and appraised by FmHA.

SECTION 524 SITE-DEVELOPMENT LOANS

The House bill contained a provision, not included in the Senate amendment, which allowed the Secretary to make loans to public or private nonprofit organizations for site development for residential housing without regard to whether such housing will be eligible for assistance under federal, state or local law. This provision is not included in the conference report.

TITLE VI—MISCELLANEOUS

AUTHORITY

The House bill contained a provision not contained in the Senate amendment providing that any amendment made by this Act which creates new budget authority shall become effective on October 1, 1979. The conference report does not contain the House provision.

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

The House bill contained a provision not contained in the Senate amendment which provides that Social Security benefit increases occurring after May 1979, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the U.S. Housing Act of 1937, the National Housing Act, the HUD Act of 1965, or the Housing Act of 1949; which defines the term "Social Security benefit increases occurring after May, 1979", and which provided that this section shall be effective only with respect to housing assistance which is provided for period after September 30, 1979. The conference report does not contain the House provision.

FEDERAL INSURANCE ADMINISTRATION

*Crime and riot insurance*

*New insurance.*—The Senate amendment contained a provision not found in the House bill extending the powers of the Secretary to provide new crime insurance and riot reinsurance through September 30, 1981. The conference report contains the Senate provision.

*Existing insurance.*—The Senate amendment contained a provision not in the House bill authorizing the Secretary to continue existing crime insurance and riot reinsurance coverage through September 30, 1984. The conference report contains the Senate provision as amended to require that the liquidation plans be submitted no later than September 30, 1981.

*Flood insurance*

*New insurance.*—The Senate amendment contained a provision not in the House Bill authorizing the Secretary to provide new flood insurance coverage through September 30, 1981.

*Emergency program.*—The Senate amendment contained a provision not in the House bill extending through September 30, 1981 authority to provide subsidized flood insurance under the emergency program in communities for which no actuarial rates and elevation studies have been completed.

*Authorization for studies.*—The Senate amendment contained a provision not in the House bill authorizing to be appropriated for flood elevation studies not to exceed $74 million for fiscal year 1980.

*Transfer of position of Federal Insurance Administrator*

The Senate amendment contained a provision not contained in the House bill transferring the position of Federal Insurance Administrator from HUD to the Federal Emergency Management Agency. The conference report contains the Senate provision.

*Study of impact of flood insurance program*

The Senate amendment contained a provision not contained in the House bill directing the Federal Insurance Administrator, in consultation with the Army Corps of Engineers, the Appalachian Regional Commission, and other appropriate agencies to carry out a study identifying: (1) the extent to which individual political jurisdictions have significant concentrations of population, businesses, and other commercial and public facilities within special flood hazard studies under the flood insurance program, but have limited availability of alternatives sites for development, and (2) the impact of the flood insurance program on property values, tax base, and economic activity in such jurisdictions and shall report to the Congress not later than March 1, 1989, on the special problems of such jurisdictions and alternative means of meeting the problems identified. The alternative means to be considered shall include, but not be limited to, technical assistance, long term subsidized loans and alternative building sites. The conference report does not contain this provision.

The conferees are informed that the Federal Insurance Administrator is currently conducting such a study of flood insurance impact, particularly in those areas with limited alternative sites for development both within and without the flood hazard areas. The conferees understand that the Administrator is working together with the Corps of Engineers on this study and urges her to work jointly with the Appalachian Regional Commission and other appropriate state and local agencies. The conferees would urge the Administrator to complete this study and report her recommendations to the Congress by March 1, 1980.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
LES AUCOIN,
STANLEY LUNDINE,
BRUCE F. VENTO,
BILL STANTON,
CHALMERS WYLIE,
STEWART MCKINNEY,
TOM EVANS,

For consideration of provisions relating only to title IV and Senate modifications relating thereto:

JOE MINISH,
CARROLL A. CAMPBELL, JR.,
*Managers on the Part of the House.*

WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ALAN CRANSTON,
JOHN TOWER,
*Managers on the Part of the Senate.*

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHENEY) to revise and extend their remarks and include extraneous material:)

Mr. COURTER, for 10 minutes, today.

Mr. PAUL, for 15 minutes, December 18, 1979.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ULLMAN, for 5 minutes, today.

Mr. LELAND, for 60 minutes, on December 20.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CHENEY) and to include extraneous material:)

Mr. CLINGER.
Mr. WYDLER.
Mr. KEMP.
Mr. MICHEL in four instances.
Mr. BADHAM.
Mr. FINDLEY.
Mr. RITTER in three instances.
Mr. HOPKINS.
Mr. TAUKE.
Mr. SHUMWAY.
Mr. GILMAN.
Mr. RUDD.
Mr. ROTH in two instances.
Mr. BEREUTER.
Mr. EDWARDS of Oklahoma.
Mr. DANIEL B. CRANE.
Mr. PAUL in six instances.
Mr. CARTER.
Mr. COLLINS of Texas in two instances.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous matter:)

Mr. APPLEGATE.
Mr. HAMILTON.
Mr. LAFALCE in three instances.
Mr. LELAND.
Mr. LUKEN in two instances.
Mr. OTTINGER.
Mr. WOLFF in two instances.
Mr. NOLAN in two instances.
Mr. MICA.
Mr. DOWNEY.
Mr. SATTERFIELD.
Mrs. CHISHOLM.
Mr. SANTINI.
Mr. STARK.
Mr. PATTERSON in three instances.
Mr. BRADEMAS in two instances.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1227. An act for the relief of Munir P. Benjenk; to the Committee on the Judiciary.

## ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. An act for the relief of Naomi Chen;

H.R. 2532. An act for the relief of Gail Williamson; and

H.R. 2594. An act for the relief of Lunette Joyce Clarke.

## ADJOURNMENT

Mr. AUCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was ageed to; accordingly (at 6 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 14, 1979, at 9 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3016. A letter from the District of Columbia Auditor, transmitting copies of four reports issued by his office, pursuant to section 455 of Public Law 93–198; to the Committee on the District of Columbia.

3017. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by H. Carl McCall, Alternate Representative-designate of the United States for Special Political Affairs in the United Nations, with the rank of Ambassador, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

3018. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions

made by Sidney Rand, Ambassador-designate to Norway, and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on Foreign Affairs.

3019. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of the Federal Republic of Germany for permission to transfer certain U.S.-origin defense articles to Governments of Greece and Turkey, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3020. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense services to Saudi Arabia (Transmittal No. 80–25), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3021. A letter from the Deputy Assistant Secretary of State for Congressional Relations, transmitting notice of proposed changes in an existing records system maintained by the National Security Agency, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

3022. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed new records system for the Immigration and Nautralization Service, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

3023. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend section 5702 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses of Government employees on official travel; to the Committee on Government Operations.

3024. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $5,178.47 in excess gas royalties to the CNG Producing Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3025. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $7,292.45 in excess gas royalty payments to the Forest Oil Corp., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3026. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $26,214.76 in excess gas royalty payments to Texaco Inc., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3027. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3028. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement on Imperial Beach erosion control, San Diego County, Calif., pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

3029. A letter from the Comptroller General of the United States, transmitting a report on the Federal Government's in-house energy conservation efforts (EMD–80–11, December 12, 1979); jointly, to the Committees on Government Operations, and Public Works and Transportation.



## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee of conference. Conference report on S. 673 (Report No. 96–702). Ordered to be printed.

Mr. ZEFERETTI: Committee on Rules. H. Res. 506. A resolution providing for the consideration of H.R. 5980. A bill to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes (Report No. 96–703). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. Report of the Committee on Ways and Means, relating to section 302(b) allocation, the Second Concurrent Budget Resolution for fiscal year 1980 (Report No. 96–704). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee of conference. Conference report on S. 918 (Report No. 96–705). Ordered to be printed.

Mr. REUSS: Committee of conference. Conference report on H.R. 3875 (Report No. 96–706). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

By Mr. VAN DEERLIN (for himself, Mr. STAGGERS, Mr. MURPHY of New York, Mr. WIRTH, Mr. MARKEY, Mr. MOTTL, Mr. SWIFT, Mr. LUKEN, Mr. GORE, Mr. MATSUI, Mr. BROYHILL, Mr. COLLINS of Texas, Mr. MOORHEAD of California, Mr. MARKS, and Mr. LOEFFLER):

H.R. 6121. A bill to amend the Communications Act of 1934 to make certain revisions in the provisions of such act relating to the regulation of telecommunications activities; to the Committee on Interstate and Foreign Commerce.

By Mr. CORRADA:

H.R. 6122. A bill to amend title 5 of the United States Code to provide for the transportation of remains, dependents, and effects of certain Federal employees whose homes or official stations are located in parts of the United States outside the continental United States, and for other purposes; to the Committee on Government Operations.

H.R. 6123. A bill to clarify certain definitions used in the Shipping Act, 1916; to the Committee on Merchant Marine and Fisheries.

By Mr. COURTER:

H.R. 6124. A bill to amend title XVI of the Social Security Act to provide that the income and resources of parents shall not be attributed to their children (for purposes of determining the eligibility of such children for SSI benefits) in certain cases where the payment of such benefits is necessary to enable the parents to provide disability-related home care without which the children would require continued institutionalization; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 6125. A bill to amend the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

H.R. 6126. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income any commuter passes received by an employee from an employer; to the Committee on Ways and Means.

By Mr. LEACH of Iowa:

H.R. 6127. A bill to amend the Internal Revenue Code of 1954 to deny the foreign tax credit with respect to certain amounts paid to oil cartel countries; to the Committee on Ways and Means.

H.R. 6128. A bill to limit investment in the United States by nations which are members of an oil cartel, and by the residents and other legal entities of such nations, and for other purposes; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Interstate and Foreign Commerce.

H.R. 6129. A bill to provide for acceleration of U.S. Government purchases of crude oil for the strategic petroleum reserve and for participation by the private sector in establishing and maintaining said reserve; to the Committee on Interstate and Foreign Commerce.

H.R. 6130. A bill to provide that major petroleum producers, refiners, and marketers may not acquire any business (or interest therein) which is outside of the petroleum industry while the United States is dependent on foreign energy sources; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

H.R. 6131. A bill to prohibit any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compelled by a foreign state to take the action which is the basis of the proceeding; to the Committee on the Judiciary.

H.R. 6132. A bill to amend the act of February 25, 1920, commonly known as the Mineral Leasing Act, to require competitive bidding for leases on Federal lands with oil or gas deposits, to require diligent exploration for, and development and production of, such oil or gas deposits, to limit the assignment of leases of lands with such deposits, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 6133. A bill to amend the Bretton Woods Agreements Act to authorize the actions necessary to establish a substitution account in the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

H.R. 6134. A bill to amend section 207 of title 18 of the United States Code to extend from 2 to 5 years the prohibition on former officers and employees of the United States representing persons before the United States if such persons are foreign governments or instrumentalities of foreign governments and to apply such prohibition to former Members of Congress; to the Committee on the Judiciary.

By Mr. LLOYD (for himself, Mr. MCDONALD, Mr. CLAY, Mr. DORNAN, Mr. WHITEHURST, Mr. DAN DANIEL, Mr. DUNCAN of Tennessee, Mr. ERTEL, Mr. BAFALIS, Mr. GUDGER, Mr. SYMMS, Mr. DICKINSON, Mr. STANGELAND, Mr. SOLOMON, Mr. JENRETTE, Mr. HUGHES, Mrs. SPELLMAN, Mr. TAUKE, Mr. FROST, Mr. CLEVELAND, Mr. DANIELSON, Mr. BROYHILL, Mr. CHAPPELL, Mr. GUYER, Mr. STACK, Mr. SAWYER, Mr. ROE, Mr. ROUSSELOT, Mr. SNYDER, Mr. DERWINSKI, Mr. LUJAN, Mr. MCCLOSKEY, Mr. CHARLES WILSON of Texas, Mr. MATHIS, Mr. COLLINS of Texas, Mr. LAGOMARSINO, Mr. LEACH of Louisiana, Mr. BURGENER, Mr. MINETA, Mr. EDWARDS of Oklahoma, Mr. BEDELL, Mr. CAMPBELL, Mr. COUGHLIN, Mr. ROYER, Mr. GRAY, Mr. ERDAHL, Mr. ANTHONY, Mr. FAZIO, Mr. GARCIA, Mr. MURPHY of Pennsylvania, Mr. BEVILL, and Mr. EVANS of Georgia):

H.R. 6135. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income taxes for expenses incurred as a result of an income tax audit, in any case in which the taxpayer is not liable for more taxes as the result of such audit; to the Committee on Ways and Means.

By Mr. PERKINS (for himself and Mr. ANDREWS of North Carolina):

H.R. 6136. A bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income individuals and families, and severely handicapped individuals, to participate in energy assistance programs; jointly, to the Committees on Education and Labor, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. SHUMWAY:

H.R. 6137. A bill to convey certain interests in public lands to the City of Angels, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 6138. A bill to extend the period for congressional review of the act passed by the Council of the District of Columbia entitled "The Location of Chanceries Amendment Act of 1979"; to the Committee on the District of Columbia.

By Mr. TRAXLER:

H.R. 6139. A bill to amend title XIV of the Public Health Service Act to authorize States with primary enforcement responsibility for drinking water standards to grant variances from turbidity requirements for certain public water systems; to the Committee on Interstate and Foreign Commerce.

By Mr. ULLMAN (for himself, Mr. ROSTENKOWSKI, and Mr. CONABLE):

H.R. 6140. A bill to prevent the abuse of certain pension plan provisions of the Internal Revenue Code of 1954 through the use of separate corporations or other organizations; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.J. Res. 464. Resolution designating June 15, 1979 as "National Prayer Day for the Vietnam Dead and Missing"; to the Committee on Post Office and Civil Service.

By Mr. HYDE:

H.J. Res. 465. Resolution proposing an amendment to the Constitution of the United States to establish a 12-year term of office for judges of the Supreme Court; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H. Con. Res. 227. Concurrent resolution expressing the sense of the Congress that the President should act immediately to reduce the power of the Organization of Petroleum Exporting Countries to control the supply and price of oil and should act to reduce the vulnerability of the United States to a cutoff or decrease of oil supplied by the member countries of that organization; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, Interior and Insular Affairs, and the Judiciary.

By Mr. STARK (for himself, Mr. CHARLES WILSON of Texas, Mr. ZABLOCKI, Mr. BROOMFIELD, Mr. FASCELL, Mr. BROOKS, and Mrs. FENWICK):

H. Con. Res. 228. Concurrent resolution to disapprove the Location of Chanceries Amendment Act of 1979 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEACH of Iowa (for himself, Mr. PRITCHARD, Mr. DERWINSKI, Mr. OBERSTAR, Mr. DODD, Mr. BEILENSON, Mr. STARK, Mr. WHITEHURST, Mr. BEDELL, Mr. MCDONALD, Mr. BARNES, Mr. BONIOR of Michigan, Mr. MCCLOSKEY, Mr. SCHEUER, Mr. HUGHES, Mr. DOUGHERTY, Mr. LAGOMARSINO, Mr. AUCOIN, Mr. GILMAN, Mr. NEAL, Mr. WHITTAKER, Mr. EDWARDS of Oklahoma, Mr. PEASE, Mrs. FENWICK, Mr. MCHUGH, Mr. MITCHELL of Maryland, Mr. GREEN, Mr. DICKS, Mr. PANETTA, Mr. TAUKE, Mr. KRAMER, Mr. THOMPSON, Mr. DASCHLE, Mr. FRENZEL, Mr. ALBOSTA, Mr. FAZIO, Mr. BINGHAM, Mr. SOLARZ, Mr. PEPPER, Mr. OTTINGER, Mr. CARNEY, and Mr. LOWRY):

H. Res. 507. Resolution condemning the use of chemical agents in Indochina; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HALL of Ohio introduced a bill (H.R. 6141) for the relief of Fanny R. Ypola McCarthy; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3766: Mr. BEARD of Rhode Island.

H.R. 4312: Mr. BEARD of Rhode Island.

H.R. 5018: Mr. WYATT, Mr. BOWEN, Mr. YOUNG of Alaska, Mr. LOTT, Mr. FRENZEL, Mr. DERWINSKI, and Mr. CHARLES WILSON of Texas.

H.R. 5209: Mr. CONTE, Mr. BOLAND, Mr. DRINAN, Mr. SHANNON, Mr. MARKEY, Mr. MOAKLEY, Mrs. HECKLER, Mr. STUDDS, Mr. MAVROULES, Mr. DODD, Mr. GIAIMO, Mr. MCKINNEY, Mr. RATCHFORD, Mr. BEARD of Rhode Island, Mr. ST GERMAIN, Mr. JEFFORDS, and Mr. EMERY.

H.R. 5257: Mr. BEDELL, Mr. BURGENER, Mr. COELHO, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. DORNAN, Mr. ERDAHL, Mr. FAUNTROY, Mr. FAZIO, Mr. FRENZEL, Mr. HANCE, Mr. HUGHES, Mr. LAGOMARSINO, Mr. LEACH of Louisiana, Mr. LOTT, Mr. MARRIOTT, Mr. MONTGOMERY, Mr. MARKS, Mr. MOTTL, Mr. NEAL, Mr. STANTON, and Mr. WHITTAKER.

H.R. 5362: Mr. SEIBERLING, Mr. MCDADE, Mr. MINETA, Mr. MAVROULES, and Mr. MURPHY of Pennsylvania.

H.R. 5371: Mr. BUCHANAN, Mr. KOGOVSEK, Mr. SYMMS, Mr. WHITE, Mr. YOUNG of Alaska, Mr. TRIBLE, Mr. LIVINGSTON, Mr. VENTO, Mr. GRASSLEY, Mr. PRITCHARD, Mr. DAVIS of Michigan, Mrs. BYRON, Mr. HANCE, Mr. HINSON, Mr. ENGLISH, Mr. GOLDWATER, Mrs. FENWICK, Mr. MARKS, Mr. WYATT, and Mr. MITCHELL of New York.

H.R. 5477: Mr. ADDABBO and Mr. MITCHELL of New York.

H.R. 5499: Mr. GRISHAM, Mr. ZABLOCKI, Mr. THOMAS, Mr. VENTO, and Ms. OAKAR.

H.R. 5862: Mr. CORCORAN, Mr. BUTLER, and Mr. LOTT.

H.R. 5983: Mr. OBERSTAR.

H.R. 6021: Mr. HUGHES, Mr. DERRICK, and Mr. VANIK.

H.R. 6070: Mr. MCCORMACK and Mr. DUNCAN of Oregon.

H.R. 6109: Mr. COTTER and Mr. SHARP.

H. Con. Res. 201: Mr. GINGRICH, Mrs. SMITH of Nebraska, Mr. SEBELIUS, Mr. RUNNELS, Mr. DEVINE, Mr. DANIEL B. CRANE, Mr. KINDNESS, Mr. BENJAMIN, Mr. MOTTL, Mr. DUNCAN of Tennessee, Mr. STENHOLM, Mr. ROBERT W. DANIEL, JR., Mr. DORNAN, and Mr. TRIBLE.

## PETITION, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were presented and referred as follows:

251. By the SPEAKER: Petition of the city council, Garfield, N.J., relative to Iran; to the Committee on Foreign Affairs.

252. By the SPEAKER: Petition of the American University Democrats, Washington, D.C., relative to Iran; to the Committee on Foreign Affairs.

253. By the SPEAKER: Petition of the 44th convention of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada, New Orleans, La., relative to Northern Ireland; to the Committee on Foreign Affairs.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

By Mr. MAGUIRE:

(In the nature of a substitute.)

—Section 11 is amended by inserting after paragraph (b), the following:

(c) The Secretary of Transportation shall conduct a study to determine the feasibility of federal, state, and local governments, and private corporations contracting over the next three to five years with the Chrysler Corporation or any other manufacturer or group of manufacturers for the purchase of advanced alternatives to existing automobiles which can be manufactured at reasonable cost with the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed by the National Highway Traffic Safety Administration. The purpose of the study would be to assess the feasibility of manufacturing advanced automobiles which would be available for a broad market beginning with federal, state, and local government procurement and corporate fleet purchase in order to:

1. Substantially advance innovative automobile safety technology and fuel efficiency;

2. Reduce the Nation's dependence of foreign oil;

3. Protect the Nation against trade and balance of payments deficits incurred by excessive domestic sales of imported automobiles;

4. Enhance and facilitate competition in advanced development and production techniques, including the use of quality control circles, in the automobile industry;

5. Provide increased opportunities for employment within the United States; and

6. Assure that safety needs are met at the same time that automobiles become lighter and smaller to assure fuel efficiency.

The Secretary shall report the results of his study to the Board, with his recommendations, not later than six months after the enactment of this Act.

Section 11, paragraph (c) is redesignated paragraph (d) and amended by striking the word "study" and inserting in lieu thereof the word "studies".

By Mr. MICA:

—Page 26, line 14, insert "(1)" after "(c)".

Page 27, after line 3, insert the following:

(2)(A) During the period beginning on December 31, 1990, and ending on December 31, 2000, each borrower shall pay to the Secretary, at a rate determined by the Secretary, an additional guarantee fee in an amount determined by the Secretary to equal the amount by which the total debt service costs (including all guarantee fees) of such borrower under all loans guaranteed for such borrower under this Act is less than the total debt service costs which such borrower would have incurred if such borrower had secured such loans at the market rate of interest through private credit markets.

(B) For purposes of this paragraph, the term "market rate of interest" means the rate of interest charged on a loan to an enterprise which, at the time of such loan, is financially viable and has approximately the same assets as the borrower.

By Mr. PATTERSON:

(Amendment to the Moorhead amendment in the nature of a substitute.)

—Section 13, insert the following new subsection:

(c) The Secretary of the Treasury in con-

sultation with the Secretary of Defense shall conduct a study regarding the possibility of establishing the Tank Division of the Chrysler Corporation as an independent corporation which is not financially dependent upon the Chrysler Corporation. Such study shall consider the potential advantages and disadvantages which establishing such a corporation would have on the tank production program of the United States Army and the operation of the Chrysler Corporation. Not later than 180 days after the date of the enactment of this Act, a report shall be transmitted to the Congress containing the findings and conclusions of such study and such recommendations regarding the establishment of such corporation as the Secretary of the Treasury and the Secretary of Defense consider appropriate.

By Mr. SOLOMON:

(To the amendment in the nature of a substitute to H.R. 5860.)

—On page 21, section 11(a), line 17, after "1980's" insert the following: "the economic impact on the industry of Federal regulatory requirements and the necessity thereof,".

H.R. 5980

By Mr. WALKER:

—Strike out all from line 20 on page 57 through line 6 on page 58 inclusive.

Renumber succeeding sections accordingly.

—On page 73, strike out lines 3 through 14 inclusive.

Renumber succeeding sections accordingly.

# SENATE—*Thursday, December 13, 1979*

*(Legislative day of Thursday, November 29, 1979)*

The Senate met at 12 meridian, on the expiration of the recess, and was called to order by Hon. JOSEPH R. BIDEN, JR., a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Eternal Father, when the way is hard and the hours long, we come to Thee, the Great Burden Bearer who never leaves us nor forsakes us. When we are unmindful of Thee remind us of Thy nearness, Thy wisdom, Thy strength, Thy grace. Take us as we are, reinforce us by Thy spirit and use us in shaping those policies and programs which best enhance the well-being of this Nation and move forward Thy kingdom on Earth. We ask not to be delivered from our work but for strength with which to do it. When evening comes, grant us hearts at peace, bodies at rest, and minds being renewed for greater service in Thy kingdom.

And to Thee shall be the praise and the thanksgiving. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., December 13, 1979.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH R. BIDEN, JR., a Senator from the State of Delaware, to perform the duties of the Chair.

WARREN G. MAGNUSON,
*President pro tempore.*

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

## RECOGNITION OF MAJORITY LEADER

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

## THE JOURNAL

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

Mr. WEICKER. I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

## U.S. NATIONAL SECURITY POLICY

Mr. ROBERT C. BYRD. Mr. President, two important developments occurred Wednesday which should have a major bearing on U.S. defense posture.

In Brussels, the North Atlantic Treaty Organization gave formal approval to the proposal for theater nuclear force (TNF) modernization. This decision represents a significant and necessary step in maintaining NATO's deterrent capability and in countering Soviet advances in theater nuclear forces.

Meanwhile, President Carter, in a major statement on U.S. defense policy, outlined other steps being taken to strengthen our national security.

President Carter called for a steady and sustained growth in defense spending over the next 5 years. As the President states, the steady buildup by the Soviets calls for a calm, deliberate, and sustained American response, and that is what the President is proposing.

Today, Secretary of Defense Harold Brown will brief the Committee on Armed Services on the highlights of the proposed fiscal year 1981 budget and the 5-year defense program. This preview of the budget and 5-year plan marks probably the first time the Senate has received such a briefing prior to formal submission, but it is an important step within the context of the SALT II debate.

The Committee on Armed Services and the Senate will, of course, be taking a detailed look at the budget proposals in the months ahead.

I have consistently advocated a prudent, balanced modernization of our overall defense program, and I believe the plan outlined by President Carter and Secretary Brown moves us in that direction.

I do not favor "throwing" money at our defense problems. That is not a sound approach, and I do not believe the Congress would ever agree to anything other than a careful, reasoned, and sound defense program. We have to keep in mind the other pressing claims on our national resources, particularly the areas of energy, health, and social welfare. As President Carter pointed out, we must have a long-range, balanced approach to the allocation of Federal expenditures. We have to continue to meet such critical needs as jobs, housing, education, and health.

The defense program proposed by the administration will result in significant increases in defense spending, but will not increase the percentage of our gross national product devoted to defense, which will remain steady at about 5 percent.

I spoke in the Senate earlier this week on the steps we need to take to strengthen the international position of the United States in the 1980's—in foreign and defense policy, and in the critical area of energy and economic policy.

A key element in this overall approach is the SALT II treaty. I strongly concur with President Carter that we must act in both arms control and defense, and that these actions are vital to our national security.

There may be areas in which I would support the higher figure for our defense spending on a selective basis after a study and hearings, and listening to debate, than are included in the preview that is being given to Congress by the administration.

I have repeatedly stated—but I do not think the point can be made too often—that SALT II constitutes a positive contribution to our national security. Not only can we better maintain strategic equivalence with SALT II, but we will be in a better position to maintain the efficiency and readiness of our nonnuclear forces with SALT II than without it. We can better control the proliferation of nuclear weapons among other nations if SALT II is ratified.

Furthermore, SALT II is important to our NATO allies. The approval of SALT II, combined with Wednesday's decision on TNF modernization, will greatly bolster the unity and overall capability of our North Atlantic alliance.

## RECOGNITION OF THE ACTING MINORITY LEADER

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

## HOUSE MINORITY LEADER JOHN J. RHODES

Mr. STEVENS. Mr. President, yesterday my good friend and colleague in the Republican joint leadership, Congress-