SENATE—*Wednesday, February 20, 1980*

(Legislative day of Thursday, January 3, 1980)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by Hon. DONALD W. STEWART, a Senator from the State of Alabama.

PRAYER

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

Eternal God, our Creator and Redeemer, we acknowledge that Thou art holy and we are unholy, Thou art perfect and we are imperfect, Thou art pure and we are impure. As we open the Lenten days of penitence and renewal may a new spirit arise in us and in all the people of this good land. Take from us all that obstructs the way of righteousness and truth. Deliver us from pride and prejudice, from the clash of class with class, or race with race, from hostility or mistreatment of our fellow citizens, from distrust of one another, from intemperate speech, the hot invective, the cruel epithet. Set our minds upon the vision of Thy kingdom and a better people in a more righteous land that we may be partners in building that higher kingdom, the law of which is love and the ruler of which is the Lord of life.

We pray in His name who forgives and renews the humble and contrite of heart. 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., February 20, 1980.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. STEWART, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

THE NEED TO MAINTAIN U.S. NUCLEAR NONPROLIFERATION STANDARDS

Mr. CRANSTON. Mr. President, the Soviet invasion of Afghanistan has given a new urgency to U.S. efforts to improve our relations with India and Pakistan. The threat posed to the stability of south Asia by Soviet aggression in Afghanistan has also upped the stakes of the U.S. efforts to prevent the spread of nuclear weapons. For it is clear that the dangers of greater instability—and ultimately, of nuclear war—would be heightened if India and Pakistan were to acquire nuclear arsenals.

The twin imperatives of checking Soviet aggression and halting nuclear proliferation require a delicate balancing act. But as one who has long supported U.S. nonproliferation efforts, I think it is highly ironic that the Congress may be asked to take steps ostensibly to enhance the stability of Pakistan and India by supporting actions which may, in fact, lead to greater instability and vast dangers through an India-Pakistan nuclear arms race.

I am prepared to support appropriate military and economic assistance for Pakistan. And I welcome appropriate administration initiatives to improve our relations with India. But I have serious reservations about any steps that would in effect abandon permanently the application of important nonproliferation standards to our trade with and assistance to these nations.

I believe we should combine our offer of military and economic assistance to Pakistan with a redoubling of our efforts to stop Pakistan's development of a nuclear weapons capability.

And I see no sound justification for continuing U.S. nuclear fuel supplies for India after the March 10 deadline for Indian acceptance of international inspection, as the administration is planning to propose. There is little reason to expect that continued U.S. supply past this deadline will speed Indian compliance with international safeguards norms. Extension of this deadline could prove greatly harmful to U.S. nonproliferation efforts and could seriously worsen present instability in south Asia by intensifying Pakistani fears that India is developing nuclear weapons to use against them.

I believe the President was correct in being absolutely firm in demanding that the Soviet Union meet his February 20 deadline to get out of Afghanistan or face a U.S. boycott of the Moscow Olympics. I believe he should be equally firm in the case of India.

What is at stake is not only peace between two bitter enemies—India and Pakistan—and a solid front against Soviet aggression, but also the future success of efforts to halt the worldwide proliferation of nuclear weapons.

Mr. President, I also want to note the importance of maintaining effective nuclear export standards in pursuing our nonproliferation objectives. The Carter administration and the Congress have established orderly procedures for reviewing nuclear exports. These include provisions for a timely State Department recommendation on the appropriateness of export applications, independent safeguards review of these applications by the Nuclear Regulatory Commission (NRC), and finally—in the event the NRC finds that an application does not comply with essential safeguards criteria but the administration believes there are compelling national security reasons for proceeding nevertheless—there is provision for the timely issuance of an export license by a Presidential Executive order.

I believe this independent review of safeguards compliance is indispensable. I understand there is a desire on the part of some State Department officials to remove the NRC's independent review authority. But I would be forced to work with my Senate colleagues to oppose actively any such effort to short-circuit the independent review of nuclear export applications' compliance with essential nonproliferation criteria.

Mr. President, two thoughtful editorials in the Monday editions of the Los Angeles Times and the Washington Post forcefully present a number of these points.

I ask unanimous consent that these editorials appear in the RECORD at this point.

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

[From the Los Angeles Times, Feb. 18, 1980]

IT'S GOOD NUCLEAR INSURANCE

The State Department has never really been happy with the Nuclear Nonproliferation Act of 1978, under which Congress sought to use controls over the exports of nuclear fuel and technology to prevent the spread of nuclear weapons.

That law, which was enacted with President Carter's approval, placed the power to review proposed shipments of atomic fuel and equipment in the hands of the five-man Nuclear Regulatory Commission.

Now, taking advantage of the fact that the streamlining of the Commission is under White House consideration, high-ranking State Department officials—led by special representative Gerard C. Smith—are proposing that the agency be stripped of its review authority.

Three members of the commission have been persuaded to support the proposal, but

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

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that doesn't alter the fact that such a change would be a serious mistake.

The State Department's view is that, as one official told the New York Times, "the NRC should not be second-guessing the President on foreign-policy issues. It is not their business, and they are not equipped for it."

This is a great distortion of what the situation really is.

The 1978 law did not give review authority to the Nuclear Regulatory Commission because of any presumed foreign-policy expertise, but because of its technical abilities in the nuclear field—and its independence from White House control.

The law, furthermore, does not actually empower the commission to veto export licenses that the executive branch proposes to approve. A negative finding can be ignored by the President. This in fact occurred in 1978 in the case of a controversial nuclear fuel shipment to India.

But the authors of the 1978 act knew from experience that the State Department has a tendency to look the other way when tough antiproliferation action might roll the diplomatic waters. This is what the department tried to do after the Indian nuclear test explosion in 1974.

The commission's review process was deliberately created as a form of insurance that nuclear export licenses could not be rushed through without adequate consideration of the consequences. The present setup has served that purpose, and should be continued.

[From the Washington Post, Feb. 18, 1980]

NUCLEAR BALANCING ACT

Before the Russians took over Afghanistan, this country was putting pressure on both India and Pakistan to thwart their making any further progress on the development of nuclear weapons. Nothing in the past few months has suggested that the region would be improved by these countries' acquiring nuclear arsenals. The incendiary politics of the region and the fragility of many of its governments underline the point. Then why should American nuclear non-proliferation policy even be an issue now? Because certain aspects of the crisis in the Persian Gulf region and South Asia have made it so: Reminders of the vulnerability of the oil supply have encouraged those who would like to proceed with nuclear energy technology with a minimum of precautions against the misuse of that technology for bomb-making purposes. And pressures being brought on both the Indians and the Pakistanis to forgo nuclear explosives are thought likely to interfere with the new post-Afghanistan need to work with these countries to bolster the region's defense.

At the time of the Russian invasion, the United States was facing a March 1980 deadline, set by law, when India would have to accept international safeguards on all its nuclear facilities or face a halt of U.S. nuclear cooperation. Two years of persistent efforts to reach agreement on this point had failed, leaving two equally unattractive options for U.S. diplomacy: cut off nuclear supplies (which would end all hope of eventually securing Indian cooperation and raise the likelihood that India would seize and reprocess U.S.-supplied spent fuel already in that country) or waive the law—without reason to expect a future change in Indian policy (which would preserve a semblance of good relations with India, but damage the credibility of U.S. non-proliferation policy elsewhere, especially in Pakistan).

In Pakistan, the major thrust of U.S. policy was a continuing—and so far futile—search for a combination of incentives and threatened sanctions powerful enough to persuade the government of Gen. Zia ul-Haq to halt its clandestine nuclear weapons program.

Since the invasion of Afghanistan, the administration has announced that it will seek a waiver of the law that prohibits assistance to Pakistan because of its nuclear weapons work, and is apparently considering the sale to Pakistan of A7 long-range fighters—planes appropriate for use against India. To assuage the Indian reaction, the United States has already agreed to sell essential—and previously denied—sophisticated electronic equipment for India's long-range fighter planes (primarily planned for use against Pakistan) and is reported to be planning to continue nuclear fuel shipments after the March deadline.

This balancing act—the attempt to preserve cordial relations with both India and Pakistan while letting nuclear developments take a back seat for the time being—is unlikely to work. A more promising approach would involve an all-out effort to halt Pakistan's nuclear program, using the leverage acquired through military and economic assistance. This effort would almost certainly be doomed by a U.S. decision to continue nuclear supply to India beyond the March deadline, for in Pakistani eyes the West's nonproliferation policy is already flagrantly discriminatory: India, after all, exploded a nuclear bomb without any penalty. A U.S. decision to stick with the statutory deadline would have the added benefit of showing others around the world that we are serious about non-proliferation.

This country should also try to get China to help. In addition to its undisputed influence with Pakistan, the People's Republic has a compelling national security interest in not having two nuclear neighbors—the Soviet Union and India—and its differences with India are, at least by comparison with others in the region, minor. Improved Sino-Indian relations could do much to moderate Indian policy and improve the prospects for a non-nuclear South Asia.

The administration has apparently decided that the immediate Soviet threat in South Asia poses a greater peril to world peace than the longer term possibility of a nuclear arms race between India and Pakistan, with China and the Soviet Union as substitute players on opposing sides. At best, that is a questionable decision, especially when it is possible to deal with both threats at once.

RECOGNITION OF SENATOR SASSER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. SASSER. I yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ORDER TO PROCEED TO CONSIDERATION OF S. 2222

Mr. ROBERT C. BYRD. Mr. President, on yesterday, after consultation with the distinguished acting Republican leader (Mr. STEVENS), I indicated that today the Senate would proceed to the consideration of the Indian land claims bill. In the meantime, the acting minority leader and I were going to inquire through our staffs, personally, and so on, as to whether or not the managers of the bill could be prepared to handle it today. They are ready. Mr. MELCHER is in the Chamber and Mr. COHEN is standing by.

So, Mr. President, I ask unanimous consent that upon the completion of the orders for the recognition of Senators today, the Senate proceed to the consideration of Calendar Order No. 607, S. 2222.

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

Mr. ROBERT C. BYRD Mr President, I ask unanimous consent that the time I have consumed not be charged against Mr. SASSER under his order.

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

SUNSET LEGISLATION

Mr. SASSER. Mr. President, I should like to report briefly on the progress that sunset legislation is now making in the Senate.

Hearings on this most vital legislation were completed last September and the Governmental Affairs Committee, under the capable leadership of its chairman, (Mr. RIBICOFF) will shortly be marking up this legislation so that it may be considered by the full Senate during the early part of this session.

Mr. President, all too often, we in the Senate are taken with the crisis of the moment—whether that be a need to solve the hostage situation in Iran, counter Russian aggression in Southwest Asia, or stem our dangerous dependence on foreign oil. These are certainly all matters that deserve our attention, but we can not forget the need to continue to seek improvements in the way we manage our day-to-day business here in the Congress.

Several years ago, under the leadership of Senator MUSKIE, Senator BYRD, Senator BELLMON and others too numerous to mention here, we passed the Congressional Budget Act. We created a new way of approaching the budget. We took action to set overall targets for spending and taxation. We worked to prevent runaway spending and bring fiscal restraint to many parts of the Federal budget that had heretofore never known such restraint. That budget legislation has improved our ability to make intelligent and informed choices about budgetary policy in the Senate. Now we have an excellent opportunity to add to that fiscal management tool by enacting sunset legislation.

In its simplest terms, sunset legislation does to program review what the budget legislation did to our budget process. First, it sets forth a systematic 10-year cycle during which Federal programs of a similar nature can be reviewed on a systematic basis. The sunset review will

be undertaken by the authorizing committee and will be as detailed as that committee feels appropriate. It will permit that authorizing committee to compare similar Federal programs, determine which is effective and which is not and seek appropriate modifications for such programs. If a program does not receive a "sunset" review, a point of order may lie against the appropriation of new funds for the program.

There are some who say that sunset cannot work. They say that the workload is too great. They say that governmental programs that have stood the test of time will be put in jeopardy. They say that sunset will be used as a way of bringing legislative business to a halt through indiscriminate use of the filibuster.

To those critics, Mr. President, I say that if we can not pass sunset legislation, we are in effect saying that:

Congress cannot manage itself and systematically review the many programs that it has passed over the year;

That we do, in fact, have a system where Government programs do have eternal life and that Government programs do not have to justify their existence from time to time;

That the Congress really does not care about orderly and fair review of program; rather, they are so politicized that they will bring the workings of the Senate to a halt whenever the least chance avails itself.

I, for one, steadfastly reject these criticisms of sunset legislation. And in the weeks ahead, I am sure that the Governmental Affairs Committee, in its deliberation on pending regulatory reform and sunset bills, will put many of these criticisms to rest.

But, Mr. President, in the final analysis, it is the American public whom we all serve that really wants to see sunset legislation, at long last, passed.

I think that evidence of this desire was most graphically illustrated by a recent editorial in the Tennessean which appeared on this subject. I ask unanimous consent to have that editorial printed in the RECORD.

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

CONGRESS SHOULD APPROVE AN EFFECTIVE SUNSET LAW

The Congress is astonishingly productive at times in making laws and setting up programs but it is loathe to re-examine its creations to see if they are working.

One way to bring this about would be to enact a Sunset law calling for review of all federal programs. Congressional committees are considering such a law but whether it will become reality is uncertain.

State legislatures have pioneered the idea of Sunset laws and in the last four years 34 states have enacted various kinds of such legislation. Most of the states apply the process to regulatory agencies, but this year Colorado will review executive departments as well.

Since the states have found the Sunset concept works, it is difficult to understand the reluctance of the Congress to try it.

The Congress assuredly has resources far beyond those of the states and it could conduct thorough reviews of government programs if it wished. It should see its role as not only that of creating programs, but that of continued oversight to see whether the programs are working and if not, why they are not.

Some programs run afoul of the executive bureaucracy and may be implemented badly, or neglected. But Congress needs to know what sort of implementation a program is getting, as well as the impacts on the local level.

Public opinion polls have repeatedly shown that the people support Sunset laws as a way of improving government performance or ridding the government of needless waste. If the program doesn't work, they see no need of continuing to finance it from their dollars.

Common Cause, the citizens lobby, has suggested some criteria for an effective Sunset law:

Sunset legislation must provide for termination of federal programs, tax benefits and regulatory activities unless they are evaluated and periodically established by Congress.

Effective Sunset legislation must provide a process for coordinated review of similar programs.

Sunset legislation must provide for special evaluation of priority programs.

Sunset legislation must provide for review of tax expenditures and credit programs along with related spending programs.

The latter is quite important because tax preferences and incentives are an increasingly large part of federal spending. They are spending. In order to help a particular industry or class of citizens the government foregoes revenues it would otherwise receive under the tax laws.

Finance Chairman Russell Long has vigorously opposed an amendment in the Senate to include tax expenditures in the evaluation cycle.

If the tax issue is a major obstacle in the Senate, there is a proposal in the House to omit any time limit for evaluation of programs. It will permit legislative committees to determine what programs in their jurisdiction need evaluation. That is hardly a Sunset concept, it is more like a moonchange concept.

Congress does need to pass an effective Sunset law and the sooner it is done the better.

SAVINGS IN PRINTING COSTS

Mr. SASSER. Mr. President, over the past several years, the Senate Legislative Branch Appropriations Subcommittee, which I chair, along with our sister subcommittee in the House, chaired by Congressman ADAM BENJAMIN, have been working to eliminate unnecessary printing costs. Some of our suggested changes may appear unimportant, but when they are all added up, it amounts to a very significant savings for the taxpayer.

Yesterday, the subcommittee received testimony from the chairman of the Joint Committee on Printing, Congressman FRANK THOMPSON, JR. Chairman THOMPSON testified on the cost savings of certain specific initiatives jointly undertaken by the Legislative Subcommittees and the Joint Committee.

Mr. President, I submit a list of the initiatives and the associated annual cost savings for the RECORD at this point:

Initiative:	*Annual saving*
1. Reduce by half the number of "free" CONGRESSIONAL RECORDS and confine distribution to educational or public institutions	$1,712,000
2. Increase by $25 the annual subscription rate for the Federal Register	977,000
3. Limit the Congressional Directory to one full edition per Congress	173,000
4. Eliminate the "automatic" distribution to Members of Congress of the bound CONGRESSIONAL RECORD	256,000
5. Increase by $30 the annual subscription rate for the CONGRESSIONAL RECORD	153,000
6. Limit to one per Member the receipt of the hard cover Congressional Directory	76,000
7. Eliminate imprinted names on the Congressional Directory	7,000
Total	$3,354,000

In addition to these cooperative efforts, the Joint Committee on Printing, under the leadership of Chairman THOMPSON and our distinguished Senate colleague, the vice chairman of the Joint Committee (Mr. PELL) has self-initiated six other reforms that will result in annual savings of $1.8 million.

Mr. President, I think this is a very good record—13 initiatives that will result in annual savings of $5.2 million in printing costs.

However, Mr. President, there still needs to be more effort in this area. For example, yesterday in the tunnel to the House subway under the Capitol, over 25 dumpsters filled with unused hearings publications were lined up for disposal. These publications were still bound together by plastic strips in packages of 10, just the way they had been delivered from the Government Printing Office. Perhaps a couple of nice-sized trees would still be standing today if whoever it was that ordered those excessive quantities of publications had been a little more careful, a little more frugal in placing his orders.

Mr. President, I am hopeful that all the Members will take note of the $5.2 million in annual savings that we have been able to achieve and redouble their efforts to eliminate any wasteful, excessive printing costs in the area under their jurisdiction.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that

there now be a period for the transaction of routine morning business not to extend beyond 5 minutes and that Senators may speak therein.

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

ALASKA'S STRATEGIC MINERALS

Mr. STEVENS. Mr. President, I have spoken before about this Nation's defense posture, most recently in response to the President's state of the Union speech. It concerns me that America might not be prepared to defend its vital interests around the globe. I know that many responsible spokesmen of both parties share my concern. I was struck by the timeliness of recent comments made by Representative JAMES SANTINI.

In a story in the Washington Star dated February 13, 1980, Representative SANTINI warned that America could be "brought to its knees" more quickly by the loss of certain strategic minerals than by a cutoff of oil supplies. Representative SANTINI's arguments are well founded and based upon his knowledge of our domestic mineral wealth gained as chairman of the House Subcommittee on Mines and Mining. I ask unanimous consent that the news story from the Washington Star containing his remarks be printed in its entirety in the RECORD.

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

U.S. WARNED OF LOSS OF STRATEGIC METALS

NEW YORK.—America could be "brought to its knees" more quickly by the loss of strategic minerals than by a cutoff of oil supplies, according to a Congressman who is pushing for a U.S. minerals policy.

"Africa is the Persian Gulf of minerals," said Rep. James Santini, D-Nev., chairman of the House Subcommittee on Mines and Mining. "There are certain minerals such as cobalt, chrome and manganese which are absolutely essential to industry and to the defense of our country.

"We are heavily dependent on southern Africa—Rhodesia, South Africa and Zaire—and on the Soviet Union for these minerals," Santini said in an interview. "A chrome embargo by Russia and Rhodesia would bring the entire industrial world to its knees in just six months."

The effects of OPEC oil price increases and the Iranian disruption of supplies are only a sample of what would happen if price manipulation and supply curtailment were exerted on certain strategic minerals, said Santini.

Since their use isn't as visible as oil, our import dependence for these minerals hasn't aroused the public, Santini said. "There are no 'moms for moly' or 'teens for tungsten' clamoring for a national minerals policy."

But the everyday lives of moms, dads and teens would be drastically altered if there were any supply disruption, according to E. F. Andrews, vice president of Allegheny Ludlum industries, an outspoken industry representative on the subject.

"Forget OPEC and gasoline," Andrews said. "Without chrome and cobalt we wouldn't have automobiles or airplanes. Imagine life without the stainless steel necessary to process food, without surgical instruments, without computers."

Santini recently completed a fact-finding tour of South Africa and Zaire, talking with officials and visiting mines which produce a large part of the free-world supply of cobalt, chrome and manganese.

One such mine he visited in the Shaba province of Zaire, "one of the most politically and socially unstable parts of the world," produces 65 percent of the free-world supply of cobalt, which is essential to the manufacture of jet airplane engines.

Of the 3.7 billion tons of known chromium reserves in the world 3.6 billion tons are in South Africa and Rhodesia, against whom the United States has applied trade sanctions. The remaining reserves are in Russia.

In not trading with Rhodesia, Santini said, we have increased our dependence on Russia.

Industry spokesmen say South Africa has acted responsibly as a world supplier of chromium despite condemnation of its apartheid policy, but maintain there is no assurance it will continue to do so.

"With their gold and other mineral exports they don't need the income from chromium," Santini said.

As an example of the "alarming" U.S. minerals situation Santini cited a recent committee foray into the bureaucracy over defense needs and stockpile.

"The Department of Defense, one of our most influential and powerful government agencies, testified it does not get involved in minerals needs, that's handled by the Department of Interior," Santini said.

"Interior's assistant secretary of energy and minerals told the committee it was not the role of these agencies to become involved in the minerals policy of defense agencies," he said.

"We still have time to get our act together on minerals," Santini said "and the American people, the administration and the Congress ought to be doing something about it now."

Mr. STEVENS. Mr. President, Representative SANTINI's remarks come at a time of heightened interest in America's own natural resources. Encouraging reports from the exploration of the Overthrust Belt give promise of significant gas deposits in a geologic structure which runs from Arizona to Canada. However, at the same time powerful voices are clamoring for Congress to post off-limit signs on vast areas of Alaska. As I have stated on several occasions, my State could outproduce the Persian Gulf if the Nation would let it.

Instead, many areas in Alaska are withdrawn before their resource potential is even determined. Alaska has extensive resources not only of fossil fuels but of many strategic minerals as well. This body, in its deliberation of the Alaska lands bill, must not ignore its duty to at least provide an opportunity to know what resources are being locked up, before the key is turned. Finally, Mr. President, when I urge my colleagues to provide for the strong, responsive defense of Alaska, I do so not just for my constituents in Alaska, but for the constituents of all of my colleagues.

Mr. President, if the strong defense of the Persian Gulf is vital to the strategic interests of the United States, how much more important is the strong defense of Alaska?

ALASKA'S OIL RESERVES

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD the Campaign Notes article from the Washington Post of this morning. In that article, the Washington Post has taken issue with Governor Reagan and stated he made a misstatement yesterday when he claimed that Alaska has more oil reserves than Saudi Arabia.

Governor Reagan was referring to the potential of Alaska to produce oil and gas and compared it to Saudi Arabia. He is absolutely right that Alaska's potential for production is greater than Saudi Arabia's potential for production. The difference is that Saudi Arabian reserves are primarily discovered reserves, whereas our discovered reserves are limited to the Prudhoe Bay area. That reserve, contrary to what the Post says, is 50 billion barrels. Its discovered producible reserves are just under 10 billion barrels. The difference is the ability of American technology to produce from our known discovered reserves.

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

REAGAN LEAD SEEN SHRINKING

Ronald Reagan's lead in the GOP presidential race is shrinking, according to the latest CBS-New York Times poll.

A sampling of 1,536 adults nationwide last week showed Reagan favored by 33 percent of the GOP respondents, down from his 45 percent showing in January.

George Bush was one of two GOP hopefuls whose rating climbed in February, from 6 percent in January to 24 percent this month.

Other results: Sen. Howard M. Baker Jr., 11 percent (the same as in January); John B. Connally, 5 percent (10 percent in January); Sen. Bob Dole, 2 percent (5 percent in January), Rep. John B. Anderson, 1 percent (2 percent in January), and Rep. Philip M. Crane, 2 percent (0 in January).

John B. Connally, who has raised and spent almost $11.4 million in his bid for the GOP president nomination, took his entire campaign staff off salary yesterday.

Connally's 390 full-time, paid campaign workers have been asked to "temporarily volunteer their services," a move that will save Connally about $95,000 a week, spokesman Bill Rhatican said.

He said the money will be used to finance advertising efforts in South Carolina, Alabama and Florida.

Connally, the only presidential candidate to refuse to take federal matching funds, has raised and spent more money than any other candidate. Yet he has been unable to move upward in the polls.

Saying he believes an inevitable recession will cost the nation some 1.5 million jobs this year, Sen. Edward M. Kennedy yesterday called for expansion of community service employment programs aimed at protecting the elderly.

In a policy paper on the aged, he also called anew for enactment of his national health insurance plan.

"I want to see an America that . . . maintains and improves our Social Security, that frees the elderly from crime in the streets and isolation in their homes," he said.

"If any group in our society deserves the attention and respect of the rest of us, it is the elderly," he said.

Ronald Reagan made an apparent misstatement yesterday when he claimed that Alaska has more oil reserves than Saudi Arabia.

Reagan's claim befuddled the Energy Department and the American Petroleum Institute, which both said the Saudis have some 18 times more oil than the Alaskans.

On a campaign swing through southeastern Massachusetts, the candidate for the Republican presidential nomination told a crowd: "This is an energy-rich nation. Alaska alone has a greater oil reserve than Saudi Arabia."

"I cannot explain where he got that," said Petroleum Institute aide Lane Johnston, citing studies that show that on Jan. 1, 1979, "Alaska's estimated, proven crude oil reserves were 9 billion, 247 million barrels."

She said the same figure for Saudi Arabia was 165 billion, 700 million barrels.

Reagan, who was unavailable to comment on the discrepancy, has made similar comparisons between Alaska and Saudi Arabian reserves before in his campaign.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute.

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

UNANIMOUS CONSENT AGREEMENT—TREATIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the four protocols and conventions and agreements, Calendar Orders Nos. 1, 2, 3, and 4 on the Executive Calendar, be considered having passed through the various parliamentary stages up to and including the presentation of the resolution of ratification; that the four be voted on en bloc at a time to be agreed upon between the acting Republican leader and myself.

Mr. STEVENS. There is no objection to that procedure, Mr. President.

Mr. ROBERT C. BYRD. And that it be in order to order the yeas and nays at any time in legislative session.

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

Would that vote include a vote on the reservation on Executive G?

Mr. ROBERT C. BYRD. The Chair raises a good point. Would the Chair repeat that statement?

The ACTING PRESIDENT pro tempore. Would the reservation to Executive G be included in the en bloc vote?

Mr. ROBERT C. BYRD. Yes. I am glad the Chair has called my attention to there being a reservation, but all of the items were cleared. There would be no objection to the reservation, so I include that in the request.

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the four items on the Executive Calendar I have just alluded to in the unanimous-consent request.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, later today I will announce, after consultation with the distinguished acting Republican leader, on what day the vote will occur, and it will be a rollcall vote as already ordered on the four protocols, and in this instance they will be voted on en bloc, so one rollcall vote will count for four.

Mr. President, I ask unanimous consent that the vote en bloc on the four protocols occur at 5 o'clock on Monday afternoon next.

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

PROTOCOL, WITH ANNEX, AMENDING THE 1953 HALIBUT FISHERY CONVENTION WITH CANADA; EX. DD—96TH CONGRESS, 1ST SESSION

THE ACTING PRESIDENT pro tempore. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol, with Annex, Amending the 1953 Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington on March 29, 1979 (the Protocol). (Executive DD, 96th Congress, first session.)

PROTOCOL WITH CANADA TO AMEND THE CONVENTION FOR THE PROTECTION, PRESERVATION, AND EXTENSION OF THE SOCKEYE SALMON FISHERIES IN THE FRASER RIVER SYSTEM, AS AMENDED; EX. G—95TH CONGRESS, 1ST SESSION

The ACTING PRESIDENT pro tempore. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the Government of the United States of America and the Government of Canada to Amend the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fisheries in the Fraser River System, As Amended, signed at Washington on February 24, 1977. (Executive G, 95th Congress, first session.)

CONVENTION ON PSYCHOTROPIC SUBSTANCES; EX. G—92D CONGRESS, 1ST SESSION

The ACTING PRESIDENT pro tempore. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Psychotropic Substances, signed at Vienna, February 21, 1971 (Executive G, 92nd Congress, first session), subject to the following reservation:

That in accord with paragraph 4 of Article 32 of the Convention, peyote harvested and distributed for use by the Native American Church in its religious rites is excepted from the provisions of Article 7 of the Convention on Psychotropic Substances.

AGREEMENT ON THE INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS AND ON THE SPECIAL EQUIPMENT TO BE USED FOR SUCH CARRIAGE; EX. B—96TH CONGRESS, 1ST SESSION

The ACTING PRESIDENT pro tempore. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), done at Geneva on September 1, 1970, under the Auspices of the Economic Commission for Europe (ECE). (Executive B, 96th Congress, first session.)

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the rollcall vote en bloc on the four protocols on the Executive Calendar, which was previously set for 5 p.m. on Monday, be changed to 3:45 p.m. on Monday.

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

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with the exception of Calendar Order No. 35 on the Executive Calendar, the Senate proceed to the consideration of the nominees en bloc.

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

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent the nominees be confirmed en bloc, the motion to reconsider en bloc be laid on the table, and the President be immediately notified of the confirmation of the nominees.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Harry T. Edwards, of Michigan, to be U.S. circuit judge for the District of Columbia circuit.

Richard S. Arnold, of Arkansas, to be U.S. circuit judge for the 8th circuit.

Diana E. Murphy, of Minnesota, to be U.S. district judge for the district of Minnesota.

Robert G. Renner, of Minnesota, to be U.S. district judge for the district of Minnesota.

Gilberto Gierbolini-Ortiz, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Helen Jackson Frye, of Oregon, to be U.S. district judge for the district of Oregon.

James Anthony Redden, Jr., of Oregon, to be U.S. district judge for the district of Oregon.

Owen M. Panner, of Oregon, to be U.S. district judge for the district of Oregon.

Barbara J. Rothstein, of Washington, to be U.S. district judge for the western district of Washington.

Henry Woods, of Arkansas, to be U.S. district judge for the eastern district of Arkansas.

DEPARTMENT OF JUSTICE

Charles B. Renfrew, of California, to be Deputy Attorney General.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT OF REVISION AND DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 172

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document, which was referred to the Committee on the Budget, the Committee on Appropriations, the Committee on Labor and Human Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one revision to a previously transmitted rescission proposal decreasing the amount proposed by $6.4 million. In addition, I am reporting two new deferrals of budget authority totalling $20.0 million and two revisions to previously transmitted deferrals increasing the amount deferred by $13.9 million.

The revision to the rescission proposal affects the Health Resources Administration of the Department of Health, Education, and Welfare.

The new deferrals and revisions to existing deferrals involve programs in the Departments of Agriculture, Health, Education, and Welfare, and the Treasury.

The details of the revised rescission proposal and the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *February 20, 1980.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

Under authority of the order of the Senate of February 19, 1980, the Secretary of the Senate, on February 19, 1980, during the recess, received a message from the House of Representatives which reported that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 469. A joint resolution designating February 19, 1980, as "Iwo Jima Commemoration Day"; and

H.J. Res. 477. A joint resolution to authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.

The enrolled joint resolutions were subsequently signed by the Acting President pro tempore (Mr. HEFLIN).

MESSAGES FROM THE HOUSE

At 3:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2475. An act for the relief of Isaac David Cosson;

H.R. 2492. An act to extend until July 1, 1984, the duty suspension on crude feathers and downs; and

H.R. 6285. An act to amend the Egg Research and Consumer Information Act.

At 5:25 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that, pursuant to the provisions of Public Law 86-420, as amended, the Speaker has appointed Mr. DE LA GARZA, chairman, Mr. YATRON, vice chairman, Mr. KAZEN, Mr. WOLFF, Mr. MILLER of California, Mr. COELHO, Mr. SKELTON, Mr. KOGOVSEK, Mr. ROUSSELOT, Mr. GILMAN, Mr. LAGOMARSINO, and Mr. RUDD as members of the U.S. Delegation of the Mexican-United States Interparliamentary Group on the part of the House.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2475. An act for the relief of Isaac David Cosson; to the Committee on the Judiciary.

H.R. 2492. An act to extend until July 1, 1984, the duty suspension on crude feathers and downs; to the Committee on Finance.

H.R. 6285. An act to amend the Egg Research and Consumer Information Act; to the Committee on Agriculture, Nutrition, and Forestry.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3013. A communication from the Assistant Secretary of Defense (Comptroller), reporting, pursuant to law, the intention to obligate $3.7 million in the Army Stock Fund and $26.4 million in the Defense Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC-3014. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize the payment of a bonus to a prior service person who enlists, reenlists, or voluntarily extends his or her enlistment in a designated element of the Ready Reserve of an armed force; to the Committee on Armed Services.

EC-3015. A communication from the Acting Assistant Secretary of the Air Force (Research, Development, and Logistics), reporting, pursuant to law, that a study has been conducted with respect to converting the function of providing commissary shelf stocking and custodial services at Offutt Air Force Base, Nebraska, and a decision has been made that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-3016. A communication from the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, the Defense Manpower Requirements Report for FY 1981; to the Committee on Armed Services.

EC-3017. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, reports of military construction projects placed under contract in fiscal year 1979, in which it was necessary to exceed the amount authorized for the project by the Congress by more than 25 percent, or reduce the project scope by more than 25 percent in order to permit contract award within the available authorization for such project; to the Committee on Armed Services.

EC-3018. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "NAVSTA Should Improve the Effectiveness of Military Missions—Cost Has Increased," February 15, 1980; to the Committee on Armed Services.

EC-3019. A communication from the Chairman, Board of Governors, Federal Reserve Board, transmitting, pursuant to law, its Monetary Policy Report; to the Committee on Banking, Housing, and Urban Affairs.

EC-3020. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to extend and amend the Home Mortgage Disclosure Act of 1975, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-3021. A communication from the President, National Railroad Passenger Corporation, transmitting, pursuant to law, its annual report; to the Committee on Commerce, Science, and Transportation.

EC-3022. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on special pay to U.S. Coast Guard officers holding positions of unusual responsibility and of critical nature; to the Committee on Commerce, Science, and Transportation.

EC-3023. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, the annual report on the Strategic Petroleum Reserve (SPR); to the Committee on Energy and Natural Resources.

EC–3024. A communication from the Secretary of the Interior, reporting, pursuant to law, that Chevron U.S.A. has submitted an application to the department for repayment of excess as royalties totaling $252,724.13 for lease OCS–G 225–1, West Cameron Block 533, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–3025. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–3026. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the status of the 1980 End-Stage Renal Disease (ESRD) annual report; to the Committee on Finance.

EC–3027. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–3028. A communication from the Secretary General, Organization of American States, reporting with regard to assistance to the social and economic recovery of Nicaragua; to the Committee on Foreign Relations.

EC–3029. A communication from the Director, Community Services Administration, transmitting, pursuant to law, the transition report of the Inspector General of the Community Services Administration; to the Committee on Governmental Affairs.

EC–3030. A communication from the Acting Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, the Inspector General's quarterly report for October-December 1979; to the Committee on Governmental Affairs.

EC–3031. A communication from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the Administrator of General Services to enter into contracts for janitorial, trash removal, and similar building services, and protective service in federally owned and leased properties for periods not to exceed three years, and for other purposes; to the Committee on Governmental Affairs.

EC–3032. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a summary of responses (proposals for action or reasons for inaction) for the report of the National Advisory Council on Extension and Continuing Education; to the Committee on Governmental Affairs.

EC–3033. A Communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of GAO reports for the month of January 1980; to the Committee on Governmental Affairs.

EC–3034. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improved Grant Auditing and Resolution of Findings Could Save the Law Enforcement Assistance Administration Millions," February 19, 1980; to the Committee on Governmental Affairs.

EC–3035. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC–3036. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pursuant to law, the annual report of the Postmaster General for fiscal year 1979; to the Committee on Government Affairs.

EC–3037. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Community-Based Correctional Programs Can Do More To Help Offenders," February 15, 1980; to the Committee on the Judiciary.

EC–3038. A communication from the Director, Community Services Administration, transmitting, pursuant to law, the administration's report covering the period January 1 through December 31, 1979; to the Committee on the Judiciary.

EC–3039. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, final regulations dealing with education contract under the Johnson-O'Malley Act; to the Committee on Labor and Human Resources.

EC–3040. A communication from the Chairman, Federal Council on the Arts and the Humanities, transmitting a draft of proposed legislation to amend the Arts and Artifacts Indemnity Act; to the Committee on Labor and human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments:

S. 1464. A bill to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians (Rept. No. 96–574).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment, but with a preamble:

H.J. Res. 434. A joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week" (Rept. No. 96–575).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, with an amendment, an amendment to the title and with a preamble:

S.J. Res. 135. A joint resolution to provide for designation of the first Friday of March as "Teacher Day, United States of America" (Rept. No. 96–576).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 82. A joint resolution to designate the week commencing with the third Monday in February of each year as "National Patriotism Week" (Rept. No. 96–577).

S.J. Res. 132. A joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week" (Rept. No. 96–578).

By Mr. ROBERT C. BYRD (for Mr. KENNEDY), from the Committee on the Judiciary, without amendment:

S. 442. A bill for the relief of Issac N. Hulver of Kansas City, Missouri (Rept. No. 96–579).

S. 803. A bill for the relief of Nick Masonich (Rept. No. 96–580).

S. 1086. A bill for the relief of Bharat Persaud (Rept. No. 96–581).

H.R. 891. An act for the relief of Barbara Laws Smith (Rept. No. 96–582).

H.R. 948. An act for the relief of Maria Corazon Samtoy (Rept. No. 96–583).

H.R. 1559. An act for the relief of Nelia Ruiz Hedlund (Rept. No. 96–584).

H.R. 1829. An act for the relief of Loraine Smart and Robert Clarke (Rept. No. 96–585).

H.R. 3139. An act for the relief of Pedro Gauyan Nelson (Rept. No. 96–586).

H.R. 3873. An act for the relief of Jan Kutina (Rept. No. 96–587).

Special Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–588).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1615. A bill for the relief of James R. Thornwell (Rept. No. 96–589).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STAFFORD (for himself, Mr. JAVITS, Mr. PELL, Mr. WILLIAMS, Mr. BENTSEN, Mr. CHAFEE, Mr. CHURCH, Mr. CRANSTON, Mr. DOLE, Mr. DURENBERGER, Mr. HATCH, Mr. HATFIELD, Mr. LEAHY, Mr. LUGAR, Mr. MAGNUSON, Mr. MCGOVERN, Mr. MOYNIHAN, Mr. NUNN, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. STEVENSON, and Mr. LEVIN):

S. 2306. A bill to amend the Higher Education Act of 1965 to provide for the establishment of international education programs under that Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. HAYAKAWA, and Mr. DECONCINI):

S. 2307. A bill to provide that certain lands in Imperial County, California, that became federal property by the process of accretion be sold to the persons who would be the current owners of such lands but for such accretion; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 2308. A bill to amend section 2003 of title 38, United States Code, to provide for the assignment of clerical or secretarial employees to assist veterans' employment representatives assigned to the States under such section; to the Committee on Veterans' Affairs, by unanimous consent.

By Mr. DURENBERGER:

S. 2309. A bill to prevent the interest rate on extended payments on estate taxes attributable to certain farms and closely held businesses from increasing to 12 percent; to the Committee on Finance.

By Mr. RIBICOFF (by request):

S. 2310. A bill to authorize the set-off of annuity payments or refunds payable from the Civil Service Retirement Fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the government of the District of Columbia; to the Committee on Governmental Affairs.

S. 2311. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the rate of compensation of the City Administrator; to the Committee on Governmental Affairs.

S. 2312. A bill to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals; to the Committee on Governmental Affairs.

S. 2313. A bill to amend section 225 of the Federal Salary Act of 1967, as amended; to the Committee on Governmental Affairs.

S. 2314. A bill to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard Service; to the Committee on Governmental Affairs.

By Mr. HUDDLESTON (for himself, Mr. TALMADGE, Mr. HELMS, and Mr. FORD):

S. 2315. A bill to authorize the Secretary of Agriculture to establish reserves of agricultural commodities to stabilize farm prices whenever export sales of agricultural commodities are suspended for reasons of national security or foreign policy and the prices producers receive for the commodities involved are, or will be, adversely affected by such suspension; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE:

S. 2316. A bill for the relief of Mr. and Mrs. Faalili Afele; to the Committee on the Judiciary.

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. 2317. A bill to restore certain lands in Arizona to the Colorado River Indian Reservation; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD:

S. 2318. A bill to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHWEIKER:

S. 2319. A bill to improve the administration of the affirmative action employment program for government contractors by exempting contractors without appreciable employment opportunities and by eliminating unnecessary requirements and paperwork; to the Committee on Labor and Human Resources.

By Mr. CANNON (by request):

S. 2320. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEPSEN:

S. 2321. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation the earned income of certain individuals working outside the United States; to the Committee on Finance.

By Mr. INOUYE:

S. 2322. A bill to authorize appropriations for fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 2323. A bill to establish a periodic review of Federal regulatory agencies, and to reduce the size and scope of Federal regulatory policies and procedures; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STAFFORD (for himself, Mr. JAVITS, Mr. PELL, Mr. WILLIAMS, Mr. BENTSEN, Mr. CHAFEE, Mr. CHURCH, Mr. CRANSTON, Mr. DOLE, Mr. DURENBERGER, Mr. HATCH, Mr. HATFIELD, Mr. LEAHY, Mr. LUGAR, Mr. MAGNUSON, Mr. MCGOVERN, Mr. MOYNIHAN, Mr. NUNN, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. STEVENSON, and Mr. LEVIN):

S. 2306. A bill to amend the Higher Education Act of 1965 to provide for the establishment of international education programs under that act, and for other purposes; to the Committee on Labor and Human Resources.

INTERNATIONAL EDUCATION PROGRAMS ACT

Mr. STAFFORD. Mr. President, I am introducing today, jointly with Senator JAVITS and 22 additional Members of this body, the International Education Programs Act of 1980, intended to become title VI of the Higher Education Act of 1965, as amended. Part B of this legislation is especially the inspiration of the Senator from New York.

Joining us as cosponsors are Senators PELL, WILLIAMS, BENTSEN, CHAFEE, CHURCH, CRANSTON, DOLE, DURENBERGER, HATCH, HATFIELD, LEAHY, LUGAR, MAGNUSON, MCGOVERN, MOYNIHAN, NUNN, RANDOLPH, RIBICOFF, RIEGLE, ROTH, and STEVENSON.

The bill is based on three fundamental premises:

First, we face increasingly difficult times in our foreign relations and increasingly complex relationships with other countries;

Second, education plays a centrally important part in preparing this country for a world of change;

Third, it is in the national interest to promote both our analytic and linguistic capabilities for international affairs and our citizens' understanding of our relationships to other countries and peoples.

In overview, our bill would:

Reauthorize the foreign language and area study programs presently authorized under title VI of the National Defense Education Act;

Move them into title VI of the Higher Education Act:

Revise the legislative framework in accordance with the report of the President's Commission on Foreign Language and International Studies;

Add a new part B for "business and international education"; and

Remove friction across levels of education by moving a section of the old NDEA to the Elementary and Secondary Education Act.

These actions are intended to have some broad, beneficial effects:

By removing international education from the peripheral context of NDEA and instead "mainstreaming" it into the Higher Education Act, we make it a part of the main fabric of our higher education legislation and encourage linkages across other parts of that act; and

By adding Part B, we not only help the country to prepare to export, but also bring a reinvigorating international business perspective into juxtaposition with the old NDEA programs, and we bring to international education the vitality of the American business community.

Mr. President, our purposes are to reinvigorate the international dimension of American higher education; to strengthen those linkages of elementary and secondary education to higher education which can help prepare American citizens for changes in the world which will affect this country; to improve the Nation's long-term capabilities in foreign relations, including foreign-language capabilities; and to encourage linkages between business and higher education which can be helpful in preparing the United States to meet its pressing and growing need to export.

Our bill has two main thrusts. One is to move title VI of the National Defense Education Act into the Higher Education Act. This is basically a matter of putting an existing program in a framework which has become more appropriate and offers greater impact.

We wish to underscore that by moving NDEA into HEA we do not seek to detract from the strong national security rationale for these programs. To the contrary, we reaffirm this rationale's continuing validity, especially as these programs are needed to prepare people for foreign affairs analysis and diplomatic work, as well as to increase the American people's understanding of events abroad. We salute the NDEA Mideast Centers for providing invaluable analytic assistance to the media during the last several months of crisis, just as the Latin American Centers responded magnificently when called upon a year ago.

NDEA was conceived in 1958 in an atmosphere of emergency, as part of our response to Sputnik. Much of the original NDEA is no longer operational. What remains is principally the foreign language and area study programs of title VI. These programs have served the country well, although they have been supported inadequately. Indeed, across the last 14 years the international programs have received a steadily declining share of the Office of Education's budget, now only approximately two-hundredths of 1 percent of that budget.

The Higher Education Act is a subsequent creation, beginning in 1965. It is properly the most integrative act in the field of higher education. It is here that the broadest perspectives on higher education should be stated, and it is here that the broadest linkages across higher education programs should be forged.

At present there is no international dimension in the Higher Education Act. This gap is out of phase with the expanding and increasingly complex relationships of this country with the rest of the world. It is also at odds with the very idea of a university, which must be universal in its interests. The reality is that the international dimension is integral to all of higher education. That fact ought to be reflected in the way we write our legislation.

By leaving the international dimension in NDEA, we have allowed it to be treated as something apart from the rest of higher education, whereas we should have been encouraging a broader perspective cross-cutting other portions of the Higher Education Act, for example, the titles pertaining to libraries and continuing education.

Our legislative schedule calls for reauthorizing both NDEA and HEA in this Congress. Our current opportunity to integrate the two is therefore especially obvious. It happens, fortuitously, that HEA VI is about to become a vacant title, so the international programs we propose to put there can continue to be called title VI programs.

I would like to point out that the administration's proposals for the reauthorization of the Higher Education Act include moving NDEA VI into HEA VI. Moreover, the House of Representatives recently passed H.R. 5192, which provides for this transfer from NDEA to

HEA. We have worked with that bill very closely, seeking ways to improve upon the other body's good effort, especially in light of the subsequently released report of the President's Commission on Foreign Language and International Studies. We have taken to heart its call for improvement at the undergraduate as well as the graduate level.

We have made one quite basic change. We have moved NDEA section 603, the grant program to promote cultural understanding, into title III of Elementary and Secondary Education Act. Section 603 in practice has emphasized programs designed to improve teacher training and access to information pertinent especially for the elementary and secondary schools. Section 603 additionally authorizes community, adult and continuing education programs, and we want these nascent programs to be developed. We know that interest in international affairs within the continuing education field is increasing rapidly. We hope that the title I continuing education programs and our international education programs will develop a strong partnership for outreach.

The greatest improvement to be achieved by transferring section 603 to ESEA is that we thereby get rid of the funding trigger which provides that no money shall be made available for section 603 programs until at least $15 million have been made available for NDEA's other sections. That trigger has become an irritant. It has operated as a ceiling for higher education programs, a ceiling which is doubly lamentable because it works as a depressant when the rate of inflation is high. It also has had the effect of causing the higher education and elementary/secondary communities to compete against one another. In the entire realm of Federal education legislation, I do not recall any other place where levels of education are pitted against one another in this way. We should be trying to achieve the opposite effect, so that those concerned with international education at the various education levels will seek to cooperate and contribute to one another's efforts.

The administrative integration of international education programs across all levels is important, especially as these programs are small and are interrelated. We therefore intend to state, in report language, that we wish all international education programs to be administered by one office or division, as they are now. We are providing, in our section 605, that research and studies can be undertaken at any of the educational levels, and that the annual report be integrative across levels. In parallel, we are providing that the advisory board shall include representatives of all educational levels and shall advise on international programs at all educational levels.

I believe, Mr. President, that international concerns will have to be given greater weight in the new Department of Education than they received in the old Office of Education. Department status will bring international representation functions, but more basically, international education programs will have to be given the greater emphasis that corresponds to the Nation's growing needs. Also, because interagency coordination will need to be strengthened, I hope that Secretary Hufstedler will soon take steps to upgrade the status of international education within the new Department.

While preparing our bill, we received a lot of ideas, many of which we did not not have time to explore thoroughly, and some of which would have cost a lot of money.

The creation of a Center for the Study of Relations between the United States and Mexico is a good idea. As our relations with Mexico become increasingly complex and important, our two countries will face many difficult issues: migration, water rights, environmental pollution, demography, tourism, trade and energy, among others. There is a great need to develop American experts who understand Mexico and can provide solutions to the problems facing both countries. It is not appropriate to create either a line item or a set-aside, but it should be possible as a matter of administrative initiative to encourage a Mexican tilt at an existing Latin American Center or some other steps toward assuring that this country will have the needed growing capability. We will so suggest in report language.

Finally, there is the matter of money. The administration's fiscal year 1981 budget request for NDEA is $30 million. We would add, for part B, $10 million, to consist entirely of matching funds, no dollar to be spent unless there is an equal non-Federal match. Our bill authorizes no other "new" money in the sense of new categories of appropriations. We do divide what is covered by the administration's $30 million into two line items, one for the NDEA programs being moved into the Higher Education Act and the other for the programs being moved to the Elementary and Secondary Education Act. We set the authorizations a good bit above the administration's request and recommend small annual increments. At that, all the three parts combined do not total $100 million until the fifth year. NDEA authorization levels have been $75 million per year since 1974. We are inadequate in keeping up with the changing pace of the world now, yet on our real world agenda we find that functional issues are being added increasingly to regional ones. The complexity increases. So we are likely to find increased appropriations advisable.

Mr. President, Senator JAVITS is introducing the second main thrust of our initiative, part B. His statement will follow mine. Thereafter, there will be statements by Senators PELL, CHAFEE, RIEGLE, and ROTH. Following those statements, I ask unanimous consent that the text of the bill and a few statements of endorsement be printed in the RECORD.

● Mr. JAVITS. Mr. President, I am pleased to join with Senator STAFFORD as the principal sponsor of this critically needed legislation.

Senator STAFFORD has already elaborated on the purpose of parts A and C of our bill, which will improve the capacity of our education system to promote international understanding through international and foreign language studies at the elementary, secondary, and postsecondary levels. The changes proposed by parts A and C are essentially structural—moving title VI of the National Defense Education Act into the Higher Education Act, as most of NDEA has already been incorporated into other portions of body of the Federal education law—and similarly, placing the existing section 603 of NDEA, relating to international programs at the elementary and secondary level, in the Elementary and Secondary Education Act, effectively removing the funding "trigger" mechanism which has served to depress appropriations for international education in both the elementary and secondary, and higher education sectors.

Part B of this legislation, Mr. President, is the crux of our initiative—to encourage the use of the vast resources and talents of our postsecondary education sector to improve our Nation's international economic performance, particularly in the area of trade promotion and expansion, by forging linkages between the business community and higher education. Last October, at the Education Subcommittee's hearings on reauthorization of higher education programs, I raised the issue of the deplorable state of knowledge of foreign languages and cultures in this country, particularly among business persons engaged in trade activities, who require such international skills in order to perform adequately their responsibilities. At that hearing, I challenged representatives of the higher education community to seek ways to encourage improved relationships between international education and business which can result in the fulfillment of a critical national goal, to wit: The substantial improvement of our international economic performance.

Mr. President, in November, subsequent to these hearings, the President's Commission on Foreign Language and International Studies issued its report to the President, finding:

> A serious deterioration in this country's language and research capacity, at a time when an increasingly hazardous international military, political, and economic environment is making unprecedented demands on America's resources, intellectual capacity and public sensitivity—

According to the report, to which we, through this legislation, subscribe—

> America's incompetence in foreign languages is nothing short of scandalous, and it is becoming worse . . . while the use of English as a major international language of business, diplomacy and science should be welcomed as a tool for understanding across international boundaries, this cannot be solely considered a substitute for direct communications in the many areas and on innumerable occasions when knowledge of English cannot be expected . . . our vital interests are impaired by the fatuous notion that our competence in other languages is irrelevant. Indeed, it is precisely because of this nation's responsibilities and opportunities as a major power and as a symbol of ideals to which many of the world's people aspire that foreign languages, as a key to unlock the mysteries of other customs and cultures, can no longer be viewed as an educational and civic luxury.

Mr. President, the President's Commission has corroborated the pressing need to redress this woeful inadequacy and lack of preparation in international skills necessary to sustaining and improving the status of the American economy in an increasingly interdependent, international economic environment. Our Nation's performance in the highly competitive international trade sector has been deteriorating, in large part due to a failure to recognize the importance of foreign language capacity in the marketing of products and services abroad. It is instructive to note that the President's Commission reported that there are currently some 10,000 English-speaking Japanese business representatives assigned to the United States, and fewer than 900 American business representatives in Japan, only a small fraction of whom have a facility in the Japanese language. This obviously puts the United States at a very serious marketing disadvantage. Furthermore, foreign language incapacity of American firms compounds this competitive disadvantage since, as stated in the Commerce Department's publication, Business America (September 24, 1978), American sellers often rely on the translation of messages and contracts supplied by their prospective foreign buyers.

Despite the great capacity of our institutions to develop international understanding, American higher education and the business community have had historically a mutually accepted "hands-off" relationship, based upon a general unwillingness of business to utilize the resources of a sector over which it has little or no control and concomitant unwillingness on the part of higher education to be dictated to in terms of curriculum by an exogenous business sector with specific information and personnel needs.

This legislation will improve the relationships between the business and higher education sectors, with the goal of promoting American international understanding and trade interests, by establishing a program of Federal assistance to postsecondary institutions which have entered into agreements with business enterprises, trade organizations, or consortia of such organizations, to establish or expand curricula to serve international needs of the American business community. We anticipate that federally-assisted programs operated under these agreements would include: Training of faculty and students, both full and part time, in skills pertinent to marketing, financial arrangements, and legal requirements of trading in other nations; development of specialized teaching materials to aid in the conduct of foreign trade; establishing student and faculty fellowships, internships, and personnel exchanges to increase awareness of international business activities in institutions of higher education and inform the business community of the capacity of higher education to assist export development; and generally improving the international perspectives of American graduate and undergraduate schools of business, whose curricula often tend to center on internal economic conditions, in isolation from their international causes and ramifications. As the Federal share will pay a maximum of half the cost of such programs, it is expected that these agreements between business organizations and institutions will include arrangements to assist the contracting college or university to meet its required match. Thus, both the institution of higher education and the private sector organization will have a substantial stake in the success of this joint venture.

Mr. President, while we do not perceive this legislation as a single easy answer to our dismal performance in the international economic system, we believe that we can infuse a greater international perspective into our institutions of higher education and simultaneously encourage business to utilize an underused resource in the effort to redress our economic ills. Indeed, we perceive this as a critical first step in bringing our colleges and universities, those great reservoirs of intelect and vitality, and our business community closer together to achieve an absolutely necessary goal, to wit—the stability of our international economic and hence, political system.

Mr. President, I submit for the RECORD a letter from Dr. Martin Meyerson, president of the University of Pennsylvania, with whom I discussed business education linkages at our October 18 hearings.

The letter follows:

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, January 14, 1980.

Hon. JACOB K. JAVITS,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I write in wholehearted support of the Stafford-Javits version of the new Title VI of the Higher Education Act. I am delighted that you will introduce Part B, on "Business and International Education." Prompted by your request at the Subcommittee hearings on October 18 that we seek ways to make international education more responsive to business and business more aware of the value of increased involvement with international education, I have followed with interest the work of Subcommittee staff and others in refining this legislation. Their efforts have been encouraging and productive.

As a result, I believe that the new Title VI can fulfill important national purposes by linking higher education and the business community, thus providing for American business the expertise it needs in dealing with its international trading partners. Events in Iran and Afghanistan demonstrate all too well that America's security, image, and national interests require the most expert knowledge we can muster about the culture and politics of all areas of the world. The transfer of the current Title VI of NDEA into the Higher Education Act is an important and undoubtedly constructive step toward increasing this kind of expertise and making it available to business and government.

Your initiative, reflected in Part B's provisions for bringing business and higher education together in internatonal education, has considerably strengthened this bill and its potential for achieving its purposes. The transfer, in the revised version of the International Understanding Act to the Elementary and Secondary Education Act for the sake of increasing continuing and community education, improves upon the original.

The revised bill also includes the concept of geographic distribution (section 606), but at the same time urges a consistently high level of performance as the primary criterion for support of international study centers. Over the past few decades, certain advanced area study centers have attained remarkable results, and any weakening of their resources would be a severe loss to research and the development of the faculty who will teach and conduct international research in the future.

In this regard, I speak as the president of a university at which several distinguished international study centers have been painstakingly developed over the years. Two major centers of this kind, Pennsylvania's Middle East Center and the South Asia Regional Studies Center, were given great impetus by funding under the old Title VI. That seed money enabled us to attract the additional support from business and foundations that has helped sustain a strong faculty as well as providing graduate fellowship and research support.

All told, the University of Pennsylvania has three dozen institutes and centers with international content, ranging from language and area studies, such as the Middle East Center, the Germanic and Oriental programs, to the Multinational Enterprise Unit in the Wharton School and the International Comparison Project, which carries out comparative studies on international purchasing powers and currencies. It will become increasingly important to maintain this kind of diversity, as well as depth, in international and foreign language studies. To do so, this University and all of higher education will look to opportunities provided under the new Title VI.

I appreciate the opportunity to comment on this legislation. I value the personal initiative you have taken, as well as your joint efforts with Senator Stafford, in drafting a bill worthy of the challenge and the need that international education represents for us in America. Higher education, the business community, and the nation at large may be grateful for your leadership in this enterprise. With best wishes.

Sincerely,

MARTIN MEYERSON.●

● Mr. PELL. Mr. President, I am pleased to be a copsonsor of this important legislation. It is good for education at all levels, and contributes significantly to our country's capabilities in foreign relations, while helping to prepare American business for growing export success.

As events abroad have increasingly profound impact on all Americans, it is essential that education prepare our country for a world of rapid change. While programs under title VI of the National Defense Education Act have provided for language and area studies since 1958, this effort has been small. As our relations with the rest of the world have grown more complex, international education legislation has not been central to our higher education efforts.

By bringing NDEA's higher education programs into the Higher Education Act, this bill makes the international dimension an integral part of our Nation's postsecondary education efforts. And by moving the elementary and secondary portions of NDEA into the Elementary and Secondary Education Act, the bill eliminates the old funding trigger which has in the past pitted different levels of education against one another.

The legislation being introduced today has taken into consideration the rec-

ommendations of the President's Commission on Foreign Language and International Studies. I believe it to be a very constructive approach, and look forward to its consideration as part of the reauthorization of the Higher Education Act to be undertaken next week by the Subcommittee on Education, Arts, and Humanities.●

● Mr. CHAFEE. Mr. President, I wholeheartedly support the Stafford-Javits initiative for the International Education Programs Act, offered today as a new title VI of the Higher Education Act.

Government sponsored international education did not begin in the United States until passage of the Fulbright Act on August 1, 1946. Yet, international education in the United States is as old as the American Republic and, in the history of education, dates back to ancient and biblical times.

In the 1830's, American educators, such as Horace Mann and Henry Barnard, both leaders in the movement for the common public school system, had been to Europe to study its educational systems. From these studies and earlier influences developed our kindergarten and the graduate school from German influence, and the liberal arts college from English traditions.

Many of the annual reports of the U.S. Commissioner of Education since the time of Mann and Barnard, have included analyses and comparative studies of foreign education. Even before World War I, but more especially after it, programs of international exchange of teachers, scholars, and students were developed. These programs, however, were sponsored primarily by philanthropic foundations, such as the Rockefeller and Ford Foundations, the Carnegie Endowment for International Peace, the Guggenhiem Foundation, and learned and professional groups.

Today, we are introducing before the Senate, what may be the most significant international education legislation since Senator Fulbright's departure from the Senate.

Soaring spaceships of the early 1960's led to a greater emphasis on science and technology in American schools. Now, soaring inflation and trade deficits, and fluctuating world political conditions facing us in the early 1980's are spurring a greater emphasis on teaching international and economic education.

At present, however, national curricula in all parts of the world still remain relatively provincial. Many societies from Sparta to the Soviet Union have thought it dangerous to study ideas and customs of other lands, fearing that patriotism would be diluted through exposure to ways of life and systems of values not ones own.

Today, in the spirit of our predecessors in education and in Congress, we are stating the importance of international education—that it is a mission of education to help each of us to see foreigners not as abstractions but as concrete human beings, with their own reasons, sufferings and joys, and to discern a common humanity among the various nations.

Provincialism results in ignorance of people and events that are foreign to our shores. The dangers to America of provincialism has been vividly demonstrated by our unwillingness to compete for international business in the world arena, by our difficulties in understanding the history and beliefs of the Moslem world, and, perhaps even by our prolonged involvement in the complicated affairs of Southeast Asia. It is, I believe, significant that a survey of American specialized knowledge of other parts of the world made in the mid-1960's showed that two areas of which we were most ignorant were Vietnam and the Persian Gulf.

I believe that it is a national and international necessity to seek forms of education which will enable our young people to see various nations as made up of "human beings" and also to discern a "common humanity" among them.

As we look for an education about the world outside our borders that would be most appropriate for the rising generations of Americans, efforts must be made to convey the importance of these goals. One way to achieve them is to stress the problems which face, not individual nations, but all mankind. Nuclear armaments, over population, energy and food shortages, environmental pollution—these are problems that present challenges of a complexity in scale never before faced. In addition, the world has become increasingly interdependent since World War II, as illustrated by the political allegiances of developing Third World nations, the growing multinational companies and consortiums, and the interdependency of monetary and trade systems.

This prospect of a rapidly changing, dangerous and yet, in many ways, exhilerating future, led members of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Commission to identify as a universal requirement for education everywhere "the preparation of every citizen of every society to keep learning throughout life, to live with ambiguity and complexity and to see one's own salvation as not separate from that of people's and nation's once well beyond the concern or awareness of one's parents."

Today, with the introduction of the International Education Programs Act, Congress is taking a major step toward this universal requirement. This legislation will serve our national security, diplomacy, and business relations by enhancing our linguistic and analytic capabilities for international affairs. It will serve the needs of our economy by stimulating the acquisition of knowledge and skills needed for improved export performance. And it will contribute to our citizens' understanding in and relationships with other countries.

The introduction of this legislation could not have come at a more important time.

First, it comes just as we are establishing a new Cabinet-level Department of Education and it sends a clear signal that the international dimension of both the Department and American education needs attention in keeping with the growing importance of the rest of the world for all Americans.

Second, it comes at a time when we have just concluded our 44th consecutive month of trade deficits. For far too long, U.S. businesses have ignored the markets beyond our own borders and simply been content to rely on domestic sales. Only now, with increased competition and a weakened dollar are we beginning to understand the importance of exports and the benefits of increased trade. For years there have been tens of thousands of Japanese businessmen in New York City alone, fluent in English, knowledgeable of American needs and demands, working vigorously to sell their country's products; yet, in Tokyo, there are barely more than a handful of American businessmen who speak limited Japanese, attempting to compete on an international scale in the same manner they compete in the United States.

Third, this legislation comes as we are struggling to understand the conflicts, religious beliefs, and needs of the Moslem world and Middle East nations. Knowledge and understanding are imperative if we are to exert a stabilizing influence on areas of the world with volatile problems.

And finally, this bill comes at a time when the United States and the People's Republic of China are forging new bonds of friendship in such fields as education, business, and technology.

This is good legislation in terms of cost. With increased pressure on the Federal Government to cut spending, this bill will achieve much of its purpose by reauthorizing current appropriations provided under the National Defense Education Act.

The bill will revitalize the old NDEA provisions by incorporating many of the ideas of the recent report of the President's Commission on Foreign Language and International Studies.

It also has the advantage of ending the competition between higher education and the elementary and secondary levels caused by the old funding trigger provision. It does this by moving the latter elements to the Elementary and Secondary Education Act. Yet, the bill recognizes the need for integration of the international dimension across all educational levels by providing for single advisory board oversight.

By moving NDEA's title VI to the Higher Education Act title VI, the act has the effect of giving the international dimension of higher education legislation a more prominent place. This will benefit the teaching, research, and contract functions of our colleges and universities. It will also help to change the way the Higher Education Act is perceived as a whole. It has the potential of leading to the review of the relationship of title VI to other Higher Education Act titles in much the same way university administrators must develop links between their institution's resources.

Similarly, the addition of part B, dealing with export education, will have predictable positive effects beyond its purpose of helping the country to cope with its pressing need to export. By being com-

bined with the old NDEA, it will invite new creativity, expand the constituency of Americans learning about the rest of the world, and will bring to international education the dynamism of the American business community. This could be an enormous positive development—for education and for the economy.

Finally, it is my hope that in addition to more international education, this legislation will promote more internationalism in education. By this I mean that education in any one country stands to gain through an exchange of ideas and experiences in other countries. This legislation lays the groundwork for such shared knowledge. We know that our own system bears the mark of importation. Certainly Horace Mann and others made their own adaptations to European models, but at least it was not necessary to invent them for a second time. Likewise, our contribution here today in the area of international education deserves careful study by other nations as well.

As a member of the Senate Export Caucus, and the Intelligence Committee, I find this to be a most important addition to the Higher Education Act. It is a well-conceived bill, and it merits everyone's support.

● Mr. RIEGLE. Mr. President, today I join with Senator STAFFORD in introducing the International Education Programs Act, to establish a new title VI of the Higher Education Act of 1965.

I believe our country faces a growing need to strengthen international awareness in the American educational system. In view of the modern international climate, which is inherently linked with both economics and diplomacy, it behooves us to provide educational resources which will aid not only in strengthening our relations with other nations but which will also refine our expertise in dealing with the internationalization of our economy.

The purpose of this bill is to provide a threefold approach to augment our education process in the international study area. It specifically touches upon our need to foster graduate and undergraduate programs in both the foreign language field and related "area studies"; to develop an education curricula which will better serve the needs of the business community, particularly with regard to economic management in the international arena; and to promote a greater understanding of international policies and U.S. actions with relation to them for the benefit of our citizens.

My home State of Michigan has long been a leader in the field of international education. The University of Michigan for example, has world-renowned study centers on South Asia, South East Asia, the Middle East and, Russia and Eastern Europe. Michigan State University is similarly known for its leadership in African studies, as well as for work in developing elementary and secondary programs.

In shifting our national focus from the Sputnik-era National Defense Education Act to a more coordinated approach to higher education, the bill I am sponsoring today follows the lead of Representative BILL FORD of Michigan, chairman of the House Subcommittee on Postsecondary Education. The full House recently passed H.R. 5192, Representative FORD's bill to reauthorize the Higher Education Act, which similarly incorporates the shift of these NDEA programs into the comprehensive Higher Education Act.

Our proposal also includes provisions originally proposed by Senator JAVITS to promote linkages between higher education and business in order to promote increased exports. This challenge grant program has an extraordinary multiplier potential to enable American businesses of all sizes to better compete in the world marketplace.

I believe that the promotion of mutual understanding between nations is paramount in this era. This bill provides the opportunity, to a wide spectrum of the population, to develop and enrich their understanding of the international system.

As the Labor and Human Resources Committee amends and extends the Higher Education Act, I will work with Senator STAFFORD and with other committee members supporting this bill to assure that the Federal Government finally focuses additional attention on this vital educational field.●

● Mr. ROTH. Mr. President, I rise to join my colleagues in sponsoring amendments to the Higher Education Act of 1965 to provide for the establishment of international education programs.

Awareness in this country of foreign languages and customs is at a dangerously low point. For too long we have felt that the rest of the world needs to look to the United States for new technology and for expanding market opportunities for selling their goods.

This perception, if ever accurate, is certainly not accurate today. We in this country now face serious problems in maintaining our international economic competitiveness, as is evident from our massive trade deficit of just under $30 billion in 1979. This was the third such massive trade deficit in a row, and the outlook for the coming year is for more of the same.

Europe, Japan, and the OPEC countries are all expected to grow more rapidly in the 1980's than the United States. Consequently, today we ourselves need to look overseas for the fastest growing market opportunities for our producers. We also need to look overseas for new technology in many areas, since our post-war technological dominance has largely disappeared.

Obviously, increased foreign area and language studies in the United States will not correct our trade and technology problems; however, a program of expanded language and area studies would be a significant step in the right direction. Part B of this amendment, which provides for business and international education programs, seems to me to be particularly significant.

In the past, the business and academic communities have often seemed to talk past one another to the detriment of both. Our schools seem too often simply to train future language teachers, rather than to emphasize the commercial aspects of language and area studies training. For businessmen, the importance of understanding foreign languages and cultures is often not appreciated until a mid-career assignment requires a move overseas.

Communication between the academic and business communities needs to be greatly expanded. For its part, the business community needs to understand that being able to get directions to the nearest restaurant is not enough. Instead a deep knowledge of the foreign language and culture is required, so that products can be designed and packaged to meet local tastes. In our schools and universities, students need to understand early on that language training will pay off in future career opportunities in the business world.

The advisory board envisioned in section 613 will be particularly useful in helping to strengthen communications between the business and academic communities. This board will consist of six Government representatives, three from the business community, and three from the academic community.

I would prefer to see the private representation on this board expanded, so that the board would consist of one-third government, one-third business, and one-third academic representatives. This would foster communication between the business and academic communities to an even greater extent than would the proposed composition of the board, in my judgment. I am not offering an amendment to the amendment at this point, but would hope that this suggestion would be taken up during mark-up.

The provision for consultation with the Secretary of Commerce in selecting business representatives is welcome, but it may be better to have at least one of the business representatives selected by the Administrator of the Small Business Administration and the remainder by the Secretary of Commerce. The Commerce Department and the Small Business Administration have extensive ties with the business community and should be able to nominate business representatives who can fully articulate the needs of the business community.

Program envisioned under this amendment also are a significant step forward in increasing foreign language and area studies in the United States. I fully support these programs, particularly those to develop curricula for international education.

Recently I developed a bill to provide for an Export Education Foundation, and so I have brought some distinctive intellectual baggage of my own to my consideration of the Stafford-Javits bill. I thoroughly appreciate what they have done, and I am fully supportive.

Nonetheless, I want to take this opportunity to indicate that there are two directions which I would like to see us address in the future, to expand the business aspects of the program. The bill envisions student and faculty fellowships and internships in international business

activities. This type of program has often resulted largely in fellowships for faculty members; I believe we should consider greater emphasis upon overseas student internships.

Such interns could work under the direction of U.S. commercial officers overseas in export promotion activities, including implementation of the multilateral trade agreements approved by the Congress last year. Interns could be recent graduate students with masters degrees in business, engineering, or other appropriate discipline. Nominal fees could be charged for interns' services, which might include translation or market research work for American businessmen overseas. After completion of their internships, the program could make special efforts to place the interns in suitable career assignments, perhaps in the commercial service corps or in an international activity of a company.

Another matter I propose for further consideration is translation centers. This country is losing business because of inadequate translation services. We need to examine the best ways to provide such services and to look at the ways that other countries, such as Germany and Japan, provide them. We need the testimony of business and higher education and our linguists as we proceed. I am delighted to know that Senators STAFFORD and JAVITS are interested in this problem, and I hope we will be able to address it during the coming year.

Mr. President, the title VI initiative will strengthen our country's international position through increased awareness of foreign markets. It merits the support of the Senate as well as that of the business and academic communities.●

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

S. 2306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Education Programs Act".

SEC. 2. Title VI of the Higher Education Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that—

"(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

"GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

"SEC. 602. (a) (1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.

"(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training, improvement, and travel of the staff for the purpose of carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing advanced training in any center receiving Federal financial assistance under this part, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"ADVANCED INTERNATIONAL STUDIES CENTERS

"SEC. 603. (a) (1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the Center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

"(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

"UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty; and

"(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"RESEARCH; STUDIES; ANNUAL REPORT

"SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) research on more effective methods of providing instruction in such foreign languages and other fields; and

"(3) the development of specialized materials for use in providing such instruction or for use in training individuals to provide such instruction.

"(b) The Secretary shall prepare and publish an annual report which shall include an index and analysis of the books and research materials produced with assistance under this title.

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

"ADVISORY BOARD

"SEC. 607. (a) Not less than three times each year, the Secretary shall convene meet-

ings of an advisory board on the conduct of programs under this part, and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall consist of—

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of Defense;

"(3) one member selected by the Secretary of Education to serve as Chairman and coordinator of the activities of the board;

"(4) one member selected by the Chairman of the National Endowment for the Humanities;

"(5) one member selected by the Director of the International Development Cooperation Administration;

"(6) one member selected by the Director of the International Communication Agency;

"(7) two members selected by the Secretary from among representatives of the post-secondary education community;

"(8) two members selected by the Secretary from among representatives of the elementary and secondary education community; and

"(9) three members selected by the Secretary from among members of the public.

"(b) The advisory board established under subsection (a) shall consider the grants made, or contracts entered into, under this part and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (1) any geographic areas of special need or concern to the United States, (2) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (3) innovative approaches which may help to fulfill the purposes of this title, (4) activities which are duplicative of programs operated under other provisions of Federal law, (5) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (6) the administrative and staffing requirements of international education programs in the Department.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 608. There are authorized to be appropriated $60,000,000 for fiscal year 1981, $65,000,000 for fiscal year 1982, $70,000,000 for fiscal year 1983, $75,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"FINDINGS AND PURPOSES

"SEC. 611. (a) The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"EDUCATION AND TRAINING PROGRAMS

"SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

"(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curriculums to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curriculums at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

"(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise trade organization, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

"ADVISORY BOARD

"SEC. 613. (a) Not less than three times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under section 612 of this title. The board shall consist of—

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of the Treasury;

"(3) one member selected by the Secretary of Commerce;

"(4) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the Board;

"(5) one member selected by the President and Chairman of the Export-Import Bank of the United States;

"(6) one member selected by the Administrator, Small Business Administration;

"(7) three members selected by the Secretary from among representatives of the postsecondary educational community; and

"(8) three members selected by the Secretary from among representatives of the business community.

"(b) The advisory board established under subsection (a) shall review the programs under section 612 and shall advise the Secretary on (1) changes which should be made to advance the purposes of this part and to assure the success of the programs authorized by this part, (2) special needs of such programs, and (3) any program elements which are duplicative of programs operated under other provisions of Federal law.

"(c) The Secretary shall prepare and publish an annual report. This report shall be combined with that mandated under section 605(b).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. There are authorized to be appropriated $10,000,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of part B of this title.

"PART C—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 621. (a) As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or to add new components to the curricula to provide an international context for American business education.

"(b) All references to individuals or organizations, unless the context otherwise re-

quires, mean individuals who are citizens of the United States or organizations which are organized or incorporated in the United States.".

SEC. 3. Title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART N—INTERNATIONAL UNDERSTANDING

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 393. (a) This part may be cited as the 'International Understanding Act'.

"(b) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

"(c) It is the purpose of this part to support educational programs which will increase the availability of such information to students in the United States.

"PROGRAM AUTHORIZED

"SEC. 394. (a)(1) The Secretary is authorized, by grant or contract, to stimulate educational programs to increase the understanding of students and the public in the United States about the cultures and actions of other nations in order to better evaluate the international and domestic impact of major national policies.

"(2) Grants or contracts under this section may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers.

"(b)(1) Financial assistance under this part may be used for assistance for inservice training of teachers and other education personnel, the compilations of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but such assistance may not be used for the acquisition of equipment or remodeling of facilities.

"(2) Financial assistance under this part may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.

"(3) Financial assistance under this part may be used by local educational agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance for the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 395. There are authorized to be appropriated $7,000,000 for fiscal year 1981, $9,000,000 for fiscal year 1982, $11,000,000 for fiscal year 1983, and $12,000,000 each for fiscal years 1984 and 1985 to carry out the provisions of this part.".

SEC. 4. (a) Title VI of the National Defense Education Act of 1958 is repealed.

(b) Title I of the International Education Act of 1966 is repealed.

AMERICAN COUNCIL ON EDUCATION,
Washington, D.C., February 4, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: On behalf of the undersigned higher education associations, I would like to express our strong support for your thorough revision of the legislation which supports essential international education activity at colleges and universities throughout the nation. The legislation which you and Senator Javits have prepared constitutes timely encouragement to the rich resources that higher education can bring to bear upon the complex and pressing international challenges facing the Nation in the years ahead.

The union of scholarly and governmental interests under the aegis of Title VI of the National Defense Education Act has been useful and productive. Under this rubric, aided greatly by private philanthropy until the 1970's, an extensive flowering of language and area studies in higher education has occurred. However, after more than twenty years, the relationship of this law to national needs and to program potential warrants close scrutiny. We applaud your efforts to reassess this situation constructively, and to make corresponding changes in the law.

Among the features of your bill, we specifically appreciate the new context you have given for the conduct of foreign language and international studies relative to United States interests in a changing world. We also strongly support the added flexibility you have incorporated into program assistance to higher education institutions. The program you have outlined builds upon the strengths and the accumulated expertise of the past twenty years, yet reaches beyond to engage the diverse resources of all two- and four-year colleges and universities in meeting the national need for informed citizens, trained scholars, for knowledge of other cultures, and for an understanding of the global problems which threaten us all.

We are pleased that you have integrated this law into the Higher Education Act. This transfer recognizes the inherent international nature of colleges and universities and consequently, the vital role of higher education in international studies. Furthermore, the nation's need for foreign language and international studies is ill-served by the spasmodic attention it has received over the past several years. The viability of these programs has been jeopardized by their status as categorical programs under NDEA Title VI. Surely history would indicate that the National need for international understanding does not have a fixed expiration date, but exists as an ongoing challenge.

Finally, we welcome the addition by Senator Javits of Part B, "Business and International Education." This portion of the bill is a positive step toward eliminating present barriers between international knowledge and business skills on the one hand, and the need to expand effectively U.S. export markets on the other. The application of available resources toward the conduct of business abroad and the development of new capabilities are essential to the Nation's future economic well-being. The largely untapped potential of higher education can make important contributions in this area.

We are grateful for your bold leadership in revising this important piece of legislation. The changes you have proposed will greatly enhance collaboration between higher education, the business community, and the government as we equip the Nation to meet an uncertain future.

Sincerely,

J. W. PELTASON.

UNDER SECRETARY OF STATE FOR MANAGEMENT,
Washington, D.C., December 19, 1979.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Thank you for your letter concerning NDEA Title VI changes.

The President's Commission on Foreign Languages and International Studies confirmed both the deterioration in language and international affairs capabilities in the United States and the declining trend of support for pertinent studies programs. The Department had long been aware of the downtrend and was concerned for the harmful effect that it would have on the nation's foreign operation capacity, both governmental and private.

The Department believes the downtrend must be reversed. We, therefore, strongly support the efforts to revitalize these educational programs which are so basic to the preparation for professional participation in foreign affairs. In light of our balance-of-payments problems, the linkage to business should be particularly rewarding.

I have not had the opportunity to analyze H.R. 5192 or your proposed legislation in detail. Recognizing the common purpose, however, I believe that you and your colleagues will develop a compromise to materially improve the present situation.

You have my sincere appreciation for your efforts.

Sincerely,

BEN H. READ.

EMERGENCY COMMITTEE FOR AMERICAN TRADE,
Washington, D.C., February 11, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: ECAT is an organization of 63 leaders of large U.S. companies with extensive international business operations. In 1978, worldwide sales by these companies totalled $400 billion and they employed 5 million people.

Because of their extensive worldwide business operations, ECAT members are well aware of the need for U.S. businessmen to speak foreign languages. In this regard, we share the concern of the President's Commission on Foreign Languages and International Studies that only 8 percent of American colleges and universities now require a foreign language for admission and that only a handful of American high school students study a foreign language for more than two years. ECAT, therefore, appreciates your initiative to establish educational programs which would contribute to improving the U.S. businessman's language proficiency, as well as his understanding of the social, economic and political factors which are essential to doing business in foreign countries.

Consideration by the Congress of the International Educational Program Act is an indication of the Congress' desire to encourage U.S. exports. Unfortunately, a growing number of export disincentives created by the Congress and the Executive Branch drastically inhibit our ability to export.

In the field of language training alone, for example, there is agreement among educators that one of the most effective means of learning a foreign language is to live in a foreign country. However, recent revisions by the Congress of Sections 911 and 913 of the U.S. tax code, directed at U.S. citizens living and working abroad, has resulted in extensive costs to American business firms employing U.S. citizens abroad. These added tax costs are such that U.S. companies are reducing the number of their overseas American employees and employing nationals of other countries whose loyalties are not to the United States but to their home countries. One result is that when foreign employees have the chance, they direct business purchases away from the United States to either their host or home country. We believe that U.S. exports have suffered quite badly as a result.

What is needed in U.S. export policy is consistency. We are pleased that your International Educational Program Act is a step in the right direction.

Sincerely,

ROBERT L. MCNEILL,
Executive Vice Chairman.

AMERICAN ASSEMBLY OF
COLLEGIATE SCHOOLS OF BUSINESS,
Washington, D.C., February 5, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washingon, D.C.

DEAR SENATOR STAFFORD: Thank you for your letter of January 18, 1980 inviting me to comment on the important legislation which you and Senator Javits propose to introduce.

It has been my opportunity during the current academic year to serve as president of the American Assembly of Collegiate Schools of Business (AACSB), the officially recognized accrediting organization and association of schools of business in the United States. In this capacity—and on behalf of the AACSB Board of Directors—I am pleased to endorse the purposes and objectives of the proposed legislation. While the views expressed in this letter have been approved by the board of directors, they do not necessarily reflect the views of the membership of AACSB, since time did not permit such wide consultation.

Since World War II, the U.S. has been operating in a new type of national economic environment, and a significant international component has been added to it. The rise of the multinational corporation, the interrelatedness of our national economic life with that of other countries of the world, and other economic developments have come to place an additional responsibility on our schools of business and management. They must provide future business leaders with an understanding and appreciation of the international economic environment in which U.S. business must operate.

As you requested, I have examined Part B Section 611–614, an entirely new section of the proposed bill designed to encourage linkages between business and higher education which can contribute to the ability of U.S. business to prosper in an international economy. In my opinion you outline a well conceived plan to achieve this goal and an approach which is constructive and feasible.

The importance of the international area in the education of future managers has been a growing conviction on the part of AACSB deans for the past several years. Some of the kinds of programs mentioned in the bill do exist in our schools of business but on a fragmented, inadequate scale. AACSB itself has undertaken some important but still relatively new programs to acquaint faculty members with new information available in the international business field and to sensitize them to the importance of the international dimension of business education. Nevertheless, the number exposed to this kind of training is still small. The organization and funding in your proposed bill would permit a scale of effort that would strengthen such programs and help coordinate them with public and private sector organizations.

A proper interfacing of business, government, and the academic world will help us to retrieve some of the economic leadership that America has seemingly lost and to develop the areas in which we have comparative national advantages. I applaud the legislation you have proposed; and as current president of the American Assembly of Collegiate Schools of Business—and on behalf of its board of directors—I am pleased to give you our endorsement and support of it.

Sincerely yours,

V. K. ZIMMEMAN,
President.

TUFTS UNIVERSITY,
THE FLETCHER SCHOOL OF
LAW AND DIPLOMACY,
Medford, Mass., January 25, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I am writing in support of the Stafford-Javits bill, Title VI of the Higher Education Act of 1965, International Education Programs. I applaud your efforts to bring meaning and substance to the good work of the President's Commission on Foreign Language and International Studies, and I believe that this bill is an excellent way to act in the most constructive fashion to do so.

Your bill is a very positive addition to the legislation required to support international education in the United States. I agree that it is important to institutionalize the importance of international education by bringing it into the Higher Education Act. By taking it out of the National Defense Education Act we in no way suggest that the national defense is any less at stake. On the contrary, the national defense is even more at stake, and this is precisely what makes it important to update this excellent act and move it to a location where it can do more good and receive more recognition.

I hope you will not hesitate to call on me or any other members of the international affairs education community for assistance with this bill. As we move into this difficult time in foreign affairs, we must remember that constancy and professionalism is one of the highest national priorities. Thank you for doing your part.

Sincerely,

THEODORE L. ELIOT, Jr.,
Dean.

THE ATLANTIC COUNCIL OF THE
UNITED STATES,
Washington, D.C., February 7, 1980.

Senator ROBERT T. STAFFORD,
Senate Subcommittee on Education, Arts and Humanities, Washington, D.C.

DEAR SENATOR STAFFORD: It is my understanding that your Subcommittee on Education, Arts and Humanities has under active consideration the Stafford-Javits bill for International Educational Programs, and I write you today to express the whole-hearted support of the Atlantic Council of the United States for the measure. It is a strong and constructive piece of legislation that should do much to help improve the position of the United States in the important field of internaional education.

We here at the Atlantic Council have been concerned for some time about the inadequacies of our international education program and the relatively small amount of money we spend for it. Far too many of our younger generation, including many who will soon be moving into positions of power and influence in the country, are going through high school—and even college—without acquring a real knowledge of the world in which they live. When we consider how interdependent the world has become we begin to appreciate how important the task of international education is. Certainly if the members of the younger generation are to respond satisfactorily to the challenges of the 1980's and the 1990's, they must be well aware of the forces and factors that shape our world relationships.

In this connection I am particularly concerned about the growing gap that exists in connection with our European relationships. As you are well aware, after World War II it was fashionable for our colleges and universities to open centers and to sponsor courses and programs dealing with Asia, Africa, Latin America, Eastern Europe and the Middle East. In the circumstances, this emphasis on the developing countries was probably justified. But in the process the whole field of European studies was badly neglected.

Clearly this situation ought to be rectified—especially in view of our NATO relationships and the need to work closely with western allies. Our people ought to have a better understanding of European affairs. But they ought to have a better understanding of world affairs, too. We think your legislation is an important step in the right direction. That is why we support it.

Sincerely yours,

KENNETH RUSH.

NATIONAL DEFENSE UNIVERSITY,
Washington, D.C., January 31, 1980.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I have recently become aware of your sponsorship, together with that of Senator Javits and others, of the International Educational Programs Act of 1980 and wish to take this opportunity to comment on several aspects of the proposed legislation.

As an academician involved in developing and preparing senior-level military and civilian executives for policy and staff elements of the National Security establishment, I have been deeply concerned with the declining capabilities of the educational establishment to contribute to the expanding need for qualified personnel in international studies. Specifically, the reduced availability of quality graduates in the fields of foreign languages, area studies, and international studies integrating socio-political and economic disciplines has made it increasingly difficult to maintain the quality of faculties dedicated to National Security affairs. Therefore, I am gratified to learn of the provisions of "Title VI International Education Programs," which represents an impressive infusion of resources into this vital area.

Equally gratifying are the new initiatives included under Part B of the proposed legislation, entitled, "Business and International Education Programs." This strikes me as a most important innovation in strengthening both formal academic and applied professional programs needed to heighten the sensitivity of private sector management to international business opportunities. The growing interdependency of the world economy, together with the declining relative leverage of the U.S. position, underscores a growing imperative to integrate international considerations into decisionmaking at all levels within the U.S. business establishment. This concern, coupled with the increasing competitiveness confronted by U.S. firms, both domestically and abroad, has prompted many educators to observe that much of our future prosperity and security may well depend on successfully transitioning the perspective of decisionmakers from one of a predominantly domestic orientation to one broadened by strategic international considerations.

The prospects for a solution of this problem are greatly enhanced by the provision in Part B of the bill which provides substantial funding for academic and professional training programs in the field of international business. This initiative may well prove to be a turning point in converting concept into

reality in the internationalization of the educational base supporting U.S. business. Therefore, I strongly support the legislation and consider it to be essential in developing institutional leadership and providing strategic perspective so vitally needed in both governmental organizations and private enterprise.

My very best wishes for the successful enactment of this essential contribution to the Nation's security.

Sincerely,

JOHN N. ELLISON,
Associate Dean for Program Development

LATIN AMERICAN
STUDIES ASSOCIATION,
Urbana, Ill., January 29, 1980

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: On behalf of the Latin American Studies Association, of which I am President this year, let me take this opportunity to express my congratulations to you on your efforts to improve international education. I am particularly pleased with the "International Education Programs Act," Title VI of the Higher Education Act of 1980. Part C, export education, is a most innovative approach to the training of area specialists for business. Latin Americanists could greatly benefit from such educational incentives since that region figures so heavily in our nation's international trade. Today over 80 percent of all U.S. trade with developing nations take place in this hemisphere. The need to educate students of Latin American studies in the basic skills of business and trade will certainly prove a highly valued asset to firms seeking trained area specialists with business credentials.

Thank you for your continued efforts to ensure that international education remains high on this Congress' priorities. If I can be of further assistance to you please feel free to call or write.

Sincerely,

CARMELO MESA-LAGO,
Director, Center for Latin American Studies, University of Pittsburgh and President of LASA.

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, Pa., January 14, 1980.

Hon. JACOB K. JAVITS,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: I write in wholehearted support of the Stafford-Javits version of the new Title VI of the Higher Education Act. I am delighted that you will introduce Part B, on "Business and International Education." Prompted by your request at the Subcommittee hearings on October 18 that we seek ways to make international education more responsive to business and business more aware of the value of increased involvement with international education, I have followed with interest the work of Subcommittee staff and others in refining this legislation. Their efforts have been encouraging and productive.

As a result, I believe that the new Title VI can fulfill important national purposes by linking higher education and the business community thus providing for American business the expertise it needs in dealing with its international trading partners. Events in Iran and Afghanistan demonstrate all too well that America's security, image and national interests require the most expert knowledge we can muster about the culture and politics of all areas of the world. The transfer of the current Title VI of NDEA into the Higher Education Act is an important and undoubtedly constructive step toward increasing this kind of expertise and making it available to business and government.

Your initiative, reflected in Part B's provisions for bringing business and education together in international education, has considerably strengthened this bill and its potential for achieving its purposes. The transfer, in the revised version, of the International Understanding Act to the Elementary and Secondary Education Act for the sake of increasing continuing and community education, improves upon the original.

The revised bill also includes the concept of geographic distribution (section 606), but at the same time urges a consistently high level of performance as the primary criterion for support of international study centers. Over the past few decades, certain advanced area study centers have attained remarkable results, and any weakening of their resources would be a severe loss to research and the development of the faculty who will teach and conduct international research in the future.

In this regard, I speak as the president of a university at which several distinguished international study centers have been painstakingly developed over the years. Two major centers of this kind, Pennsylvania's Middle East Center and the South Asia Regional Studies Center, were given great impetus by funding under the old Title VI. That seed money enabled us to attract the additional support from business and foundations that has helped sustain a strong faculty as well as providing graduate fellowship and research support.

All told, the University of Pennsylvania has three dozen institutes and centers with international content, ranging from language and area studies, such as the Middle East Center, the Germanic and Oriental programs, to the Multinational Enterprise Unit in the Wharton School and the International Comparison Project, which carries out comparative studies on international purchasing powers and currencies. It will become increasingly important to maintain this kind of diversity, as well as depth, in international and foreign language studies. To do so, this University and all of higher education will look to opportunities provided under the new Title VI.

I appreciate the opportunity to comment on this legislation. I value the personal initiative you have taken, as well as your joint efforts with Senator Stafford, in drafting a bill worthy of the challenge and the need that international education represents for us in America. Higher education, the business community, and the nation at large may be grateful for your leadership in this enterprise. With best wishes.

Sincerely,

MARTIN MEYERSON.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., December 18, 1979.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: The NEA supports the move of NDEA Section 603 into Title III of the Elementary and Secondary Education Act and the move of Title VI of the NDEA into the Higher Education Act.

These moves will eliminate the funding trigger for Section 603, which should permit international education to stand on its own merits and provide for more adequate funding. They also put international education programs into more compatible settings. This should provide for better administration of the programs.

The recent studies on "International Education" indicate a great need for public awareness and for increased efforts in the area of international education. The interdependence of todays' world, the need for the United States citizens to understand and appreciate other cultures and other peoples make imperative a greater emphasis on international education.

Sincerely,

STANLEY J. MCFARLAND,
Director of Government Relations.

GEORGETOWN UNIVERSITY,
THE CENTER FOR STRATEGIC
AND INTERNATIONAL STUDIES,
Washington, D.C., January 9, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senator,
Washington, D.C.

DEAR SENATOR STAFFORD: I have just learned of your leadership in introducing legislation to bring the International Education Programs Act of 1980. I am writing to commend you for this action and particularly for including the new Part B on Business and International Education Programs.

My current activities include considerable attention toward U.S. export policy, in particular to the competitiveness of U.S. exports to Third World markets. Our national security, especially at this period of dependence on imports of foreign oil, requires that we expand our exports. The problems of our export policy are many, and I don't need to get into my views in depth in this letter. Suffice it to say that my observations indicate that a major problem is that American businessmen generally feel uncomfortable and unprepared in non-English speaking countries. If we are to export more, this has to change. Compare the number of English-speaking Japanese businessmen in the U.S. with the number of Japanese-speaking American businessmen in Japan; there is no comparison. Your legislation hits the need right on the head.

If there is any criticism I have it is the low level of the planned authorization. In my opinion, the figures should be in the $20 million range, and there should not be an expectation that this program will be phased out. During the 1980s our business will need government help to be internationally competitive. Your legislation makes great sense for the 1980s.

Please feel free to call on me if I may be of assistance to you in your endeavors.

Sincerely,

MICHAEL A. SAMUELS,
Executive Director.

EMORY UNIVERSITY,
Atlanta, Ga., December 21, 1979.

Senator ROBERT T. STAFFORD,
Dirksen Building,
Washington, D.C.

DEAR SENATOR STAFFORD: In July, 1979, Emory University received an award from the HEW Office of Education to establish an undergraduate International Studies Program in Emory College. This program has been established, and has been most beneficial to our overall undergraduate program.

The grant has enabled us to prepare fourteen courses dealing with international topics (such as "Africa in the Modern World," "Political Violence," "Contemporary East Asia: Societies and Institutions"). Through all these courses, approximately two-thirds of the students in Emory College will have enhanced their understanding of global issues and international studies. In addition, these course syllabi will be made available to faculty teaching in other colleges and universities in Georgia, so that the information gathered here will serve other faculty and students in the area.

Because of the funds provided through the grant, there has been an increase in faculty positions in international studies areas here. Additional activities sponsored by the International Studies program include lecture programs, a Russian film festival, luncheons and faculty seminars, and a town meeting on Salt II (with William Colby, Admiral Elmo Zumwalt, President James Laney, and State Representative Liane Levitan).

These new expanded activities have been extremely well received, both by those on campus and by members of the community. We believe the attention focused on international events and topics has been most helpful to the community, broadening our perspectives and enriching the undergraduate program.

I hope you will support undergraduate international studies during the current reauthorization process. Emory University's involvement with this program has been extremely successful and productive, and we hope that the Congress will recognize these benefits and choose to extend them in future years.

Sincerely,

PATRICIA A. STRINGER,
Acting Dean.

INDIANA UNIVERSITY,
Bloomington, Ind., January 4, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR STAFFORD: I have looked over the draft of the new Title VI legislation proposed for the Higher Education Act of 1965 and in general find it a most admirable improvement on the current legislation on International Education Programs. The increased emphasis on national resource centers for foreign language and area studies is welcome as is the increased flexibility of programming envisioned in the establishment of graduate regional centers focused on area or fields or issues in world affairs.

Those of us interested in international education are also pleased to see the program to improve undergraduate instruction in the critical areas of international studies and foreign languages. In addition, we find the inclusion of continuing, community, and adult education programs within the mainstream of international education as a positive step in the development of a national program.

Because of Indiana University's longstanding interest in the development of joint programs in business and international studies, we are gratified to see that Section 609 of the proposed legislation encourages the development of this area of academic-business inquiry.

We do, however, have some concern about the language in Section 602, paragraph b, where it seems clear that students can only receive stipends for advanced training while enrolled in a federally funded center. We believe this is an unnecessary restriction, for it is sometimes the case that an institution with a strong program does not have a federally funded center. Such an institution should not be denied the opportunity to compete for the fellowships. This is especially the case since the guidelines in the proposed legislation require reasonable geographic distribution. We believe that while the emphasis on strong federally funded centers is appropriate, the fellowship competition ought to be made wider so as to encourage those institutions willing to develop strong international programs without federal support.

Other than this problem which we expect can be resolved without serious difficulty, I am pleased to tell you that Indiana University believes this to be a most useful revision of the current arrangements for Title VI International Education Programs.

Sincerely yours,

JOHN W. RYAN,
President.

STANFORD UNIVERSITY,
Stanford, Calif., January 8, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I have recently had an opportunity to examine the text of the proposed International Education Programs Act of 1980 that you and Senator Javits plan to introduce in the near future and felt that I had to write to thank you for this really splendid effort on behalf of a sadly neglected but very important cause. Permit me to explain my own relationship to the field and offer a few comments on the Bill.

I was a member of the recent President's Commission on Foreign Language and International Studies and chaired its subcommittee on Advanced Training and Research. I am also director of Stanford University's Center for Research in International Studies and have worked in this general area for thirty-odd years.

I might add that the last ten or so of these have been progressively more discouraging for those of us who believe that the United States has been systematically denying itself an important part of the human and intellectual capacity it needs in order to conduct more effectively its public and private relationships and business abroad. It is this background of adverse experience that adds a special meaning and importance to your Bill.

Where the substance of the legislation is concerned, I have little but praise to offer. It is especially gratifying to note that it does incorporate a number of the most important recommendations of the President's Commission: the provisions for federal assistance to both advanced training and research and to undergraduate education as well, the need for an advisory board on international education, and expansion of international studies at the pre-collegiate and adult levels, and the improvement of the international training available to our business community.

These are all intelligent, constructive, and sorely needed provisions. If the legislation passes and is funded at a reasonable level, I hope that it will be possible to persuade the Department of Education to administer the Act in a fashion that will both preserve and strengthen our existing capacities in the international field while simultaneously and gradually phasing in, as funding permits, its innovative aspects. There are grounds for serious concern on this latter score.

In more general terms I would like to comment briefly on what I take to be the basic philosophy and purpose of your Bill. In my opinion it is, if successful, capable of making the beginning of a new era in federal policy toward the international aspects of our educational system. This, I take it, is what you and your associates intended to symbolize when you gave it a name, happily different from that of the old National Defense Education Act, and when you provided for it a new and more regularized status as a portion of the Higher Education Act.

The fundamental importance of such a development lies, I believe, in its implications with respect to national priorities. For years I have been mystified by federal policies that have consistently failed to recognize that in our public and private dealings abroad, just as in science and technology at home, our basic and irreplaceable resources are human and intellectual capital.

I have often wondered, once the abnormal margins of advantage conferred on us by the consequences of World War II began to attenuate, how long it would take us to realize that it was essential to compensate for these losses by providing training at all educational levels that would prepare Americans to deal more effectively with the problems and opportunities that lie beyond our frontiers.

We are so obviously faced with a future in which our national security and well-being in practically every meaningful aspect are certain to be increasingly affected by foreign developments and policies over which we have little or no influence. It simply does not make sense under these circumstances to allow our facilities for the teaching of foreign languages, for the understanding of foreign societies and cultures, or for the study and analysis of the great international problems of the day to atrophy for lack of public interest or support.

Such neglect can only indicate a sense of national needs and priorities that, in its mistaken absorption with lesser issues of seemingly greater urgency, has almost completely lost touch with the basic realities and trends of our time.

It is in these terms that my colleagues and I so strongly applaud and support your truly farsighted and constructive initiative. While it may not in itself resolve any of the country's major international problems, it can shift the odds in our favor and in time equip us to deal with these problems much more effectively than is the case today. Lord knows, we need such a capacity! The best of luck. We are in your debt.

Sincerely yours,

ROBERT E. WARD, *Director.*

THE WORLD TRADE INSTITUTE,
New York, N.Y., January 28, 1980.

Senator ROBERT T. STAFFORD,
5219 Dirksen Building,
Washington, D.C.

DEAR SENATOR STAFFORD: The draft of the bill to amend the Higher Education Act of 1965 with a new Title VI on International Education Programs, which you and Senator Jacob Javits will introduce, was sent to me for review and comment. This is of particular interest to me for the following reasons:

1. On behalf of the American Council on Education I chaired a national task force, in 1976–77, to undertake studies and publish the report on Business & International Education;

2. On behalf of the American Assembly of Collegiate Schools of Business I have been responsible during the past three years for the academic aspects of the nationwide workshops on the Internationalization of the Business School Curriculum, and edited the report with that same title;

3. I am past President and current Dean of the Fellows of the Academy of International Business, the association of the approximately 950 professors of international business in the U.S. and abroad;

4. In my current work at the World Trade Institute.

Because of the above, I am very keenly aware of the great need for Federal support of international education, not only in business schools, to prepare business graduates for the realities of today's business world, but also in high schools, in all parts of the university, and at the level of adult education. High school students need more exposure to other cultures and to the international scene in general to become better citizens in today's world and better voters in

U.S. elections. College graduates cannot pretend to be educated if they have not achieved a modicum of understanding of the language, culture, economy and politics of some area of the world other than the U.S.

Your bill will facilitate a renaissance in American education toward the solution of the above problems, and I support it wholeheartedly.

There are, however, two aspects of the bill which, I feel, may benefit from some additional thinking. First, simply improving the existing language and area study centers, or creating new ones, does not solve any problems if students do not change their current course selection pattern. The real question is how these Federal funds might be used as leverage to induce educational institutions to change their entrance or graduation requirements. Perhaps this type of goal could be written into the introduction to the bill, if not in the body of the bill, to show the intent of the Congress and to provide guidance to the Department of Education in its evaluation of grant requests.

Secondly, I should like to refer to the requirement on Page 10, lines 4 to 7, that each application for funds "shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise . . ." etc. This implies that such an agreement must exist in order to qualify for a grant, whereas many of the eligible activities referred to on Page 9 are not of the type which would involve a cooperative agreement between the educational institution and a business enterprise or association. Perhaps the insertion of "where applicable" in some appropriate place would solve this matter.

Thank you very much for this opportunity to review and comment on the draft bill. I sincerely hope for a speedy passage of the bill through Committee and through Congress.

Sincerely yours,

LEE C. NEHRT,
Director.

UNIVERSITY OF CALIFORNIA,
Los Angeles, Calif., January 31, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: The purpose of this letter is to register our strong support for the International Education Programs Act of 1980, which it is understood will soon be introduced by you and your colleagues in the Senate. This timely initiative comes at a most critical juncture. The recent report of the President's Commission on Foreign Language and International Studies illuminated the very real crisis we confront in the maintenance of this nation's capacity—in terms of the intellectual and specialist resources, and supporting infrastructure—to comprehend, analyze, interpret, and possibly forecast the crises and perils of an increasingly complex and volatile international environment.

The concentration of international expertise developed and institutionalized in our major research universities during the past two decades has become a seriously endangered national resource. These universities not only house, sustain and serve the bulk of the nation's leading rare specialists and experts on foreign areas, they also have the major research libraries, foreign language training specialists and facilities, and research infrastructure for advanced study. The further proliferation of these would be prohibitively costly.

However, such existing concentrations must serve a broader constituency. A significant number of international and foreign area specialists are now distributed among the hundreds of smaller universities and colleges throughout the country. This broad diffusion of foreign area expertise throughout the higher levels of America's pluralistic educational system is also crucial for the national interest. It furthers the internationalization of the curriculum not only in higher education, but also at the secondary and elementary levels, not to mention expanding the knowledge of the citizenry at large through the outreach programs of those institutions.

The developmental costs of the major concentrations of foreign areas, foreign language and international expertise at major research over the past two decades have been enormous. The recurrent costs of merely sustaining them have been, and continues to be, borne overwhelmingly by those universities from local resources. However, markedly increased and long-term assured Federal Government funding is indispensable to ensure not only their survival, but also the maintenance of their quality, their effectiveness, and the realization of their full potential. Such funding is equally vital to the functioning of regional consortia of universities sharing the opportunities and resources of the major national centers as well as the wider diffusion of knowledge and understanding about the world to all levels of the educational system.

International Education Programs Act of 1980 you are introducing into the Senate addresses itself directly to these critical needs and we wish to commend you for your vision and the leadership you are providing to enact legislation designed to meet them.

Sincerely,

CHARLES E. YOUNG,
Chancellor.

THE UNIVERSITY OF VERMONT,
Burlington, Vt., January 31, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Sven Groennings has shared with me the text of a bill that you are introducing jointly with Senator JAVITS, the International Education Programs Act of 1980. I want to express to you my interest and support for this bill.

The University of Vermont is now active in programs covered by the bill. They are good programs at this University—good largely through the devotion and commitment of the faculty involved. They are, however, programs that could be considerably strengthened by resources to support the effort of the faculty. I can see ways in which good programs could be made better through this bill.

Our College of Arts and Sciences is the home of an interdisciplinary Center for Area and International Studies. Faculty of that college and of other colleges and schools on the campus cooperate in joint efforts in five major international areas: Asian Studies, Canadian Studies, European Studies (focused on Western, Northern, and Mediterranean Europe), Latin American Studies, and Russian and East European Studies. Interdisciplinary programs of this kind, however, tend to be limited in terms of supporting resources.

The traditions of colleges and universities have directed resources primarily into discipline-based departments. The University is limited in its ability to redirect existing resources into the support of interdisciplinary programs. Our own Center for Area and International Studies would benefit considerably by funds to cover the costs of materials for teaching and research, the expenses of visitors from other institutions and from public life, and the costs to faculty for broadening their own knowledge of the field. I note with pleasure the ways in which your bill seeks to respond to just those kinds of problems.

The bill is similarly responsive to needs that American higher education has in instruction in foreign languages. Again, The University of Vermont has strong departments, but they could benefit from strengthening in the particular area of language instruction. We now provide considerable instruction in French, Spanish, German, and Russian. There is a modest amount of instruction in Hebrew and in Slavic languages (for example, Serbo-Croation). Within recent years, however, we have had to sacrifice the teaching of Italian and of Chinese. Clearly, these would have been of benefit to the programs in Asian Studies and in European Studies.

The interest and commitment to instruction in foreign languages at the University of Vermont is evidenced by the fact that the incoming President of the American Council on the Teaching of Foreign Languages is a member of our own Department of Romance Languages, Professor Thomas Geno. I believe that you will find him willing to share with you his views on the programs that you propose.

One final point that I would make is that your bill is a strong bill because it provides breadth in the scope of international education. I think that is very important. The history of the past two decades shows that this nation has had to respond to conflicts and misunderstandings in what might have been thought the most unlikely places. International education can make its greatest contribution by developing a strong base on which understanding can be built and conflict prevented.

Sincerely,

LATTIE F. COOR,
President.

UNIVERSITY OF HAWAII AT MANOA,
Honolulu, Hawaii, January 25, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Congress,
Washington, D.C.

DEAR SENATOR STAFFORD: Word has reached me at this distant Pacific outpost that the Senate bill entitled "International Education Programs Act of 1980" will soon be introduced into the Senate by your office. This is good news and I offer my support and encouragement.

The recent Commission on Foreign Language and International Studies has highlighted the need for strong programs in international studies. The need for strengthening and expanding our effort in international education is also becoming more and more obvious in light of recent world events. It's imperative that we increase our knowledge and working expertise of foreign cultures and languages as a crucial first step in maintaining our nation's leadership in world affairs.

Recently, University of Hawaii students trained under federally-funded programs were selected to travel to the People's Republic of China on year-long scholarly exchanges. These students have impressed their hosts with their knowledge of the Chinese language and culture. Our nation's ability to send these top-quality students is a strong endorsement of the value of our international programs. This phenomenon is being repeated all over the world as students and faculty, under federal sponsorship and support, represent their country as goodwill ambassadors.

Through your initiative and leadership, Congress is facing up to its responsibility of ensuring that America will enter the 1980's better prepared to deal with an ever-increas-

ing complex and interdependent world. I thank you for this and for your untiring efforts in advancing the status and importance of international studies in American education. We are greatly in your debt.

Sincerely,

GEORGE AKITA,
Professor of History.

COLUMBIA UNIVERSITY,
New York, N.Y., January 23, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I understand that you will shortly be introducing in the Senate some vital new legislation, the International Education Programs Act of 1980. I just wanted you to know that I support this legislation strongly and appreciate very much what you are doing.

As events in Afghanistan and Iran underline, this country is in deep need of increased expertise and public understanding of foreign areas. We made a good start with the NDEA, but clearly need to do much more to strengthen the teaching and research in this field and to support bright young Americans who are prepared to devote the long years required to attain mastery.

Thank you!

Sincerely yours,

JAMES WILLIAM MORLEY,
Professor of Government.

NORTHWESTERN UNIVERSITY,
Evanston, Ill., January 30, 1980.

Hon. ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I am writing to commend the proposed International Education Programs Act of 1980, which authorizes federal funding to implement the most important recommendations of the President's Commission on Foreign Languages and International Studies: expanded programs for research, graduate training, and undergraduate education in international studies; expanded programs for foreign language and global education at the precollegiate and adult levels; new programs for international business training; and an advisory board on international education. The need for such federal programs, which was carefully articulated by the President's Commission, is all too evident from current affairs.

Northwestern University has, in the recent past, reaffirmed its commitment to the concepts that lie behind this legislation. Northwestern is among that 8 percent of all American colleges and universities still requiring, as one criterion for admission, the study of foreign language at the secondary school level. Northwestern's College of Arts and Sciences has, in a comprehensive revision of its curriculum, maintained a requirement in foreign language for graduation. Last spring, the University announced plans to construct a Residential College of International Studies, which will create a focal point for interchange between students studying foreign languages, political science, or other relevant disciplines, students matriculating from foreign countries, and students returning from study abroad.

Northwestern's J. L. Kellogg Graduate School of Management offers a joint major in international business. One program at Northwestern, however, has special significance in exemplifying a crucially important concept that undergirds this proposed legislation—the Program of African Studies, which is a center for research and graduate training.

If federal support for international education is to be effective, it must be implemented from the top down, beginning with research and graduate training. Northwestern's Program of African Studies, which was the first such interdisciplinary program in the United States, and which has received federal support through NDEA, has made a continuing contribution to the nation's understanding of Africa. Also, by working with local educational institutions, business organizations, and service groups, and by encouraging interaction between local peoples and African students and visitors, the Program of African Studies has fostered in the Chicago area greater comprehension of African affairs and African-American linkages.

In addition, this program has had a positive impact upon Northwestern in a number of ways, such as building the Library of African Studies into the largest among university holdings in the United States and stimulating the growth of several departments in the social sciences and the humanities. The advancement of knowledge through research and the training of expert personnel through graduate education are indispensable to the success of the other programs proposed under the International Education Programs Act of 1980.

As an economist and a university president, I have long been concerned that our national security and welfare were being undermined by neglect of the international aspects of our educational system. I commend your legislative efforts to remedy this problem.

Sincerely,

ROBERT H. STROTZ,
President.

INDIANA UNIVERSITY,
February 4, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: I am writing to encourage you in your continuing support for Title VI of the Higher Education Act. The Senate bill for the "International Education Programs Act of 1980" is a cornerstone of the successor legislation to NDEA VI and could mean the difference between national understanding and national ignorance in future international crises such as thcse of 1979 and 1980 or the Vietnam War.

You should know that hundreds of trained specialists like me, working in language and area studies, depend on the new legislation for the preparation of the next, much larger, generation of American internationalists. NDEA VI performed yeoman service for two decades. Its successor must be better funded and even more effective.

Sincerely yours,

GEORGE M. WILSON,
Professor of History and of
East Asian Languages and Cultures.

ASSOCIATION OF AMERICAN COLLEGES,
Washington, D.C., February 11, 1980.

Hon. ROBERT T. STAFFORD,
U.S. Senator,
Washington, D.C.

DEAR SENATOR STAFFORD: On behalf of the 640 members of the Association of American Colleges—large and small, public and private, two year, four year and professional—I want to commend you for your leadership in the area of international studies. Your bill for reauthorizing federal programs for international education as Title VI of the Higher Education Amendments recognizes current needs for academic expertise, for linkages with business, and for an informed citizenry.

The importance of highly trained international scholars needs no repetition at a time of crises in Iran and Afghanistan. The members of this Association, however, are also very aware that our nation not only needs experts, but also a well-informed public that understands the complexities of an increasingly interdependent world. Teachers, local officials, community business leaders, and all responsible citizens must be globally literate. In large part, they will obtain such understanding through their undergraduate education.

Liberal education, the raison d'etre of our Association, has always stressed the importance of studying foreign languages and the value of understanding the historical, social, artistic, philosophical, and religious principles underlying other cultures. Therefore, we commend you for including undergraduate international education programs as an important component of your bill.

Grants under these programs have played an important role in the past in strengthening the quality of education on hundreds of campuses. While advanced centers will develop expertise and depth of knowledge, the undergraduate programs can provide the breadth needed throughout our society for real international understanding. The partnership of advanced training and broad undergraduate programs is required for an effective approach to international education at the college level.

Once again, we applaud your efforts and support Title VI in the new Higher Education Amendments.

Sincerely,

MARK H. CURTIS,
President.

UNIVERSITY OF CAMBRIDGE,
Cambridge, England, February 7, 1980.

Senator ROBERT T. STAFFORD,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR STAFFORD: As the former director of the Center for South Asian Studies at the University of Virginia, I write to support your efforts for the early passage of the International Education Programs Act of 1980. It is obviously crucial to the national interest that this legislation be passed, incorporating the key recommendations of the President's Commission on Foreign Language and International Studies.

It is equally important that the $30 million administration request for Title VI of the Higher Education Act be authorized to maintain and enhance the national infrastructure of specialized language and area training centers in American universities, thereby to provide the nation the expertise needed to deal with the world of the 1980s.

Secretary Vance is quite right when he argues in his foreign aid message that the United States has "to address the problems of poverty and tensions in the developing world that would produce new crises if left unattended;" and the $10.4 billion administration request for foreign aid is an obvious and legitimate approach to these problems.

The point, of course, is that juxtaposed next to the $10.4 billion foreign aid package, the $30 million administration request for Title VI is an exceedingly modest price to pay for the understanding that will permit us as a nation to act with insight in addressing the political and economic tensions to which Secretary Vance refers. The understanding will go far to assure that the $10.4 billion is intelligently invested to serve the Nation's long term interests. The $30 million is, therefore, a crucial initiative which will be reduced at the risk of an ignorance we can ill afford.

As an example of the contemporary relevance of language and area programs, supported in part by Title VI, I cite the case of the University of Virginia, with which I am most familiar. Among our several interests, we focus significantly on Islamic South Asia, including the teaching of Persian and Urdu, languages of historic and contemporary usage in that vast West and South Asian arc stretching from Iran and Afghanistan through Pakistan, North and Central India,

and Bangla Desh, and comprising a population in excess of 800 million people. Another of our emphases is in Buddhist studies, both Tibetan Buddhism and the Buddhism of Southeast Asia.

These programs, dealing in depth with the languages and cultures of the region, were not created in response to the crises in Iran, or Afghanistan or Pakistan. But they now help provide a more sensitive understanding of the region on which American policy can be intelligently based. It is precisely the value of Title VI that it has facilitated and helped maintain this crucial infrastructure of specialized training facilities in American higher education quite independently of the newest international political crisis.

The International Education Programs Act of 1980 will contribute to maintaining and strengthening that infrastructure as we move into the 1980s and I urge its early passage.

I might add that I am on leave for the year from the University of Virginia and the perspective from Europe simply reinforces the perceptions argued in this letter, namely that America has a central role to play in the world of the 1980s and we need to play that role with much strength and a great deal of wisdom.

Sincerely,

Dr. WALTER HAUSER.

By Mr. CRANSTON (for himself, Mr. HAYAKAWA, and Mr. DECONCINI):

S. 2307. A bill to provide that certain lands in Imperial County, Calif., that became Federal property by the process of accretion be sold to the persons who would be the current owners of such lands but for such accretion; to the Committee on Energy and Natural Resources.

● Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to provide for the sale of certain lands in Imperial County, Calif., to those persons who would be the current owners of such lands but for accretion. The measure is a companion to H.R. 3239 introduced in the House by Congressman CLAIR BURGENER.

Mr. President, the lands involved in this legislation comprise 27 acres along the Colorado River and are generally known as Harvey's Fishing Hole. These lands were included in a patent deed issued by the United States in 1914, and after a number of transfers were subdivided in the 1950's by Kindred and Ida Mae Harvey. A large majority of the 96 lots were sold and many improved. Today Harvey's Fishing Hole has about 25 permanent and 100 part-time residents.

For the last 15 years there has been a dispute over who owns this land. Some time between 1910 and 1936, before the completion of Boulder Dam, the Colorado River shifted its course. As the river moved, it washed away the Harvey's Fishing Hole land in Arizona originally deeded by President Woodrow Wilson and redeposited it on the California side of the river, adjoining Federal property. The residents of Harvey's Fishing Hole argue that the river moved suddenly, that avulsion occurred, and that the land thus is still theirs. The Federal Government, on the other hand, argues that the river moved slowly and imperceptibly, and the land accreted to the Government. In 1967 the Interior Department first notified the owners in writing of the Government's claim, and in 1972 the Government brought suit to evict the private landowners.

Mr. President, I personally believe that there are some equities on the part of the homeowners. They paid for the Harvey's Fishing Hole property—and firmly believed that they had a clear chain of title to the land. They paid property taxes on the property until the Federal Government asserted its claim to the land. And although Boulder Dam was completed in 1936 stabilizing the Colorado River, the Federal Government waited 36 years before it filed its lawsuit. The Federal Government stood by for years and did nothing to halt the development of Harvey's Fishing Hole property while the owners invested thousands of dollars improving the land.

Since these equities were not admissible in the Government's lawsuit, I sponsored legislation in the 95th Congress which would have permitted the Harvey's Fishing Hole residents to assert equitable and legal defenses in the pending eviction suit. That legislation was not enacted, and in 1979 the U.S. District Court in San Diego ruled in favor of the Federal Government. The case has now been appealed.

Mr. President, the legislation I am introducing today does not dispute the Government's contention that accretion occurred or overturn the court's ruling that the Federal Government owns the land as a result of accretion. But in recognition of the equities, the bill provides for the resale of Harvey's Fishing Hole to the current residents. Even if the property legally is the Government's, I feel the residents should be permitted to stay there. I am not aware of any real need by the Government for this particular section of Colorado River shoreline for recreational or other public use.

The legislation proposes that the property owners repurchase the land at the 1961 prices, for which I understand figures are available. The property owners feel it would be unfair to require them to pay today's fair market value for land which they bought once already. I am aware that a few of the current residents of Harvey's Fishing Hole purchased their lots and then developed the land after the Federal Government publicly raised the question of title. I hope that hearings can be held on this legislation to look into these issues, and decide what relief is appropriate given the equities of the situation.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall convey to any person claiming to have been deprived of title to any portion of the real property in Imperial County, California, described in section 2 of this Act, as a result of the judgment entered by the United States District Court for the Southern District of California on January 21, 1977, in the case of *United States* v. *Harvey*, No. 72-277T, all right, title, and interest of the United States in and to such portion of real property if—

(1) application therefor, accompanied by such proof of title as the Secretary of the Interior shall require, is received by such Secretary within 5 years after the date of the enactment of this Act, and

(2) payment is made to the United States in an amount equal to the fair market value of such portion of real property, determined as of May 19, 1961, exclusive of the value of any improvements thereon.

SEC. 2. The real property referred to in the first section of this Act consists in a total of 27 acres, more or less, divided into 96 parcels or lots, known as the Harvey's Fishing Hole subdivision, located in the southwest quarter of the northwest quarter of section 21, township 1 north, range 23 west of the Gila and Salt River base and meridian, being also portions of lots 1, 2, 5, and 6 of section 9, township 9 south, range 22 east of the San Bernardino Meridian, California, as depicted by plat for dependent resurvey and survey of accretion of such township accepted May 19, 1961.●

By Mr. THURMOND:

S. 2308. A bill to amend section 2003 of title 38, United States Code, to provide for the assignment of clerical or secretarial employees to assist veterans' employment representatives assigned to the States under such section; to the Committee on Veterans' Affairs, by unanimous consent.

Mr. THURMOND. Mr. President, today, I am introducing legislation that would provide a clerical or secretarial assistant to each State Veterans' Employment Representative (SVER). There are 52 SVER's and they are mandated by section 2003 of title 38, United States Code.

Mr. President, as part of the Veterans Employment Service (VES) within the Department of Labor, these SVER's perform a valuable function in the area of veterans employment. They are statutorily charged with monitoring the implementation of employment programs and policies of the Department of Labor which affect veterans. These responsibilities include the monitoring of the many new provisions affecting veterans in the Comprehensive Employment and Training Act (CETA); promoting the new targeted tax credit as it affects veterans; overseeing the Disabled Veteran Outreach Program (DVOP) and the Help Through Industry Retraining and Employment (Hire II) program; promoting On-the-Job Training (OJT) and apprenticeship programs; and, as required by section 2003(7) of title 38, assisting "in every possible way in improving working conditions and the advancement of employment of * * * veterans * * *"

If measured solely by these responsibilities, I believe the case for clerical assistance can be made. However, last year the administration proposed in its fiscal year 1980 budget request to eliminate all 52 secretarial positions from the VES, and offset these cuts by having each State Employment Security Agency (SESA) provide secretarial assistance to the SVER. This would be accomplished by transferring approximately $700,000 from the VES portion to the grants-to-States portion of the Department of La-

bor budget, thereby making these 52 secretaries responsible to the SESA.

I am concerned that the proposal to have the SESAs provide secretarial staff will compromise the ability of the SVERs to carry out their duties as mandated by section 2003 of title 38 of the United States Code. Section 2003 provides that the SVERs are "administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' counseling and placement policies through the public employment service and in cooperation with manpower and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State." Thus, the SVERs' role is to monitor and promote the Secretary's veterans' employment policies through the SESAs. To make the SVER dependent on the State agency for support staff is to place that individual in the conflicting position of being both overseer of and supplicant to the SESA. Such a policy, I believe, raises serious questions with regard to the ability of the SVER to carry out his statutory responsibilities.

Upon learning of this impending transfer of funds, my colleagues on the Veterans' Affairs Committee joined me in a letter to the Secretary of Labor, Ray Marshall, expressing our deep concern in the results that this proposed action may have on veterans employment programs. In replying to our letter, Secretary Marshall stated that these personnel cuts were necessary to "demonstrate that the Federal Government is willing to take the lead in the fight against inflation * * *." I find this statement quite puzzling in light of the Washington Post article published on November 4, 1970, which reported that the President's wife has a personal staff of 21 with a budget of $650,000, although a separate staff handles her correspondence and all White House entertaining.

Mr. President, the status of these 52 secretaries for fiscal year 1980 was resolved when my colleague from North Dakota (Mr. BURDICK) introduced an amendment during subcommittee consideration of the fiscal year 1980 appropriation bill for the Department of Labor which resulted in the continued funding of these secretarial positions from the VES account. When this appropriations bill was considered by the full Senate, I made inquiry with the chairman of the Senate Committee on Appropriations (Mr. MAGNUSON) regarding his committee's position on the matter.

I was assured that the intent of this amendment was to restore the necessary funds for these secretaries and continue the current funding procedure.

Mr. President, I believe the congressional intent became manifest concerning this matter during its consideration last year; however, I recently learned that during the initial consideration of the fiscal year 1981 budget, the administration again proposed to alter the status of these 52 secretaries.

The legislation I am introducing will statutorily express the intent of Congress. Further, it would guarantee secretarial support to those individuals that have been charged with an important and often complex and time-consuming task.

Mr. President, the need for these secretaries has been expressed by the American Legion, Veterans of Foreign Wars and the Disabled American Veterans. I ask unanimous consent that resolutions from each of these organizations be printed in the RECORD at the conclusion of my remarks, and that this measure be referred to the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be so referred.

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

RESOLUTION No. 14

Whereas, The Congress of the United States, with the passage of the Wagner-Peyser Act of 1933, provided for a Veterans Employment Service; and

Whereas, As part of this Veterans Employment Service (VES), from the beginning of the program, a secretary was assigned to each State Veterans Employment Representative, now called State Director of Veterans Employment (SDVE), with the positions of both secretary and SDVE being Federal positions; and

Whereas, Congress has since passed legislation to strengthen and improve employment services to veterans, notably PL 92–540, PL 93–508, and PL 94–502, which expanded the duties and responsibilities of the SDVEs and provided for the appointment of Assistant SDVEs; and

Whereas, In spite of new duties and personnel, there was no provision made for additional secretarial assistance, so that secretaries had to also assist the newly assigned ADVEs, and those ADVEs located in cities away from the SDVEs have had to perform all their own clerical work of filing material, answering correspondence, typing reports, etc.; and

Whereas, This Administration, under the guise of attempted economy, attempted to eliminate the jobs of all fifty-two (52) secretaries in the field service of the VES, an unjust action which would have adversely affected job assistance to unemployed veterans in every State; and

Whereas, There would have been no actual saving of Federal funds because the Department of Labor then proposed to increase the Grants to States by an appropriate amount to enable the States to hire secretaries to perform the same duties as the discharged Federally employed secretaries, although this proposal did not assure there would be secretarial services available to the VES; and

Whereas, The American Legion was able to persuade Congress to specifically require that the 1980 budget for the Department of Labor/Veterans Employment Service include funds for these fifty-two (52) secretarial positions, but this success will not prevent the Department of Labor from attempting a similar act in the future; now therefore be it

Resolved, By The American Legion in National Convention assembled in Houston, Texas, August 21, 22, 23, 1979, that The American Legion seek legislation to amend Section 2003 of Chapter 41 of title 38, United States Code, to provide that Federal funds shall be used for the assignment of Federally employed secretary/stenographers in the field staff of the Veterans Employment Service; such secretary/stenographers being assigned to each State Director for Veterans Employment and to Assistant State Directors of Veterans Employment as required, and with provisions for promotion to Administrative Assistant positions for secretaries meeting certain prescribed performance and length-of-service standards.

RESOLUTION No. 723

Whereas, the Congress of the United States has enacted legislation providing for a Veterans Employment Service within the Department of Labor; and

Whereas, the act provides that the State Director of the Veterans Employment Service and the assistant State Director of the Veterans Employment Service shall be an eligible veteran, and at the time of appointment, shall be a bona-fide resident of the state for at least two years; and

Whereas, the act does not provide for Regional Directors of the Veterans Employment Service or the assignment of secretaries for the Regional Director, State Director, or Assistant State Directors; and

Whereas, the assigning of a local state resident to the position of State Director and Assistant State Director is advantageous to the government and veterans, as the individual is knowledgeable to state programs as well as acquainted with state officials; and

Whereas, the Department of Labor has recently recommended curtailment of funds for secretarial positions within the Veterans Employment Service, thereby diminishing services to the nation's veterans; now, therefore

Be it resolved, by the 80th National Convention of the Veterans of Foreign Wars of the United States, that we go on record (1) petitioning the Congress of the United States to oppose any changes to the residential requirements for appointment of State Directors and Assistant State Directors of the Veterans Employment Service; (2) establish by legislation the position and the assignment of full time secretaries at the regional and state levels; (3) that adequate funds be provided by the Congress to the Department of Labor on a line item basis for an efficient and effective Veterans Employment Service.

RESOLUTION No. 002

Whereas, Congress has seen fit over the years to enact significant legislation providing for adequate employment services to veterans and disabled veterans; and

Whereas, the Department of Labor recently attempted to abolish the secretarial positions for the State Directors of Veterans Employment; and

Whereas, it is the belief of the Disabled American Veterans that in order to have an effective delivery system, monitoring must be accomplished by the State Directors and their Assistants and to carry out their duties adequate secretarial and clerical staff is necessary; NOW

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Boston, Massachusetts, July 15 through 19, 1979, seeks an amendment to Chapter 41, Title 38, U.S. Code providing for the assignment of clerical and administrative staff to the State and Assistant State Directors.

By Mr. DURENBERGER:

S. 2309. A bill to prevent the interest rate on extended payments on estate taxes attributable to certain farms and closely held businesses from increasing to 12 percent; to the Committee on Finance.

Mr. DURENBERGER. Mr. President, I send to the desk a bill that amends section 6601 of the Internal Revenue

Code of 1954 relating to the interest rate on extended payments on estate taxes attributable to certain farms and closely held businesses.

Mr. President, in general, an estate tax return is due 9 months after the decedent's death and except in certain specified situations, payment of the estate tax is due with the return. However, the Code contains two provisions which permit the estate tax to be paid over a period of 10 or 15 years depending on the nature of the assets in the estate.

First. Ten-year payment. An executor may elect to pay the estate tax attributable to an interest in a farm or closely held business in installments over a period not to exceed 10 years. In order to qualify for this provision, the value of the interest in the closely held business must exceed 35 percent of the value of the gross estate or 50 percent of the taxable estate of the decedent. The interest rate on the estate tax payments was set at 9 percent in 1975 with adjustments to be made periodically by the Treasury Department to keep it approximately equal to 90 percent of the prime rate quoted by commercial banks to large businesses (as regularly published by the Federal Reserve). Effective on February 1, 1976, the interest rate was adjusted downward from 9 percent to 7 percent and later to 6 percent.

Second. Fifteen-year payment. An executor may elect an alternative for extending the payment of estate tax attributable to a closely held business where the business constitutes more than 65 percent of the decedent's adjusted gross estate. Under this provision, the executor can elect to defer principal payments for up to 5 years from the due date of the estate tax return. However, interest for the first 5 years is payable annually. Thereafter, pursuant to the executor's initial election, the principal amount of the estate tax liability may be paid in from 2 to 10 installments. A special 4 percent interest rate is allowed on the estate tax attributable to the first $1 million of farm or other closely held business property, and interest on amounts of estate tax in excess of this amount will bear interest at the regular rate for deferred payments as in the provision for the 10-year payment.

Mr. President, the Treasury Department has recently readjusted the interest rate under the terms of the 1975 Revenue Act. In Revenue Ruling 79-366, the Internal Revenue Service stated that effective February 1, 1980, the interest rate will be increased from 6 to 12 percent where it will remain for 2 years.

Mr. President, these deferred payment provisions have proven inadequate to deal with the liquidity problems experienced by estates in which a substantial portion of the assets consist of a closely held business or other illiquid assets.

In many cases, it takes several years before a business can regain sufficient financial strength to generate enough cash to pay estate taxes after the loss of one of its principal owners. Moreover, some businesses are not so profitable that they yielded enough to pay both the estate tax and interest. This problem will be compounded when the interest rate is increased by 100 percent on February 1, 1980.

Mr. President, this bill would provide that the rate of interest on qualifying deferred payments, other than those paying 4 percent, will be the lesser of 6 percent or 75 percent of the prime rate as determined by the Board of Governors of the Federal Reserve System.

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

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

S. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6601 of the Internal Revenue Code of 1954 (relating to interest on underpayment, nonpayment, or extension of time for payment of tax) is amended by—

(1) redesignating subsection (k) (relating to no interest on certain adjustments) as subsection (l),

(2) adding immediately after subsection (j) a new subsection (k) to read as follows:

"(k) Interest Rate on Portion of Estate Tax Extended Under Section 6166.—

"(1) IN GENERAL.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, interest on the portion of such amount which does not qualify for the 4-percent rate under subsection (j). shall (in lieu of the annual rate provided by subsection (a)) be paid at a rate determined under pragraph (2). For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) INTEREST RATE.—The rate of interest under this subsection shall be the lesser of—

"(A) 6 percent, or

"(B) a rate determined in the same manner as under section 6621 except that subsection (c) thereof shall be applied by substituting '75 percent' for '90 percent'.

The rate determined under subparagraph (B) shall not be less than 4 percent.

"(3) TREATMENT OF PAYMENT.—In any case where this subsection and subsection (j) apply with respect to the amount of tax imposed by chapter 11 which is extended as provided in section 6166, any payment of a portion of such amount shall be allocated to the 4-percent portion in accordance with paragraph (3) of subsection (j) and any remaining amount shall be treated, for purposes of computing interest for periods after such payment, as reducing the amount to which this subsection applies."

and

(3) striking out "For purposes of this subsection," in paragraph (2) of subsection (j) and inserting in lieu thereof "For purposes of this subsection and subsection (k),".

(b) The amendments made by this Act shall apply to interest payable for periods beginning after January 31, 1980.

By Mr. RIBICOFF (by request):

S. 2310. A bill to authorize the set-off of annuity payments or refunds payable from the civil service retirement fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the government of the District of Columbia; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the government of the District of Columbia, I am introducing legislation to authorize the set-off of annuity payments or refunds payable from the civil service retirement and disability fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the District of Columbia government.

The mayor advises that a result of a decision of the Comptroller General, based upon a U.S. District Court opinion, the government of the District of Columbia is a legal entity, separate and apart from the United States. Accordingly, the Office of Personnel Management can no longer honor claims by the District government for set-off of moneys in the retirement fund to liquidate debts due, in the absence of specific statutory authority. The mayor states further that this proposed legislation would provide the District government with the same opportunity afforded Federal agencies to obtain satisfaction of debts owed by former employees.

I ask unanimous consent that the text of the bill, and the accompanying letter explaining in detail the need for this legislation, be printed in the RECORD.

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

S. 2310

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8346 of Title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(C) Notwithstanding any other provision of law, the Office is authorized to take appropriate action on counterclaims filed by the government of the District of Columbia as set-off against amounts otherwise due and payable from the fund to former employees of the government of the District of Columbia: *Provided,* That the indebtedness due to the government of the District of Columbia is directly related to employment with such government."

THE DISTRICT OF COLUMBIA,
Washington, D.C., September 11, 1969.

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

DEAR MR. PRESIDENT: The Government of the District of Columbia has the honor to submit, for the consideration of the 96th Congress, a draft bill "To authorize the set-off of annuity payments or refunds payable from the Civil Service Retirement and Disability Fund to former employees of the government of the District of Columbia in order to liquidate debts owed to the government of the District of Columbia."

The proposed legislation would amend Title 5 of the United States Code to provide specific authority for the set-off of annuity payments, or refunds, payable from the Civil Service Retirement and Disability Fund to former employees of the District Government in order to liquidate debts owed to the District Government by such former employees. Set-offs would extend only to those debts related to employment with the District Government, such as debts due to overdrawn leave, overpayment of salary, and failure to refund

travel advances. Although the District Government, in many cases, is able to obtain satisfaction of such indebtedness by agreement with its employees, legislation is required to permit set-offs in those circumstances when employees terminate their employment without discharging an indebtedness due the District. There would virtually never be a controversy between the parties involved since detailed records are kept for these types of expenditures and it becomes merely a matter of checking such records against the amount due an employee in order to determine whether the employee has been overcompensated.

The right of the Federal Government to apply amounts in the Fund payable to former Federal employees in order to satisfy indebtedness owed to the United States by such former employees is well settled, and has been upheld in numerous court cases. There is no provision in the civil service retirement laws specifically authorizing this procedure. It is based on the common law right of every creditor to apply the monies of his debtor which are in his possession to extinguish claims against the debtor.

Previously, the set-off procedure was also applied in cases of debts owed by former employees of the District Government. However, as a result of a Comptroller General's decision, the District Government has not been able to recover amounts due from former employees by set-off against the civil service retirement fund since 1956. That decision, 36 Comp. Gen. 457 (December 6, 1956), was based on an opinion of the United States District Court for the District of Columbia and stated, in essence, that the District of Columbia is a legal entity—separate and distinct from the United States, and therefore, the Civil Service Commission could no longer, in the absence of specific statutory authority, honor claims by the District Government for set-off of monies in the retirement fund to liquidate debts due to the District Government.

The proposed legislation would, in general, provide the District Government with the same opportunity afforded Federal agencies to obtain satisfaction of debts owed by former employees.

We estimate that there are approximately 350 cases annually which might be subject to set-off. Enactment of the proposed legislation would not result in any additional costs to the District Government or impose any substantial increase in the workload of the Office of Personnel Management.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.●

By Mr. RIBICOFF (by request):

S. 2311. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the rate of compensation of the City Administrator; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the government of the District of Columbia, I am introducing legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the rate of compensation of the City Administrator.

Existing law provides that the City Administrator be paid at the rate establish by the Mayor, not to exceed level IV of the executive schedule (5 U.S.C. 5315).

This legislation would remove the applicability of the Federal executive schedule to the position of City Administrator enabling his salary to be paid at a rate established by the Mayor in accordance with the District government merit personnel system which became effective March 3, 1979.

I ask unanimous consent that the text of the bill, and the accompanying letter explaining the need for this legislation, be printed in the RECORD.

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

S. 2311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act is amended to read as follows:

"(7) The Mayor shall appoint a City Administrator, who shall serve at the pleasure of the Mayor. The City Administrator shall be the chief administrative officer of the Mayor, and he shall assist the Mayor in carrying out his functions under this Act, and shall perform such other duties as may be assigned to him by the Mayor. The City Administrator shall be paid at a rate established by the Mayor in accordance with the District government merit personnel system."

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 24, 1980.

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

DEAR MR. PRESIDENT: The Government of the District of Columbia has the honor to submit for the consideration of the 96th Congress a draft bill "To amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the rate of compensation of the City Administrator."

Section 422(7) of the D.C. Self-Government Act presently provides that: "The City Administrator shall be paid at a rate established by the Mayor, not to exceed level IV of the Executive Schedule established under section 5315 of title 5 of the United States Code." The enclosed draft bill would amend section 422(7) by removing the applicability of the Federal Executive Schedule to the position of City Administrator.

The proposed amendment is consistent with section 422(3) of the D.C. Self-Government Act which authorizes the Council of the District of Columbia to establish a merit personnel system for the District of Columbia Government. Pursuant to that section the Council enacted D.C. Law 2–139, the "District of Columbia Government Comprehensive Merit Personnel Act of 1978", which became effective on March 3, 1979. D.C. Law 2–139 provides for a procedure for establishing a comprehensive compensation system for all District of Columbia Government employees.

I urge the Congress to take prompt and favorable action on the enclosed draft bill.

Sincerely,

MARION S. BARRY, Jr., *Mayor.*●

By Mr. RIBICOFF (by request):

S. 2312. A bill to authorize payment from the civil service retirement and disability fund for the expenses of retirement appeals; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Director of the Office of Personnel Management, I am introducing legislation to amend section 8348(a) of title 5, United States Code, to provide authority for the Merit Systems Protection Board to charge the civil service retirement and disability fund for the cost of retirement appeals.

The Director advises that section 8348(a)(2) authorizes the Office of Personnel Management to charge the civil service retirement fund with the expenses incurred in the administration of Federal retirement law. The Civil Service Commission, in the past, has interpreted this authority to allow the setoff of expenses incurred by the Federal Employee Appeals Authority and the Appeals Review Board in the administration of appeals allowed under section 8347(d), since both were part of the Commission.

Since the reorganization was effected, the functions of these offices were assumed by the Merit Systems Protection Board, but the administration of the retirement program is the responsibility of the Office of Personnel Management which is now a separate agency.

This proposed legislation would give to the Merit Systems Protection Board the statutory authority, which it now lacks, to charge the fund for the expenses of appeals.

I ask unanimous consent that the text of the bill, and the accompanying letter of explanation, be printed in the RECORD.

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

S. 2312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 8348 of title 5, United States Code, is amended by (1) striking out "and" after paragraph (1); striking out the period after paragraph (2) and by inserting, in lieu thereof "; and" and by adding the following new paragraph: (3) is made available, subject to such annual limitation as Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under section 8347(d) of this subchapter.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., July 9, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: I submit for the consideration of Congress, and recommended favorable action on the attached draft bill to amend section 8348(a) of title 5, United States Code to provide authority for the Merit Systems Protection Board to charge the Civil Service Retirement and Disability Fund for the cost of retirement appeals.

Section 8348(a)(2) provides the Office with the authority to charge the Civil Service Retirement Fund with the expenses incurred in the administration of our Retirement law. (5 U.S.C., Ch. 83). In the past, the Civil Service Commission interpreted this to allow the set off of expenses incurred by the Federal Employee Appeals Authority and the Appeals Review Board in the administration of appeals allowed under 8347(d). Since both these appeals authorities were part of the Commission, the charge against the fund was deemed appropriate. After the reorganization was effected, however, the functions of these offices were assumed by the Merit System Protection Board, while the administration of the retirement program is

the responsibility of the Office of Personnel Management, a separate agency.

MSPB lacks statutory authority to charge the Fund for the expense of future appeals. An amendment to the law is necessary to permit this. Unless legislation of this nature is enacted prior to October 1, 1979, MSPB will no longer have a right to draw against the Fund and will be forced to finance retirement appeals with funds directly appropriated from the general revenues.

The Office of Management advises that from the standpoint of the Administration's program there is no objection to the submission of this proposal.

A similar letter is being sent to the Speaker of the House.

Sincerely yours,

ALAN K. CAMPBELL,
Director.●

By Mr. RIBICOFF (by request):

S. 2313. A bill to amend section 225 of the Federal Salary Act of 1967, as amended; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Director, Office of Personnel Management, I am introducing legislation to amend section 225 of the Federal Salary Act of 1967, as amended.

The Director advises that, under a 1967 statute, every fourth fiscal year a Commission on Executive, Legislative, and Judicial Salaries ("quadrennial commission") is appointed to review salary rates for top officials in the executive, legislative, and judicial branches of the Government and to recommend appropriate changes in these salary rates to the President. Following a review of these recommendations, the President transmits to the Congress with his budget message his own recommendations on new salary rates which become effective upon approval by both Houses of Congress.

When this statute was enacted the fiscal year began on July 1 of each year, giving the Commission 6 months in which to prepare its January budget message. In 1976, the Government's fiscal year was changed to begin on October 1 instead of July 1, thus shortening the period during which the Commission must complete its work from nearly 6 months to less than 3 months.

This proposed legislation would amend existing law to provide for the establishment of the quadrennial commission on July 1 instead of for the duration of the fiscal year as is now provided, thus affording the Commission a more reasonable period of time to complete its work.

I ask unanimous consent that the text of the bill and the accompanying letter and analysis be printed in the RECORD.

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

S. 2313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361) is amended as follows:

(1) In paragraph (3) of subsection (b), by striking out the second sentence and inserting in place thereof the following:

"The terms of office of persons so appointed shall commence on July 1 of the preceding fiscal year and shall end on the last day of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning but before the end of any such period, the term of office based on such appointment shall be for the remainder of such period.";

(2) In subsection (c), by striking out the phrase "any fiscal year" both places that phrase occurs and inserting in place thereof the phrase "any term of office";

(3) In subsection (f), by striking out the phrase "fiscal years" and inserting in place thereof the phrase "periods for which the members of the Commission are appointed,"; and

(4) In subsection (g), by striking out that portion of the second sentence following the phrase "fiscal year" and inserting in place thereof the phrase "with respect to which the Commission is appointed.".

OFFICE OF PERSONNEL MANAGEMENT,
Washington, D.C., March 29, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal, "To amend section 225 of the Federal Salary Act of 1967, as amended." We request that you refer this proposal to the appropriate committee for early consideration.

Under section 225 of the Federal Salary Act of 1967, every fourth fiscal year a Commission on Executive, Legislative, and Judicial Salaries (the "quadrennial commission") is appointed to review the salary rates for top officials in the executive, legislative, and judicial branches of the Government and recommend appropriate changes in these salary rates to the President. After reviewing the recommendations of the quadrennial commission, the President transmits to Congress with his budget message his own recommendations on new salary rates. The rates recommended by the President become effective upon approval by both Houses of Congress.

When this salary adjustment mechanism was established in 1967, the Government's fiscal year began on July 1 of each year, so the quadrennial commission had nearly six months in which to prepare its recommendations to the President for his consideration in preparing his January budget message. However, in 1976 the Government's fiscal year was changed to begin on October 1 instead of July 1. Since section 225 of the Federal Salary Act of 1967 speaks only to the establishment of the quadrennial commission for the duration of the fiscal year, the effect of this change of the fiscal year has been to shorten the period during which the quadrennial commission must do its work from nearly six months to less than three months.

The most recent quadrennial commission, in fiscal year 1977, managed by a great effort to complete its report to the President within this very brief period, but this length of time is clearly inadequate for the completion of so major a task as the review of salaries for the Government's top officials.

Therefore, we have prepared the enclosed legislative proposal, which would amend section 225 to provide once again for the establishment of the quadrennial commission on July 1 rather than October 1 of every fourth fiscal year. This change will ensure that future quadrennial commissions will have sufficient time to complete a thorough review of the need for changes in the pay rates for the Government's top officials.

The Office of Management and Budget advises that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

ALAN K. CAMPBELL,
Director.

ANALYSIS

The draft bill consists of four clauses, each of which amends a different subsection of section 225 of the Federal Salary Act of 1967.

The first clause would amend section 225 (b) so as to allow the appointment of members of the Commission on Executive, Legislative, and Judicial Salaries on the July 1 preceding the fiscal year with respect to which the Commission is appointed, rather than on or after the October 1 beginning of that fiscal year. If a member is appointed after July 1, he or she would serve for the remainder of the period which begins on the July 1 preceding the fiscal year with respect to which the Commission is appointed, and runs to the end of that fiscal year.

The second clause would amend section 225 (c) to authorize the appointment of an Executive Director and staff for the Commission and the reimbursable detailing of Government personnel to the Commission for the same period as the members of the Commission would be appointed.

The third clause would amend section 225 (f) to authorize the Commission to conduct its review of pay rates during the entire period for which the members of the Commission would be appointed.

The fourth clause would make an editorial amendment to section 225(g) to conform to the amendment made by the first clause.●

By Mr. RIBICOFF (by request):

S. 2314. A bill to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain Reserve or National Guard service; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Department of Defense, I am introducing legislation to amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain Reserve or National Guard service.

The Department advises that, under existing law, Federal employees, who are members of the National Guard or Reserve, are entitled to receive both civil service and military pay while on annual active duty for training in a military leave status; and there are currently in excess of 100,000 Federal employees who are guardsmen or reservists entitled to receive both Federal civilian and Reserve military pay for 15 days active duty training annually.

This legislation is designed to eliminate such dual compensation so that these Federal employees would receive active duty pay, plus any difference between that military pay and their civil service pay for that period.

I ask unanimous consent that the text of the bill, and the accompanying letter of explanation, be printed in the RECORD.

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

S. 2314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5519 of title 5, United States Code, is

amended by inserting "(a)," following "section 6323".

SEC. 2. This Act is effective on the first day of the first month after the date of enactment.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., March 13, 1979.

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

DEAR MR. PRESIDENT: Forwarded herewith is draft legislation "To amend section 5519 of title 5, United States Code, relating to crediting amounts received for certain reserve or National Guard service".

The proposal is a part of the Department of Defense Legislative Program for the 96th Congress, and the Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

Existing law entitles Federal employees who are members of the National Guard or Reserve to receive both Civil Service pay and military pay while on annual active duty for training with the Guard or Reserve in a military leave status. Under current authority, in excess of 100,000 Federal employees who are Guardsmen or Reservists are entitled to receive both Federal civilian and Reserve military pay for 15 days active duty for training annually.

The purpose of the proposed legislation is to eliminate such dual compensation by amending section 5519 of title 5, United States Code, so that these Federal employees will receive active duty pay for their 15 days of annual military leave, plus any difference between that military pay and their Civil Service pay for that period. The crediting of military pay against civilian pay would be handled administratively in the same manner as currently applies to those members of a Guard or Reserve Component who are ordered to active duty to enforce the laws of the United States under the provisions of 5 U.S.C. § 6323(c).

COST AND BUDGET DATA

The enactment of this proposal would result in an estimated savings of $30.0 million for Fiscal Year 1980. The exact savings would depend on the numbers and salaries of Federal employees performing annual active duty for training in the Guard or Reserve in a military leave status.

Sincerely,

DEANNE C. SIEMER.●

By Mr. HUDDLESTON (for himself, Mr. TALMADGE, Mr. HELMS, and Mr. FORD):

S. 2315. A bill to authorize the Secretary of Agriculture to establish reserves of agricultural commodities to stabilize farm prices whenever export sales of agricultural commodities are suspended for reasons of national security or foreign policy and the prices producers receive for the commodities involved are, or will be, adversely affected by such suspension; to the Committee on Agriculture, Nutrition, and Forestry.

TRADE SUSPENSION COMMODITY RESERVES ACT OF 1980

● Mr. HUDDLESTON. Mr. President, the situation in Afghanistan and the subsequent suspension of shipments of grain and other agricultural and strategic items to the Soviet Union has fostered a new awareness of the value of American agriculture to our economy, to our national security and foreign policy, and to our efforts to become more self-sufficient in energy. The embargo has also demonstrated, once again, the susceptibility of farm prices to sudden changes in supply and demand and the need for a clearer indication that effective price support measures can be implemented to stabilize market prices following unforeseen changes in market conditions resulting from a trade suspension.

The bill which I am introducing today provides the Secretary with new authority to protect the American farmer from the adverse effects of the January 4 suspension of shipments of grain and other agricultural commodities to the Soviet Union and with authority to provide support should shipments of agricultural commodities be suspended in the future for reasons of national security or foreign policy.

This authority will permit the Secretary to extend commodity loans to all producers, to increase commodity reserves to meet national and international food and feed emergencies, and to establish grain reserves which can contribute to both our energy production and price support objectives. I am pleased that several of my colleagues have joined in cosponsoring this legislation.

More specifically, the bill would:

First. Authorize the Secretary to establish trade suspension commodity reserves for wheat and feed grains whenever the President or other member of the executive branch causes the commercial sale of such commodities to any country or area of the world to be suspended for reasons of national security or foreign policy, if it is also determined that the prices producers receive for the commodities are, or will be, adversely affected by the trade suspension.

Second. Provide the Secretary authority to place commodities in reserve by purchasing and holding in a Commodity Credit Corporation fuel production reserve commodities suitable for use in the production of alcohol for fuel, and to expand the producer storage programs established under the Agricultural Act of 1949 for commodities not designated for fuel production.

Third. Require the Secretary to announce, within 30 days after the enactment of this legislation or export sales are suspended, whether trade suspension commodity reserves will be established and the amount of each commodity to be placed in the reserves to maintain producer prices near levels producers received for their commodities prior to the suspension of trade.

Fourth. Permit the Secretary to dispose of fuel production reserve stocks acquired by the Commodity Credit Corporation only through sales for use in the production of fuel conversion prices for the grain. The fuel conversion price is defined as the price for the commodity that would make gasohol, using alcohol produced from the commodity, competitive in price with nonlead gasoline.

Fifth. Authorize the Secretary to call loans, made on fuel stocks placed in the farmer-held reserve under this bill, when the market price for the commodity reaches the fuel conversion price, and to call loans on other commodities in a manner consistent with the provisions of reserves established under the Agricultural Act of 1949, as amended.

Sixth. And, provide that all producers of a commodity will be eligible to participate in the expansion of the farmer-held grain reserve under the bill.

I would like now to discuss in more detail specific provisions of the bill.

At the time of the suspension of grain shipments to the Soviet Union, it was apparent that price support measures would have to be implemented to ameliorate the price impact of the 17 million metric ton reduction in grain exports to that country. To provide time for the market to assess the impacts of the embargo, trading on the major grain exchanges was suspended for 2 days. And, measures designed to bring about a recovery in farm prices, under existing authorities, were announced over a period of several weeks.

While measures implemented have been successful in bringing about a price recovery in a number of markets, prices have continued to average below their January 4 close in some markets. In these markets, supplies continue to overhang the market, and there is concern that prices may soften as farmers, who have waited patiently for a recovery in their markets, begin to move their crops to market to retire last year's credit obligations and purchase seed, fertilizer, and other inputs needed in producing the 1980 crop.

With almost 95 percent of Kentucky's grain farmers and almost 75 percent of the grain farmers across the country ineligible to participate in the current loan program there is concern that others may yet suffer substantial losses. Acquisitions of corn by CCC on February 11 were made at an average price of $2.40 per bushel—some 16 cents below the January 4 cash grain price at Chicago.

The bill which I am introducing would provide the Secretary clear authority to support farm prices for wheat and feed grains when, for reasons of national security or foreign policy, exports of such items are suspended. Under authorities provided in this bill, the Secretary would be able to isolate quantities of grain overhanging and depressing market prices and to later use those reserves in a manner that would help us achieve energy self-sufficiency and not conflict with existing programs.

While we should constantly work to develop new markets, we cannot always expect to have alternative markets to open up, or shortfalls in world production to occur that are sufficient to absorb a significant portion of commodities which may be displaced by a suspension of trade.

This bill would permit the Secretary to recognize, in establishing and managing our commodity reserves, the value which a reserve stock for fuel can have, not only in supporting farm prices but

in providing a suitable feed stock at economical prices to the emerging alcohol for fuels industry. During periods where feed stock supplies are limited and grain prices move above, but do not trigger, the call levels for stocks in the farmer-held food and feed reserve, corn and other grains accumulated in a fuel reserve under this bill would be available to move into fuel production at prices which preserve their use in the production of alcohol for fuel. Thus, Government stocks would be drawn down without negatively impacting on the market.

The bill would also permit the Secretary to extend farm commodity loans to all farmers. A suspension of exports for national security and foreign policy reasons is an action taken on behalf of all Americans, is a cost which should be shared equally by all, and is not a normal risk factor farmers alone should be asked to assume. With production costs rising and profit margins narrowing, to ask farmers to assume the risks associated with the increasing use of food in foreign policy would ultimately lead to higher food costs.

In conclusion, I wish to reiterate that authorities provided in this bill may be employed to alleviate the overhang of embargoed grain on the market and will provide a greater assurance that losses resulting from a future suspension of grain exports will not be inequitably borne by farmers or a single group of farmers. The authorities provided will authorize the accumulation of stocks to be used in a manner that will complement current programs and help meet our national goal of increased energy self-sufficiency. I urge my colleagues to expedite the passage of this legislation, and ask unanimous consent, Mr. President, that a summary and the bill be printed in the RECORD.

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

S. 2315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Suspension Commodity Reserves Act of 1980".

SEC. 2. Notwithstanding any other provision of law—

(a) Whenever the President or other member of the executive branch of government causes the commercial sales of any commodity (as defined in subsection (b) of this section) to any country or area of the world to be suspended for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law, and the prices producers receive for such commodity are, or the Secretary of Agriculture determines will be, adversely affected by such action, the Secretary is authorized to act to stabilize prices producers receive for such commodity by establishing trade suspension reserves of such commodity, as provided in subsection (d) of this section.

(b) For purposes of this Act, the term "commodity" shall include any of the following: wheat, corn, grain sorghums, oats, barley, rye, and such other grains as the Secretary determines appropriate for inclusion under the provisions of this Act.

(c) Within 30 days after the commercial export sales of a commodity to a country or area are suspended as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether trade suspension grain reserves under this Act will be established, and shall include in such announcement the amount of the commodity that shall be placed in the trade suspension grain reserves, which shall be that portion of the suspended commercial exports that should be removed from the market to maintain producer prices at the levels producers had received for the commodity immediately prior to the suspension of trade.

(d) To establish reserves necessary to stabilize prices under this Act, the Secretary of Agriculture is authorized to—

(1) through the Commodity Credit Corporation, purchase commodities suitable for use in the production of alcohol for fuel and pay such storage, transportation, and related costs as may be necessary to permit maintenance of such commodities in reserve for the purposes of this Act and disposition of such commodities as provided in subsection (e) of this section; and

(2) if the export sales of wheat or feed grains are suspended, increase the stocks held under the producer storage program under section 110 of the Agricultural Act of 1949 by making additional nonrecourse loans available to producers under that program. Except as otherwise provided in this Act, commodities placed in reserve under clause (1) of the preceding sentence shall be acquired, handled, and disposed of under the provisions of the Commodity Credit Corporation Charter Act, and commodities placed in reserve under clause (2) of the preceding sentence shall be acquired, handled, and disposed of under the provisions of section 110 of the Agricultural Act of 1949.

(e) The Secretary of Agriculture may dispose of commodities acquired by the Commodity Credit Corporation under clause (1) of the first sentence of subsection (d) of this section only through sale, at not less than the fuel conversion price for the commodity involved, for use in the production of alcohol for fuel: *Provided,* That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that (1) begin operation after January 4, 1980, and (2) whenever supplies of the commodity involved are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than the commodity involved.

(f) (1) To facilitate the use of commodities that are held in reserve under this Act by producers under the producer storage program for fuel production purposes, the Secretary of Agriculture may require such producers to repay nonrecourse loans under that program, plus accrued interest thereon, prior to the maturity date thereof whenever the Secretary determines that the then current market price for the commodity involved is not less than the fuel conversion price for the commodity.

(2) Whenever nonrecourse loans under the producer storage program are made available as provided in this Act, the Secretary shall announce, at the time the availability of such loans is announced, and every 3 months thereafter while such loans are available or outstanding, the fuel conversion prices of the commodities held in the producer storage program under this Act.

(g) The fuel conversion price for a commodity shall be the price determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with nonlead gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating. In determining the fuel conversion price, the Secretary shall take into consideration the energy value of the commodity and the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal, State, and local tax and other incentives applied to alcohol used for fuel.

(h) The Secretary of Agriculture shall establish safeguards to assure that commodities held in trade suspension grain reserves under this Act shall not be used in any manner to unduly depress, manipulate, or curtail the free market.

(i) All producers of a commodity shall be eligible for nonrecourse loans under the producer storage program made available as provided in this Act.

SEC. 3. The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 4. The provisions of this Act shall become effective with respect to any suspension of commercial export sales, as described in section 2(a) of this Act, implemented after December 31, 1979, except that, with respect to any such suspension implemented prior to the date of enactment of this Act, the provisions of section 2(c) of this Act shall become effective on the date of enactment.

SUMMARY OF THE TRADE SUSPENSION COMMODITY RESERVES ACT OF 1980

The bill authorizes the Secretary of Agriculture to act to stabilize farm prices by establishing trade suspension reserves of agricultural commodities when export sales of the commodities are suspended.

The major provisions of the bill—

(1) Authorize the Secretary, whenever—

(a) the President or other member of the executive branch causes the commercial sales of wheat or other grains to any country or area of the world to be suspended for reasons of national security or foreign policy, and

(b) prices producers receive for the commodities are, or will be, adversely affected by the trade suspension,

to establish trade suspension reserves of the commodities:

(2) Authorize the Secretary to place commodities in reserve under the bill by—

(a) purchasing, and holding in a Commodity Credit Corporation fuel production reserve, commodities that are suitable for use in the production of alcohol for fuel, and

(b) if wheat or feed grains are involved in the suspension, expanding the stocks of the farmer-held grain reserve;

(3) Require the Secretary to announce, within 30 days after export sales are suspended, whether trade suspension commodity reserves will be established, and include in the announcement the amounts of the commodities to be placed in the reserve;

(4) Provide that the amount of a commodity to be placed in a trade suspension commodity reserve will be that amount that must be removed from the market to maintain farm prices for the commodity at the levels they were immediately prior to the suspension of trade;

(5) Provide that the Secretary may dispose of fuel production reserve stocks acquired by the Commodity Credit Corporation only by sale for use in the production of fuel, and that such sales may not be made at less than the fuel conversion price (which would be the price for the commodity that would make gasohol using alcohol produced from the commodity competitive in price with with nonlead gasoline) (commodities could only be sold to new facilities that can use agricultural or forest biomass feedstocks other than the commodity involved);

(6) To facilitate the use for fuel production purposes of any commodity placed in the farmer-held grain reserve under the bill, authorize the Secretary to call loans when

the market price for the commodity reaches the fuel conversion price;

(7) Provide that all producers of a commodity will be eligible to participate in the expansion of the farmer-held grain reserve under the bill; and

(8) Make the bill effective with respect to any trade suspensions implemented after December 31, 1979.●

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. 2317. A bill to restore certain lands in Arizona to the Colorado River Indian Reservation; to the Committee on Energy and Natural Resources.

● Mr. GOLDWATER. Mr. President, it gives me great pleasure to introduce for myself and my colleague from Arizona (Mr. DECONCINI), the following legislation at the request of the Colorado River Indian Tribes. The bill is a companion to a measure being introduced in the House today by Congressman STUMP of Arizona.

In brief, the bill would authorize the return of 16,000 acres of public lands, known as the La Paz area, to the Colorado River Indian Reservation in Yuma County, Ariz.

The Colorado River Indian Reservation was created by the act of March 3, 1865. Ten years after the establishment of the reservation, its southern boundary was extended twice by Executive order to provide a buffer between the Indian lands and the mineral prospectors and cattlemen. The La Paz Arroyo lands were originally a part of the Colorado River Indian Reservation. There is no question about this fact.

In 1875, in an effort to clearly define the extent of the reservation trust lands, the Commissioner of the General Land Office, pursuant to a request of the Commissioner of Indian Affairs, arranged for a survey of the reservation by a Mr. Chandler Robbins. Mr. Robbins' survey located its southern boundary at La Paz Arroyo. This survey was reconfirmed by the 1912 Harrington resurvey and the location was upheld finally by the Commissioner of the General Land Office in 1913 and 1914. In spite of and contrary to the surveys, the lands were removed from the reservation by the Executive order of November 22, 1915, as the result of erroneous reasons and without any compensation.

Today, the Colorado River Indian Tribes would like to have their lands returned because of issues of historical ownership, legal rights, and agricultural need.

The bill Senator DECONCINI and I are introducing will accomplish this purpose. Under the legislation, the return of the La Paz lands will, of course, be subject to valid existing rights. And, all rights and claims will be examined closely as the legislation is being considered.

The return of these lands has been approved in general terms by the Arizona State Office of the U.S. Bureau of Land Management in a report dated November 25, 1974, and it is my understanding that office believes the conclusions of the 1974 report are still valid. Moreover, I have made several inquiries with local officials and citizens in the area in and around the land described by the bill and have not received any negative reactions to the proposal. In any event, I will make certain that the legislation receives thorough hearings so that there will be no unexpected consequences of what I believe is a necessary and appropriate resolution of a longstanding boundary problem.●

By Mr. HATFIELD:

S. 2318. A bill to revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. HATFIELD. Mr. President, today I am introducing legislation to further protect a national park which houses the deepest and possibly the most pure body of fresh water in the United States. Crater Lake National Park, designated as such in 1902, is an area of approximately 240 square miles, located in southwestern Oregon. Its primary feature, of course, is the lake, which was formed about 6,600 years ago when the top of the 12,000 foot volcano Mount Mazama collapsed, forming a caldera. A jagged rim surrounds the lake, rises abruptly, and crests 500 to 2,000 feet above the water, providing a spectacular view of one of the most interesting geological features in the country.

In contrast to most other natural lakes, Crater Lake has no influent or effluent streams to provide continuing supplies of oxygen, nutrients, and large volumes of fresh water. Thus, water entering the lake comes directly from rainfall or snowmelt and leaves by means of evaporation or seepage through fractures in the caldera wall. Its purity is thus highly susceptible to man-caused pollution, which would not be "flushed" by water moving through the lake.

Several other ecological communities of importance exist within the park. It is to these features that I address my concern. This legislation provides, through a moderate expansion of the park, protection for key natural features associated with the geological formations in the park. On the east, the boundary modifications would include the Sand Creek Drainage, a canyon which contains geological pumice formations commonly referred to as "The Pinnacles," as well as Bear Butte, a significant scenic feature viewed from within the park. To the north, the proposed boundary incorporates the lower slopes of Timber Crater, and the Desert Ridge—Boundary Springs ecological units. Sphagnum Bog, an area to the west of the park, which exhibits a flora of mosses and herbs, is fed by Crater Springs. The proposal incorporates that spring, as well as the scenic Spruce Lake into the park. Just outside the southwest corner of the park is a unique area known as Thousand Springs. This feature also would be included in the park, if the Senate enacts this legislation.

Total acreage of the existing park is 160,290. My proposal would add approximately 22,890 acres to that figure, all of which are presently managed by the U.S. Forest Service. There is no private land involved in this proposal.

I might also note, Mr. President, that the major portion of this acreage was recommended last year by the administration for additional protection as wilderness through the Forest Service evaluation of roadless areas, known as RARE II. After intensive evaluation by myself and my staff, I agreed that these lands merit protection. However, because of their size and relationship to the geological features of the park, I believe it makes sense that these lands be managed by the National Park Service.

Mr. President, a glance at the map indicates that the straightlined boundaries drawn 80 years ago did not follow the ecological features of the land area, but simply carved a rectangle to assure protection of the lake. If we were to draw boundaries today which reflect natural ecological features related to those in the existing park, I believe they would clearly follow those proposed in this legislation. I urge my colleagues on the Energy and Natural Resources Committee to consider favorably a proposal to further protect this significant natural treasure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled, "An Act Reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth, "approved May 22, 1902 (32 Stat. 202), is amended to read as follows:

"That in order to preserve for the benefit, education, and inspiration of the people of the United States certain unique and ancient volcanic features, including Crater Lake, together with significant forest and fish and wildlife resources, there is hereby established the Crater Lake National Park in the State of Oregon. The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, "Crater Lake National Park, Oregon," numbered 106-80,001, and dated February, 1980, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Lands, waters, and interests therein within the boundary of the park which were within the boundary of any national forest are excluded from such national forest and the boundary of such national forest is revised accordingly."

(b) The Act entitled "An Act To add certain land to the Crater Lake National Park in the State of Oregon, and for other purposes," approved May 14, 1932 (47 Stat. 155), is repealed.●

By Mr. SCHWEIKER:

S. 2319. A bill to improve the administration of the affirmative action employment program for Government contractors by exempting contractors without appreciable employment opportunities and by eliminating unnecessary require-

ments and paperwork; to the Committee on Labor and Human Resources.

AFFIRMATIVE ACTION PROGRAM IMPROVEMENTS ACT OF 1980

● Mr. SCHWEIKER. Mr. President, I would like to ask each of my colleagues to imagine a three-employee construction firm in his State that is performing a Government contract. Imagine that this contract involves a total of 11 employees, of which 4 were in the craft classification of laborer. Imagine further that the Government's affirmative action program applicable to Federal contractors includes a goal of 5-percent female employment as laborers. And also imagine that this employer employed no female laborers and was unable to find one who was two-tenths female.

Finally, imagine that because of this failure, the Department of Labor told this small contractor to follow 43 separate compliance and paperwork requirements, or risk losing his contract. All this would take some imagination, right? Maybe; but it all happened to Dante DiGaetano of Drexel Hill, Pa.

Today, I introduce legislation to restrain the imaginations of the Department of Labor people who enforce the affirmative action program for Government contractors under Executive Order 11246.

Before explaining this bill, I would like to report on my efforts to resolve this problem administratively. On November 28, soon after I learned of this nonsense, I wrote Labor Secretary Marshall seeking changes in the program to exempt very small businesses from the affirmative action program, and to reduce the mind-boggling amount of paperwork for contractors of all sizes. Earlier this month, after over 2 months, I received a reply from Mr. Marshall. While professing concern over the problem, Secretary Marshall rejected my proposals.

Mr. President, I ask unanimous consent that the texts of both of these letters be printed at this point in the RECORD.

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

UNITED STATES SENATE,
Washington, D.C., November 28, 1979.

Hon. F. RAY MARSHALL,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I seek your assistance in eliminating a complex of unnecessary and overburdensome government regulation concerning compliance by small business government contractors with affirmative action employment requirements under Executive Order 11246.

A constituent of mine, who operates a sole proprietorship, was the recipient of a government construction contract which included federal affirmative action requirements. This contractor employs a total of three people, one carpenter and two laborers. He has no secretary, no office, and no other employees. On the contract in question, a total of 11 workers were employed, the contractor's three, two electricians of the electrical subcontractor, two plumbers of the plumbing subcontractor, two painters of the painting subcontractor, and two laborers of the flooring subcontractor.

A Labor Department review of this contractor's employment practices concluded he had failed to meet his quota of 5 percent females employed in the craft classification of laborer. Assuming this contractor would not have been expected to employ an individual who is two-tenths female, the deficiency boils down to the contractor's failure to employ one female among the four laborers.

As a result of this deficiency, the employer was told he must either defend a legal action to disqualify him from federal contracting or sign a "conciliation agreement." Recognizing the obvious mismatch of him against the government, he chose to sign.

The agreement is ten pages long. It cites 17 separate deficiencies, mostly dealing with failure to undertake various mechanical steps deemed necessary to demonstrate an effort to meet the affirmative action quota. It also spells out numerous "corrective measures" the contractor must take in order to keep his government contract. Included in these "corrective measures," I have counted forty-three separate requirements for affirmative actions he must undertake and for paperwork he must maintain. For your information, the things the Labor Department has told this businessman to do and the records he has been told to keep to prove his obedience are as follows:

(1) maintain documentation of good faith efforts to employ 1 woman laborer for every 20 employees;

(2) maintain documentation that all foremen maintain a working environment free of harassment;

(3) maintain a current listing of recruitment sources for minority and craft workers;

(4) maintain copies of letters to recruitment groups specifying employment opportunities;

(5) maintain records of all responses received to letters to recruitment groups;

(6) maintain a separate file for every recruitment group contacted;

(7) maintain a file of names, addresses, telephone numbers, and craft of minority and women applicants and a record of what action was taken with respect to each, including reasons why any applicant was not hired;

(8) maintain written records of contacts (written, telephonic, or personal) with minority and women's community organizations and recruitment sources, and schools and training organizations;

(9) maintain copies of letters sent to community organizations, recruitment sources, schools and training organizations at least one month prior to acceptance of applicants for training, describing openings, screening procedures, and tests to be used in the selection process;

(10) maintain copies of dairies, telephone logs, or memoranda indicating contacts with minority and women employees requesting assistance in recruiting other minorities and women;

(11) maintain records of results from contracts under No. 10;

(12) maintain records of contractor's contributions in cash, equipment, or personnel to Labor Department sponsored training programs;

(13) maintain records of hiring of minorities and women from Department of Labor sponsored training programs;

(14) maintain copies of letters to minority and women recruitment sources informing them of Labor Department training programs;

(15) maintain a written equal employment opportunity policy, including identification of contractor's EEO officer;

(16) include EEO policy in company policy manuals;

(17) post a copy of the EEO policy at all job sites;

(18) maintain documentation that EEO policy has been discussed with every minority and woman employee:

(19) maintain documentation that EEO policy has been discussed regularly at staff meetings;

(20) have copies of newsletters and annual reports that include the EEO policy;

(21) have copies of letters to unions and training programs requesting assistance in meeting EEO duties;

(22) have copies of letters at least every six months or at the start of every new major contract to all recruiting sources (including labor unions and training programs) stating EEO policy;

(23) maintain copies of advertising with EEO statement;

(24) maintain copies of letters to all subcontractors and suppliers requiring compliance with EEO policy;

(25) maintain records of annual reviews of minority and female employees for promotional opportunities;

(26) maintain records of encouragement of minority and female employees to seek promotions;

(27) maintain records of annual review with supervisory personnel of affirmative action obligations, including identification of time and place of meetings, persons attending, subject matter discussed, and disposition of subject matter;

(28) maintain certifications that testing, interviewing, and selection procedures meet government guidelines;

(29) maintain documentation that the EEO officer reviews all monthly workplace reports, hirings, terminations and training;

(30) have a written job descripion for EEO officer including duty to monitor all employment activities for discriminatory effects;

(31) maintain documentation that corrective action has been taken whenever the contractor finds a possible discriminatory effect;

(32) include in all subcontracts and purchase orders a government "Certification of Nonsegregated Facilities";

(33) maintain records that parties and picnics have been posted and available to all employees;

(34) maintain records of contacts with supervisors to insure privacy between the sexes with respect to toilets and changing facilities;

(35) maintain records of all contacts from minority or women subcontractors;

(36) maintain records of assistance provided to minority or women subcontractors in preparing price quotations;

(37) maintain records of all minority or female subcontracts awarded, with dollar amounts;

(38) maintain copies of solicitations to minority or female subcontractors for project bids;

(39) submit reports to the government regarding EEO activities;

(40) maintain records for each employee of name, address, telephone number, trade union, social security number, race, sex, position, dates of change in position, hours worked per week, rate of pay, and locations of work;

(41) file with the government monthly employment utilization reports;

(42) file with the government a quarterly report of minority and female applicants, job offers, new hires, terminations, and layoffs;

(43) submit a report to the government stating the date when each of the above requirements was complied with.

Mr. Secretary, I understand that the government has a legal right to attach strings to the awarding of federal contracts. But to tie this avalanche of paperwork to a three-employee firm which failed to meet its quota

of one female employee is stupefying. This wheel-spinning does nothing to advance the government's overall program, is an extraordinarily wasteful use of government resources, and is inconsistent with clear Congressional policy of increasing utilization of small business for government contract work. If real people, real time, and real taxpayers' money were not involved, this bureaucratic paper shuffle would be amusing. But it is not amusing, and, in my opinion, immediate corrective action is imperative.

Therefore, I propose that you immediately exercise your Executive Order 11246 authority (under section 204) to waive the applicability of the affirmative action requirements to any employer with fewer than 25 employees (including all employees of the contractor plus the subcontractors' employees involved in the contract). In addition, I strongly suggest that you initiate a thorough review of the program to determine if further revisions in coverage are desirable and if the mind-boggling amount of paperwork can be reduced for all contractors.

The change I propose would focus the government's enforcement program where it will more likely achieve appreciable results and would be entirely consistent with the President's espoused objective of reducing unnecessary government regulation and paperwork. I hope you will give this your careful attention. Enclosed for your information is a copy of the conciliation agreement referred to above.

Thank you for your consideration. Please advise me of your thoughts on this matter.

Sincerely,

RICHARD S. SCHWEIKER,
U.S. Senator.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 4, 1980.

Hon. RICHARD S. SCHWEIKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHWEIKER: Thank you for your letter of November 28, 1979, in which you described the difficulties one of your constituents had in complying with the regulations of the Office of Federal Contract Compliance Programs (OFCCP). I apologize for the delay in responding. Although you did not identify the constituent and the conciliation agreement attached to your letter did not include the contractor's name, I believe you are referring to the Dante Construction Company (hereinafter "Dante").

Dante is a Federal contractor with Federal contracts in excess of $800,000 to do renovation work for the Department of Defense at the Philadelphia Navy Yard. These contracts were entered into between August, 1978 and April, 1979. As you are aware, the Navy Yard is located in South Philadelphia, in an area which has a very high concentration of available minority group persons and non-minority women, and the workforce at this location is highly visible to the community.

All covered contractors who have Federal contracts or subcontracts in excess of $10,000 are required to submit monthly Employment Utilization Reports, Form CC257. This report shows the number of hours worked in the covered area for both its Federal and non-Federal work.

Dante was notified of this requirement during the bid process and upon award of its contracts. However, no reports were submitted by Dante until it was notified that it was in violation of its contractual obligations by OFCCP's Philadelphia Area Office. When Dante reported in January, 1979, for the months of October, 1978 and November, 1978, it reported "No Activity". Thereafter, no other reports were submitted. Under normal circumstances, a 30-day "Notice to Show Cause" would be issued for failure to report.

In view of the high dollar volume of contracts held and the highly visible location of the projects, the Area Office Director of our Philadelphia Office elected to assign a staff person to conduct a compliance review. Usually, we schedule compliance reviews of contractors who report 8,000 or more hours of work during a month's period. Had Dante been reporting, it would not have been scheduled for a review.

The review occurred in June, 1979, at the Navy Yard facility. The contractor requested that the meeting take place at this location rather than in its office. He further indicated he would bring all of the necessary records. (These are described in the Standard Federal Equal Employment Opportunity Construction Contract Specifications (41 CFR 60–4.3), which are a part of all Federal construction contracts.)

I have directed the OFCCP to make sure their compliance officers adhere to less burdensome and more helpful procedures in situations similar to Dante's. Also, I have directed OFCCP to have a compliance officer contact Dante and offer technical assistance.

Although I believe that OFCCP's experience with Dante is an exception to normal OFCCP operations, I share your concern that small contractors should not be confronted with unnecessary and overburdensome government regulations. However, the situation we face in OFCCP with construction work is not stable and neither are the contract dollars awarded for a given contract. Employment in the construction industry is so fluid that very few contractors maintain a crew of 25 permanent emloyees. Most contractors' workforces fluctuate, sometimes greatly, with the dollar volume of work and with the seasons, thus making it almost impossible to utilize the number of employees as a basis for determining coverage. Further, the prime contractors' and subcontractors' employment activity must be considered separately, since they individually are responsible for their own employment practices.

The OFCCP is making progress in reducing paperwork requirements, such as the abbreviated review mentioned previously. Continued paperwork reductions and increased technical assistance will, in my view, relieve the regulatory burden on small contractors such as Dante, yet protect the integrity of this vital program.

Thank you for bringing this matter to my attention. It has been helpful to me in assuring that our programs are administered in a reasonable manner. If I may be of further assistance, please let me know.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. SCHWEIKER. Mr. President, I consider the Secretary's response totally inadequate. First, the claim that compliance officers generally do not hassel small employers is irrelevant. The fact is that virtually all of the 43 requirements imposed on this tiny contractor are taken right out of the Department's regulations. Thus, he was required to do all of these things regardless of the likelihood of being rechecked. Certainly, it is absurd to say to someone: "You have to do all these things; but if you don't, we probably won't catch you."

Second, Secretary Marshall's directive to his staff to be "less burdensome and more helpful" is silly. Forty-three requirements are forty-three requirements, no matter how friendly or "helpful" the compliance officer might be.

Third, the Secretary's claim that an exemption from the requirements based on employment size is "almost impossible" is directly contradicted by his stated policy of generally avoiding enforcement against contractors based on their employment size of less than 50 workers (8,000 work-hours per month).

Fourth, while the Secretary half hints of efforts to reduce paperwork, there is not the slightest evidence of any real desire to do anything about it.

Mr. President, I continue to believe the Government's affirmative action program for Federal contractors is a valuable supplement to the historic Equal Opportunity Title of the Civil Rights Act of 1964. But for this program to meaningfully advance the goal of increased employment opportunities for minorities and women, it must at least focus on businesses where there are appreciable employment opportunities. And it must also be administered with some limits on wheelspinning compliance requirements and paper shuffling.

The legislation I introduce today is designed to accomplish these goals. First, I propose to exempt from the affirmative action requirements all contractors and subcontractors who employ no more than five workers. In my request to Secretary Marshall, I suggested an exemption based on the total number of workers of the general contractors and all subcontractors being less than 25. To simplify the administration of the exemption, I have revised this to consider each contractor and subcontractor individually.

With respect to firms of this size, meeting the Department's "goals" would still generally involve employing only a small fraction of a person. It is also noteworthy that in our basic equal employment opportunity law, title VII of the Civil Rights Act, employers of fewer than 15 are exempt. While waiving affirmative action requirements for tiny contractors, my bill would retain the nondiscrimination requirements of the Executive order.

The second part of my bill is aimed at reducing the mindboggling compliance and paperwork requirements for all Government contractors. Many of the 43 requirements taken from the Department's regulations involve outreach and recruiting efforts. Contractors are told to contact anyone and everyone who might provide leads in finding minority and female applicants, and are required to keep extensive records, including letters, memoranda, telephone logs, and more, to prove compliance. A much more effective and efficient program of outreach and recruiting can be implemented through State employment service offices around the country, all under the umbrella of the U.S. Employment Service. These offices should develop ongoing working relationships with community groups and education and training organizations in order to develop lists of qualified applicants. Contractors could then simply solicit referrals from the employment service. This system would be more effective than the haphazard scheme of each contractor individually trying to search out the groups and develop confidence in the quality of the referrals. This would also reduce the compliance and paperwork burdens for the contractor to a more rational level.

The bill directs the Secretary of Labor to implement this linkage system. A contractor then satisfies his affirmative action outreach obligations by soliciting referrals from the Employment Service and by considering in good faith these referrals for employment. As under present rules, the employer will retain full authority to decide whether the individuals referred are qualified. While there is no presumption that referrals are necessarily qualified for particular jobs, the employer will have to consider all referrals in good faith. In addition, the bill does not change usage of goals and timetables as guidelines and as measurements of progress.

The bill also spells out other categories of permissible affirmative action obligations, including reasonable efforts at promotion and training opportunities, compliance with nondiscrimination requirements of title VII of the Civil Rights Act, and necessary recordkeeping and reporting.

Mr. President, I have heard many complaints about the compliance and paperwork requirements of the affirmative action program. Many of these are not dealt with in this bill. Rather, this is a very moderate bill which simply seeks to provide some control over the wandering imaginations of the enforcement officers of the affirmative action program for Government contractors.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Affirmative Action Program Improvements Act of 1980".

Sec. 2. (a) Section 718 of the Civil Rights Act of 1964 is amended by inserting "(a)" after the section designation, and by adding at the end thereof the following new subsections:

"(b) No provisions included in any executive order relating to equal employment opportunities or agency regulation promulgated pursuant to any such executive order that require a government contractor, in any contract with the United States, or a subcontractor, in any contract with a government contractor, to carry out affirmative action programs or activities shall apply to any contractor or subcontractor who at all times within the 12-month period preceding the awarding of the contract or subcontract employed five or fewer employees and who at all times during the term of the contract or subcontract will employ five or fewer employees.

"(c) The Secretary of Labor shall, through the United States Employment Service, develop and implement a program to identify potentially qualified applicants and minority owned businesses in connection with the affirmative action employment obligations of government contractors and subcontractors. Beginning six months after the effective date of the Affirmative Action Program Improvements Act of 1980, any government contractor or subcontractor shall satisfy affirmative action obligations and objectives under any applicable executive order relating to equal employment opportunities, agency regulation promulgated pursuant to any executive order, plan, or agreement by—

"(1) making a reasonable, good faith effort to obtain employment referrals (except with respect to managerial, professional, and supervisory positions) and, if appropriate, referrals of potential subcontractors from the United States Employment Service and to employ qualified applicants and contract with qualified subcontractors referred by the Service;

"(2) complying with the requirements of this title;

"(3) complying with reasonable affirmative action obligations with respect to promotion and training opportunities; and

"(4) maintaining and submitting necessary records and reports."

(b) The heading of such section 718 is amended to read as follows:

"SPECIAL PROVISIONS WITH RESPECT TO AFFIRMATIVE ACTION REQUIREMENTS FOR GOVERNMENT CONTRACTORS".●

By Mr. CANNON (by request):

S. 2320. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL BUREAU OF STANDARDS AUTHORIZATIONS ACT

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes.

I ask unanimous consent that the text of the bill, the letter of transmittal, the statement of purpose and need, and appendix I, II, III, and IV be printed in the RECORD.

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

S. 2320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorizations of Appropriations Act for Fiscal Years 1981 and 1982."

AUTHORIZATIONS FOR ACTIVITIES UNDER THE ACT OF MARCH 3, 1901

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce to carry out activities performed by the Bureau under the Act of March 3, 1901, as amended (15 U.S.C. 271–278h), except section 16 thereof (15 U.S.C. 278f), $87,733,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.

(b) Section 16 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), is further amended by adding at the end thereof a subsection (c) to read as follows: "(c) For the purposes of this section, there are authorized to be appropriated to the Secretary of Commerce $1,253,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982."

(c) Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

AUTHORIZATIONS FOR ACTIVITIES UNDER OTHER STATUTES

SEC. 3. (a) There are authorized to be appropriated to the Secretary of Commerce $15,390,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982 to carry out the activities specified for performance by the Secretary or the Bureau in:

(1) Section 111(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(f));

(2) Sections 5 (d) and (e), 8 and 9(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1454 (d) and (e), 1457, and 1458(a));

(3) Section 383(c) of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6363(c));

(4) Section 5002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6952);

(5) Section 5(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(d)); and

(6) Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531–2573).

(b) There are authorized to be appropriated to the Secretary of Commerce to carry out research by the Bureau in the area of environmental measurement sciences $245,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.

(c) There are authorized to be appropriated to the Secretary of Commerce to carry out the purposes of the Standard Reference Data Act (15 U.S.C. 290–290f) such sums as may be necessary for fiscal year 1982.

FACILITIES IMPROVEMENT

SEC. 4. The Act of March 3, 1901, as amended (15 U.S.C. 271–278h), is further amended by striking the figure "$75,000" in section 14 of such Act (15 U.S.C. 278d) and inserting in lieu thereof the figure "$250,000".

INTERNATIONAL ACTIVITIES

SEC. 5. In order to develop and strengthen the Department of Commerce's expertise in science and engineering, to enhance the Secretary's ability to maintain the Department's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901, as amended (15 U.S.C. 271–278h), is further amended by adding immediately after section 16 (15 U.S.C. 278f) a new section 17 to read as follows:

"SEC. 17. (a) The Secretary is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Secretary may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at agencies of the Department of Commerce or participating in the exchange of scientific or technical information at agencies of the Department of Commerce.

"(b) The Congress consents to the acceptance by an employee of the Department of Commerce of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and

to the acceptance and retention by an employee of the Department of Commerce of any form of financial or other assistance provided by a foreign government as compensation for and/or to defray the expenses associated with performing scientific or engineering activities or exchanging scientific or technical information, when the acceptance of such fellowship, lectureship or position or the acceptance and retention by an employee of such assistance is determined by the Secretary to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in subsection 7342(a) of title 5 of the U.S. Code apply. *Civil actions* may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as prescribed by subsection 7342(h) of title 5 of the U.S. Code.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States who is not a citizen of the United States, shall not apply to the payment of compensation to scientific or engineering personnel of the Department of Commerce."

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 6. The Secretary of Commerce shall charge for any service performed by the Bureau, at the request of another government agency, in compliance with any statute, enacted before, on, or after the date of enactment of this Act, which names the Secretary or the Bureau as a consultant to another government agency, or calls upon the Secretary or the Bureau to support or perform any activity for or on behalf of another government agency, or to cooperate with any government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau by such other government agency for such service, unless funds are specifically appropriated to the Secretary or the Bureau to perform such service. The Secretary may, however, waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

THE SECRETARY OF COMMERCE,
Washington, D.C., January 25, 1980.

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

DEAR MR. PRESIDENT: Enclosed are six copies of a bill "To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards, including certain special statutory programs, and for other purposes", together with a statement of purpose and need in support thereof and three appendices.

This bill may be cited as the "National Bureau of Standards Authorizations Act for Fiscal Years 1981 and 1982."

We have been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this legislation to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

_____, _____,
Secretary of Commerce.

Enclosures.

STATEMENT OF PURPOSE AND NEED

The National Bureau of Standards (NBS), the Nation's oldest national laboratory and lead agency for measurement science and standards, was created by the Act of March 3, 1901 (Pub. L. No. 56–177; 15 U.S.C. 271–278h) (hereinafter cited as the "Organic Act" or "Act"). Pursuant to that Act, the Secretary of Commerce is authorized to undertake certain functions including: the custody, maintenance, and development of the Nation's standards of physical measurement and provision of means and methods for making measurements consistent with these standards; the determination of physical constants and properties of materials; the development of methods for testing materials, mechanisms, structures, supplies and equipment; cooperation with other Federal agencies and the private sector in the establishment of standard practices; the provision of advisory services to government agencies on scientific and technical problems; and the invention and development of devices to serve special national needs.

The basic mission of NBS is to apply its expertise in science and engineering to foster attainment of national goals such as (A) continued economic development and enhanced innovation and productivity in industry and commerce through optimal utilization of labor, energy, and material resources; (B) reasonable and equitable regulatory decision-making that achieves legislative goals effectively and efficiently without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State or local governments; (C) equity in commerce through mutual understanding and acceptance of recognized transfer standards; and (D) accuracy and compatability in scientific communication and technology transfer among industry, government, and academia. The latter includes development of meaningful comparisons between theoretical predictions and empirical data used in developing scientific knowledge.

NBS, through performance of the functions set forth in the Organic Act (15 U.S.C. 271–278h), and in other statutes, provides for the government and the Nation a core capability in science and engineering for pursuit of national goals by fulfilling three major roles: (A) it is the Nation's central reference laboratory and lead agency for the development and provision of measurement standards, measurement methods and techniques, and standard reference materials and data essential for the resolution of Federal, State and local scientific and technical measurement issues; (B) it addresses technological problems for the Nation through the application of physical, chemical, mathematical, and engineering science by providing traceability of measurements to national standards essential for ensuring measurement comparability, by uniform determination of the physical, chemical and engineering properties of matter, and by provision of uniform methods for measuring the performance of materials, products, and engineered systems of products; and (C) it enhances the technological and scientific base of the Nation's productive sectors by developing basic technical information that underlies product and process development and innovation. In carrying out these roles, the Secretary, acting through the Director of NBS, places special emphasis on providing equal opportunities, especially for women and minorities, in recruitment, hiring, promotion, reassignment, awards and training arrangements.

In its measurement and standard role, NBS assures that U.S. measures for the fundamental constants of nature, length, mass, time, temperature, luminous intensity, electricity, and the quantities derived therefrom are precisely defined, accurately realized, internationally compatible, and accessible to a broad range of users. It provides standard reference materials and measurement assurance programs designed to assure uniform comparability through accuracy in measurements, and improved methodologies for the analysis, characterization, and measurement of the properties of matter.

In recent years, various statutes have directed NBS to provide assistance toward solving technological problems important to a variety of national concerns. In its problem solving role, and in its role as a developer of basic technologies and information, NBS is broadly involved in applying its basic scientific and technological expertise to the development of measurement methods, standards, and basic technical information for areas such as energy and materials conservation, building technology, electronic reliability, fire research, health technology, environmental science, electromagnetic radiation, nuclear safeguards, automation, automatic data processing and industrial productivity.

The application of the Bureau's expertise in science and technology to the attainment of national goals is consistent with the Nation's efforts to continue its economic development and to promote its social well-being.

Since its creation in 1901, and until fiscal year 1979, NBS operated through annual appropriations pursuant to a continuing authorization provided by the Organic Act, except for Section 16 of the Act which is discussed below. In 1978, the Congress in Public Law No. 95–322 amended section 18 of the Organic Act (15 U.S.C. 278h) to limit to fiscal years 1979 and 1980 the period for which appropriations under the Act are authorized. That amendment authorizes appropriations for fiscal years 1979 and 1980 of such sums as may be necessary for the Secretary to carry out the provisions of the Act. The primary purposes of this bill are to authorize appropriations for fiscal years 1981 and 1982 to carry out the Bureau's programs and to restore the continuing authorization of appropriations for any activities of the Secretary performed under the Organic Act by agencies other than the Bureau.

Subsection 2(a) of this bill extends, for fiscal years 1981 and 1982, the authorization of appropriations for all Bureau programs falling under the authority of the Organic Act, except for those falling under section 16, by $87,733,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.

Subsection 16(a) of the Organic Act (15 U.S.C. 278f(a)) is the enabling authority for the fire research activities of the NBS Center for Fire Research. Subsection 16(b) of the Organic Act (15 U.S.C. 278f(b)) authorizes appropriations for those activities through fiscal year 1980.

Subsection 2(b) of this bill extends for fiscal years 1981 and 1982 the authorization of appropriations for the Bureau's fire research activities, by authorizing $1,253,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982.

Brief statements of the purposes and goals of the Bureau's activities under the Organic Act, for which appropriations are authorized under subsections 2 (a) and (b) are included in Appendix I.

Section 2 of the Organic Act (15 U.S.C. 272) is a broad enabling authority to the Secretary to perform a variety of scientific and dissemination functions. While most of these functions are performed by NBS, some, in various areas, are performed by other elements of the Department (such as, the National Oceanic and Atmospheric Administration and the National Telecommunications and Information Administration). It is clear from the legislative history of

Public Law No. 95–322 that Congress desired to amend section 18 of the Organic Act (15 U.S.C. 278h) to place NBS, and only NBS, under a periodic reauthorization of appropriations requirement. However, the language of the amendment to section 18 has the effect of placing under a periodic reauthorizing requirement all activities of the Secretary of Commerce under the Act, whether performed by NBS or by other elements of the Department of Commerce. In order to conform the law to the intent of Congress, subsection 2(c) of this bill amends section 18 of the Organic Act (15 U.S.C. 278h) by repealing the limited (to fiscal years 1979 and 1980) authorization of appropriations to the Secretary, and thereby restores the previous continuing authorization of appropriations for carrying out the provisions of the Act.

The intent of Congress to place the Secretary's activities under the Organic Act that are performed by the Bureau under a periodic reauthorization requirement, however, is maintained by the limited (to fiscal years 1981 and/or 1982) authorizations of appropriations provided by subsections 2 (a) and (b) and section 3 of this bill (discussed below).

In summary, subsections 2 (a) and (b) and section 3 provide specific authorizations of appropriations for the activities of the Bureau for fiscal years 1981 and 1982; reauthorizations of appropriations will be required for the Bureau's activities in subsequent fiscal years. The repeal provided by subsection 2(c) has the effect of providing a continuing authorization of appropriations for Organic Act activities performed by agencies of the Department of Commerce other than the Bureau which derive part of their basic enabling authority from functions authorized for the Secretary by the Organic Act (generally section 2 thereof, 15 U.S.C. 272).

Subsection 3(a) of this bill lists six statutes in which the President, the Secretary or NBS is directed to perform specific activities. For five of the statutes, either an authorization of appropriation for the Secretary or NBS limited to specific fiscal years was included in the enabling legislation or in subsequent authorizing legislation, or the enabling legislation contains no authorization of appropriations language and thus provides a continuing authorization, i.e., an authorization not limited to specified fiscal years. The remaining statute, the Earthquake Hazards Reduction Act of 1977, cited in subsection 3(a)(5), contains a general authorization of appropriations (42 U.S.C. 7706) for the President which is limited to fiscal years 1978, 1979 and 1980.

Subsection 3(a) extends through fiscal years 1981 and 1982 to the Secretary of Commerce those authorizations of appropriations which expire at the end of fiscal year 1980, and supersedes those authorizations of appropriations which are continuing with authorizations which are limited to fiscal years 1981 and 1982. Subsection 3(a) authorizes to be appropriated to the Secretary of Commerce $15,390,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982 to carry out the activities specified for performance by the Secretary or the Bureau in the listed statutes.

A brief statement regarding the status and history of the authorization of appropriations for the activities of NBS under each statute set forth in subsection 3(a) follows. Descriptions of the goals and status of the NBS programs initiated in response to those statutes are given in Appendix III.

By the Act of October 30, 1965 (Pub. L. No. 89–306), which has come to be known as the "Brooks Act," section 111 was added to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759). Subsection (f) of section 111 (40 U.S.C. 759(f)) authorizes the Secretary of Commerce "to provide agencies, and the Administrator of General Services . . . with scientific and technological advisory services relating to automatic data processing and related systems, and . . . to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards." It further authorizes the Secretary to undertake "necessary research in the sciences and technologies of automatic data processing computer and related systems. . . ." By Executive Order No. 11717, dated May 9, 1973, the Secretary of Commerce was delegated all functions relating to the establishment of Government-wide automatic data processing standards, including the President's function of approving standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(f)(2)). Most of the responsibility for implementation of these provisions has been delegated by the Secretary to the Director of the Bureau.

No authorization of appropriations was provided for section 111. Accordingly, section 111 acts as a continuing authorization of appropriations for the Secretary's activities thereunder. Subsection 3(a)(1) of this bill supersedes this continuing authorization with an authorization of appropriations which is limited to fiscal years 1981 and 1982. This subjects appropriations for the Bureau's activities under section 111(f) of the Federal Property and Administrative Services Act of 1949, as amended, to reauthorization in step with the reauthorizations of appropriations for the rest of the Bureau's programs.

Under sections 5(d) and (e), 8 and 9(a) of the Fair Packaging and Labeling Act (FPLA) (Pub. L. No. 89–755; 15 U.S.C. 1454 (d) and (e), 1457 and 1458(a)), the Secretary of Commerce has certain responsibilities, which have been delegated to the Director of the Bureau, for the establishment of voluntary product standards. That Act does not contain any limitation as to the authorization of appropriations for implementation of its activities, and thus it provides a continuing authorization of appropriations. Subsection 3(a)(2) of this bill supersedes the Secretary's continuing authorization of appropriations under FPLA with an authorization limited to fiscal years 1981 and 1982. This subjects the Secretary's continuation of activities under this Act to periodic evaluation and reauthorization by the Congress.

Subsection 383(c) of the Energy Policy and Conservation Act (EPCA), as amended (Pub. L. No. 94–163; 42 U.S.C. 6363(c)) requires NBS to develop test procedures for evaluating the substantial equivalency of recycled oil to new oil. Subsection 383(c) does not contain any limitation as to the authorization of appropriations for implementation of NBS's activities. Thus, that section provides a continuing authorization of appropriations. In 1976, NBS reprogrammed funding from its base of directly appropriated funds to establish a recycled oil program in its Office of Recycled Materials. Since that time, the program has been supported by a combination of reprogrammed and Congressionally appropriated funds. Subsection 3(a)(3) of this bill supersedes NBS's continuing authorization of appropriations for its EPCA activities with an authorization limited to fiscal years 1981 and 1982. This subjects NBS's continuation of activities under subsection 383(c) to periodic evaluation and reauthorization by the Congress.

Section 2 of the Resource Conservation and Recovery Act of 1976 (Pub. L. No. 94–580; 42 U.S.C. 6901–6987) amended, reorganized and expanded the Solid Waste Disposal Act (Pub. L. No. 89–272). Under section 5002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6952), the Secretary of Commerce acting through NBS is required to develop specifications for the classification of materials recovered from waste. The Department of Commerce requested and the Congress approved reprogramming of $983,000 and 14 positions for the NBS section 5002 Recycled Materials Program during fiscal year 1979. With these reprogrammed resources, NBS is initiating a project to determine the heat content, the corrosive nature, and the trace metal pollutants present when municipal solid waste is used as fuel. Authorization of appropriations for fiscal year 1979 was provided in the Environmental Research, Development and Demonstration Authorization Act of 1979 (Pub. L. No. 95–477). Fiscal year 1980 funding of $878,000 and 6 positions for the second phase of this program were approved by Congress. The Secretary of Commerce on March 20, 1979 submitted to the Congress a proposed bill to extend the authorization of appropriations to the Secretary for the fiscal year 1980 activities of the Bureau under section 5002. This authorization was taken up by the Congress and included in the Environmental Research, Development and Demonstration Authorization Act of 1980 (H.R. 2676, section 4(2)). Subsection 3(a)(4) of this bill extends the authorization of appropriations for these activities through fiscal years 1981 and 1982.

The Earthquake Hazards Reduction Act of 1977 (Pub. L. No. 95–124; 42 U.S.C. 7701–7706) mandated development of National Earthquake Hazards Reduction Program activities through fiscal year 1980 for the President, the National Science Foundation, and the United States Geological Survey. Subsection 3(a)(5) of this bill authorizes appropriations for fiscal years 1981 and 1982 to the Secretary of Commerce for use by NBS for its work as directed by the President (see Appendix II).

The Trade Agreements Act of 1979 (Pub. L. No. 96–39) was signed into law by the President on July 27, 1979. The purpose of that Act is to approve and implement trade agreements negotiated under the Trade Act of 1974 (Pub. L. No. 93–618; 19 U.S.C. 2101–2487); to foster the growth and maintenance of an open world trading system; to expand opportunities for the commerce of the U.S. in international trade; and to improve the rules of international trade and provide for the enforcement of such rules. Title IV of the Trade Agreements Act of 1979 is entitled "Technical Barriers to Trade (Standards)" (19 U.S.C. 2531–2573). It deals with Federal standards-related activities and establishes within the Department of Commerce a Standards Information Center to serve as the central national collection facility for information relating to standards, certification systems, and standards-related activities. The Statements of Administrative Action for the Trade Agreements Act of 1979 (H.R. Doc. No. 153, 96th Cong., 1st Sess., pt. II, at 481, 487–490 (1979)) specifies that this Standards Information Center is to be located within NBS and lists ten functions for the Center. These functions are described in Appendix II.

The Trade Agreements Act of 1979 contains no specific authorization of appropriations; thus, it provides a continuing authorization. Subsection 3(a)(6) of this bill supersedes this continuing authorization with an authorization of appropriations to the Secretary of Commerce for NBS activities under Title IV which is limited to fiscal years 1981 and 1982.

The National Climate Program Act (NCPA) (15 U.S.C. 2901–2908) is not included in subsection 3(a). Authorizations of appropriations for NBS' National Climate Program Act activities under subsections 5 (c) and (d) of NCPA (15 U.S.C. 2904(c) and (d)) are covered by the general authorization of appropriations to the Secretary of Commerce contained in a separate bill, S. 1391, now pending in the Congress, which would amend subsection 9(a) of NCPA (15 U.S.C. 2908(a)) to extend authorizations of appropriations for fiscal years 1981 and 1982 for programs under the National Climate Program Act. This reauthorization will support appropriations for the National Oceanic and Atmospheric Administration (NOAA) and its National Climate Program Office. On a reimbursable basis, NBS will perform such climate-related measurement activities as NOAA or other agencies may request. Any national measurement standards and methods needed to provide assurance in assessments of atmospheric composition and in property measurements performed under the National Climate Program could be developed by NBS. NBS has the capability to conduct research and development activities culminating in the production of any standard reference materials, reference methods, equipment, and calibration services required to provide quality assurance for the Program's atmospheric measurements. In this way NOAA, and other affiliations (e.g., NASA) within the National Climate Program, will be able to relate their data to national standards.

Subsection 3(b) of this bill extends the authorization of appropriations to the Secretary of Commerce for use by the Bureau for fiscal years 1981 and 1982 for research in the area of environmental measurement sciences, by authorizing $245,000 together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other non-discretionary costs for fiscal year 1981, and such sums as may be necessary for fiscal year 1982. Appropriations for this program were first authorized for fiscal year 1979 in the Environmental Research, Development and Demonstration Authorization Act of 1979 (Pub. L. No. 95–477). On March 20, 1979, the Secretary of Commerce submitted to the Congress a proposed bill to extend for fiscal year 1980 the authorization of appropriations for NBS research in the area of environmental measurement sciences. This authorization was taken up by the Congress and included in the Environmental Research, Development and Demonstration Authorization Act of 1980 (H.R. 2676, section 4(1)).

Authorizations of appropriations for the Standard Reference Data Act (Pub. L. No. 90–396; 15 U.S.C. 290–290f) activities of NBS for fiscal years 1979, 1980, and 1981 are provided by Public Law No. 95–322 (15 U.S.C. 290f.) For fiscal year 1981, appropriations of $5,250,000 are authorized. The President's Budget requests $3,248,000 for these activities. Subsection 3(c) of this bill extends the authorization of appropriations for these activities through fiscal year 1982, thereby bringing the next requirement for reauthorization of appropriations for these activities in step with the next requirement for reauthorization of the rest of the Bureau's programs. Subsection 3(c) authorizes appropriations of such sums as may be necessary for fiscal year 1982.

A chart outlining the appropriations authorized by this bill and by Public Law No. 95–322 is attached as Appendix IV. The President's budget request for NBS for fiscal year 1981 broken into the categories set forth in this bill is included in this chart for comparison.

Section 4 of this bill amends section 14 of the Organic Act, as amended (15 U.S.C. 278d), to increase to $250,000 the amount of appropriated funds which may be obligated for construction and installation of improvements to existing NBS buildings. At present, that Act limits the funds which NBS may expend for construction of buildings and other facilities or for improvements to existing buildings to $75,000 unless provision allowing NBS to exceed the $75,000 limit is made in the appropriation concerned.

Section 14 was included by Congress in the Organic Act for the purpose of eliminating the need for the Congress to deal with small sums of money for certain projects that NBS might manage internally. The limit was last changed in 1972, when the Congress amended the Organic Act (15 U.S.C. 278d) to increase the limit from $40,000 to $75,000. Since 1972, the purchasing power of the dollar has been reduced significantly. Raising the $75,000 limit to $250,000 is needed in order to keep pace with rising costs, to facilitate smooth handling, and to eliminate those administrative costs now associated with seeking Congressional approval of expenditures over $75,000.

A $250,000 limit is chosen because current economic indicators show that in 1982 $200,000 will be required to equal the buying power of $75,000 in 1972 dollars. Further, the Composite Cost Index prepared by the Department of Commerce indicates that the cost of construction in March 1978 was approximately 167.5% of the cost for the same period in 1972 dollars. The Survey of Current Business Report for 1976 through 1978 verifies the index reported above (See Table 19, Implicit Price Deflators for G.N.P., "Fixed Investments—Structures"). The continuation of increases in cost at the levels experienced in the last several years indicates that $152,000 to $155,000 will be required by 1980 just to maintain the buying power of $75,000 in 1972 dollars. The amendment to allow an increase to $250,000 in the amount of appropriated funds which may be obligated for certain projects will allow for the effects of rising costs beyond fiscal year 1982.

The Appropriations Committees of the Congress have recognized the need for increases and have provided for increases in the dollar limit to $200,000 in Public Law No. 95–355, Second Supplemental Appropriations Act, 1978, which was signed into law on Sept. 8, 1978; and in Public Law No. 96–68 signed into law on September 24, 1979 making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980.

It is anticipated that the increase to a $250,000 limit will result in gained opportunities for cost savings. On occasion, over the past few years, several projects have indicated a potential for cost savings with a relatively minor investment required at initiation of the project. In some cases, delays in obtaining Congressional approval for expenditure of amounts over $75,000 have resulted in the loss of potential discounts and cost savings, or they have allowed time for significant cost increases to occur. For example, NBS began equipping its Gaithersburg laboratory buildings with an environmental control system in 1977. As envisioned, the environmental control system should result in energy and cost savings of approximately $180,000 annually. The installation of the system was to be accomplished in stages with costs for each stage to be in the $190,000 to $200,000 range. If the statutory limitation of $75,000 had been higher, the installation of the total system could have been accomplished in a smoother manner, and work could have begun sooner each year without added expenses, cost increases and delays required for extra administrative work to justify the project and request increases in the statutory limit.

Section 5 of this bill amends the Organic Act to permit the Secretary to help defray the expenses of foreign nationals not in service to the United States Government but who are performing scientific or engineering activities at agencies of the Department of Commerce. In addition, it amends the Organic Act to provide Congressional consent to acceptance and retention by Department employees of financial or other assistance provided by a foreign government as compensation for and/or to defray the expenses associated with their performing scientific or engineering activities for the foreign government. Finally, it amends the Organic Act to permit funds appropriated to the Secretary to be used to pay compensation to any alien occupying a scientific or engineering position within the Department when determined by the Secretary to be appropriate and consistent with the interests of the United States.

The general authorities in the Organic Act have been amended at various times to allow the Secretary to meet the growing challenges of an increasingly technological society. Of particular significance, for international purposes, is the authority provided for NBS in 1972 under section 3 of the Organic Act which authorizes the Bureau to perform its functions for international organizations of which the United States is a member, for governments of friendly countries, or for any scientific organization, educational institution, firm, or individual in a friendly country which requires the use of standards or standard measuring instruments. Pursuant to the requirements of section 3 of the Organic Act, the exercise of this authority is carried out in coordination with the Department of State and other interesed agencies in the U.S. Government.

Current trends in science and technology indicate that U.S. technical agencies, including NBS and the National Oceanic and Atmospheric Administration (NOAA), must pay increasing attention to non-U.S. developments. The number of important advances in metrology, physics, chemistry, and technology occurring outside the U.S. has been steadily increasing. Whereas twenty years ago up to 50 percent or more of major new developments resulted from U.S. work, now that figure is 20–25 percent, or even less in some fields. Patent statistics show that, in some of the most important areas of modern technology (e.g., semiconductors, computers), the number of patents granted to Japanese, German, and other non-U.S. sources are exceeding those granted to Americans. Thus, increased attention to foreign science and technology is essential to ensure that the Department's scientific and technical research and services remain at the forefront of world developments.

For example, the Department of Commerce, through NBS, has an active program of cooperative research under which visiting guest workers and research associates engage in research for their employers or themselves. While these guest workers and research associates are not employees of the U.S. Government, experience has proven their research work to be highly beneficial to our scientific efforts. Their different orientations and specialized expertise provide a healthy supplement to NBS' in-house capabilities. They bring detailed information about activities in their home laboratories that frequently leads to new NBS approaches and to joint development of new measurement techniques and instrumentation. Finally, and most importantly, their development of close working relationships with NBS scientists establishes most effective and long-lasting contacts that provide invaluable channels, especially vital when the contacts are international, for communication to NBS of information about developments at the forefront of research in their sponsoring institutions.

Frequently where such guest workers or research associates are from abroad, the

amount of support they receive from their foreign sponsors or their own personal resources are not sufficient to allow them to live in the United States, especially in the high-cost-of-living Montgomery County, Maryland area, at other than at the most meager level of subsistence. These problems are exacerbated when such visiting scientists bring their families with them, as is the common practice, because the length of their visits is usually at least six months. These visitors are, therefore, often subject to tremendous personal hardships. Since guest workers and research associates are not considered as serving the U.S. Government, the Secretary under existing law lacks authority to financially assist them and thus, is unable to alleviate their hardship. In the face of these problems, it has been the Department's experience that some foreign scientists interested in coming to NBS to perform cooperative research highly beneficial to the interests of the United States, did not come because of the concerns over the adequacy of their financial support; others returned to their home countries earlier than we wished; and others were forced to leave their families behind for the lengthy period of their visit. In almost all instances those who did come experienced financial hardship.

To be specific, during the past five years, more than 100 outstanding foreign scientists from 25 different countries whose collaborative research would have greatly benefited the Department's scientific efforts, failed to come to NBS because of a lack of resources or financial fears. In approximately twenty-five of the cases where foreign scientists came to the Department to participate in cooperative research, the individuals involved suffered significant personal hardship. For example, in 1974, the winner of the Welch Award of the International Union of Vacuum Sciences, Technique and Application, came to the Department's NBS for collaborative research. In order to live on his meager income from the Physics Department of the University of Wroclaw, Poland, he had to stay with a member of the NBS staff for seven months. In another case, where a German scientist came to NBS, funded by a grant from the German government, the grant proved to be significantly inadequate for living in Montgomery County, Maryland, and, to reduce his hardship, NBS staff members collected furniture for him and his wife, provided him with transportation, etc. Though the visiting scientist managed to complete his work at NBS, he was forced to use his personal savings to do so. This type of experience is especially embarrassing because many foreign institutions comparable to NBS furnish guest houses and/or contract-boarding houses, low-cost cafeteria facilities, and round-the-clock shuttle transportation for NBS scientists during their work visits at foreign laboratories. It is not in the Nation's best interest for the Department to be lacking authority to deal with these types of situations and thereby to derive the highly desirable and cost-effective benefits of work by such visiting scientists.

Section 5 of this bill in part amends the Organic Act by adding a subsection 17(a) to provide authority, similar to that enjoyed by the National Science Foundation (42 U.S.C. 1872(a)), for the Secretary of Commerce to assist foreign scientists and engineers who need some financial support beyond that provided by their foreign sponsor or beyond their own economic means. This legal authority will enable the Department to attract and benefit from the cooperative research of visiting scientists or engineers who might otherwise not come to the Department, and to prevent the premature termination of research activities by those who do come but find they are faced with severe financial hardship. While the language of the proposed subsection 17(a) is broad, permitting the Secretary to grant fellowships or any other form of financial assistance to foreign nationals, it is emphasized that this authority will only be utilized on a case-by-case basis for the limited purposes described above. It will not be used as an employment or compensation authority. The exercise of this authority will be coordinated with the Department of State and other interested Federal agencies such as the United States International Communications Agency, which under law is charged with the coordination of "international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government" (22 U.S.C. 1461–1(3)), and the United States International Development Cooperation Agency.

In addition, Section 5 would also remedy another recurring problem in the Department's international scientific cooperation efforts. The U.S. Constitution (Art. I, sec. 9, cl. 8) states that "no Person holding any Office of Profit or Trust under [the United States], shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State." Under this provision, unless Congress consents through the enactment of a statute, Federal employees cannot retain compensation or gifts from foreign governments.

Because of their recognized scientific and technical expertise and world-wide stature, NBS employees are frequently offered research fellowships, temporary research positions, or lectureships by foreign institutions characterized as entitles of foreign governments. The above-mentioned Constitutional prohibition has frequently prevented NBS scientists from taking advantage of these opportunities. While the Constitution does not prohibit the United States government from directly accepting from a foreign government monies for the services of a United States employee assigned to official duty in the foreign country and paid by the United States, the laws of many countries prohibit payment to the United States government but permit direct payment to an individual U.S. scientist. In the past, both Departmental scientists who have received these offers and the Department have been embarrassed when these restrictions have combined with the above-mentioned Constitutional prohibition to prevent Departmental scientists from accepting such fellowships, positions, or other opportunities offered by foreign institutions. Section 515 of the Foreign Relations Authorization Act, Fiscal Year 1978, made substantial changes in the existing law regulating the acceptance and retention by Federal employees of gifts and decorations from foreign governments (5 U.S.C. 7342). In that Act, among other things, Congress consented to the accepting by a Federal employee of a gift in the nature of an educational scholarship from a foreign government.

Section 5 of this bill in part amends the Organic Act by adding a subsection 17(b) to provide specific Congressional consent for Departmental employees to accept fellowships, lectureships, or other positions for the performance of scientific or technical activities or for the exchange of scientific or engineering information, offered by a foreign government, and to accept and retain any form of financial or other assistance provided by a foreign government as compensation for and/or to defray the expenses associated with performing scientific or engineering activities or exchanging scientific or technical information, when the acceptance or retention of such assistance is determined by the Secretary to be appropriate and consistent with the interests of the United States. This amendment will enable Departmental employees to take full advantage of such opportunities as described above, and would greatly enhance the Department's ability to engage in meaningful international scientific cooperation and information interchange.

Section 5 would also remedy another recurring problem. The Department of Commerce's scientific and technical agencies occasionally have the need to employ foreign scientists or engineers with exceptional, often unique, abilities in their particular disciplines. At present, the Department has limited but sufficient authority to hire such foreign scientists.

Almost all scientific and engineering positions within the Department are required to be filled competitively. While Office of Personnel Management (OPM) regulations under Executive Order No. 11935 generally prohibit hiring aliens into competitive service positions, one exception to this prohibition is that aliens may be hired into competitive positions when no other qualified United States citizen is available. However, this exception is subject to a statutory restriction which prohibits the payment of appropriated funds to employees who are aliens from non-allied countries. This general restriction appears annually in an appropriation act which specifies with certain exception, that no part of any appropriation contained in that act or elsewhere may be used to pay compensation to employees and officers of the United States Government whose posts of duty are in the continental United States who are aliens from countries not "allied with the United States in the current defense effort." This language, which has been codified and appears in title 31 of the U.S. Code, section 699b, was enacted for fiscal year 1979 in section 602 of the Treasury, Postal Service and General Government Appropriations Act, 1979 (Pub. L. No. 95–429).

The scientific and technical agencies of the Department of Commerce (i.e., NBS, NOAA) also have limited authority to hire foreign scientists into excepted positions. OPM regulations provide that the Department may hire temporary or intermittent scientists for consultative purposes, scientists who are members of a faculty of an accredited university or college for a period not to exceed 130 working days per year, and scientists who are graduate students and whose work at the agency is to be used toward the attainment of a graduate degree. However, the statutory ban against paying appropriated funds to non-allied aliens also applies.

A recent example of the non-allied alien payment problem arose when NBS wanted to employ a uniquely qualified scientist from Switzerland—a non-allied country. This Swiss scientist, under temporary employment by the University of Colorado, had been working through a program of cooperative research with a team of NBS scientists on an experimental project of great significance to NBS programs in radiation metrology. He was involved in the team effort as a powerful and effective contributor who brought with him the immediate past experience of having a major responsibility for a related effort at Fribourg University in Switzerland. He quickly became up-to-date with NBS technologies, and made dominant contributions to the team's efforts. The NBS scientists involved felt, and still feel, that his continued participation in the team's effort is essential. However, when his temporary employment with the University of Colorado expired, NBS, though theoretically able to "employ him" because of his unique qualifications, could not pay him because of the statutory prohibition against the use of appropriated funds to compensate aliens from non-allied countries. The scientist, therefore had to obtain employment elsewhere.

Section 5 of this bill in part amends the Organic Act by including a subsection 17(c)

to provide that provisions of law prohibiting the use of appropriated funds for the payment or compensation to any employee of the United States Government who is not a United States citizen, shall not apply to the payment of compensation to Departmental scientific and engineering personnel.

It would be highly beneficial to the U.S. scientific community if individuals of exceptional scientific or engineering competence, who happen to be aliens from a nonallied country such as Sweden or Switzerland, from time to time could be employed and paid by one of the scientific and technical agencies of the Department of Commerce such as the National Bureau of Standards or the National Oceanic and Atmospheric Administration. This authority is similar to that presently enjoyed by the Department of Defense (31 U.S.C. 700), the National Aeronautics and Space Administration (42 U.S.C. 2473(c)(10)), the National Science Foundation (42 U.S.C. 1873 (a)), and, to a limited degree, the Public Health Service of the Department of Health, Education, and Welfare (42 U.S.C. 209(h)), all of which are agencies with large scientific staffs similar to those of the technical scientific agencies of the Department of Commerce. The Department intends each year to request Congress to include in the Act making appropriations to the Department, a provision reenacting subsection 17(c).

Section 6 of this bill statutorily embodies existing departmental policy by specifying that the Secretary shall charge for any service performed by the Bureau, at the request of another government agency, to comply with any statute containing a provision which specifically names the Secretary or the Bureau as a consultant to another government agency, or calls upon the Secretary or the Bureau to perform or cooperate in the performance of certain activities with, for, or on behalf of another government agency, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau to perform such service. Section 6 would permit the Secretary to waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Section 6 specifies that costs shall be determined in accordance with subsection 12(e) of the Organic Act (15 U.S.C. 278b(e)). Appendix III lists and describes eight statutes of the type covered by section 6.

APPENDIX I. STATEMENT OF GOALS AND OBJECTIVES FOR BASIC NBS PROGRAMS UNDER THE ORGANIC ACT

Subsection 2(a) of this bill authorizes appropriations for fiscal years 1981 and 1982 for the Bureau's basic activities under the Act of March 3, 1901, as amended (Pub. L. No. 56–177; 15 U.S.C. 271–278h), the Bureau's Organic Act, except for section 16 thereof (15 U.S.C. 278f). This Appendix lists and describes those programs in 11 broad categories that span the Bureau's activities in measurement science and technology. These categories are identical with those set out in the Presidents Budget for Fiscal Year 1981. This breakdown into categories together with the activities of the Fire Research Center and the activities and programs of the Bureau mandated by the statutes listed in section 3 and described in the Statement of Purpose and Need and Appendix II and the services performed on a reimbursable basis for other agencies covered by section 7 and described in the Statement of Purpose and Need and Appendix III, represent the broad scope of NBS' activities. The 11 categories together with brief descriptions of the activities associated therewith follow.

(1) Physical and Chemical Measurements and Standards. The activities of the Bureau under this category fulfill its mandated responsibility for the "custody, maintenance, and development [and dissemination] of the national standards of measurements." (Pub. L. No. 56–177; 15 U.S.C. 272(a)). These standards constitute a base measurement system that is maintained at a level of accuracy sufficient to meet the needs of science, industry, and commerce, and to enable the U.S. to maintain a competitive technology. Activities under this category include the maintenance of the scientific competence and experimental facilities necessary to provide the Nation with standards, measurement techniques, reference materials, and critical data needed as a central basis for uniform measurements in optical, ultraviolet, plasma, and ionizing radiation. This central basis is essential for enabling the safe and effective application of these types of radiation, in science and industry, in such areas as nuclear energy, environmental protection, medical diagnostics and therapy, industrial processing, and radiation protection for the public. New and improved measurement methods and standards for measuring chemical composition required by industry for economic quality control, by regulatory agencies for providing a sound basis for monitoring and setting compliance levels, by medical laboratories for effiecient and accurate health care delivery, by scientific research institutions, and by other standards organizations are developed by NBS scientists. Areas of emphasis for these programs include: (1) the maintenance of the primary standards of frequency, mass, length, temperature, and voltage to ensure that NBS can provide measurements that are accurate, uniform and stable over long periods of time, and appropriate calibration services for a network of industrial, scientific and government institutions; (2) the development of high accuracy measurement methods for analysis of drugs and compounds in blood serums; and (3) the development of improved standards for ultraviolet optical measurements to characterize solar irradiation levels.

(2) Materials and Thermodynamic Measurements and Standards. The goals of the activities under this category are to: (1) define and describe the properties and performance of materials and the behavior of complex chemical systems encountered in materials processing, chemical manufacturing, energy conversion and the environment; (2) provide the Nation with a central basis for uniform and accurate physical and chemical measurements, standards and data to facilitate and assure the safe and economic use of materials, the design of optimized process facilities, and equity in the marketplace; (3) develop a fundamental understanding of physical and chemical processes to promote technical innovation and improve industrial productivity; (4) characterize the basic mechanisms which limit the durability of materials in service; and (5) provide test methods and standards to improve materials performance and durability. Objectives include: (1) the development of measurement methods, standards, and data to characterize the structure, properties, and behavior of metals, polymers, ceramics, and glasses, which lead to predictions about the performance of such materials in service and to controlling processes tailoring them for specific end uses; and (2) the determination and reporting of thermophysical process data, transport properties, equations of state, and atomic and molecular data for the design and optimization of manufacturing processes, new applications in energy conversion, and use in science and new technologies.

(3) Measurement Assurance. The goals of the activities under this category are to: (1) maintain and improve the national measurement system which disseminates uniform and accurate measurements to industry, science, and government agencies; (2) support that system with training and consultation as appropriate; (3) assist in organizing effective ways of dissemination and develop measurement methods for maintaining optimum statistical control of measurement systems; and (4) establish an effective system of uniform weights and measurement laws, regulations, device designs, and performance criteria. The national measurement system provides government, industry and commerce with a basis for establishing compatibility of products, increased productivity, equity in trade, and a competitive U.S. position in the world market. Emphasis is placed on the development of continuous measurement assurance programs which assure traceability of measurements through commercial calibration laboratories or public laboratories to NBS. The coordination of staff participation in domestic and international measurement standards activities is also emphasized to promote efficient production, fair regulation and control, and a strong international market position for U.S. industry.

(4) Applied Measurement. The goals of the activities under this category are to: (1) meet specific national needs for measurement and data services through development and operation of multidisciplinary activities which optimize the use of all NBS technical resources; (2) coordinate the planning and dissemination of results of these activities with users in industry, universities, and other Federal agencies; and (3) continually assess developing national needs for measurement and data services. Objectives of the program include: developing standards, measurement methods, and testing procedures to provide the measurement basis for nondestructive evaluation techniques needed to improve manufacturing productivity and safety assessments of structures and consumer goods; developing the measurement research basis required to quantify and monitor air and water pollutant levels; developing measurement methods and procedures required for the characterization, production, and certification of standard reference materials; and developing test procedures and guidelines to serve as the basis for physical and chemical specification and classification of materials recovered from the Nation's waste stream.

(5) Engineering Standards. Major goals of the activities under this category are to contribute to the strength and stability of the U.S. economy and the international competitive position of U.S. industry, trade and commerce. To these ends, the optimum development and use of voluntary engineering standards is promoted through technical contributions, standards information services, and standards research and analysis programs. Other major goals are to contribute to equity in the marketplace and to public health and safety by providing technical criteria and administrative mechanisms for evaluating the competence and adequacy of testing laboratories involved in commerce and regulation. Activities include the overall management, planning, policy development, and coordination for domestic engineering standards information and serving as an objective body which contributes to the technical base on which private and government standards-writing organizations depend. NBS provides liaison, administrative and technical assistance in the development of interagency standards policy and programs and in the conduct of the DOC National Voluntary Laboratory Accreditation Program. NBS also operates standards information services which provide standards information, metric information, and information related to domestic and international standards participation by NBS staff members.

(6) Safety Performance Engineering Research. The goal of the activities under this category is to provide government agencies

and the private sector with engineering research, measurement technology, technical information, and performance criteria essential to increasing the safety and performance of buildings and consumer products and to the more efficient use of energy and materials. Activities emphasize development of building design criteria for improved structural reliability and for reduction of hazards associated with natural events, such as earthquakes and extreme winds; establishment of test methods and measurement techniques for determining the strength and durability of structures, building components and materials; improvement of the energy efficiency and sensory environment of buildings through research into the performance of thermal and mechanical systems, building envelopes, and illumination and service systems; provision of the technical base for assessing product hazards and developing safety regulations; and development of measurement techniques, test methods, and efficiency targets for reducing appliance energy use.

(7) Technical Support to Industrial Productivity. The goal of the activities under this category is to contribute to national economic well-being, equitable regulations, and maintenance of U.S. leadership in technology by providing a technical and measurement base and methods for encouraging technological innovation by industry. Improvement of the U.S. competitive position in international markets and real growth in manufacturing productivity are expected outgrowths of such innovation. Activities include: providing national reference standards and engineering measurement traceability for electronic devices and instruments and electrical materials; providing measurement and test methods, data and standards for the characterization of electronic devices and for the materials, processes and equipment used in their manufacture; providing the theoretical and empirical foundation for characterization of nonionizing electromagnetic radiation and assessing its effects; maintaining and developing national reference standards for practical electrical units derived from the basic units; providing engineering measurements of force and dimension (both static and dynamic), measurements and characterization of surface finish, characterization of static and dynamic machine errors, engineering measurements and procedures for on-line inspection and quality control and automatic control of discrete mechanical processes; providing technical data, instrumentation, models, continuous process control technology and measurement services in fluid mechanics, fluid quantity determination, and flow properties to industry and Government; and providing technical information, engineering standards, performance evaluation methods, and base technology for thermal processes such as heating, boiling, drying, smelting, power generation, cryogenics, and heat recovery.

(8) Mathematical Sciences. The goal of the activities under this category is to contribute to the solution of engineering and scientific problems at NBS by providing improved mathematical and computer science competence and methods to enhance the accuracy, reliability, and integrity of experiments and research data. The entire NBS research effort is benefited since NBS measurement and materials characterization activities require use of sophisticated and powerful mathematical and statistical techniques to achieve required accuracies and precision. Many of the mathematical techniques needed by the NBS staff are also needed by other Federal agencies and by many private technical organizations, including universities. The results of NBS' mathematical activities are of wide interest and are widely utilized outside NBS. Objectives include: ensuring that the most advanced and appropriate mathematical and statistical procedures are used in NBS technical programs; promoting the use of effective statistical techniques for planning, analysis, and interpretation of experiments and data collection programs; evaluating and validating the efficiency, accuracy, and precision of algorithms both for numerical calculation and for mini- and micro-processor based scientific instrumentation; enhancing the interpretation of measurement results by improving the description and interpretation of physical system models by developing, acquiring, and validating mathematical techniques and software; and facilitating the use of more sophisticated scientific theory by installing and using software systems, processors, languages, and algorithms.

(9) Computer Sciences and Technology. The goals of the activities under this category are to: (1) develop needed Federal automatic data processing (ADP) standards for the purpose of achieving increased economies through more competitive Federal ADP procurement practices and improved ADP utilization by Federal agencies; (2) perform cost-benefit analyses to prioritize these standards-making activities and optimize the program's effectiveness; (3) conduct technology forecasts to guide NBS and Federal ADP management planning; and (4) establish and operate a mechanism for reporting agencies' compliance with mandatory standards. Fifty standards are scheduled to be completed within five years. These standards are expected to result in cost savings to the Government on the order of $440 million per year. It is anticipated that the government will achieve cost savings on the order of $60 million per year through the competitive procurement of computer system and network hardware, software, and services; of $15 million per year through increased efficiency and effectiveness in the application, use, and operation of Federal ADP equipment; of $250 million annually through a reduced level of effort and costs associated with converting software and data from one computer system to another; of $75 million annually in more foolproof operation of Federal computer systems; and of $40 million annually through reduced costs of developing and using computerized models.

(10) Maintenance of Technical Competence. Goals include establishing and maintaining areas of excellence within the NBS mission through long-term experimental or theoretical efforts in science and technology; providing a program plan, in the context of a long-term mission and philosophy, to establish an understanding of appropriate NBS contributions to national objectives and of the specific needs of the users of NBS outputs, and to conduct evaluations of the economic and social benefits of NBS programs; and providing promising scientists and engineers from industry with an opportunity to participate in NBS research programs in the various branches of physical, engineering, and mathematical sciences. Objectives include ensuring that NBS has the underlying knowledge and skills necessary to meet the responsibilities assigned to it. This is accomplished by creating areas of excellence that will strengthen the scientific and technical foundation of current programs, and by preparing foundations for planned new programs to be undertaken in response to changing national needs. Other objectives include assuring optimum use of NBS resources in carrying out NBS' primary statutory responsibility to provide measurement and standards-related services to the technical community by establishing appropriate Bureau priorities. A Research Associate Program selects candidates from industry who can, by their creative interaction with NBS staff, enhance NBS competence in areas that need building or strengthening, as well as enhance their own personal growth and the competence of their sponsoring organizations.

(11) Capital Transfers and Facilities—Goals are to modify and add to existing NBS facilities in order to accommodate ongoing and new programs, as provided for in sections 14 and 15 of the Organic Act (15 U.S.C. 278d and 278e) and to ensure a sufficient revolving fund for investment in general equipment and inventories of standard reference materials to be offered for sale. Emphasis is given to: (1) providing minor improvements and modifications to facilities in order to ensure maximum usefulness of existing laboratories and other buildings; (2) providing new construction and major modifications to existing buildings in order to ensure up-to-date scientific laboratories; (3) providing special equipment and facilities for ongoing and new NBS programs; and (4) providing a sufficient permanent capital base for investment in needed general equipment and standard reference material inventories.

Subsection 2(b) of this bill authorizes appropriations for fiscal years 1981 and 1982 for the Bureau's *Fire Science and Engineering activities*. The purpose of these activities is to develop the technical base necessary to support a national goal of reducing fire losses by 50 percent within the next generation. Objectives of the program include: reducing the number of sustained ignitions in the environment by providing the technical basis for selecting proper materials, controlling design of common ignition sources, and deterring arson; reducing the spread and growth of a fire and its combustion products (given a sustained ignition) by developing improved criteria for materials selection, new or improved design concepts and modeling techniques; improving the probability of arresting fires at an early stage through the development of improved methods for automatic detection and suppression and by designing methodologies for their use; and providing protection for people in a building fire through development of technical bases and criteria for improving alarm, communication, escape, and rescue systems.

Both laboratory and theoretical work on ignition and fire spread and the determination of their role in smoke and toxic gas development are applied in developing the basic knowledge of fire and its products of combustion which is needed to generate improved fire safety measures. This fundamental work, for which a portion of the funds are transferred from the United States Fire Administration, provides the foundation for test methods, standards, design specifications, and recommended practices for use by the United States Fire Administration, various voluntary standards-writing organizations, mandatory standards-writing groups in Federal agencies, model code groups, and State and local authorities. This work also has wide applicability to arson detection; to the fire safety of consumer products, building construction, and furnishings; and to fire control systems and cost/benefit evaluation of fire-safe building design alternatives. Examples of specific activities are development of toxicity screening test protocol to be submitted to consensus standards bodies; publication of a room fire growth model concept in which contributing components are identified in order of importance to first severity; and investigation of the mechanisms of soot (smoke) formation and possible methods for its control.

APPENDIX II. GOALS AND STATUS OF NBS PROGRAMS UNDER THE STATUTES LISTED IN SECTION 3

Subsection 3(a)(1)—Subsection 111(f) of the Federal Property and Administrative

Services Act of 1949, as amended (40 U.S.C. 759(f)). By the Act of October 30, 1965 (Pub. L. No. 89-306) which has come to be known as the "Brooks Act", section 111 was added to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759). Subsection (f) of section 111 (40 U.S.C. 759(f)) authorizes the Secretary of Commerce "to provide agencies, and the Administrator of General Services . . . with scientific and technological advisory services relating to automatic data processing and related systems, and . . . to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards." It further authorizes the Secretary "to undertake necessary research in the sciences and technologies of automatic data processing computer and related systems . . ." By Executive Order No. 11717, dated May 9, 1973, the Secretary of Commerce was delegated all functions relating to the establishment of Government-wide automatic data processing standards, including the President's function of approving standards pursuant to subsection 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759(f)(2)). The responsibility for implementation of these provisions has been delegated by the Secretary to the Bureau.

Through its Institute for Computer Sciences and Technology, NBS develops and issues Federal automatic data processing (ADP) standards, provides scientific and technical advisory services to Federal agencies, and performs related computer science research. The activities are aimed toward improving the productivity and economy of Federal government operations through more efficient procurement and more effective utilization of computer resources.

Since the passage of the Brooks Act, NBS has developed and issued 41 Federal Information Processing Standards, 16 guidelines for ADP practices and procedures, and 6 information guides to the standards program: Standards and guidelines are directed toward reducing unnecessary expenses in the Federal government's computer hardware and software systems, and toward improving information interchange. Also advisory service projects addressing a broad spectrum of computer-related problems have been completed for other Federal agencies, and several hundred research reports and other guidance documents have been published.

NBS' current program focuses on improving efficiency and reducing the costs, which are estimated to be between $4 and $10 billion annually, of the government's ADP activities. Selected for top priority development are five families of standards that address critical high cost problem areas: (1) high level programming languages; (2) software quality control; (3) computer system and network interfaces; (4) database management system; and (5) computer security and risk management.

Subsection 3(a)(2)—Subsections 5 (d) and (e), 8 and 9(a) of the Fair Packaging and Labeling Act (FPLA) (Pub. L. No. 89-755; 15 U.S.C. 1454 (d) and (e), 1457 and 1458 (a)). Subsection 5(d) requires that "[w]henever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in . . . consumer commodity . . . and such undue proliferation impairs the reasonable ability of consumers to make value comparisons . . . he shall request manufacturers . . . to participate in the development of a voluntary product standard . . . pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272)." Responsibility for implementation of this directive has been delegated by the Secretary of Commerce to NBS. Over the past ten years, NBS has reprogrammed approximately $1,000,000 from its base of direct appropriations to carry out this FPLA activity. In that time, 50 package quantity standards for commodities determined to be most in need of attention have been established. As a result, manufacturers have agreed to 100 percent compliance with voluntary packaging standards for a majority of the products identified by NBS. In addition, NBS has worked with the National Conference on Weights and Measures to develop the Model State Packaging and Labeling Regulation which has now been adopted by 35 states. This model regulation contributes to the effective regulation of all goods subject to the Act, while still providing for control over those packaged goods which are not subject to FPLA. Current NBS program emphasis is directed to resolving potential problems in package labeling, on conversion to the metric system, and on nonuniformity conflicts between Federal and state consumer product regulations.

Subsection 3(a)(3)—Subsection 383(c) of the Energy Policy and Conservation Act (EPCA), as amended (Pub. L. No. 94-163; 42 U.S.C. 6363(c)). Subsection 383(c) provides that "the National Bureau of Standards shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil . . . with new oil . . ." In July 1976, in response to this mandate, NBS established a Recycled Oil Program in the Office of Recycled Materials of its National Measurement Laboratory. This program develops test procedures and standards for determining the equivalency (relative to virgin oil) of re-refined oils so as to provide the basis for Federal Trade Commission (FTC) rules with regard to test procedures and labeling standards used in industry for recycled oil. The inadequacy of current test and labeling procedures has severely limited the use of these recycled oil products. In addition, hundreds of millions of gallons of used oil are dumped or burned in environmentally unacceptable ways each year. Successful recycling of such oils would therefore not only conserve petroleum resources, but would also reduce environmental pollution. Many states are planning or implementing recycling programs, and reliable test procedures are urgently needed to assure the quality of re-refined oil and thereby the increased use of re-refined oil products in the marketplace.

In November, 1978, NBS transmitted to the FTC test procedures for evaluation of recyled oils to be used as fuel, particularly as furnace fuel. NBS is now concentrating on the development of effective test procedures and standards for evaluating recycled oils for other end uses, i.e., for engine lubrication, hydraulic use, industrial use, etc.

Subsection 3(a)(4)—Section 5002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6952). Section 2 of the Resource Conservation and Recovery Act of 1976 (Pub. L. No. 94-580, 42 U.S.C. 6901-6987) amended, reorganized and expanded the Solid Waste Disposal Act (Pub. L. No. 89-272). Section 5002 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6952), provides that "[t]he Secretary of Commerce, acting through the National Bureau of Standards . . . shall . . . publish guidelines for the development of specifications for the classification of materials recovered from waste which were destined for disposal."

Attainment of satisfactory solutions to the problem of solid waste disposal is a high pricrity of most state and local officials. This is not surprising considering that approximately 150 million tons per year of municipal solid waste are generated in the United States. Currently, over 93 percent of this waste is disposed by open dumping, "sanitary" landfilling, incineration, or ocean dumping. In many cases, these are environmentally unsound methods. Alternatives to land disposal methods must be found since many cities in the U.S. will run out of suitable solid waste dispcsal sites by 1983. By separating the metals, glass, and organic fractions of principal solid waste from each other, a sensible and potentially marketable set of commodities is obtained leaving a substantially reduced volume to dispose of.

The current program emphasis is directed toward developing specifications for the characterization of recovered materials, the evaluation of existing, proposed, and/or required specifications for these materials, and the establishment of guidelines for such specifications. Recovered materials will be classified based on the available data concerning existing and potential applications for such materials. This will be accomplished through close interaction with both recyclers and manufacturers, other government agencies, industrial associations and potential consumers of the recovered materials. The section 5002 program plan also includes an investigation of the quality and uniformity of the classified recovered materials produced by various recovery methods and a correlation of the results with market needs. Existing standards and specifications for virgin materials will be reviewed and their applicability to the recovered materials in the marketplace will be determined. This review will be carried out in conjunction with various standards setting organizations, industry and government. In those areas where virgin material standards and specifications cannot be applied to recovered materials, NBS will begin work to develop guidelines for new standards specifications, test methods and procedures for such recovered materials for the marketplace. Finally, NBS will continue to work with the appropriate standards setting organizations to encourage the publication, promulgation and updating of standards for recovered materials to meet market needs in government and industry, and with recyclers, manufacturers and consumers to encourage the adoption and use of these material standards in the commerce of the nation.

Subsection 3(a)(5)—Subsection 5(d) of the Earthquake Hazards Reduction Act of 1977 (Pub. L. No. 95-124; 42 U.S.C. 7704(d)). Subsection 5(d) requires that "[in] assigning the role and responsibility of Federal Departments . . . the President shall, where appropriate include . . . the National Bureau of Standards. . . ." The Act mandated the development of a National Earthquake Hazards Reduction Program. A report on this program, which was forwarded by the President to the Congress in June, 1978, contains a comprehensive approach to developing hazards reduction measures and establishes the roles for Federal, state and local governments and the private sector. Under this program, the National Bureau of Standards is required to "(1) assist and cooperate with the Department of Housing and Urban Development, other Federal agencies (particularly those involved in research), the National Institute of Building Sciences, professional organizations, model code groups, and state and local building departments, in continuing the development, testing and improvement of model seismic design and construction provisions suitable for incorporation in local codes, standards and practices, [and] (2) [conduct] research on performance criteria and supporting measurement technology for earthquake resistant construction." (Earthquake Hazards Reduction Program Implementation Plan, p. 23.) Program implementation plans are being developed by NBS managers for NBS activities under the President's Earthquake Hazards Prevention Program.

Subsection 3(a)(6)—Title IV of the Trade Agreements Act of 1979, (Pub. L. No. 96-39; 19 U.S.C. 2531-2573). The purpose of the

Trade Agreements Act of 1979 is to approve and implement the trade agreements negotiated under the Trade Act of 1974 (Pub. L. No. 93–618; 19 U.S.C. 2101–2487) and to foster and promote the growth and maintenance of an open world trading system. Title IV, Technical Barriers to Trade (Standards), of the Trade Agreements Act of 1979 deals with Federal standards-related activities and establishes within the Department of Commerce a Standards Information Center. The Center is to serve as the central national collection facility for information relating to standards, certification systems, and standards-related activities. Under the Statements of Administrative Action for The Trade Agreements Act of 1979 (H.R. Doc. No. 153, 96th Cong. 1st Sess., pt. II, at 481, 487–490 (1979)), NBS is specified as the location in the Department of Commerce for the Center. The Statements of Administrative Action call for the NBS Standards Information Center to: serve as the inquiry point for all information on Federal standards-related activities; have in its collection one copy of all title, text and applicable rules of all international, Federal, state and private standards and certification systems; review the Federal Register for proposed federal standards-related activities; maintain and review information on all standards-related activities; respond to all inquiries on standards-related activities; provide copies of international, Federal, state and private standards and certification systems information for a reasonable fee, etc.

It is also expected that NBS will be called upon to provide technical assistance to developing countries as specified in section II of the Agreement on Technical Barriers to Trade (H.R. Doc. No. 153, 96th Cong., 1st Sess., pt. I, at 229).

Subsection 3(b)—Environmental Measurement Sciences. Reliable environmental measurement systems are essential in order to: (1) aid in planning and implementing pollution abatement actions; (2) allow Federal regulatory agencies to enforce environmental regulations in an equitable manner; (3) provide an adequate data base for balancing environmental, energy, and economic goals; (4) aid in improving pollution abatement technology where deficiencies are found to exist; and (5) determine whether apparent variations are significant or are within statistical measurement errors.

Passage of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. No. 95–500; 33 U.S.C. 1251–1376), the Safe Drinking Water Act (Pub. L. No. 93–523; 42 U.S.C. 300f–300j–10), the Clean Air Act (42 U.S.C. 7401–7642), the Toxic Substances Control Act (Pub. L. No. 94–469; 15 U.S.C. 2601–2629), the National Climate Program Act (Pub. L. No. 95–367; 15 U.S.C. 2901–2908), and the National Ocean Pollution Research and Development and Monitoring Planning Act (Pub. L. No. 95–273; 33 U.S.C. 1701–1709) has resulted in a large increase in governmental and industrial activity related to measurements for long-term monitoring of pollution levels over wide geographic areas. These measurements require accurate measurement methods, standards, and data for use by Federal, state and local government agencies, by companies discharging waste into the air and water, and by consultants and private laboratories. The role of NBS is to provide the basis for assessing present accuracy and for achieving greater accuracy in the methods used for monitoring pollutants. NBS activities include studies of the physical and chemical characteristics of toxic chemicals to model and assess the fate and persistence as well as the pathways of toxic materials as they move from the natural environment to the food chain.

The appropriation authorized in subsection 3(b) of this bill allows NBS to maintain to some degree the expertise required to meet the needs of such Federal agencies as the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, the Department of the Interior, the Coast Guard, the U.S. Geological Survey, various state and local governments, and U.S. industry. The program's effort in directly providing measurement standards for monitoring environmental pollutants is supported by EPA.

Subsection 3(c)—The Standard Reference Data (SRD) Act (Pub. L. No. 90–396; 15 U.S.C. 290–290f. The SRD Act declared the policy of the Congress to make critically evaluated reference data readily available to scientists, engineers, and the general public. Under the terms of the SRD Act, the Secretary of Commerce is assigned primary responsibility for providing for the collection, compilation, critical evaluation, publication and dissemination of standard reference data.

The obective of the activities conducted under the SRD Act is to increase the effectiveness of research, development, and engineering design by providing critically evaluated data on properties of materials needed by scientists and engineers in the United States. The program is designed to retrieve the useful data from the half-million or more scientific papers and reports published annually throughout the world; to evaluate these data and select reliable values; and to make the results available in a convenient reference form. In this way costly design mistakes are prevented, the need for overdesign is reduced, and the expensive repetition of measurements is avoided. Thus, the program serves as an interface between laboratory measurements of physical and chemical properties and the application of the resulting data to the solution of a wide variety of problems.

Since passage of the SRD Act in 1968, the NBS has established over twenty continuing data centers and supports a number of other data evaluation projects. These are integrated into a system under which data are retrieved, evaluated, and prepared for publication on a regular schedule. The total output of data consists of over 200 data compilations covering about 80 distinct physical properties and over 40,000 different substances. A number of bibliographies, indexes, and directories of data sources have also been published.

The Journal of Physical and Chemical Reference Data, created in 1972 under the authority of the SRD Act, is now a well-established source of authoritative data for the U.S. technical community. Most of the major technical libraries in the U.S. subscribe to this basic reference source, and thousands of individual scientists and engineers have purchased data compilations which appear in it.

The SRD program is a decentralized one, with the evaluation of data conducted by specialized groups and individual experts throughout the country. The various data centers and other projects are located in universities, industrial laboratories, and research institutes, as well as in the technical divisions of NBS. The program management is provided by the Office of Standard Reference Data at NBS. In addition, this Office coordinates with other government agencies and private groups engaged in data activities and with other countries and international organizations that have active data programs. An important objective of the Office is to maximize the utility of foreign data programs to U.S. scientists and engineers.

Many new needs for evaluated data bases have become evident, especially those growing out of the national concern for problems of energy, environmental quality, and materials shortages. The growing attention to the prediction of long-term effects of new technology has highlighted the importance of standardized, reliable data bases for input to modeling calculations. Using the resources developed over a number of years, the SRD program has been able to respond quickly to many of these needs. Programmatic changes have been effected which focus the effort more directly on such national problem areas.

The program must be a dynamic one, since large amounts of new experimental data are generated each year, and new needs are constantly emerging. The new measurements must be evaluated and incorporated into the system in order to provide up-to-date reference tables. New needs require repackaging of data in different formats and frequently lead to more strenuous requirements on accuracy. A continuing program of this nature is an essential resource for American science and technology in solving the Nation's technological problems.

APPENDIX III. STATUS OF NBS PROGRAMS UNDER THE STATUTES LISTED IN SECTION 6

Section 6 of this bill statutorily embodies existing departmental policy by specifying that the Secretary shall charge for any service performed by the Bureau to comply with any statute containing a provision which specifically names the Secretary or the Bureau as a consultant to another government agency, or calls upon the Secretary or the Bureau to perform or cooperate in the performance of certain activities with, for, or on behalf of another government agency, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau to perform such service. Section 6 would permit the Secretary to waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Section 6 specifies that costs shall be determined in accordance with subsection 12(e) of the Organic Act (15 U.S.C. 278b(e)).

This Appendix lists eight statutes which are examples of the types covered by section 6. In these acts Congress has explicitly provided that NBS expertise is to be available to assist other Federal agencies in carrying out programs mandated in the Acts. This Appendix describes the programs and activities conducted by NBS to respond to these statutes.

Subsection 6(b)(1)—Subsections 323(a)(2), 323(a)(5), and 325(a) of the Energy Policy and Conservation Act (EPCA), as amended (Pub. L. No. 94–163; 42 U.S.C. 6293 and 6295(a)). Subsection 323(a)(2) of EPCA states in relevant part that "[the Secretary of Energy] shall direct the National Bureau of Standards to develop test procedures for the determination of . . . [the] estimated annual operating costs of [thirteen specified home appliances] . . . and . . . at least one other useful measure of energy consumption. . . . " Subsection 323(a)(5) in relevant part states that "the [Secretary of Energy] may . . . direct the National Bureau of Standards to develop . . . proposed test procedures for [other home appliances as he may specify]. . . ." Under subsection 323(a)(2) NBS has developed test procedures for the thirteen home appliances specified in the Act. A general authorization of appropriations for this NBS work was contained in EPCA. In 1976 the Energy Conservation and Production Act (ECPA) (Pub. L. 94–385) amended subsection 325(a) of EPCA (42 U.S.C. 6295(a)) to require that the Secretary of Energy direct NBS to develop energy efficiency improvement targets for major energy-consuming household appliances. As amended subsection 325(a) states in relevant part that "the [Secretary of Energy] shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each [of thirteen specified home appliances]. . . ."

NBS has assisted the Secretary of Energy (DOE) in selecting energy-efficiency improvement targets for the thirteen specified home appliances, and is continuing to provide technical assistance in making any necessary changes in the test procedures. This work is funded by DOE.

Subsection 6(b)(2)—Sections 304 and 310 of the Energy Conservation and Production Act (ECPA) (Pub. L. No. 94–385; 42 U.S.C. 6833 and 6839). Section 304 provides that "the Secretary [of Energy] only after consultation with . . . the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards . . . shall develop and publish . . . proposed performance standards for new commercial buildings . . . [and] . . . proposed performance standards for new residential buildings."

Section 310 provides that "the Secretary [of Energy] in cooperation with . . . the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards . . . shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304(a) and to facilitate the implementation of such standards by state and local governments." NBS, under the program mandated by ECPA, provides technical assistance to DOE in developing criteria and test methods for materials and systems used in building energy conservation and in establishing weatherization techniques for buildings. These activities include field studies to determine in-service performance of various wall reinsulation retrofits, and technical input for installation standards for various retrofit measures such as for insulation and window devices. NBS is also developing a methodology for prioritizing various measures in different climate zones. NBS is continuing to support DOE in research to improve performance based design standards for energy conservation in buildings. This work has provided, for example, the basis for the first building energy standard, ASHRAE 90–75, entitled Design and Evaluation Criteria for Energy Conservation in New Buildings. This standard has become the basis for most state energy conservation plans. NBS has also developed revised criteria for materials to retrofit buildings under the Federal government's Weatherization Assistance Program and life-cycle costing procedures for conserving energy in Federal buildings. This work is also funded by DOE.

Subsection 6(b)(3)—The Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978 (Pub. L. No. 95–590, 42 U.S.C. 5581–5594). This Act established an accelerated research program leading to commercial application of solar photovoltaic energy technologies. The formal title to the Act specifically mentions NBS support of the Department of Energy (DOE) in carrying out this program. NBS is currently assisting the Solar Energy Research Institute (SERI) in meeting the requirements of section 7 of the Act. Specifically, NBS is assisting in the development of performance criteria for photovoltaic systems, and is preparing guidelines for planning laboratory accreditation and product certification programs. Funding for this work is provided by DOE through SERI.

Subsection 6(b)(4)—Section 222, 545(a), 546 and 653(a) of the National Energy Conservation Policy Act (Pub. L. No. 95–619; 42 U.S.C. 8223, 8255(a), 8256 and 6345 nt.). That Act contains several sections which provide for utilization of NBS services. Section 222 states in relevant part that "[t]he Secretary [of Energy] shall consult with the Secretary of Commerce, acting through the National Bureau of Standards, with regard to any product or material standard . . . as a basis for judging the efficacy, energy efficiency, safety, or other attributes of energy conservation materials, products, or devices. . . ." The NBS, at DOE's request, is continuing work on test methods for determining energy consumption and operating costs of consumer products called for under this section.

Subsection 545(a) provides that "[t]he Secretary [of Energy] in consultation with . . . the Director of the National Bureau of Standards . . . shall—(1) establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings; and (2) develop and prescribe the procedures to be followed in applying and implementing the methods so established. . . ."

Section 546 provides that "[t]he Secretary [of Energy], in consultation with . . . the Director of the National Bureau of Standards . . . shall establish and publish energy performance targets for Federal buildings. . . . The performance targets established under the preceding sentence shall be compatible with energy conservation performance standards adopted or developed by the Secretary of Housing and Urban Development for buildings."

Subsection 683(a) provides that "The Secretary of Energy, in consultation with the Director of the National Bureau of Standards . . . shall conduct a study of the relevance to energy conservation programs of the use of the concept of energy efficiency as being the ratio of the minimum available work necessary for accomplishing a given task to the available work in the actual fuel used to accomplish that task."

The scope of NBS work under the provisions of this Act and the amount of funding is at the discretion of the DOE. It is anticipated that DOE will provide funding for NBS activities under the Act.

Subsection 6(b)(5)—Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. No. 94–580; 42 U.S.C. 6962). Section 6002 requires that any Federal government procuring agency consider "guidelines of the Bureau of Standards in any case in which such material is covered by such guidelines" in purchasing products with the maximum recycled material content. The NBS role in this area is in the development stage. It is envisioned that NBS will participate or consult in: identifying the products that public purchasing officials feel would be candidate for recycled content; selecting for study certain products based on criteria that include quantity purchased, dollar volume, impact on recycling, etc.; collecting and evaluating purchase specifications, test methods and standards, and performance criteria for these selected products; examining collected data for any information that might exclude a product containing recycled or recovered materials; and using collected data and information to prepare new purchase specifications suitable for use by Federal, state, and local purchasing officials in procuring items containing recycled or recovered materials.

Subsection 6(b)(6)—Subsection 29(d) of the Consumer Product Safety Act (Pub. L. No. 92–573; 15 U.S.C. 2078(d)). Subsection 29(d) requires that the Consumer Product Safety Commission "to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards. . . ." The NBS Center for Consumer Product Technology coordinates Bureau activities for the Commission which include research, test method development, and technical analysis and advice. The Center has: developed test methods for flammability for carpets, rugs, children's sleepwear, and mattresses; provided technical work for standards for toys, bicycles, lawnmowers, and miniature Christmas tree lights; performed analysis of possible products defects; and provided longer term research on questions relating to product safety. The Consumer Product Safety Commission has provided funding for most of this work.

Subsection 6(b)(7)—Subsection 356(a) of the Public Health Service Act, as amended by the Radiation Control Health and Safety Act of 1968 (Pub. L. No. 90–602; 42 U.S.C. 263(a)(6)). Subsection 356(a) requires the Secretary of HEW to "consult and maintain liaison with the Secretary of Commerce . . . on (A) techniques, equipment, and programs for testing and evaluating electronic product radiation, and (B) the development of performance standards . . . pursuant to control such radiation emissions." NBS provides, chiefly through its Center for Radiation Research and its Center for Electronics and Electrical Engineering, assistance and support activities to the Bureau of Radiological Health (BRH) of the Department of HEW by providing measurement standards and procedures to be used in protecting the public from harmful effects of ionizing and nonionizing radiation. NBS reviews regulations and guidelines with emphasis on measurement implications that are proposed by BRH, and provides coordination and technical assistance in the development of voluntary standards that supplement or are substituted for Federal regulation. NBS activities in this area include: the development of basic measurement standards, instruments, and procedures; calibration of field instruments against these standards; and the conduct of measurement assurance programs for manufacturers, users, and regulators of electronic products. For example, the measurement assurance program in radiation research provides services for the accurate measurement of radiation dosage in cancer treatment.

Subsection 6(b)(8)—Section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. No. 93–577; 42 U.S.C. 5913). Section 14 requires that "[t]he National Bureau of Standards shall give particular attention to the evaluation of all promising energy-related inventions, particularly those submitted by individual inventors and small companies for the purpose of obtaining direct grants from the [Secretary of Energy]. The National Bureau of Standards is authorized to promulgate regulations in the furtherance of this section." NBS responded to this mandate by establishing an Office of Energy Related Inventions (OERI) on March 3, 1975. Since that time, there has been wide use of the service provided by that Office. As of March 1, 1979, OERI had received 10,531 requests for invention evaluations, had completed evaluation of 9,778 of these, and had recommended 97 inventions to the DOE. In followup, DOE has provided funding of $2,347,800 in contracts or grants for development of 34 of the 97 NBS-recommended inventions. An example of one recommended invention which has reached a viable place in the marketplace is a conservation system which utilizes waste heat to preheat scrap steel for the production of steel ingots by electric arc melting. This system has demonstrated a 15 percent reduction (or 75 kilowatt hours per ton) in electricity requirements for processing of a ton of steel. This could result in a saving of more than a billion kilowatt hours annually if the process is used in one-fourth of the open-hearth or electric furnace mills. Many steel companies have expressed interest in utilizing the process.

Authorization of appropriations for the activities of OERI is provided under the DOE authorizing legislation. Funding for OERI's work is requested in the DOE annual appropriation and transferred by DOE to NBS. For fiscal year 1979, DOE is transferring funding for OERI to NBS from funds appropriated under Public Law No. 95–482. On March 9, 1979, the Secretary of Energy sub-

mitted to the Congress a proposed bill (introduced as H.R. 3000 and S. 688) that includes an extension for fiscal year 1980 of the authorization of appropriations for the activities of OERI. Funding for OERI for fiscal year 1980 is included in the DOE budget request under H.R. 4930. The services of OERI will continue to be provided in fiscal years 1981 and 1982 on a reimbursable basis, with authorizations of appropriations and funding to be provided under DOE's authorizing and appropriations requests for those years.

APPENDIX IV

AUTHORIZATIONS OF APPROPRIATIONS FOR NBS FOR FISCAL YEARS 1981 AND 1982 AND PRESIDENT'S BUDGET REQUEST FOR NBS FOR FISCAL YEAR 1981

[In thousands of dollars, fiscal years]

Activity	Authorization, 1981	Budget request, 1981	Authorization, 1982
Organic Act activities other than fire research (authorization contained in sec. 2(a) of bill).	[1] $87,733	$87,733	Such sums as may be necessary.
Fire research activities (authorization contained in sec. 2(b) of bill).	[1] 1,253	1,253	Do.
6 special statutes mandating NBS activities (authorization contained in sec. 3(a) of bill).	[1] 15,390	15,390	Do.
Environmental measurement sciences activities (authorization contained in sec. 3(b) of bill).	[1] 245	245	Do.
Subtotal fiscal year 1981 authorizations contained in bill.	104,621	104,621	
Standard Reference Data Act activities (fiscal year 1981 authorization contained in Public Law 95-322, fiscal year 1982 authorization contained in sec. 3(c) of bill).	[2] $5,250	$3,248	Do.
Total	[3] 109,871	107,869	

[1] Together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and for other nondiscretionary costs.

[2] An authorization of appropriations of $5,250,000 for the Standard Reference Data Act activities of NBS for fiscal year 1981 is contained in Public Law 95-322.

[3] Total authorizations would exceed the President's budget request for NBS for fiscal year 1981 by $2,002,000 because Public Law 95-322 authorizes $2,002,000 for NBS Standard Reference Data Act activities above that requested in the President's budget. ●

By Mr. JEPSEN:

S. 2321. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation the earned income of certain individuals working outside the United States; to the Committee on Finance.

FOREIGN EARNED INCOME TAX REDUCTION

● Mr. JEPSEN. Mr. President, today I am introducing legislation to eliminate U.S. taxes on income earned by U.S. citizens working overseas. There would be no change in the law regarding so-called unearned income, such as interest and dividends.

Mr. President, I believe that this change in the tax law is necessary for several reasons, related to both equity and efficiency. The fact of the matter is that the United States is the only industrialized nation in the world which taxes the worldwide income of all its citizens, regardless of where they reside. Most countries only tax the worldwide income of their residents and grant tax relief for foreign earned income. For example:

Canadian nonresident citizens are completely exempt from Canadian income tax.

Any citizen of Great Britain spending 365 days working overseas is eligible for 100-percent tax relief. One who spends more than 30 days working overseas is entitled to partial tax relief.

Swedish citizens do not pay Swedish income tax if they are away from Sweden more than 1 year.

Up until 1977 the United States also gave substantial tax breaks to Americans working overseas. Prior to passage of the Tax Reform Act of 1976 U.S. citizens working abroad could exclude up to $20,000 of earned income a year, if they were present in a foreign country for 17 of 18 months or if they were bona fide residents of a foreign country for a period which included an entire taxable year. In the case of individuals who had been bona fide residents of a foreign country for 3 years or more the exclusion was increased to $25,000 of earned income. In addition, under pre-1977 law, foreign taxes paid on the excluded income were creditable against the U.S. tax on any foreign income above the $20,000 or $25,000 limit. In 1975 140,000 Americans claimed the foreign earned income exclusion.

The Tax Reform Act of 1976 reduced the income exclusion to $15,000, provided that any individual entitled to the exclusion was not allowed to use the foreign tax credit with respect to foreign taxes allocatable to the income which was excluded from U.S. tax, and required that additional income earned above the income exclusion would be taxed at marginal rates applicable to one's income as though the exclusion did not exist. The effect was to substantially increase taxes on Americans working overseas, raising the cost of working and doing business overseas and leading to a severe cutback of American personnel and business overseas.

The adverse impact of these changes were so immediate that the Congress quickly postponed their effective date. A General Accounting Office report issued in February 1978 urged that the Tax Reform Act of 1976 not be implemented and that the Congress consider continuing tax incentives for Americans working overseas.

By 1978 the Congress realized its error. American businesses had called back many of their employees working abroad, making it more difficult for them to compete overseas. The Foreign Earned Income Act of 1978 was supposed to correct the problems caused by the Tax Reform Act of 1976. The new legislation is highly complicated, setting up a series of deductions for excess living expenses for Americans abroad, with the $20,000 exclusion being permitted for those individuals who live and work in "hardship" situations. Unfortunately, partly due to the complexity of the law and partly due to the fact that Congress has not gone far enough, the Foreign Earned Income Act has not removed the disincentive which now exists for Americans to work overseas.

U.S. construction contractors have been especially hard-hit by the rising cost of living overseas and by the tax law with regard to foreign earned income. For example, between June 1975 and April 1978 American firms were able to win more than 10 percent of all construction contracts awarded in the Middle East. Since passage of the Foreign Earned Income Act, however, U.S. firms have only received 1.5 percent of contracts awarded owing to increased labor costs necessary to offset the tax and higher living costs.

Five years ago the United States was the leading exporter to Saudi Arabia. Now the United States is down to third or fourth position, and the same is true throughout the Middle East. The reason is that U.S. firms just cannot afford to station sales and marketing people in the Middle East any more. According to General Electric, it costs $90,000 or more in pay and allowances to maintain an American overseas who is paid only $30,000 at home. For this money it is cheaper for the company to hire two Britons, who, in many cases, quadruple their aftertax earnings by going overseas.

Although Iowa is usually thought of primarily as an agricultural State, it also has a substantial manfacturing sector, much of which is involved in overseas trade. Nearly 800 firms in Iowa derive substantial sales from overseas and some 20% of the Iowa workforce is employed in export or related services. I have heard directly from them about the problems they have attempting to sell overseas and about the barriers erected by our own government to exports, in spite of the large trade deficit the United States continues to have. High on the list of every exporter of trade impediments is the tax on foreign earned income, which discourages them from stationing sales personnel overseas or bidding for contracts which involve large amounts of labor, as in construction.

The legislation I am introducing today is quite simple and parallels legislation introduced in the House by Congressman BILL FRENZEL of Minnesota. It would eliminate all U.S. taxes on foreign earned income. Americans working overseas would continue to pay foreign taxes and the exemption would not apply to unearned income. It seems to me that

this is the most straightforward, simple, and equitable way to deal with the problem.

I ask unanimous consent to have printed in the RECORD at this point an article from this morning's New York Times regarding the adverse effects of U.S. tax law on exports.

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

COSTLY FALL IN EXPATRIATE JOBS

(By Robert D. Hershey, Jr.)

LONDON, February 18.—Tax penalties, a weak dollar and soaring inflation have made it so expensive to employ Americans overseas that large numbers of them are being replaced by other nationalities at what appear to be major economic and political costs to the United States.

American executives say the problem which has been building for many years, now jeopardizes billions of dollars of exports and hundreds of thousands of jobs at home and abroad.

A recent report issued by the President's Export Council, an advisory group headed by Reginald H. Jones, chairman of the General Electric Company, echoed that view. The council declared that the trend of Americans being taxed out of competing in foreign markets had produced a "sharp" loss of business, contributing to the balance-of-payment deficit, a loss of American jobs and a decline in "presence and prestige" abroad.

Not only are United States and foreign companies increasingly reluctant to subsidize American workers overseas, but the workers themselves are rejecting job offers because of the financial burdens posed by such a move.

The expatriates say that many laws and practices tend to make second-class citizens of the two million of them who live overseas, but income taxes are regarded as the most damaging factor. The United States is the only major country that taxes income earned abroad, a fact that increasingly places Americans and their companies at a competitive disadvantage. Americans overseas often pay foreign income taxes as well, but they receive a credit for such levies when they file their American tax returns.

"What we're seeing is a form of discrimination against Americans by our own Government," said John G. McCarthy Jr., vice president of Russell Reynolds Associates, an executive recruiting company. "It means Americans seeking to work abroad are burdened with cost factors which other nationals do not have."

Mr. McCarthy, who runs the firm's Middle East operation from London, said the company had conducted searches for about 35 Middle East clients last year, all of whom would have preferred an American. In all but three cases, however, the jobs were filled by Britons for reasons of cost. Other American jobs overseas, he said, are being taken by Canadians, who pay no income tax at home so long as the employee is accompanied abroad by his family.

American companies are confronted by the same problem. William Ferguson, a senior manpower manager for General Electric here, said it could cost G.E. $90,000 or more in pay and allowances to maintain an American overseas who is paid only $30,000 at home.

"It's really disturbing," said Mr. Ferguson. "We can hire two fully qualified British nationals and afford to train them in our products for less than we can put one American on the payroll."

He added that five years ago the United States was the leading exporter to Saudi Arabia, but that it had slipped to third or fourth position because of the high cost of doing business there. "We would love to double our sales and marketing operation in the Middle East, but we just can't afford it," he added.

While a British employee can quadruple his after-tax earnings by going overseas, his American counterpart usually fares no better than he would have at home. At times, the American is actually penalized by taxes levied on allowances for what in many cases are astronomic costs for housing and education. In some cases, an American's tax liability may exceed his basic salary before adjustments.

One group of activists, the Geneva-based American Citizens Abroad, has listed 63 ways in which they say the Government discriminates against them. They range from taxes on "phantom" income arising from currency fluctuations and loss of Social Security benefits to the sometimes bizarre rules governing the citizenship of children born abroad.

The latest frustration for overseas Americans is the Carter Administration's response late last month to a Congressional demand that it identify and evaluate all the statutes and regulations that treat expatriates differently and that it recommend action to eliminate discrepancies.

Critics say, however, that the Treasury report fell far short of its mandate. The report found that while taxation of Americans abroad could have adversely affected United States exports, "it is not clear how prevalent this type of situation is or what its impact is." It added that the studies done so far did not permit decisions about what changes, if any, should be made.

The Treasury's report was characterized by Andy Sundberg of American Citizens Abroad as a "red herring that the White House has just dragged across the path that was supposed to lead toward an unambiguous statement of where overseas Americans are supposed to fit into the political, social, economic and ideological life of the United States."

He said that what he called inconclusive findings on the relationship between income taxes and exports were "a silly answer to the wrong question."

A task force of the President's Export Council, headed by Robert Dickey 3d of the Dravo Corporation, recommended that the United States align its tax policy with that of its competitors, none of which now taxes its citizens who meet overseas residency tests.

This would restore to Americans abroad the status enjoyed by most of them until 1962, when income of less than $20,000 was tax-exempt. By the mid-1970's, inflation, the decline of the dollar and rising salaries and benefits put heavy financial pressure on Americans overseas.

Instead of liberalizing the exemptions, Congress decided in 1976 to eliminate them altogether. At the same time, the Internal Revenue Service decided that any goods or services workers received, even housing in the Saudi Arabian desert, had to be declared and taxed at full market value.

"It's not just a matter of dollars and cents," said Mr. McCarthy, the recruiter. "If you don't have American people of some stature on the ground, you're just not going to get across the American point of view. You can project power with aircraft carriers, but you can also spread American influence with businessmen."●

By Mr. INOUYE:

S. 2322. A bill to authorize appropriations for fiscal year 1981 for certain maritime programs of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. INOUYE. Mr. President, the legislation I am introducing today would authorize appropriations for fiscal year 1981, for certain maritime programs of the Department of Commerce. The amounts authorized in the bill reflect the levels requested in the administration's budget for fiscal year 1981.

Section 209 of the Merchant Marine Act of 1936 provides that there are authorized to be appropriated for the maritime activities of the Department of Commerce only such sums as the Congress may specifically authorize by law. The legislation therefore contains specific authorizations for the following programs.

CONSTRUCTION-DIFFERENTIAL SUBSIDY (CDS)

In order to maintain a base of efficient shipbuilding and ship repair facilities, the law authorizes the Secretary of Commerce to equalize the cost disparity which exists between the United States and foreign shipbuilding prices through the payment of a subsidy to U.S. shipyards. To be eligible for CDS, a vessel must be built in an American shipyard, owned by American citizens, manned by an American crew, and operated under the U.S.-flag in the Nation's essential foreign commerce.

The authorization level for construction subsidies for fiscal year 1981 is $135,000,000. The 1981 program will continue the initiative to foster construction of dry bulk carrying ships by providing for construction of five of these ships.

OPERATING-DIFFERENTIAL SUBSIDY (ODS)

The Secretary of Commerce is authorized to pay ODS to U.S. shipbuilding companies in order to achieve cost parity in seamen's wages, vessel insurance, and maintenance and repairs not covered by insurance. ODS is intended to assure that American shippers will have regular and frequent service between United States and overseas markets at reasonable and competitive freight rates.

Operating subsidies are based upon the difference between United States and foreign vessel operating costs and are paid to promote the maintenance of a U.S.-flag merchant fleet capable of providing essential shipping services. Essential services are defined as those ocean services, routes and lines, and bulk carrying services essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. Operators receiving subsidies for the provision of such services must operate American-built vessels manned by American crews. For fiscal year 1981, the bill authorizes $347,697,000, which will finance operating subsidies to qualified U.S.-flag operators in order to support the continuation of essential American merchant marine services.

RESEARCH AND DEVELOPMENT

This program develops methods, systems, and equipment to the U.S. shipbuilding and ship operating industries to be more productive and to be more competitive with foreign shipbuilders and ship operators. Programs are aimed at development of information and technology that will result in lower ship-

building costs, operating costs, and Government subsidies for both ship construction and operation. Substantial participation of industry is obtained through cost sharing. The amount authorized for fiscal year 1981 is $18,750,000.

MARITIME EDUCATION AND TRAINING

For maritime education and training expenses, the bill authorizes amounts not to exceed $26,763,000 for fiscal year 1981, including not to exceed $18,201,000 for maritime training at the Merchant Marine Academy at Kings Point, N.Y., $6,680,000 for financial assistance to State marine schools, and $1,882,000 for supplementary training courses authorized under section 216 (c) of the Merchant Marine Act, 1936.

The 1981 maritime education and training program includes operation of the U.S. Merchant Marine Academy, continuing assistance to the six State marine schools, and supplementary training for eligible merchant marine personnel. Funds authorized for the Merchant Marine Academy will provide for increased maintenance and operating requirements and continuation of the facilities modernization program. The State marine school program, established by the Maritime Academy Act of 1958, assists States in the operation and maintenance of maritime academies for the education and training of individuals for service as officers in the U.S. merchant marine. Assistance is provided to participating States (California, Massachusetts, Maine, New York, Michigan, and Texas) in the form of annual grants, allowances to cadets, and maintenance and repair of ships on loan for use as training ships.

The bill also provides authorization for appropriations needed for supplemental training courses in the use of shipboard collision avoidance radar, gyro compass operation and maintenance, use of loran C, field exercise training in shipboard firefighting, and operation and maintenance of medium and slow speed marine main propulsion diesel engines. The administration's 1981 budget request provides for increased maintenance and operating requirements of the program.

OPERATING EXPENSES

For operating expenses, the bill authorizes amounts not to exceed $38,864,000 for fiscal year 1981, including not to exceed $7,208,000 for reserve fleet expenses, and $31,656,000 for other operating expenses.

The reserve fleet program provides for preservation, maintenance and security of ships in the National Defense Reserve Fleet and for administration of the ship transfer and ship disposal programs. The National Defense Reserve Fleet provides an inventory of ships available to meet requirements for additional shipping capacity in times of national emergency. The administration's 1981 budget requests additional funding for Maritime Administration expenses in the joint Navy-Maritime Administration ready reserve fleet program.

Funds authorized under the category of "other operating expenses" provides for the direction and administration of all agency programs other than the Merchant Marine Academy, supplementary training and reserve fleet programs and for all program costs not separately authorized above.

The bill would also authorize supplemental appropriations in 1981, of additional amounts to the extent necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

The bill also requests necessary authority for supplemental appropriations, should they be needed, for uncontrollable cost increases in public utilities, food service and other expenses at the Merchant Marine Academy at Kings Point, N.Y.

Mr. President, a 1977 MarAd study which centered on maritime aid programs of major maritime nations—Japan, the United Kingdom, Norway, Sweden, West Germany, and France—showed that:

> Direct maritime industry assistance provided by these six countries averaged about $1.6 billion per year.

As a percentage of gross national product this is more than double the rate of assistance our Government gives to our maritime industry.

It is quite understandable therefore why all of these countries except West Germany and Sweden ranked ahead of the United States in terms of dead weight tonnage, according to the latest MarAd statistics.

Mr. President, the legislation I am introducing today is by any standards a modest expenditure if, as mandated by law, our merchant marine is to carry a substantial portion of our international waterborne trade, and be capable of serving as a naval and military auxiliary in time of war or national emergency.●

By Mr. HATCH:

S. 2323. A bill to establish a periodic review of Federal regulatory agencies, and to reduce the size and scope of Federal regulatory policies and procedures; to the Committee on Governmental Affairs.

REGULATORY REDUCTION ACT OF 1980

Mr. HATCH. Mr. President, the Federal Government is too big. It is clumsy, complex, unresponsive and accountable to no one. Agencies and super-agencies tend to reproduce like rabbits. They proliferate, often overlap, yet lead charmed lives even when they have lost any usefulness.

An invincible majority of American citizens, both liberals as well as conservatives, seem to agree with all of the propositions I have just recited. There is probably no more visible evidence anywhere in American politics today of a consensus of public opinion than there is in the felt proposition that if we could, we as makers of laws ought to just scrap our Federal junkheap of regulatory entanglement and start over again.

Over the past several decades, disillusionment with the notion of Federal centralized planning began to spread through word of mouth or by the tales told of those who suffered firsthand experience with it. It has only been in the more recent years, during the last half decade when a respectable and growing library of literature on the subject has given overwhelming intellectual and politically scientific support to this point of view.

Armed with these volumes of studies and monographs, many people both within and outside of Government have been devoted to the task of lightening the burden of bureaucracy carried by every American citizen. And for all of these efforts, the burden grows. For all of the determination and resources and political resolve of elected Government officials, Federal agencies found wanton or wanting and marked for extinction have all taken the form of Hydra's head. As in Greek mythology, the head of some ugly agency which has lived past its purpose is cut off, and three new ones grow. And this is no exaggeration. Consider the results of the study conducted on this subject by Dr. Hubert Kaufman of the Brookings Institution, reprinted in a Washington Star editorial last May. Under both Democratic and Republican administrations, and despite all the brave and handsomely written reorganization proposals by incoming Presidents, the growth of Federal agency domination and proliferation is on an upwardly curving trend line. The basic fact is this, to cite the Kaufman conclusion:

> Starting with 175 Government agencies that existed in the year 1923, it was found that in 1973, a half century later, all but 23 of those same agencies were still alive. Although the Bureau of Livery Stable Management had at last vanished from the Department of Commerce, 246 new agencies had already been born.

We all recognize the problem, and we should all remind ourselves that no one political party or group or ideological following has a monopoly on the indignation which rightfully ought to be raised. In fact, running the risk of failing to mention several Senators who have been active in the efforts for regulatory reform, I cannot help but commend the work of both my colleagues, Senators ED MUSKIE and CHARLES PERCY for their respective legislative efforts and active leadership in the effort to make a sunset law a fact of life in our public policy. Knowledgeable, tireless and influential as they are, however, as congressional leaders, Democratic Senator MUSKIE and Republican Senator PERCY have not been given the backing by the united front of colleagues from both parties which they deserve. And it is no secret that the prospects for a sunset bill which will see the light of day on the Senate and House floors, respectively, grows dimmer by the day.

And yet American citizens want to regain control of that vast, tangled web called the Federal Government. There are many of us who believe that only if the threat of termination is written into an agency's authorization process will legislators and agency people be given the incentive to make legislative oversight a reality.

Having studied the matter, and firm in the resolve that there is greater urgency about the crisis of bureaucratic growth within our Government at the highest levels than too often appears to many living within the Nation's Capital, I have drafted a piece of legislation which I hereby introduce, entitled the Regulatory Reduction Act of 1980. This bill is a complement of earlier legislation, the logical extension of the efforts by those who pioneered the battle to make the Federal Government more accountable, and through it can be established a regular and periodic review of Federal agency practices.

Under my proposal, the President would be required to submit to Congress an agency review plan every 4 years.

This plan will include recommendations for retaining, transferring, or eliminating altogether the agencies or department offices itemized in my bill. A process for congressional review is delineated as well as a timetable during which the White House or the Congress must explicitly act to propose additional areas for broad regulatory activity or else the agency or departmental office involved will be prevented from promulgating any new rules or regulations.

I ask unanimous consent that my legislation be printed in the RECORD together with an interview with Dr. Murray Weidenbaum on the costs of Federal regulatory policy as it affects every American citizen.

I think that my bill as drafted is a reasonable proposal which if enacted would provide the blueprint for regulatory reduction in our time.

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

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reduction Act of 1980."

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that Federal regulatory policies and procedures require a comprehensive and ongoing procedural review by the President and the Congress in order to correct or eliminate regulatory abuses and inefficiencies which plague American citizens and the American economy as a whole.

(1) Regulatory policies often approve rules and promulgate regulations without due consideration of the relationship between the costs versus the benefits of these same rules and regulations.

(2) Some regulatory policies and procedures increase the rate of inflation and stifle competitive initiative in the American economy.

(3) Regulatory agencies have often wasted their limited resources through unsound management and business practices, and have contributed to the general public's feeling of enmity toward the government and uncertainty about the nature and economic impact of these rules and regulations.

(4) Regulatory procedures and policies are often conflicting, outmoded, and in violation and in disregard of their congressional mandates.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "agency" has the same meaning as provided in section 552(e) of title 5, United States Code; and

(2) "rule" has the same meaning as provided in section 551(4) of title 5, United States Code, and includes rulemaking, adjudication, agency proceedings, or agency action, as defined in paragraph (5), (7), (12), and (13) respectively, of section 551 of title 5, United States Code.

PERIODIC REVIEW

SEC. 4. (a) Not later than the last day of April in every fourth year beginning on the year of the date of enactment, the President shall submit to Congress a plan containing the information required to be included under subsection (c) with respect to the following agencies:

Environmental Protection Administration;
Energy Regulatory Administration;
Federal Energy Regulatory Commission;
Department of the Interior;
Department of Housing and Urban Development;
Occupational Safety and Health Administration;
Department of Labor;
Civil Aeronautics Board;
Interstate Commerce Commission;
Federal Maritime Commission;
Department of Transportation;
Federal Communications Commission;
Office of the Comptroller of the Currency, Department of Treasury;
Federal Deposit Insurance Corporation;
Federal Home Loan Bank Board;
Board of Governors of the Federal Reserve System;
National Credit Union Administration;
Federal Savings and Loan Insurance Corporation;
Board of Governors of the Federal Reserve System;
National Credit Union Administration;
Federal Savings and Loan Insurance Corporation;
International Trade Commission;
Commodity Futures Trading Commission;
Securities and Exchange Commission;
Farm Credit Administration;
General Services Administration;
Consumer Product Safety Commission;
Federal Aviation Administration, Department of Transportation;
Federal Trade Commission;
Food and Drug Administration;
Department of Education;
Department of Health and Human Resources;
Department of Agriculture;
National Highway Traffic Safety Administration;
National Labor Relations Board;
Federal Mediation Board;
Equal Employment Opportunity Commission.

(b) Each plan submitted under subsection (a) shall include provisions relating to each of the agencies included therein, and shall include provisions relating to such additional agencies or offices as the President elects to include, or the Speaker of the House of Representatives and the President pro tempore of the Senate may require. Notice of any additional agency or office to be included in such plan shall be sent to the President not later than the last day of September of the year preceding the plan submitted under subsection (a).

(c) A plan submitted by the President pursuant to subsection (a) shall contain the following information with respect to agencies which are included in any such plan pursuant to subsection (a):

(1) recommendations for the retention, transfer, consolidation, modification, or elimination of functions;

(2) recommendations for organizations, structural, and procedural reforms;

(3) recommendations for the merger, modification, establishment, or abolition of Federal regulations or agencies;

(4) recommendations with respect to agency jurisdictions and requirements of general applicability;

(5) recommendations for increasing economic competition;

(6) recommendations for reprivatizing agency or particular federal office functions to the private or voluntary sectors of the economy.

(d) The submission of each plan by the President pursuant to subsection (a) shall include a report on the cumulative impact of all Government regulatory activity on the general economy, on specific industry groupings, and to the degree that information is current and available, on the rate of capital formation and investment.

(e) If by the first day of May of the year specified in subsection (a), the President has failed to submit the appropriate plan as required in subsection (a), or has submitted a plan which fails to provide such information as is required by subsection (c) of this section, the committees of Congress having primary legislative jurisdiction or oversight responsibilities with respect to any such areas, together with the Committee on Government Operations of the House or the Committee on Governmental Affairs of the Senate, shall prepare such plan(s) which shall become the pending business in the House of Representatives and the Senate not later than the first day of May of the following year. Such plan(s) shall be jointly reported in agreement between and among such committees can be made with respect to such plan(s) but otherwise shall be separately reported.

CONGRESSIONAL REVIEW

SEC. 6. (a) The President shall submit each plan required under section 4 to the Congress and separately transmit such plan to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(b) Each plan submitted under subsection (a) shall be referred jointly to the Committee on Government Operations of the House of Representatives and the appropriate committee or committees of the House of Representatives having primary legislative responsibilities with respect to the subject matter of such plan; and to the Committee on Government Affairs of the Senate and the appropriate committee or committees of the Senate having primary legislative jurisdiction or oversight responsibilities with respect to the subject matter of such plan.

(c) The committees to which a plan is referred under this section shall review such plan and report a bill approving or disapproving such plan in whole or in part, with such amendments as are deemed appropriate. Such reports shall be joint reports if agreement between or among such committees can be made with respect to any such plan(s), but otherwise shall be separate reports. The reported bill shall become the pending business in the House of Representatives and the Senate not later than the first day of May of the following year.

(d) If no comprehensive regulatory reduction legislation in a designated area as described in section 4(a) and which comforms to the criteria set forth in section 4(c) is enacted by August 1 of the year following the year in which a comprehensive plan has been submitted to the President then all departments and agencies affected thereby shall have no authority to issue, enforce, or promulgate any new rules or regulations except those essential for preserving public health and safety. A concurrent resolution of either House or Senate stating in substance that such rule or regulation is not essential for such preservation would render such regulation null and void.

TERMINATION OF AGENCIES

SEC. 7. (a) In the event that no comprehensive regulatory reduction legislation has been enacted with respect to a designated

area described in 4(e), every agency described in each plan submitted under this Act shall be terminated after the last day of December in the calendar year next following the calendar year in which such plan is required to be submitted, unless other appropriate provision is enacted by the Congress providing for the continuation of such agency.

REGULATION: FUEL FOR INFLATION

(Prof. Murray Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis, is recognized as one of the most important critics of excessive government regulation of business. Assistant Secretary of the Treasury for Economic Affairs from 1969 to 1971, Weidenbaum leaped into national prominence when he wrote a scathing indictment of the inflationary efforts of regulation entitled, Government Mandated Price Increases.

(Published in 1975 by the American Enterprise Institute, that study demonstrated in devastatingly clear and readable language some of the hidden costs and negative social effects of well-intentioned regulation. The regulators designed equal employment opportunity regulations that reduced black employment, imposed environmental restrictions which were tantamount to placing regressive taxes on the poor and wrote health and safety standards the meaning of which could not even be determined by the most astute businessmen.

(His most recent and just published work, The Future of Business Regulation (1979, Amacom, $12.95), though thoroughly readable, is more quantitative in approach. The anecdotes are left out and in their place is a summary of an exhaustive study of the cost to the economy and to the consumer of government regulation. He estimates the price tag of the most easily measured effects of regulation at $102.7 billion for 1979. But the real cost, he suggests, is much higher.

(The $102.7-billion figure, for instance, does not include so-called "third-order" effects which cannot be accurately measured. Capital formation becomes more difficult because funds are siphoned off to pay the cost of compliance with regulations, technological innovation is slowed down markedly because of government interference with product development and business planning becomes more difficult because the actions of regulators cannot be rationally predicted. Neither can the total increase in unemployment be measured precisely. But the combination of all these problems, says Weidenbaum, probably has a more harmful effect on our lifestyle than the direct cost of regulations.

(Disputing the claims of Prof. Weidenbaum and other economists about the costs of regulations is Ralph Nader's Corporate Accountability Research Group, which has just published a report, Business Report on the Law. That report, which was actually written by long-time Nader associate Mark Green and Norman Waitzman, a graduate student at American University, tries to show that regulation provides a net benefit to the economy—potentially as much as $200 billion a year.

(Prof. Weidenbaum is back in Washington temporarily, serving as Resident Scholar with the American Enterprise Institute and as co-editor of the Institute's magazine, Regulation. Richard Vigilante, who was interning with Human Events through the National Journalism Center's Internship Program, took the opportunity to talk with Prof. Weidenbaum about his own work and about the Nader group's study.)

Q. Prof. Weidenbaum, Ralph Nader's Corporate Accountability Research Group has come out with a study on the costs and benefits of federal regulation, particularly health and safety regulations. One of the study's primary goals is to refute your own work in this field. Specifically, Nader contends your estimate—that the current cost of such regulation comes to $102 billion a year—is "a consumer fraud." What's your response?

A. I think that's the typical overstatement or hatchet job I've been accustomed to seeing from the Nader camp. I don't take it seriously at all.

Q. The Nader study casts doubt on your method of determining costs. For instance, he charges that your procedure of multiplying administrative costs of the agencies by 20 to arrive at total cost to industry is unfair because the actual multiplier varies for different agencies. In terms that a layman can understand, how did you arrive at your estimate?

A. What my associates and I did was to do a careful, in-depth study for 1976 to see what was, as best we could calculate it, the cost of complying with federal regulation for that year. Where I could estimate it—now I'll get back to that because that's critical—where we could estimate it, the costs of compliance came to over $60 billion. The costs of operating the regulatory agencies came to $3 billion.

So in 1976, the base year where we had all the data available, the $3 billion of budget costs the taxpayer paid to operate the regulatory agencies, resulted in a figure 20 times as high—over $60 billion—for industry compliance. That's where we got the 20 to 1—it wasn't a figure out of the air. It was a very careful estimate, first of the $3 billion in the budget—no one's refuted that—and second of the $60 billion in the private sector.

A fair and objective analysis of the $60-billion figure would have shown two things. One: there were a number of program estimates that they quarrelled with where they thought the cost estimate was on the high side. That's their prerogative. I'm not saying they are right, but that's a genuine, legitimate critique. In some cases my cost estimate may have been too high. I don't think so; in fact, others have come up with much higher estimates.

But secondly a fair and objective study would also have shown that, in many cases, I didn't have a cost estimate, for example, for the Department of Energy. I couldn't get a handle on what the cost of complying with all those federal energy regulations were, so rather than guessing, I carried the cost at zero. That's clearly an underestimate. Nader conveniently forgot that.

But that wasn't an exception. There were many other agencies—the Nuclear Regulatory Commission, the Consumer Product Safety Commission. I have a whole list in my study of areas where clearly there was a regulatory burden, but we couldn't estimate it so we carried it at zero.

Any fair and honest critic of our study would have said, "My goodness, there may have been some instances where we think you overestimated costs but there were far more cases where you patently underestimated the cost. Zero is surely an underestimate." Even though we flagged and labeled those areas of underestimate in our study, Nader chose to ignore them. That's why I can't take his so-called "study" seriously. It's a lawyer brief, it's not a serious study.

Q. What sort of information does a responsible economist use to do the type of estimates you've done? What are the components of such a study?

A. First of all, You survey the literature to see what available component studies have already been made, which is precisely what we did. For example, in the case of environmental regulations, we went to the U.S. Council on Environmental Quality and picked up their data. They each year estimate the cost of complying with environmental regulations. We ended up with nearly $8 billion estimated for compliance costs for environmental regulations.

By the way, for the year that I used the government's data, the Brookings Institution came up with higher numbers. I didn't use the higher numbers, I used the government's numbers because that was consistently the approach I took. Whenever there was a range of numbers on the cost of regulation, I took the low end of the range. That's another point that Nader and his people conveniently overlook. Whoever sees them take the low end of any range; they've always taken the high end of the range.

In the case of the Occupational Safety and Health Administration (OSHA), McGraw-Hill does an annual survey of the cost of compliance. I took the McGraw-Hill figures. In the case of the paperwork burden, which, by the way, came to $25 billion in 1976, I took the figures of the official U.S. Commission on Paperwork. Again, Nader has some quarrel with them, but he doesn't have his own numbers.

There is much good work done in this field if only Mr. Nader would look at it.

There was a reputable study done on Colorado by the economics firm of Bickert, Browne, Coddington and Associates which showed that regulation added $1,500 to $2,000 to the cost of a new, one-family home from 1970 to 1975. Similar studies in New Jersey and St. Louis confirmed that study.

Dow Chemical has shown that its costs due to regulation increased 27 per cent in one year—from 1976 to 1977, and that 45 per cent of the regulations went beyond good scientific, manufacturing, business or personnel practices. That's the sort of thing that is available if you are willing to look at it.

In the case of the old-line agencies he seems to like the data because he doesn't like the programs. If there's any indication of bias it's this. Where he likes the government program, he attacks my data; where he opposes the program he likes my data.

For the ICC and the CAB, the FCC—the old-line agencies—there was an established body of data in the economic literature. I took that and updated it. But again, wherever there was a range of estimates, I took the low end of the range, not because I thought those were more accurate, but because I wanted to be more conservative.

Q. Nader has a number of specific complaints about your study. One of them is that the Bureau of Labor Statistics has criticized your figures.

A. That's a substantial charge. The only problem is that it's a total falsehood. They have not criticized my numbers. I don't know why he repeats that lie. If you look at the supporting footnote, it is not a footnote to any Labor Department source or spokesman, but to a letter from someone in a regulatory bureau of the Department of Transportation.

Q. He also charges anti-regulators with having a cold-hearted attitude, with ignoring, for instance, 100,000 work-related deaths a year.

A. That's another figment of the Nader imagination. Several years ago, then-Secretary of HEW, Joseph Califano surfaced that number in a speech. Subsequent research so thoroughly discredited the number that he didn't use it again. The American Industrial Health Council in its 1979 report, Toward a Sound Public Policy on Carcinogenic Agents, showed that not only was the methodology used in determining that figure faulty, but it was applied to data that were off by as much as 100 percent.

Q. Are things like unemployment costs or figures for the effect of GNP included in your study? The Nader study asserts that regulation reduces unemployment.

A. First of all, I did not put in the effect of government regulation on unemployment. But if I had I would have reached the opposite conclusion.

For example, take the minimum wage laws: regulations under the minimum wage laws clearly reduce employment for teenagers without offsetting increases for adult unemployment. Every professional study has shown that.

There's another example of where I underestimate rather than overestimate the burden of regulation. But if you think the employment of the regulators is a plus, and I don't think it is, then I have to say that the 80,000 jobs created directly by the federal budget to staff the agencies are more than offset by the hundreds of thousands of jobs lost due to the minimum wage.

Hundreds of thousands is a low estimate because the Center for the Study of American Business did an analysis of one increase in the minimum wage law. That one increase resulted in 200,000 teen-agers being unemployed because they were priced out of the labor market. One increase. And you know how many increases we've had in the minimum wage law.

Q. Nader claims that hundreds of thousands of people find jobs producing the hardware that help us comply with automobile emission standards, building into production facilities the health and safety procedures and equipment that OSHA and other agencies require, constructing major antipollution facilities, etc.

A. What Mr. Nader is conveniently forgetting are the inroads made on American production by foreign automobiles and other foreign goods which are not built under the same stringent government regulations. And we know the tremendous loss in American jobs due to rising imports.

Q. But the study claims that the jobs these workers do, do improve the quality of our lives and are therefore productive. As a matter of fact, one of the fundamental complaints Nader has about your approach is that it is based on cost-benefit analysis. He claims this does not take into account more humane considerations like quality of life.

A. Well, he meets himself coming and going, because by the end of the study he does a benefit cost analysis showing, or trying to show, that the benefits of regulation are greater than the costs. So quite clearly when Ralph Nader does a benefit cost analysis, that's O.K.; but if I do a benefit cost analysis, that's reprehensible. I have a little bit of a problem accepting that.

But look at the facts of the matter. Take job safety, take OSHA: what benefits have we gotten out of OSHA? Well, supposedly it's the safer work environment of the American worker. Very frankly, if that were the case, I think it would be a great bargain. If the $3.5 billion a year that American industry spends to meet the OSHA requirements were resulting in a safer work place, I'd say that's a great bargain.

But—and this is a fundamental problem—you can't assume, the way he does, that those regulations work. I urge you to look at the Labor Department's own statistics on days lost per worker in American industry since OSHA got started, days lost due to job-related accidents and job-related health hazards. Do you see any improvement? The data don't show any improvement.

According to the Bureau of Labor Statistics the work place got generally more hazardous in 1973, got better as usual during the recession that followed and worse again in 1977. It's quite clear that OSHA isn't working. So, sure, the costs are substantial, but you don't get the offsetting benefits.

Q. Let's talk about Nader's own study for a minute. It claims that the cumulative "life-saving and economic benefits" of five major agencies—OSHA, FDA, NHISA, EPA and CPSC—were "over $35 billion in 1978 and will be $80 billion by 1985 and have a potential annual benefit of over $200 billion." What do you think of their estimate?

A. "Butterfly statistics" is the phrase that comes to mind. You know, you need a number; well, you get out a net and grab the first number that comes by.

Q. Is there anything you can tell us about Nader's methodology? Have you examined his study?

A. Methodology is too kind a term. He is inclined to take uncritically any special interest that comes up with a high number for the benefits from any government regulatory program. And he will use the lowest cost estimate that he can and compare the two. To call that a study contradicts the very term scholarship.

Q. Well, what about, for instance, health care costs? Nader points out that such costs grew from $12 billion in 1950 to $200 billion today, and suggests that some of this is due to a deteriorating environment which regulation could improve.

A. Well, that's just the point. We've had OSHA since 1973 and we've had the rising health care costs. OSHA doesn't work. The regulations don't work. It's not a question of being a heavy and not caring about human life, only caring about dollars—that's a lot of nonsense. The sad fact of the matter is that more often than not those regulations just generate costs and don't generate offsetting benefits.

Q. If regulation isn't a solution to some of these problems, problems that we clearly have to deal with, what would be a solution?

A. Well, first of all, I don't think it's an either/or. I've never said that. I don't care what words my friend Ralph puts in my mouth. What I have said, is we have overregulated, which I've defined not in any emotional way but simply as the economist's shorthand for regulation that generates more costs than benefits. So to meet that situation, I've made, in my various studies, a variety of recommendations.

First of all, in the old line agencies like ICC, FCC and CAB, I've been urging greater reliance on competition, on market forces. As we've seen in the CAB case, that works. Through the old line agencies the government is literally a barrier to entry. If you reduce barriers to entry you get more competition and the consumer interest is served.

Very frankly, that won't happen in the case of the environmental and safety considerations. You've got to supplement the market. But you supplement the market, I think, not by opposing the market via detailed regulations, but by working through the market.

For example, most economists of all political persuasions who study environmental pollution say that the best way to deal with that is either through a redefinition of property rights in such a way that people are obliged to pay for the air and water they pollute, or a system of pollution permits and pollution taxes to make the act of polluting more expensive so that it pays to reduce the amount of pollution. That would be a far more cost effective way of achieving a healthy environment than the existing standards.

In the job safety area, for example, you need a variation of the insurance principle so that it becomes more costly to operate an unsafe working environment. But how the safer working environment is achieved—that is essentially a managerial decision. In some areas it'll pay a company to change its production methods. In some cases, to give safety equipment to employes. In other cases, to change the shifts around, train the workers in safer working procedures. But it is quite clear, looking at the facts of the matter, the government issuing detailed standards, detailed regulations, just doesn't work, doesn't get you a safer working environment.

In the case of product safety, every survey of the consumer I have seen comes up with the conclusion consumers don't want to see products banned by the government. What they do want is more information so they can make more intelligent choices on their own. That too would be a far more cost-effective approach.

So I don't come down with an either/or position. I'm not against the existence of government in a modern society. What I do say is that the current system of detailed government intervention isn't working, we need badly to reform government regulation. I think it is an interesting juxtaposition: those of us who are conservative are urging the change and reform and it's the Ralph Naders of the world who are the strong advocates of the status quo.

Q. How does a conservative economist deal with the plight of the poorer worker? Nader says that free choice is a farce for these people, that the choice for them isn't between a high risk-high pay and low risk-low pay job but between having a job or not having a job at all.

A. I must question when was the last time Ralph Nader was on the factory floor. When was the last time he left his law office? Because the reality is very different. Take OSHA's standards on deep-sea diving. This is a great example of protecting workers against themselves. The greatest gripes about the OSHA standards on deep-sea diving came from the deep-sea divers who are very well-trained, very well-experienced, very highly paid people who want to take risks.

First of all, the risks are very low, the rewards are very great, and that's the way they earn their livelihood. To make deep-sea diving more difficult, more onerous, less rewarding, is no favor to the deep-sea divers. Those regulations are the product of people who don't know how the real world operates.

Look, we choose not to live in a risk-free environment. For example, at a modern airport, airplanes take off and land every few minutes. If you wanted to reduce drastically the risk of crashes, you would say airplanes could only take off every 30 minutes. Why not a 25 m.p.h. auto speed limit instead of 55? The American public won't accept those interferences with their daily lives. They choose the risk.

The risks that Nader and his allies want to protect us from are often far more remote than the risks of flying or driving. I had a discussion with HEW when they were saying that trichlorethylene, an additive that used to be used in decaffeinated coffee was carcinogenic. But the dosage needed to induce cancer was equivalent to a human being drinking 50 million cups of decaffeinated coffee, every day, for a lifetime.

I put it to the people at HEW, "If every man, woman and child in America drank 10 cups of decafeinated coffee daily, how many cases of cancer would result in this country? Ten a year"?

"Oh no, not that many."

"Five a year"?

"No."

"One"?

The poor fellow had to tell me he didn't think there would even be one additional cancer a year but that he couldn't be quite sure.

You know, those are great odds. Where else can I get such odds?

If they try to give us a risk-free environment, they'll get us back to the Stone Age. Think about it. The Stone Age was a very unsafe time for human existence.

Q. Are you suggesting, in a sense, that public reaction is a better guide to when regulation becomes excessive than studies like Nader's or even your own?

A. Well, that's the great virtue of the market. If 51 per cent of the people want to do one thing and 49 per cent want to do something else, well, in the market they can make that choice. When the government decides, everyone has to go along.

Let's take lawnmowers. The lawnmower is a so-called "hazardous product." Under the

Nader approach Big Brother in Washington would tell you whether you could use one. But every consumer survey I have seen says that the consumer wants to make up his or her own mind.

General Motors has to spend millions of dollars a year on surveys to find out what's on the minds of American consumers. But Ralph Nader knows without spending a nickel? How brilliant can he be that he knows without surveying them?

Q. What would a market alternative to regulation be like?

A. In the case of interstate trucking the market alternative would mean that many companies and individuals now eager to compete in the trucking market would be allowed to do so, when now so many of them are barred by regulation. Surely the consumer would be better served by having lots of competing truckers to choose from.

Right now the ICC restricts competition to a small group and then says they have to regulate that small group to keep them from charging monopoly prices. But the ICC created the monopoly in the first place. That's where the market would be far superior.

In the case of health and safety regulations, pollution taxes and permits would be an example of working through the market to encourage consumption of less polluting items. If items that are more polluting become more expensive than items that are less polluting, we'll have good reason as consumers to shift to less polluting items.

Q. Nader also disputes a number of traditional claims about regulation, for instance that it increases inflation, cuts productivity and slows down innovation. Let's take innovation. He says conglomerates are the main barrier to innovation and that the effect of regulation is negligible or positive.

A. He is so confused it isn't funny. Look at the research and development budgets of the major companies. You will find a rising share of these budgets going to what I call "defensive research," research to keep up with the regulators. When one-fifth, one-third, up to a half of research and development goes to unproductive uses, it's no surprise we're getting a slowdown of innovation and new technology in this country.

Q. What about inflation and productivity?

A. You don't have to take my word for it, look at the Department of Commerce's own studies. Ed Denison, a distinguished economist now at Commerce, has done pioneering work showing in detail how EPA and OSHA have diminished the productivity of this country.

Denison's work while he was still at the Brookings Institution showed that as of 1975 regulation was reducing business productivity by 1.4 per cent a year—knocking $20 billion off the GNP annually. Inflation? Who pays the real costs of complying with regulatory requirements? The consumer, in higher prices. To say that is not inflation, as Mr. Nader is maintaining, is economic nonsense.

Q. Have you had any previous experience with Nader? You think his study was not objective. Were you surprised?

A. I wasn't surprised at all. I've grown accustomed to this sort of thing. When the Nader Raiders agree with me, they'll cite me as a great authority. If they disagree with me they'll hurl all sorts of invective. But that's not unique. They do that with everybody.

Q. What are the best and worst things that have happened in government regulation recently?

A. The best is the move towards deregulating the airlines. Airline profits have improved and prices went down, so both consumers and companies benefited. Airlines are being used more, so workers have benefited. It's hard to find a single cost of deregulation in that case.

I wouldn't put the efforts of the Carter Administration in the same category. They've paid lip service to regulatory reform, but I can't point to any really serious reduction of inefficient regulation. But what I do find impressive is that the Carter Administration did feel obliged to go through the motions. It shows that even they must be sensitive to growing public resentment of regulation. That's good.

Similarly the Congress, particularly the Senate, has been holding hearings on regulatory reform. But by and large they have de-fanged the reform. What they need is to legislate a cost-benefit test. A regulator shouldn't be able to impose a new regulation without showing that it will do more good than harm, that the benefits exceed the costs. That, thus far, the Congress has been reluctant to do.

On the negative side, I'd say OSHA continues to be the real negative. They've gotten a lot of mileage out of eliminating the thousand or so "Mickey Mouse" regulations. That's desirable, and we literally ridiculed them into doing that.

Simultaneously, though, they've promulgated the general carcinogenic proposal. That's the serious one. That's the one which will, it is estimated, if it goes into effect, generate more costs than all the existing OSHA regulations. So maybe it is one step forward and three steps backward.

Q. What is the "general carcinogenic proposal"?

A. It hasn't taken final form yet but it will be a set of very tough standards limiting the level of cancer-causing materials in the work place environment. The problem is that the underlying research done so far indicates that the required levels of purity will be unrealistic and potentially more harmful than helpful.

Take asbestos, for example. In certain doses asbestos causes cancer. But the level of asbestos it looks like they are going to allow in the environment is way under the danger point. We may end up having asbestos effectively banned.

But asbestos can be a very helpful, life-sustaining substance. For one thing, it keeps your car from crashing—it's used in brake shoes.

The pipeline of regulation is full. We are going to see more regulation in the future. Frankly, that is why I came out with the new book, *The Future of Business Regulation*. Unfortunately, business regulation does have a future.

Q. How is regulation affecting energy production?

A. Here I think that it's become so apparent, despite stories about rip-offs by the oil companies, who the real culprit is—the government.

But sometimes I am encouraged. Two of our major newspapers, the New York Times and the Washington Post, each set up investigative groups to find out who caused the gas lines. In both cases the reporters came up with the conclusion that the basic problem wasn't OPEC and certainly wasn't the oil companies. It was the Department of Energy's regulation, allocation and price controls. It was DOE that was the basic culprit. Unfortunately, almost everyone else ignored the reporters.

Q. What about other sources of energy, either coal or so-called alternative sources? Does regulation affect their availability?

A. Very dramatically. I'm a strong advocate of solar energy. But most of the noisy advocates of solar power advocate government subsidy. I think that is silly. If you look at the transition in this country from whale oil to kerosene to gasoline as new energy sources, there wasn't any government subsidy involved, but neither were there any government price controls involved.

What delays the widespread use of solar energy?—the idiot policy of keeping the price of conventional fuel artifically low via price control. It's like putting your foot on the brake and the accelerator at the same time. The subsidy is the accelerator, but the artificially low price of conventional fuel puts the brake on alternative sources. It's idiocy.

Q. What about coal? Can we solve that one humanely? On the one hand we have old-style mining—dangerous to the point of cruelty; on the other hand, strip mining that destroys the land.

A. Strip mining regulation is a typical example of going too far. It's a good idea to require that the land be put in some usable condition. But Congress is requiring that the land be returned to its original contours—the most onerous possible regulation. It has the effect of making strip mining almost impossible.

If we didn't require returning land to the original condition, there might be lots of improvements, the land might be more readily used by farmers.

Take a look at Western Europe, West Germany for example. They haven't always returned the land to the original contour, but they've tried to leave the stripped land, first of all so that it's not an ugly eyesore, but also so that it can be used in other ways either agricultural or industrial.

Q. So you're almost suggesting we might get a double benefit out of strip mining.

A. Precisely. There are no tragic choices, there are only choices between intelligence and stupidity.

Q. It's very interesting to find a conservative economist who is as pro-solar as you clearly are. How soon are we going to get solar energy and how realistic an alternative is it?

A. We have some solar power now. If we let the market work, my grandchildren will have lots of solar energy, but only if we let the market work. It hurts to see the so-called proponents of solar energy interfere with the market and truly defeat their own purposes.

Q. If, as a birthday present, you got to abolish one federal agency, just one, which would it be?

A. Oh, what a pleasant thought. The Department of Energy would be my first choice. We would have more domestically produced energy than we have today, the resource cost of energy would go down and the American public would greatly benefit.

ADDITIONAL COSPONSORS

S. 2034

At the request of Mr. DURENBERGER, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2034, a bill to amend title II of the Social Security Act as to modify the criteria respecting certain self-employment income for purposes of the social security retirement test.

S. 2165

At the request of Mr. RIBICOFF, the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of S. 2165, a bill to amend section 301 of title 13, United States Code, to protect the confidentiality of export data required by the Bureau of the Census for statistical purposes.

S. 2248

At the request of Mr. INOUYE, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2248, a bill to amend the International Travel Act of

1961 to authorize additional appropriations, and for other purposes.

S. 2249

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2249, a bill to increase the minimum level of price support on quota peanuts for the 1980 and 1981 crops.

S. 2258

At the request of Mr. TALMADGE, the Senator from Alabama (Mr. STEWART), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 2258, a bill to alleviate the adverse affects of the suspension of trade with the Union of Soviet Socialist Republics on U.S. agricultural producers; and for other purposes.

S. 2282

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2282, a bill to amend the Food Stamp Act of 1977 to provide the Secretary of Agriculture forfeiture authority.

S. 2292

At the request of Mr. PERCY, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2292, a bill to amend title 18 of the United States Code with respect to arson for profit.

SENATE JOINT RESOLUTION 134

At the request of Mr. COCHRAN, the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. FORD), the Senator from Florida (Mr. STONE), the Senator from Maryland (Mr. SARBANES), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. CHILES), the Senator from Michigan (Mr. RIEGLE), the Senator from California (Mr. CRANSTON), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of Senate Joint Resolution 134, a joint resolution to authorize the President to proclaim February 10, 1980, as "Energy Awareness Day."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. JEPSEN, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Wyoming (Mr. SIMPSON), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. JEPSEN, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Wyoming (Mr. SIMPSON), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes.

RESOLUTION 371—SUBMISSION OF A RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 371

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 446. Such waiver is necessary because, although no actual expenditures would be made before October 1, 1980, section 7 of the bill technically authorizes enactment of new budget authority for the present fiscal year and was reported on September 13, 1979.

SENATE RESOLUTION 372—SUBMISSION OF A RESOLUTION RELATING TO TRANSPORTATION PROBLEMS OF ELDERLY IN RURAL AREAS

Mr. PRESSLER submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 372

Resolved, That it is the sense of the Senate that the Department of Transportation should conduct a study of the transportation problems of the elderly in rural areas, and should report the results of such study to the Senate at the earliest practicable date, but not later than four months after the date on which this resolution is agreed to.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Transportation.

Mr. PRESSLER. Mr. President, today I am submitting a resolution which would request the Department of Transportation to conduct a study of the transportation problems of the elderly in rural areas.

Last week, during the session of the South Dakota State Legislature a resolution was adopted which requested the Department of Transportation to conduct a study of the transportation problems of the elderly in rural areas and recommend to Congress possible solutions to these problems. I ask unanimous consent that the State resolution be printed immediately following my remarks.

In the past year, I have held two Aging Seminars in South Dakota, one in Rapid City and the other in Aberdeen. The message from South Dakota senior citizens was one of great urgency when speaking of their transportation problems. The lack of public transportation and the skyrocketing cost of fuel have caused many senior citizens living in rural areas to become stranded, miles from needed food and medical assistance.

A lack of substantive data on this problem, however, precludes Congress from acting to assist the elderly Americans living in rural areas. In an article entitled "The Rural Aged," E. Grant Youmans, speaks of this problem:

The growing attention to problems of the elderly has been accompanied by an enormous volume of literature about aging. . . . In such a rapidly growing research field, there has been a notable defect—the limited number of studies of older persons living in rural environments in the United States. . . . Almost all social gerontologists are urban dwellers, and their research efforts have been directed mainly to studies of human aging in city environments.

The limited number of studies that are available dealing with the problems of the rural elderly do not deal with their transportation problems. It seems to me that this is a major problem that must be dealt with by Congress. It does little good for us to offer Federal programs to the elderly in rural areas if these same elderly cannot have access to these programs because of a lack of affordable transportation.

Mr. President, I ask that my colleagues give serious consideration to the cosponsorship of this resolution. We must begin dealing with the problems of the rural elderly.

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

SENATE CONCURRENT RESOLUTION

A concurrent resolution requesting the United States Department of Transportation to conduct a study of the transportation problems of the elderly in rural areas.

Whereas, South Dakota has one of the highest ratios in the nation of elderly individuals to the general population; and

Whereas, the State has among the fewest doctors per capita in the nation resulting in centralized medical services; and

Whereas, South Dakota is primarily a rural state with great distances between communities; and

Whereas, elderly individuals living in rural areas on a fixed income must travel great distances to obtain needed food and medical assistance; and

Whereas the skyrocketing prices of petroleum and the resulting rise in transportation costs increasingly places a greater burden on the fixed incomes of the elderly to maintain the basic necessities of life; and

Whereas the Federal government to this point has taken only limited affirmative steps to assist the elderly in rural areas to meet their transportation needs;

Now, therefore, be it *resolved* by the Senate of the 55th Session of the State of South Dakota, the House of Representatives concurring therein, that the South Dakota Legislature hereby request that the United States Department of Transportation conduct a study of the transportation problems of the elderly in rural areas and recommend to Congress possible solutions to these problems.

Be it further *resolved* that the Secretary of the Senate forward copies of this resolution to the President of the United States of America, to the Secretary of the United States Department of Transportation and to each member of the South Dakota Congressional Delegation.

SENATE CONCURRENT RESOLUTION 78—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE INDEPENDENCE OF THE REPUBLIC OF TUNISIA

Mr. STONE (for himself and Mr. PERCY) submitted the following original

concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 78

Whereas the Republic of Tunisia has been, since gaining independence in 1956, a close friend of the United States, a responsible member of the international community, and a force for stability in North Africa; and

Whereas the Congress commended the Republic of Tunisia in House Resolution 163 on the occasion of the Twenty-third Anniversary of its independence; and

Whereas the Republic of Tunisia in January of this year was the object of an unwarranted attack organized and supported by external forces; and

Whereas the Government of the Republic of Tunisia continues to be the focus of an intensive propaganda effort launched from outside the country; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Government and people of the United States reaffirm their longstanding friendship for the Republic of Tunisia and expresses their concern with and support for the continuing independence, sovereignty and integrity of the Republic of Tunisia.

NOTICES OF HEARINGS

SUBCOMMITTEE ON THE HANDICAPPED

● Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I announce that our subcommittee has scheduled an oversight hearing on Public Law 94–142, the Education for All Handicapped Children Act of 1975. The hearing will be held on Monday, March 3, 1980, in room 4200, Dirksen Senate Office Building, starting at 9:30 a.m.

Persons wishing additional information should contact Mrs. Patria Forsythe, staff director, 10–B Russell Senate Office Building, Washington, D.C. (202) 224–9075.●

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

● Mr. JACKSON. Mr. President, I would like to announce a change in the schedule for the hearings of the Committee on Energy and Natural Resources on the geopolitics of oil. The hearing previously scheduled for February 14 has been canceled. The revised schedule is as follows:

February 19, "Other Producers" (continued) Nigeria, Angola, and China.

February 21, Soviet Bloc.

March 11, the Industrialized Consumers.

March 14, the Less Developed Countries.

All hearings will begin at 8:30 a.m. The hearing scheduled for February 19 will be held in room 224, Russell Senate Office Building. All other hearings will be in room S–407 of the Capitol and will be closed to the public. For further information, contact Jim Pugash, staff counsel, at (202) 224–0611.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, on March 4, 1980, the Select Committee on Small Business will hold hearings on S. 2224, a bill to increase the authorization levels for the Small Business Administration's 7(1) energy loan program. The hearings will be held at 9:30 a.m. in room 424 of the Russell Senate Office Building. Questions may be directed to the committee staff at 224–5175.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to mark up nuclear waste legislation.

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

ADDITIONAL STATEMENTS

DR. MILTON FRIEDMAN'S PRESCRIPTION FOR THE 1980'S

● Mr. DOLE. Mr. President, much attention has been focused on the monetary policies that the Federal Reserve has been trying to implement since last November; that is, to limit the rate of growth in the money supply, and to tighten procedures so that money supply targets are more likely to be hit. Last week, the Fed boosted interest rates by another percentage point, possibly a sign that the new procedures have not yet been fully "worked in" to the system. In addition, the Federal Reserve has altered its traditional measurements of money supply growth—M1, M2, and so forth. The changes are designed to reflect recent innovations in the way our banking and financial system operates.

Many commentators view the Fed's performance as a tribute to the growing influence of ideas espoused by Dr. Milton Friedman. Dr. Friedman has long espoused the view that controlling the money supply at a steady rate of expansion is the key to economic growth without inflation. As for Dr. Friedman himself, he will withhold judgment on Federal Reserve policies until they show some results over a period of time. That is one of a number of interesting comments that Milton Friedman made on the public broadcasting program, "Wall Street Week," on January 4 of this year.

Mr. President, many people are aware of Dr. Friedman's leadership of the monetarist school of economic thought, and of the fact that he was awarded a Nobel Prize for his contributions in that area. Fewer people know that Dr. Friedman is an outspoken advocate of changing our way of thinking in many areas of public policy. This situation may change as a result of the public television series "Free To Choose," which presents Dr. Friedman's approach to a number of the most critical problems of our society. Even those who disagree violently respect Dr. Friedman for the intellectual clarity and forceful presentation of his views.

On the January 4 "Wall Street Week" program, Milton Friedman was asked to identify three legislative measures that would control inflation and put the economy back on the right track. This Senator, for one, was particularly gratified by the response. Dr. Friedman cited three issues that have been of great concern to me—tax indexing, a constitutional amendment to control Federal spending, and the windfall profit tax.

Mr. President, let me quote Dr. Friedman on the subject of tax indexing legislation. This issue is his top priority, as it is for the Senator from Kansas:

Number One, and I would put at the top of the list for Congress, would be to adjust the corporate and personal income tax so as to be adjusted against inflation—to index the tax system. Because right now, one of the major reasons we have inflation is because it's a way in which Congress can impose higher taxes on all of us without having to vote for it. You have a lot of talk right now about tax cuts. That's nonsense, nobody is really talking about cutting a tax. All anybody is talking about is not having taxes go up as much as they otherwise would. The effect of inflation, the effect of the higher social security tax, the effect of mislabeled windfall profits tax are all going to be to raise taxes. Taxes will be higher in 1980 no matter what legislation Congress passes, and the first step to stop that process, in my opinion, would be to index the tax system. And that by itself will not stop inflation, but it will take away the incentive for Congress and the Administration to produce inflation.

That is exactly right. That is why over a year ago I introduced the Tax Equalization Act, S. 12, to index the personal income tax for inflation. I sponsored similar legislation in the 95th Congress, and in each Congress the measure has been brought to a vote on the Senate floor. Support is growing, and I hope we may achieve Dr. Friedman's priority goal in this Congress.

Mr. President, Dr. Friedman's second priority is to amend the Constitution so as to limit Federal spending. Last year, I introduced Senate Joint Resolution 5, which would limit spending as a percentage of GNP and require a balanced budget. I am also pleased to be a cosponsor of Senate Joint Resolution 126, which has been approved by the Subcommittee on the Constitution. This amendment would require a balanced budget and would limit revenues to the percentage of national income they constituted in the previous year, unless Congress explicitly votes otherwise. I strongly support this amendment, and I will work for its approval by the Judiciary Committee. I believe the amendment will achieve the goals Dr. Friedman desires, by putting the political burden of proof on Congress to increase taxes if it wants to raise the level of Federal spending. The Senator from Kansas hopes that those who share Milton Friedman's views on limiting the size of Government will support Senate Joint Resolution 126, which I believe has a good chance of being acted on by the Senate this year.

Milton Friedman's third priority for 1980 is for Congress to reject the windfall profits tax. Dr. Friedman believes, in his words, that—

We are very vulnerable in the Persian Gulf—it's a major source of danger to our national security. There is nothing we could do that would improve from a long run point of view our strategic position in the Persian Gulf so much as abolishing the Department of Energy, ending oil and gas price control, and forgetting about the windfall profits tax—because those measures would be strong measures to make us independent of the Persian Gulf—to make us less dependent on that very vulnerable supply of oil.

Mr. President, since the windfall profit tax bill was brought up before the Senate Finance Committee, I have worked for a fair tax with adequate incentives for domestic production to prevent an increase in our dependence on foreign oil. We have had some success in limiting the tax on new oil and certain types of domestic production, but I do share Dr. Friedman's concern that the net effect of the tax could be to increase our dependence on the Persian Gulf—at a time when events in that area have dramatized, as never before, the risks inherent in such dependence. The Senator from Kansas deems it unlikely that the windfall tax will be rejected, but Dr. Friedman's remarks serve to underline the point that we must be certain that the final version of the tax will not cripple our efforts to achieve energy independence. Those Members of Congress who have turned this bill into a revenue measure, rather than an energy initiative, would do well to heed this danger.

This, then, are Milton Friedman's legislative priorities for our economy in 1980. It would be false modesty for the Senator from Kansas to deny that his own legislative initiatives for restoring good sense to economic policy bear a remarkable resemblance to Dr. Friedman's prescriptions. Tax indexing, constitutional limits on Federal spending, and preserving incentives for domestic energy production will, in the long run, help bring down inflation, restore stable economic growth, and give our Nation better control over its energy supply. I am glad to be in accord with Dr. Friedman on these issues, and I hope that more and more of my colleagues will do the same. Dr. Friedman deserves great credit for his efforts over the years to bring such issues to the attention of the public, and to compel us to rethink our approach to economic problems. It is true that no legislator can act solely on the basis of economic theory, because we are responsible to our constitutents and must make compromises in order to make any progress at all. That is why our legislators are politicians, not economists. But ideas do have consequences, and the ideas of Milton Friedman have already had significant consequences, as is attested by the actions of the Federal Reserve Board. I hope that Dr. Friedman's ideas continue to influence our policymakers, because I believe the Nation will profit from the result.●

WHAT AMERICA STANDS FOR

● Mr. BOREN. Mr. President, I would like to share with my colleagues a copy of an article from the Okmulgee, Okla., Daily Times. Especially in light of the current frustrations we are facing in world events, this article brings a needed reminder of what America stands for, and encourages a strong pride in our country that sometimes seems to be found lacking.

The article follows:

LET'S BECOME ONE FLAG WAVING CITY

We strongly believe that now is the time for all Americans to reaffirm their belief in the principles of the Declaration of Independence and physically show allegiance to the United States of America. What better way is there than to fly the colors we so strongly believe in? The majestic Red, White and Blue of Old Glory! We'd like to see Okmulgee, Oklahoma, become the most visual Flag Waving City in our country.

Our country is currently facing more problems, national and international, than we have in a long period of time. Our beliefs, our principles, and our honor have been challenged from all points of the globe.

We take great pride in the freedom of being able to criticize the actions of our own government, the politics and what we personally feel are injustices. We can even relish in the freedom we have to personally consult with our representatives of government and suggest our ideas in solving national situations. Our freedom is so great that we can voice strong vocal criticism, publicly, with no fear of reprisal, even to the point of verbal criticism of the President of the United States of America. No other nation in the entire universe can make this claim.

While we ourselves accept our freedoms as a commonplace inheritance, just a matter of fact, we deeply resent the silent implication of other nations and the spoken accusations that it is our country that is at fault for all the unrest throughout the world. How long has it been, that we have been heavily taxed to make it possible to feed and rebuild war-torn and needy nations? . . . Only to have them turn on us once they have regained their composure.

But America is a forgiving nation. We would like to see all people in the universe living under freedom loving governments, and our government strives toward that end. Unfortunately there are other governments who do not share our dreams of a world of free nations, their goal is conquest at any cost.

We believe in America! And we believe that now is the time to stand up and be counted. Let's do some Flag Waving. Let's make Okmulgee, Oklahoma, U.S.A. the Flag Wavingest town in the whole country.

We, at the Okmulgee Daily Times, feel that our readers think as we do on this issue. We had planned to publish a double page declaration of our belief on Sunday, January 27, along with signatures of citizens in the area who feel as we do. This declaration is dedicated to, Once Again, reaffirm ourselves to the Principles of the Declaration of Independence and Allegiance to the United States of America.

The idea was to charge $2.00 for each person signing the "Affirmation" except for those citizens over 60 years of age. The charge for our Senior Citizens to be $1.00. All proceeds derived from the double-page spread will be contributed by the Okmulgee Daily Times in behalf of the Citizens of Okmulgee to the Veterans Hospital Canteen Fund, Muskogee, to provide items for our veterans who have served in previous conflicts.

In the meantime we discovered a source of miniature flags on an 11-inch staff. We have set up the date of publishing the "Affirmation" to February 10, 1980, (just two days before Lincoln's birthday).

Each person signing the "Affirmation", reaffirming his-her self to the Principles of the Declaration of Independence and Allegiance to the United States, will receive a miniature (4" x 5½) flag to be proudly flown from their auto antenna. All those citizens who have already signed, please drop by the Daily Times office and get your flag.

You are invited to add your signature to these pages. The "Affirmation" is on display in the Conference Room in the Business office of the Okmulgee Daily Times and may be signed by the public anytime during normal business hours. (8 a.m. to 5 p.m. Monday through Friday).

Copies of this "Affirmation" of the People of Okmulgee will be forwarded to each of our elected officials in the state Legislature, and the Congress, as well as to Governor Nigh and the President of the United States.

Can you imagine such a sight as every auto in Okmulgee, Oklahoma, flying an American Flag and shouting loudly so the whole world can hear. . . . "We believe in our American heritage, we declare our independence, and we stand behind the United States of America!" ●

DEFENSE SPENDING

● Mr. BAUCUS. Mr. President, on January 28, President Carter submitted the administration's budget for fiscal year 1981. One quarter of that budget, nearly $160 billion, will go toward our national defense.

Obviously, the specifics of the President's budget request will require careful scrutiny and informed debate, and I intend to participate in that debate fully.

At this time, however, I would like to focus on the larger, more fundamental question; that is, what constitutes a strong defense and how much should we be willing to pay for it? This is the key issue and will be the subject of long and difficult debate in the Senate over the next months.

Certainly, a strong defense is capable of protecting America from any outside threats. It discourages Soviet aggression, direct or indirect, against America, her allies, or any other sovereign nation. In short, a strong defense insures the security of America and her allies by making war an unattractive alternative for potential adversaries.

But how do we measure that strength? The most simplistic measurement uses dollars and cents. By that measure, the United States will be 5-percent stronger this year than last if we support the President's budget request. But this measurement of strength is far too simplistic and dangerous in this age of vying nuclear superpowers.

I believe in a strong America. But we must understand our strength in all its depth and dimension. Perhaps the most profound dimension of Americas strength is the vitality of our democracy and the freedom it affords each and every one of us. Another powerful aspect of American strength is the spirit and determination of the American people. The vital role of a vigorous national economy and our tremendous wealth of natural resources is also well recognized. Moreover, we should continue to keep uppermost in our minds another essential component of our Nation's strength—the loyalty and respect of our allies. And, of course, any measure of our strength inevitably will include an analysis of America's military might.

Maintaining a strong defense costs a great deal of money, and I am prepared to spend whatever is necessary to insure the security of this great Nation.

President Carter has requested nearly $160 billion to accomplish this task. This increase represents a 5-percent real increase in budget authority over last year. A 5-percent increase in defense spending may well be necessary. But I am concerned that wise, necessary increases in defense spending must not be simply crude, across-the-board percentage increases, but rather, must be carefully reasoned and targeted.

We must nourish and sustain all the aspects of America's strength. To devote excessive resources directly toward military production drains resources away from many of America's other equally vital strengths.

We must also bear in mind that military spending is one of the most inflationary kinds of spending, creating enormous buying power without creating consumer or investment goods for the market. Inflation saps America's strength both at home and abroad, weakening the domestic economy, the power of the dollar overseas, and the individual purchasing power of each and every American.

We must devote the necessary research and resources to our defense, but we must not forget the other serious problems we are grappling with. To the extent that we devote our enormous wealth of talent and resources into defense, rather than into nondefense activities, we risk drawing money and attention from other areas of domestic concern, such as developing a viable mass transit system, revitalizing our older cities, or helping America to become energy independent.

World War II was not won by America and her allies because of our tremendous defense capabilities alone, though these were certainly considerable. Rather, America was able to contribute to the Allied victory because of its tremendous agricultural and industrial capacity. When our security was threatened, we were able to convert our tremendous productive capacity to the war effort.

I support a strong, efficient, lean defense. We must maintain our flexibility. We must avoid the specter of a bloated, lumbering superpower—stumbling, blustering, and alienating the world, but unable to respond in a tough and appropriate manner when an actual challenge to our security occurs.

Much is made of the fact that Russian defense spending has outpaced American military spending in recent years. Whether or not this is actually the case, the fundamental point is that higher defense spending does not necessarily translate directly into better, stronger defense. For example, the Soviets spend several times more on agriculture than the United States, but still cannot manage to adequately feed their own people. At the same time, my own State of Montana exports 80 percent of its grain to foreign countries.

Calm and determination are crucial during these tense times. We must not confuse dollars with sense, or beligerence with toughness.

I will close my remarks with a quote by Dwight Eisenhower, who said:

> There is no way in which a country can satisfy its craving for absolute security—but it can bankrupt itself morally and economically in an attempt to reach that illusory goal through arms alone. The military establishment, not productive of itself, necessarily must feed on the energy, productivity, and brain power of the country, and if it takes too much, our total strength declines.

Mr. President, debate and critical thought, impossible in the Soviet Union, are a fundamental part of American freedom. I intend to use these cherished freedoms during debate on our defense needs. Throughout, I will keep in mind the vital need for a strong defense posture, and I am fully prepared to spend whatever is necessary to insure the security of the United States. But, I will also try to bear in mind that America's strength far surpasses any numerical measurement of defense dollars or nuclear warheads.●

THE 1980 WASHINGTON LOBBY OF THE STUDENT COALITION FOR SOVIET JEWRY

● Mr. HEINZ. Mr. President, it is my pleasure to welcome to Washington over 1,000 members of the Student Coalition for Soviet Jewry, here today for their fourth annual Washington lobby. I have the honor of serving as cochairman of this year's effort, together with Senator CRANSTON, Congressman BUCHANAN, and Congressman DRINAN.

The Student Coalition for Soviet Jewry was formed 4 years ago by a group of students concerned about the repression of Jews in the Soviet Union and determined to do something about it themselves—to take the initiative, rather than to sit back and leave all the work to their elders or someone else. These students saw that an effective response to the plight of Soviet Jewry demanded increased communication between American citizens and their Representatives in Washington. They have been working toward this goal with dedication and diligence—and success—and have attracted considerable recognition in so doing.

As you are all no doubt aware, members of the coalition from your home States have prearranged meetings with you and your staff. They will also be talking today with their Congressmen, officials at the Soviet affairs desk of the State Department, and members of the White House staff. A 24-hour vigil in front of the Soviet Embassy is now in progress. Following the day's events, a profile book on the Congress will be published, delineating each Member's past record on Soviet Jewry questions and the substance of the meetings held today; this book will be widely distributed within the Jewish community.

The problems that have aroused these students' concern are more serious today than ever. There were signs last year that the Soviet Union's treatment of its Jewish citizens might be improving; five political prisoners were released in April, followed shortly by five more. But that event was the fruit of worldwide public attention in a climate of détente. Now the Soviet Union's lamentable conduct in Afghanistan has led to a significant worsening of relations between it and other nations. There are valid fears that the victims of these worsening relations will be Soviet Jews—especially those who in the past have been critical of the Soviet Union's actions. There are fears that the Russians, no longer seeing anything to be gained from a policy of conciliation, will crack down on the dissidents within its borders. There are also fears, however, that our own Government may abandon the cause of Soviet Jewry in pursuit of other, more security-minded objectives.

For that reason, I urge you to welcome the representatives of the student coalition and to listen to them carefully. These young people come well informed and sincere. They deserve our respect for their commitment and our thanks for their efforts.●

THE TRANSFER OF ADVANCED TECHNOLOGY TO THE SOVIET UNION

● Mr. STONE. Mr. President, I submit for the RECORD two articles concerning the transfer of advanced technology to the Soviet Union. It disturbs me that such a portion of Soviet military capability is based on technology given them by the United States. It also disturbs me that once a decision has been made by the administration to stop this transfer of technology that we find it so difficult to do so. It appears that our colleague, Senator HARRY F. BYRD, JR. is on the right track.

The article follows:

[From the Wall Street Journal, Feb. 8, 1980]

THE KAMA RIVER SOURCE

(By Craig Roberts)

When Soviet invasion forces rolled into Afghanistan in trucks built at the big new Kama River plant with the aid of U.S. technology and financing, they raised dust in Washington as well as on the road to Kabul.

Everyone has always assumed it to be U.S. policy not to sell the Russians things that might help them militarily. Quite obviously, that policy has some serious holes in it. Some are even bigger than the one that allowed sophisticated U.S. equipment to go into the production of diesel engines at Kama River and allotted $153,950,000 in Export-Import Bank financing to enable the Russians to buy all that high-priced hardware. Answers are needed and no one is rushing forward to supply them. Quite the contrary, the Commerce Department, which is in charge of licensing such exports, seems to be intent on keeping the process surrounded by secrecy.

U.S. licensing practices came under fire months before the latest Soviet aggression emphasized the importance of the issue. In May of 1979, Lawrence J. Brady, acting director of the Commerce Department's Office of Export Administration, testified before a House Armed Services subcommittee that the department was not enforcing its own regulations which prohibit the military diversion of U.S. licensed technology. The Kama River plant was cited.

As it happens, the morning of the day Mr. Brady testified, the subcommittee had re-

ceived CIA confirmation that U.S. technology was being diverted to military use at the Kama River plant. It also received word that the Department of Defense was pressing the Commerce Department to apply the required sanctions.

Mr. Brady's testimony hardly made him a hero with his superiors. In addition to preparing briefs in their own defense—which had the interesting by-product of also defending the Soviets—they set about to destroy his credibility and demote him, or so a later investigation indicates. That investigation, conducted by the Office of Special Counsel, held that the pressures applied to Mr. Brady violated his rights as a civil servant. The Secretary of Commerce was instructed to "restore to Mr. Brady his full duties and responsibilities" and ordered to see to it that "no reassignment, transfer or detail of Mr. Brady be effected without consultation with and concurrence of Mr. Brady and this office."

Mr. Brady enjoyed further vindication when President Carter responded to the Afghanistan invasion by ordering an embargo on further transfers of U.S. technology to the Soviet Union. Nevertheless, he resigned last month, charging that Commerce officials were "trying to find loopholes in the . . . embargo . . . the President has ordered." He said he could not continue to serve officials "who would knowingly improve the military strength of an enemy of this country and would make every attempt possible to cover up these actions."

These are harsh words, quite likely too harsh with fellow bureaucrats given the twists and turns American Presidents have taken on this issue and the attempts they have made to use technology transfer and trade for political leverage with the Russians. No less a tactician than Henry Kissinger played a direct role in granting the Kama River licenses.

But it clearly is time to re-examine this issue and a good way to start would be to cut away the secrecy that has surrounded technology transfer. Commerce has been doing just the opposite by fighting off Freedom of Information suits and other efforts by journalists to find out what companies sold what items to the Russians.

It is most likely the files would show even more serious lapses than the one involving Kama River. Intelligence sources believe that the Soviets could not have installed multiple warheads on their intercontinental missiles as quickly as they have if a U.S. firm had not been permitted to sell them a unique machine that produces high quality miniature ball bearings. Congressional sources, backed by independent intelligence estimates, claim that U.S. technology helped the Russians develop guidance systems and gyroscopes for ICBMs and antisubmarine devices that make U.S. Trident submarines more vulnerable.

This all requires more explanation. It suggests that a new debate is needed on the old question of "linkage," or giving the Russians certain favors in return for concessions elsewhere. It is a matter far too serious to be surrounded by secrecy and cover-ups. While Mr. Carter is trying to decide where we go from here on technology transfer, it is only fair for the Congress and the public to know where we've been.

[From the Richmond Times Dispatch, Feb. 11, 1980]

BUSINESS AS USUAL

(By Joe Duggan)

When the Red army rumbled into Afghanistan at Christmastime and poised itself to take easy advantage of political chaos in Iran as a potential means of gaining control of the Persian Gulf region's oil, President Carter wanted the American people to believe that he was taking adequate countermeasures. The newly alerted commander-in-chief called for increased military spending (but not for the resurrection of such torpedoed systems as the B-1 bomber and the neutron bomb), for resumption of draft registration, and for trade sanctions—an embargo on grain sales and restrictions on technological transfers to the Soviet Union.

Withholding advanced technology probably is the strongest penalty the United States could exact against the Soviets as well as the measure most helpful to our own defensive interests. There is little disputing that the Soviet army would not have become "the most powerful land army in the world," as the U.S. Defense Intelligency Agency recently described it, if the American government had not allowed certain U.S. firms to export precision instruments, highly sophisticated electronic gear and the like to the Soviet Union.

Sadly and alarmingly, evidence came to light this week showing that for several years high administration officials have employed bureaucratic obstacles and deliberate coverups to render ineffective the government's intended restrictions on export of strategically sensitive products. Even after President Carter's well-publicized order to restrict the export of crucial technology to the Soviet Union, an intra-bureaucratic campaign to continue the exports is taking place, while the president's own determination to curtail technology transfers is anything but evident.

Testimony by strategic exports and comments by senators at a recent session of Sen. Harry F. Byrd Jr.'s subcommittee on military procurement revealed the following:

Dozens of licenses for export of sensitive instruments to communist countries have been granted in recent years over the opposition of officials in the responsible agency, the Commerce Department's Office of Export Administration, through the intervention of higher-ups, including former Secretary of State Henry Kissinger and leading officials in the Carter administration's Commerce Department. (Lawrence Brady, the government "whistleblower" who in several appearances before congressional panels has revealed these and other contraventions of American national security interests, recently was forced from his Commerce Department post in a shameful bureaucratic intrigue that will be the topic of future discussion here.)

Because of a ridiculous twist to the "proprietary confidentiality" provision of existing American export law, the Commerce Department will not allow U.S. intelligence services access to files regarding strategic trade to the communist bloc, not even to files concerning documented illegal diversions of strategic equipment from civilian to military purposes. Lt. Col. James Dearlove of the Defense Intelligence Agency told Senator Byrd's subcommittee that his agency never has asked the Commerce Department to provide information on the Soviets' military use of American technology "because I knew the answer would be 'No.'" One result of this absurd policy is that American intelligence agencies even now are seeking to determine by expensive satellite surveillance what already is known to certain officials of the Commerce Department in Washington.

Although White House congressional liaison Frank Moore pledged last month that the administration would "severely limit" trade with Russia, including "general commerce," the Commerce Department has just approved the sale of an entire assembly line to the notorious Kama River truck plant where military vehicles employed in the Afghan invasion were manufactured with American expertise and capital.

President Carter apparently has abandoned commitment to effective strategic export restrictions. At the subcommittee hearing Sen. Strom Thurmond and Senator Byrd stated categorically that they had been assured by President Carter last month in a private meeting at the White House that the administration would halt technology sales to the Soviet satellite countries as well as to Russia. White House spokesman Rex Granum later replied that Mr. Carter made no such promise. In addition to implying that Senators Thurmond and Byrd are liars, Mr. Granum has suggested that the White House has chosen to close its eyes to the reality of Eastern Europe, its total de facto control by the Kremlin.

Despite the "get tough" rhetoric of Jimmy Carter since the Afghan invasion, it is clear that, to an alarming extent, his administration is carrying on business as usual with the Soviet Union. Congress can and should act to correct existing contraventions of our national interest in international trade policy. Toward this end, Senator Byrd's office has been speaking of new legislation to make certain that U.S. intelligence agencies are informed of all strategic trade. But if the scandal of sending the Soviets sophisticated devices they intend to use to strangle us is to be ended, Jimmy Carter will have to be born yet again—with the will to protect our national security without vacillation.●

A PROPOSED FEDERAL ELECTION COMMISSION REGULATION

● Mr. DOLE. Mr. President, the Federal Election Commission has submitted the following regulation to Congress:

PROPOSED F.E.C. RULE

11 CFR Chapter I is amended as follows:

1.11 CFR 100.4(b)(16) is added to read as follows:

"§ 1004.4 Contribution.

(b) ***

(16) Funds provided to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(4).

2.11 CFR 100.7(b)(18) is added to read as follows:

"§ 100.7 Expenditure.

(b) ***

(18) Funds used to defray costs incurred in staging nonpartisan candidate debates in accordance with the provisions of 11 CFR 110.13 and 114.4(e).

3.11 CFR 110.13 is added to read as follows:

"§ 110.13 Nonpartisan candidate debates.

(a) Staging organizations. (1) A nonprofit organization which is exempt from federal taxation under 26 U.S.C. § 501(c)(3), and a nonprofit organization which is exempt from federal taxation under 26 U.S.C. § 501(c)(4) and which does not endorse, support or oppose political candidates or political parties may stage nonpartisan candidate debates in accordance with 11 CFR § 110.13(b) and 114.4(e).

(2) Broadcasters, bona fide newspapers, magazines and other periodical publications may stage nonpartisan candidate debates in accordance with 11 CFR 110.13(b) and 114.4(e).

(b) Debate Structure. The structure of debates staged in accordance with 11 CFR 110.13 and 114.4(e) is left to the discretion of the staging organization, provided that (1) such debates include at least two candidates, and (2) such debates are nonpartisan in that they do not promote or advance one candidate over another.

4.11 CFR 114.4(e) is added to read as follows:

"§ 114.4 Nonpartisan communications.

(e) Nonpartisan candidate debates. (1) A

nonprofit organization qualified under 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under 11 CFR 114.4(e)(3) to defray costs incurred in staging nonpartisan candidate debates held in accordance with 11 CFR 110.13.

(2) A bona fide broadcaster, newspaper, magazine and other periodical publication may use its own funds to defray costs incurred in staging nonpartisan public candidate debates held in accordance with 11 CFR 110.13.

(3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR 110.13(a)(1) to stage nonpartisan candidate debates held in accordance with 11 CFR 110.13 and 114.4 (e)."

This regulation will provide a narrow exemption from the provisions of the Federal Election Campaign Act to permit certain nonprofit organizations and news media organizations to stage nonpartisan Federal candidate debates. Under this exemption expenditures for staging such debates will be regarded as neither made for the purpose of influencing an election nor in connection with a Federal election.

This regulation has not been enacted into law. The proposed regulation was published on December 27, 1979, but it will not go into effect until 30 legislative days after the regulation was transmitted to Congress. Presently the FEC has no regulation that permits news media organizations to make expenditures to stage Federal candidate debates. The Senator from Kansas believes that the absence of an FEC regulation in this area is not an indication that it is proper or ethical for the media to promote one candidate over another by sponsoring a debate and not allowing all of the candidates to participate in the debate.

The media has the power to shape the opinions of the voters. This is an awesome power and it must be exercised wisely and responsibly. It is irresponsible for a news organization to hold a debate and exclude some of the candidates from participating because it deprives the voters access to the information that is necessary for them to make an informed decision concerning which candidate could best represent that particular voter's concern or interest.

When the courts have threatened members of the press with censureship tremendous cries of outrage were heard across the country. News organizations were incensed that in our free society, the courts were unilaterally deciding what information would be made available to the public. When a news organization sponsors a debate and fails to invite all of the candidates to participate in the debate, that news organization has engaged in censorship.

The media is preventing the voters from receiving information that is the lifeblood of an election. Apparently the media found the views of some of the candidates objectionable and censured them by failing to provide an equal opportunity for the candidate to present his views to the voters.

NASHUA TELEGRAPH

The Nashua Telegraph, a New Hampshire newspaper, plans to engage in this form of censorship. The Nashua Telegraph will sponsor a debate on February 23, 1980, 3 days before the New Hampshire primary. Only 2 of 7 Republican Presidential candidates have been invited to participate in that debate. As a consequence, the voters of New Hampshire will be deprived of this opportunity to consider the opinions of each of the candidates, and permitted to hear the opinions of the candidates that the Nashua Telegraph has given its approval to. Ostensibly the Nashua Telegraph has censored the information that the voters can receive.

This, in effect, places in the hands of the media the ultimate decision of which candidates will be placed before the public. Because the media has come to play such an important role in political campaigns it is imperative that the individuals who control the media do not promote one candidate over the others. Irresponsible behavior that results in the censorship of information that is made available to the public cannot be allowed to continue. The media must demonstrate its commitment to responsible coverage of the news rather than its desire to shape the election process.

Mr. President, the upcoming Nashua Telegraph debates are an example of how the media can leave its imprint on the electoral process, and why these FEC regulations are necessary. Unfortunately, high standards and principles have begun to erode, hence, these regulations are necessary.●

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, in compliance with section 133(b) of the Legislative Reorganization Act of 1946, as amended, the Select Committee on Indian Affairs is publishing the committee's rules, which I submit for printing in the RECORD.

The rules are as follows:

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Select Committee on Indian Affairs and as supplemented by these rules, are adopted as the rules of the Committee.

MEETINGS OF THE COMMITTEE

Rule 2. The Committee shall meet on the first Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the Committee shall be open to the public except when the Committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee at least one week in advance of such hearing unless the Chairman of the Committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the Committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the Committee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee prescribes.

(c) Each Member shall be limited to 5 minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness unless the Committee shall decide otherwise.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included in the agenda of the next following business meeting of the Committee if a written request for such inclusion has been filed with the Chairman of the Committee at least 1 week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee to include legislative measures or subjects on the Committee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee shall be provided to each Member and made available to the public at least 3 days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee. The Clerk shall promptly notify absent Members of any action taken by the Committee on matters not included in the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsecs. (b) and (c), three Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered from the Committee unless three Members of the Committee are actually present at the time such action is taken.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the Committee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request of any Member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in Committee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any member, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the Committee unless the Committee in executive

session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the Committee in the manner required in the case of Presidential nominees.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the Committee or any report of the proceedings of a closed Committee hearing or business meeting shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the Committee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the Committee in a business meeting of the Committee: *Provided*, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting. Such proposed amendment shall be mailed to each Member of the Committee at least seven (7) calendar days in advance of the meeting.●

THE FEDERAL TRADE COMMISSION AUTHORIZATION BILL

● Mr. GARN. Mr. President, I was 1 of 13 Senators to vote against S. 1991, the Federal Trade Commission authorization bill. I voted against the bill because I regarded it as a meaningless shell, masquerading as regulatory reform.

I was therefore delighted to see the February 14 editorial in the Wall Street Journal, which summarizes my views very well.

As the Journal points out, the FTC can continue to issue "fishing expedition" subpenas, fund liberal groups such as Americans for Democratic Action, preempt State laws, turn over confidential information to law enforcement authorities, and promulgate overreaching regulations with no effective check from either the legislative or the judicial branch.

The two-and-a-half House veto is a joke. Congress can pass a bill as easily as it can veto a rule under the Levin-Boren amendment.

I agree with the Journal that, "if anything like the phony Senate bill emerges (from conference), the FTC will have demonstrated that all the noise about reducing Government regulation is only talk."

I suspect that S. 1991 is the first of a series of attempts to diffuse the issue of "big government" in this election year. Those who think that the American people will be satisfied with cosmetic approaches are, in my opinion, sadly mistaken.

I submit the editorial for the RECORD. The editorial follows:

THE FTC ONLY-TALK SHOW

There has been a lot of talk about the need to curb excesses of government regulation, and widespread agreement that the most excessive regulator of all has been the Federal Trade Commission. The U.S. Senate has just finished emasculating the efforts to bring the FTC under control.

Complaints grew as the FTC attacked trademarks, children's TV advertising and funeral parlors. States were upset that the FTC was getting into their regulatory acts, leaping in even where HEW and the Justice Department feared to tread. Business worried about the need to tighten standards governing the disclosure of confidential information the FTC required them to supply. The FTC's new habit of issuing blanket subpoenas demanding reams of documents prior to issuing a complaint was likened to a policeman coming to your door determined to arrest you and demanding your life story in hopes of discovering an offense.

Soon the Congress, pummeled by the kind of broad, small town constituencies who get attention, was roaring, and the FTC was on the carpet. The House was tough, voting a one-house veto of FTC regulations and overriding the FTC's challenge to trademarks and investigations of agricultural cooperatives and funeral parlors. But then Senator Wendell Ford (D., Ky.) took charge and the Senate edited the bill down to a cosmetic fix-up.

The legislative veto is retained in name, for example but in practice it requires both houses and signature by the President. In other words, Congress can police the FTC by passing a bill.

The Senate went through the motions of tightening disclosure without dealing with the objection that the FTC is giving state enforcement agencies evidence they cannot legally obtain on their own. The effort to prevent the FTC from taking over state-regulated professions also failed. And the FTC can resume its fishing expeditions if it first issues a complaint.

The FTC will have to award legal fees to successful defendants against its actions, except in cases where the FTC itself rules it was justified in bringing the action. The FTC must prepare a regulatory analysis before promulgating a major regulation, but the merits of it are not subject to review by the courts.

Perhaps the most questionable aspect of the FTC's activities in recent years has been its habit of paying Washington lobbyists to stir up opportunities for FTC investigations and regulations. A spate of private bureaucracies like Americans for Democratic Action, Sierra Club, and Ralph Nader's Center for Automobile Safety now earn a living by representing "the public interest" in FTC proceedings. Senator Alan Simpson (R., Wyo.) tried to do something about the use of the taxpayers' money to fund private interest groups, but succeeded only in limiting them to $50,000 each per rulemaking.

The Ford bill now goes to conference with the House, and perhaps something can be salvaged. But if anything like the phony Senate bill emerges, the FTC will have demonstrated that all the noise about reducing government regulation is only talk.●

SIR ERIC WYNDHAM WHITE

● Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to one of the truly great international civil servants of our times, Sir Eric Wyndham White. Sir Eric was a member of a small and most distinguished class of individuals, a group concerned with problems of international character, and it was his genius to create a great international institution with a minimum of bureaucracy. The Trade Agreements Act of 1979 is in many respects his memoire—and a most fitting one it is.

On February 5 a letter from Ambassador John M. Leddy, honoring Sir Eric, appeared in the Washington Post. The letter was accompanied by a list of cosigners for there was no room in the letters column. I am happy to add my name to those already listed, and ask that both the letter and the list be printed in the RECORD.

The material follows:

[From the Washington Post, Feb. 5, 1980]

SIR ERIC WYNDHAM WHITE

The American press has all too briefly noted the death in Geneva recently of Sir Eric Wyndham White.

Sir Eric was one of a handful of gifted international public servants who made a lasting contribution to world order in the postwar period. As head of the secretariat of the General Agreement on Tariffs and Trade (GATT) from 1947 to 1968, he was at once its leading spirit and its defender. Scorned by the U.S. Congress, driven by the contentions between the British-led European Free Trade Area and the French-led European Economic Community and starved at all times for funds and staff, GATT was, as Sir Eric used to point out, the Cinderella of international institutions. That it held together at all was due as much as anything to the initiative, persuasive talents and sheer force of will of Sir Eric, who was responsible for converting, often by stratagems bordering on the Byzantine, a simple trade agreement into a vital international institution. It is a tribute to his memory that GATT remains today the centerpiece of the world's trading system.

He will be missed by his friends and admirers in America. I regret that space does not permit listing the names of many of them who have asked me to express these sentiments on their behalf.

JOHN M. LEDDY,
McLean.

LIST

Carl D. Corse, John W. Evans, Isaiah Frank, Theodore R. Gates, Walter Hollis, James H. Lewis, Margaret H. Potter, Myer Rashish, Jacques J. Reinstein, J. Robert Schaetzel, Philip Trezise, and Leonard Weiss.●

GEORGE F. KENNAN'S VIEWS ON AFGHANISTAN

● Mr. BAUCUS. Mr. President, several weeks ago, George F. Kennan, one of America's most distinguished historians and respected diplomats, wrote an article which appeared in the New York Times. It is an eloquent appeal for a calm, reasoned, and balanced reaction to the Soviets' invasion of Afghanistan.

Of course, the Soviet action in Afghanistan was a serious breach of international law which the world has strongly and justly condemned. The United States,

in its position as leader of the free world, must make it crystal clear that such blatant aggression is unacceptable.

But our resolve must be tempered with a keen awareness of the delicate and dangerous balance of power that weighs our every word and action. Strident warnings of reciprocation can only aggravate tensions and provoke further Soviet actions. We must be firm in our conviction that no nation, no matter how strong, can suppress another sovereign nation. But cold war rhetoric will not strengthen America or frighten the Soviets. Instead, we must concentrate our energy on ending our dangerous dependence on foreign oil and quietly and confidently strengthening our ties with our allies throughout the world.

The Soviet invasion was a blunder which the Soviets will have a difficult time explaining to an angry world. Now, more than ever, we need a strong measure of Mr. Kennan's mature statesmanship.

I ask that Mr. Kennan's article be printed in the RECORD.

The article follows:

[From the New York Times, Feb. 1, 1980]

GEORGE F. KENNAN, ON WASHINGTON'S REACTION TO THE AFGHAN CRISIS: "WAS THIS REALLY MATURE STATESMANSHIP?"

PRINCETON, N.J.—On Christmas Day 1979, after more than a century of periodic involvement with the internal affairs of its turbulent neighbor, and after many months of futile effort to find a pro-Soviet Afghan figure capable of running the country, the Soviet Government suddenly expanded what was already a sizeable military involvement in Afghanistan into a full-fledged occupation, promising that the troops would leave when their limited mission had been accomplished.

This move was not only abrupt—no effort had been made to prepare world opinion for it—but it was executed with incredible political clumsiness. The pretext offered was an insult to the intelligence of even the most credulous of Moscow's followers. The world community was left with no alternative but to condemn the operation in the strongest terms, and it has done so.

So bizarre was the Soviet action that one is moved to wonder whence exactly, in the closely shielded recesses of Soviet policy making, came the inspiration for it and the political influence to achieve its approval. It was a move decidedly not in character for either Aleksei N. Kosygin or Leonid I. Brezhnev. (The one was, of course, ill and removed from active work. The limitations on the other's health and powers of attention are well-known.) Andrei A. Gromyko, too, is unlikely to have approved it. These reflections suggest the recent breakthrough, to positions of dominant influence, of hard-line elements much less concerned for world opinion, but also much less experienced, than these older figures.

Such a change was not unexpected by the more attentive Kremlinologists, particularly in the light of the recent deterioration of Soviet-American relations, but it was assumed that it would take place only in connection with, and coincidental with, the retirement of Mr. Brezhnev and other older Politburo members. That it could occur with the preservation of Mr. Brezhnev as a figurehead was not foreseen.

Be that as it may, this ill-considered move was bound to be unacceptable to the world community, and the United States had no alternative but to join in the condemnation of it in the United Nations. But beyond that point, the American official reaction has revealed a disquieting lack of balance, both in the analysis of the problem and then, not surprisingly, in the response to it.

In the official American interpretation of what occurred in Afghanistan, no serious account appears to have been taken of such specific factors as geographic proximity, ethnic affinity of peoples on both sides of the border, and political instability in what is, after all, a border country of the Soviet Union. Now, specific factors of this nature, all suggesting defensive rather than offensive impulses, may not have been all there was to Soviet motivation, nor would they have sufficed to justify the action; but they were relevant to it and should have been given their due in any realistic appraisal of it.

Instead of this, the American view of the Soviet action appears to have run overwhelmingly to the assumption that it was a prelude to aggressive military moves against various countries and regions farther afield. No one can guarantee, of course, that one or another such move will not take place. A war atmosphere has been created. Discussion in Washington has been dominated by talk of American military responses—of the acquisition of bases and facilities, of the creation of a rapid-deployment force, of the cultivation of military ties with other countries all along Russia's sensitive southern border. In these circumstances, anything can happen. But the fact is, this extravagant view of Soviet motivation rests, to date, exclusively on our own assumptions. I am not aware of any substantiation of it in anything the Soviet leaders themselves have said or done. On the contrary, Mr. Brezhnev has specifically, publically and vigorously denied any such intentions.

In the light of these assumptions we have been prodigal with strident public warnings to the Russians, some of then issued even prior to the occupation of Afghanistan, not to attack this place or that, assuring them that if they did so, we would respond by military means. Can this really be sound procedure? Warnings of this nature are implicit accusations as well as commitments. We are speaking here of a neighboring area of the Soviet Union, not of the United States. Aside from the question of whether we could really back up these pronouncements if our hand were to be called, is it really wise—is it not in fact a practice pregnant with possibilities for resentment and for misreading of signals—to go warning people publicly not to do things they have never evinced any intention of doing?

This distortion in our assessment of the Soviet motivation has affected, not unnaturally, our view of other factors in the Middle Eastern situation. What else but a serious lack of balance could explain our readiness to forget, in the case of Pakistan, the insecurity of the present Government, its recent callous jeopardizing of the lives of our embassy personnel, its lack of candor about its nuclear programs—and then to invite humiliation by pressing upon it offers of military aid that elicited only insult and contempt? What else could explain, in the case of Iran, our sudden readiness—if only the hostages were released—to forget not only their sufferings but all the flag-burnings, the threatening fists, the hate-ridden faces, and the cries of "death to Carter," and to offer to take these very people to our bosoms in a common resistance to Soviet aggressiveness? What else could explain our naive hope that the Arab states could be induced, just by the shock of Afghanistan, to forget their differences with Israel and to join us in an effort to contain the supposedly power-mad Russians?

This merits a special word. I have already referred to the war atmosphere in Washington. Never since World War I has there been so far-reaching a militarization of thought and discourse in the capital. An unsuspecting stranger, plunged into its midst, could only conclude that the last hope of peaceful, nonmilitary solutions had been exhausted—that from now on only weapons, however used, could count.

These words are not meant to express opposition to a prompt and effective strengthening of our military capabilities relevant to the Middle East. If what was involved here was the carrying of a big stick while speaking softly rather than the carrying of a relatively small stick while thundering all over the place, who could object? But we do not, by this preoccupation with a Soviet military threat the reality of which remains to be proved run the risk of forgetting that the greatest real threats to our security in that region remain what they have been all along: our self-created dependence on Arab oil and our involvement in a wholly unstable Israeli-Arab relationship, neither of which is susceptible of correction by purely military means, and in neither of which is the Soviet Union the major factor?

If the Persian Gulf is really vital to our security, it is surely we who, by our unrestrained greed for oil, have made it so. Would it not be better to set about to eliminate, by a really serious and determined effort, a dependence that ought never have been allowed to arise, than to try to shore up by military means, in a highly unfavorable region, the unsound position into which the dependence has led us? Military force might conceivably become necessary as a supplement to such an effort; it could never be an adequate substitute for it.

The oddest expression of this lack of balance is perhaps in the bilateral measures with which we conceive ourselves to have punished the Russian action. Aside from the fact that it is an open question whom we punished most by these measures—Russia or ourselves—we have portrayed them as illustrations of what could happen to Moscow if it proceeded to one or another of the further aggressive acts we credit it with plotting. But that is precisely what these measures are not; for they represent cards that have already been played and cannot be played twice. There was never any reason to suppose that the Soviet Government, its prestige once engaged, could be brought by open pressure of this nature to withdraw its troops from Afghanistan. But this means, then, that we have expended—for what was really a hopeless purpose—all the important nonmilitary cards we conceived ourselves as holding in our hand. Barring a resort to war, the Soviet Government has already absorbed the worst of what we have to offer, and has nothing further to fear from us. Was this really mature statesmanship on our part?

We are now in the danger zone. I can think of no instance in modern history where such a breakdown of political communication and such a triumph of unrestrained military suspicions as now marks Soviet-American relations has not led, in the end, to armed conflict. The danger is heightened by the fact that we do not know, at this time, with whom we really have to deal at the Soviet end. If there was ever a time for realism, prudence and restraint in American statesmanship, it is this one. Nothing in the passions of electoral politics could serve as the slightest excuse for ignoring this necessity.●

TUITION TAX CREDIT

● Mr. MOYNIHAN. Mr. President, some weeks ago, those of us who favor the adoption of tuition tax credit legislation to assist with the costs of nongovernmental education for elementary and secondary school students were inspired by the appearance in the Washington Star of a superb letter to the editor

from Mary Ellen McMillen, of Washington, D.C. With a rare mixture of hard information and persuasive presentation, she describes the importance of such aid, particularly for the education of children from low- and middle-income families. In order that her views can attain the attention that they deserve, I ask that her letter be printed in the RECORD.

The letter follows:

MY CHILDREN NEED EDUCATION NOW!

(By Mary Ellen McMillen)

Regarding the Letters to the Editor in response to William Buckley's column on "Helping private schools" (July 31), two fundamental points need to be made: No American would be "compelled" by a tuition tax credit to support church-related schools. On the contrary, any American who so desired might deduct from his federal (not state) income tax no more than $250 as credit against the tuition he pays to any non-public school—church-affiliated or independent.

It is argued that public aid to private education in the form of tuition tax credits would primarily benefit upper middleclass parents, enabling them to send their children to select, very expensive private schools. The motives of these parents are, by implication, maligned. They are made to seem seekers of status, of privilege, of segregation. Could these parents not be seeking educational essentials for their children?

No matter. How would a tuition tax credit as currently proposed affect an upper middleclass parent? St. Alban's School, part of the educational complex on or near the grounds of the Washington Cathedral, which operates under the auspices of the Episcopal Church, will charge a tuition of $2,850 for day students in this coming academic year. Supplemental to this tuition are fees which will bring the total cost of one school year to roughly $3,600. Among these is a lunch fee of $325. There are parents who will argue that St. Alban's is worth every penny. But the upper middleclass parent considering St. Alban's for his son would find that the $250 maximum allowable tuition tax credit would not even pay for lunch.

So scratch St. Alban's, along with National Cathedral School, Beauvoir, Potomac, Sidwell Friends, The Heights, Georgetown Prep (all of which have a tuition of $2,000 plus) if you have to depend on tuition tax credits to make the difference.

Then who are the parents whom a tuition tax credit would really benefit? What are the schools their children really might attend? The U.S. Catholic Conference estimates that three-quarters of the students enrolled in private schools in the United States are enrolled in Roman Catholic schools. And it is this fact of affiliation of so large a part of the non-public educational structure with a single religious community that is legitimately troublesome.

By reason of numbers alone, the Roman Catholic school system forms a fundamental part of the U.S. educational structure, particularly in the major urban areas. In the Archdiocese of Washington (comprising the District and Montgomery, Prince Georges, Calvert, Charles and St. Mary's counties in Maryland) nearly 40,000 children attend Roman Catholic schools.

But who are these children? In the District, approximately 30 percent of the children enrolled in Roman Catholic parish elementary schools are not Catholic. Eighty percent are black. Only six of the 24 Roman Catholic elementary schools in the District are west of Rock Creek Park.

In some of the schools east of the park, 50 to 60 percent of the enrollment is non-Catholic. West of the park, non-Catholic enrollment in half of the six elementary schools has stood at 20 to 25 percent. The average tuition in the District's Roman Catholic parish elementary schools is $500. A tuition tax credit of $250 would make a difference to a parent considering Assumption School on Martin Luther King Avenue SE. It could also make a difference to many families in Chevy Chase.

What is the American citizen owed for his tax dollars? Well, there is one item: a bona fide education for his children. No, I don't mean that Johnny or Jane can read the label on a can in a grocery store. What if P.S. No. 1 is not measuring up. What if violence, crime and fear go to school along with my children?

And what if across the street stands St. Mary's? No one loiters in the halls at St. Mary's. The children say "yes, ma'm" to the teacher and they have homework. They are taught the old Judaic-Christian principle that stealing is wrong. (Not "socially unacceptable"—wrong!)

Accolades to the glory of the U.S. public school system by some education association official or some teachers' union leader don't hold water with me. No, I won't wait two years, five years, ten years until a new principal or new superintendent can maybe put the whole shebang back together. My children need education NOW. The public school system has served the United States supremely well—in the past. Is it doing the job today? Who is? I've paid my money.

I am a white Roman Catholic, educated in Catholic schools in the District. Although we all live on the slippery slope of inflation, at present I don't need a tuition tax credit to send my children to the school of mine and my husband's choice.

On this issue of public aid to nonpublic education, I ask my co-religionists to come down out of the pulpit. Of course Roman Catholic schools teach the tenets of the Roman Catholic faith. But what else do they teach? That is what the American public is entitled to know—and upon which it can base it judgment. These schools are not "Sunday schools." If push comes to shove, I could teach my children the doctrines of our religious community, but I have neither the skill nor the time to teach them reading, writing and arithmetic. And that is why they go to school.

By the same token, citizens of other religious persuasions and those whose beliefs are purely secular should form their judgment on the basis of academic merit. So what if Mary's picture is up there along with Lincoln's and Martin Luther King's? Can the students at least spell "Lincoln?" Hopefully, the day of denominational hostility has passed. In any case, at rock bottom, a school is what its parents make it.

The question of public aid to nonpublic schools should be decided upon one issue, and that is not the question of extending sectarian belief. It is this: Does the non-public educational structure, church-affiliated or otherwise, serve the interest of the citizens of the United States?●

PREJUDICE

● Mr. GARN. Mr. President, I recently received a poem written by one of my constituents, Judy Anne Rider, which I believe deserves the attention of my colleagues and the American people.

Judy wrote this poem to express her frustration at the outrages committed against human liberty in the holding of American hostages in Iran. I believe all Americans share her frustration and her desire that this crisis will be resolved quickly and peacefully.

Mr. President, Judy Anne Rider's poem is an eloquent statement of the dignity of each human being, and I ask that it be printed in the RECORD.

The poem follows:

PREJUDICE

(By Judy Anne Rider)

Some men have skin of ebony
Some bear an olive hue,
Some white, some red, some yellow
But what does color do?

Does darkness boast more honor
Can a red man not be brave,
Was each man not made holy
By the gift our Savior gave?

Is love blind to a baby
If his skin's not pearly white,
Or compassion dead to any man
Who wants within your sight?

Can you turn your back on suffering
If the victim doesn't match,
What you see within your mirror
Of the fleeting glimpse you catch?

Can you justify indifference
Saying, 'he's just not your kind,'
Would the world be somehow better
If we all should grow so blind?

Should a language or a custom
A belief, a dream or plan,
Be the only way to measure
The true value of a man?

Can our differences become a source
Of prejudice so vast,
That we beat those down who frighten us
Until we are the last?

Should each man not have his vision
Who can say which one's from God,
When we know His love is boundless
In His Universe so broad?

And can any one of us
Condemn another man of Earth,
Just because he may not typify
Our own concept of worth?

Should a man be bound and beaten
If his bloodline isn't true,
If his country seeks to temper
All the principles he knew?

And is God not our Creator
Regardless of the name,
That each of us has chosen
Are His teachings not the same?

Does He tell us love thy neighbor
Even one so far away,
That the days and nights are melted
And the shadows seem to stay?

Does He emphasize indulgence
Of the varied minds of man,
Telling each of us to tolerate
And listen when we can?

To humbly seek His mercy
Judging no one for his sins,
Or in setting up our standards
Where eternity begins?

Or are men of God all brothers
All united to one goal,
Can we look beyond the colors
Seeing deep into the soul?

Can we set aside the methods
He has chosen for his prayer,
And see the simple beauty
That our God has nestled there?

And if our needs are different
If we march to separate drums,
Can we all not be delighted
With each life the way it comes? ●

EDUCATING THE HANDICAPPED

● Mr. MOYNIHAN. Mr. President, during the 94th session of Congress, a significant effort was embarked upon which, it was hoped, would correct a longstanding injustice. The injustice was the inadequate level of education being provided to the Nation's up to 8 million handicapped youngsters. That effort resulted in the setting of a noble yet attainable goal for the Nation; that of providing equal educational opportunity to all handicapped children through enactment of the Education for All Handicapped Children Act. The passage of this measure implied a national effort.

The providing of educational opportunity was, and continues to be, a problem of national significance. As our knowledge of the problem increased, a consensus emerged that we must take strong action to deal with it. I do not mean to suggest that our local schools were not attempting to provide educational services to the handicapped, for in the main they were, and are. However, the costs associated with that effort were, and continue to be, staggering. In 1975, a time when most public schools were in a better financial situation than they are today, the cost was high, but acceptable if one accepted the premise that the Federal Government would contribute its fair share.

It is now almost 5 years since enactment of the Education for All Handicapped Children Act. The Federal share, based on a formula involving the national average per pupil expenditure in public elementary and secondary education, was to reach 20 percent in fiscal 1980. It did not. In fiscal year 1981, it was to be 30 percent. Instead, the President has again proposed 12 percent. While there are some things to be applauded in the President's fiscal year 1981 budget, and some provisions which I will support, I cannot accept this reneging on our commitment to assist the States with the cost of educating the Nation's handicapped children.

Last September, I wrote to HEW Secretary Patricia Harris, and urged her attention to this problem. At that time I suggested that—

> The administration has a solemn duty to propose sufficient funding to carry out the provisions of Public Law 94–142, or to acknowledge that it has no such intention, in which case I believe you are obligated to submit legislation absolving the States from requirements that they cannot be reasonably expected to satisfy without the necessary financial assistance.

I deeply regret that it now appears that the latter option is one which the administration and Congress may have to consider. That would be a sad outcome to a noble effort, but we have reached a point where our local schools cannot continue to make progress in this area without Federal assistance.

With the Federal aid promised in 1975, we might yet meet this challenge; without it, we will surely fail. I must add that to my knowledge, no response was ever prepared by officials at HEW to my letter to Secretary Harris. Certainly none ever reached me. I regret to report that the answer seems to be embodied in the administration's budget proposal presented to Congress only last week: level funding, insuring a continuation of unkept promises and hypocrisy at the expense of some of our most deserving youngsters.

I ask my colleagues, especially those on committees with jurisdiction over this area, to ponder this very serious situation, and to consider the need for a remedy. I include with my statement a copy of my September letter to Secretary Harris, and also, a column which appeared in the New York Times, by Mr. Albert Shanker, president of the American Federation of Teachers. In it, he accurately describes the unhappy history of what once was a noble effort by the Congress. I ask that this material be printed in the RECORD.

The material follows:

CARTER, CONGRESS RENEGE ON A PROMISE

(By Albert Shanker)

President Carter has made his budget public. On at least one point, it should anger teachers, supervisors, school board members and parents. The President has failed to meet a commitment to provide some financial help in educating the handicapped. This is an issue which affects all school districts. It should result in a major campaign directed at the President and the Congress.

Many will ask why Uncle Sam should pay the bill for educating the handicapped. Until fairly recently, many communities did not provide education for handicapped students in their districts. Or, in some cases, the education provided was part-time; in many cases what was provided had little or no relationship to what handicapped children needed. A national movement developed. The neglect and miseducation of the handicapped were fully documented. In a number of states, the courts ruled that by not giving handicapped children an appropriate education, the schools had violated their constitutional rights. The movement succeeded, and in November 1975 the Congress passed and the President signed into law Public Law 94–142, the Education for All Handicapped Children Act, whose major provisions were to go into effect in October 1977. The vote in Congress was overwhelming, 404 to 7 in the House, 87 to 7 in the Senate.

It was known at the time that the cost of bringing millions of handicapped students into schools would be expensive, not only because of all the added students, but because it is far more costly to educate the handicapped. With passage of the law came a commitment by Congress, a promise that local school districts would not have to bear the cost by themselves. The federal government would help.

The promise made by Uncle Sam was not particularly generous. It was agreed that the U.S. would contribute 5% in fiscal 1978, the first year of the program, and that this would be increased to 20% in fiscal 1980 (this school year), to 30% next year and to 40% in fiscal 1982. But these percentages are misleading: they are not percentages of what a school *actually* spends to educate a handicapped child, but 20% or 30% or 40% of the average cost of educating all children in school all across the country. That average is only $1,400 yet there is no large city in the country which spends only $1,400 per child.

On top of this inadequate formula, Congress and the President have compounded the problem. Instead of giving local school districts the 20% that was promised for this year, only 12% was appropriated. And in his budget message, instead of trying to keep Congress honest by asking for the full 30% next year and 40% the following year, the President is seeking 12% for the 1980-81 school year and 12.5% for the 1981-82 school year. This is called breaking a promise on a very large scale.

The dimensions of the problem can be seen by what it is doing to the New York City schools. Next year we will have more than 60,000 handicapped children in our school system, and the Board of Education has had to budget $8,180 for each of them. This is not out of any spendthrift urge on New York's part, but because that is the cost of the programs the federal courts have ordered us to put in place as a result of the federal legislation. The pricetag of providing education to a handicapped child in New York is now nearly three times the cost of educating a non-handicapped child—and Uncle Sam is giving us only 12% of about half of that lesser cost!

New York Mayor Edward I. Koch knows this. He went to Washington a week ago to make the case that there are a number of federal mandates that Congress isn't paying for and that are hurting the city and blocking its best efforts to balance its budget. He called Congress "cynical" in the way it has funded P.L. 94–142—"first they underestimate the costs and then they underfund the estimate"—and said that Congress has reneged "on the delivery of an already meager federal share of the cost of meeting its own national mandates." This, he said, "not only dooms the compliance efforts of local school districts, but also jeopardizes the overall quality of education that can be offered to all children."

Ed Koch pointed out that New York City is receiving only $8.5 million in federal aid under P.L. 94–142 while spending an estimated $221 million of its own tax levy dollars to educate the handicapped this year. Next year, the New York commitment will grow to $278 million—and unless something happens soon from now until 1983, New York City will have to shell out nearly $1.2 billion to satisfy the federal law.

Koch is right, and the President and Congress should be held accountable. The mystery is: Which is the real Ed Koch? The Ed Koch who goes to Washington and makes a brilliant speech about how our New York City schools are hurting because of federal actions? Or the Ed Koch who has been pretending for a month that he can cut the education budget by $154 million next year and still have a school system if only teachers, principals and parents would do their job?

U.S. SENATE,
Washington, D.C., September 13, 1979.

Hon. PATRICIA R. HARRIS,
Secretary, U.S. Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY HARRIS: As you know, the Education for All Handicapped Children Act of 1975 requires of each state that a "free appropriate public education" be provided for all children aged 3 to 21. This requirement is to be fully met by September 1980. As you also know, included in the passage of this legislation was a commitment of federal support to help offset the additional cost of the states of complying with the Act. This is clearly stated in the language of P.L. 94–142:

"State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

"[I]t is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children. . . ."

This promise of federal support, it would appear, has not been realized. And there is

every sign that the executive branch has no intention of realizing it.

As you develop H.E.W.'s budget request for fiscal year 1981, therefore, I urge you in the strongest possible terms to include adequate funds to carry out the provisions of the Education for All Handicapped Children Act. Without such a commitment, I fear that education officials in my state and others cannot carry out the federal mandate in this area.

I have been contacted by many prominent educators and other citizens who are deeply concerned about the level of federal support that was evidenced in the fiscal year 1980 budget. The figures I have seen indicate that it costs 2 to 7 times as much to educate a handicapped student as it does other students. If these figures are accurate, and I have no reason to doubt that they are, it would seem critical that we provide funds at the level indicated by the federal statute, under which the percentage of federal support was scheduled to increase over a 5 year period beginning in 1978, and was to have reached 30% in fiscal year 1980–1. We remain painfully far from that target. Both the Presidents' budget proposal for fiscal year 1980, and the Labor-H.E.W. appropriation now pending, provide funding at a level of only 12%. This means that the states would receive $1.4 billion less than was originally anticipated when P.L. 94–142 was enacted. Given this inadequate level of support, states will likely find it impossible to meet the September 1980 deadline. A major correction—and compensation—is called for in the fiscal year 1981 budget if this unhappy outcome is to be avoided.

I hope you share my view that adequate federal support for efforts in this area must be forthcoming if we are to achieve our national goals in the education of handicapped children. A firm commitment of such support must be made in order that state education officials who are charged with the primary responsibility in this area can meet the mandates set forth in this Act.

I have no wish to be dramatic, but I submit to you that the administration has a solemn duty either to propose sufficient funding to carry out the provisions of P.L. 94–142 or to acknowledge that it has no such intention, in which case I believe you are obliged to submit legislation absolving the states from requirements that they cannot reasonably be expected to satisfy without the necessary financial assistance. This, in my view, would be a deeply disappointing outcome, but more honest than continuing with the present hypocrisy. The Education for All Handicapped Children Act set forth a laudable, even a noble goal for the nation. I fervently hope that it can be achieved, and that efforts to "balance the budget" will not be permitted to deny appropriate educational services to millions of children with special needs. But if it remains the administration's judgment that the federal government cannot afford to do its part, it is the responsibility of the administration to acknowledge this and to recognize the impossible situation in which it places state and local education officials.

Sincerely,

DANIEL PATRICK MOYNIHAN.

THE ALTERNATIVE TO THE OLYMPIC BOYCOTT

● Mr. DOLE. Mr. President, in response to the Soviet invasion of Afghanistan, President Carter called for a boycott of the 1980 summer Olympics in Moscow by American athletes, if the Soviet Union did not withdraw their troops by February 20. That deadline has arrived and it appears that the President will stand firm on this action. While it is certainly an understandable reaction to the Soviet invasion of Afghanistan, a blatant example of Soviet aggression, we must also keep in mind the ambitions and goals of our American athletes and those of other countries. For many Americans, these goals are rooted in the original principles of the olympian movement. Those principles include the celebration of brotherhood and a mutual striving for excellence, in an atmosphere of nondiscrimination, international goodwill, and in a spirit of peace. The people of the United States still believe in these ideals. In recent years we have placed a higher premium and interest in developing and promoting the benefits of athletic competition and ability. Therefore, it is important that our athletes are offered a viable alternative to the summer Olympics in Moscow, the best possible opportunity to enable our athletes and others who have worked long and hard toward physical excellence in the olympian spirit to realize their aspirations.

With this in mind I suggested that we move the Olympics to a site more compatible with the olympian principles of international brotherhood and peace, such as Montreal or Munich. Later, when Mr. Carter decided to ask for a boycott of the Moscow games, others suggested a permanent neutral site, perhaps in Greece, home of the original games. Placing the games in a neutral site could depoliticize the games and still give our athletes a chance to be rewarded for their hard work and dedication.

It has now become obvious that the United States will not be participating in the Olympic games in Moscow this summer. It is even more imperative now that we begin planning for the best possible alternative event for our athletes and those of other countries who have expressed their intentions to join us in the boycott. Even the executive director of the United States Olympic Committee, Mr. F. Don Miller, admitted the committee is discussing other options available. However, their line of thought at this time appears to be toward establishing an athletic competition for American athletes only.

AMERICAN-ONLY EVENT A MISTAKE

While I can certainly understand and appreciate the intentions behind such an action, I do not feel it is the most adequate and appropriate alternative for our athletes. An "American only" event would be even less than what occurs practically every year in most sports—a world championship competition. In addition, it would not take into consideration those athletes from other countries who will be following the lead of the United States and staying away from Moscow. Fear has been expressed by members of the U.S.O.C. that the International Olympic Committee might punish the countries and the athletes who participate in an alternative event to the Moscow Olympics—barring them from future Olympic games and stripping Los Angeles of the 1984 summer Olympics.

This will not be a real and valid concern, however, if we orchestrate a large, widely supported alternative to the Olympic games, equal in scope and nature. The sooner we act, the more other nations will be able to rally to this idea and plan to participate. Even Lord Killanin, president of the I.O.C., has expressed a desire to be able to hold this summer's Olympics some place other than Moscow, but he believes it is technically impossible and legally and morally wrong to do so because the Moscow organizers have not broken any of the terms of the contract they signed in 1974. It seems ironic to be standing behind technical legal considerations at this point, in light of the total lack of morality and human decency evident in the unprovoked Soviet invasion of a friendly nation, Afghanistan. This was a violation of the basic premise of the Olympics movement, a higher contract than the 1974 agreement. Further, various national sports organizations have stated the technical possibility of creating a new site in time for the summer Olympics if we begin as soon as possible. The old adage, "If there's a will there's a way" seems to hold true in this case, if only we start to act now.

ORGANIZE NEW INTERNATIONAL GAMES NOW

The recent backing for creating a permanent neutral site for the games, and new ideas calling for several sites, on a rotating basis, to set up athletic events along the same lines as in the present Olympics, are beginning to attract worldwide attention. The global community wishes to continue in the tradition and spirit of the Olympics, free from political influence. But it has become too difficult to find a site to host all the events. The expense and need for large facilities has grown every 4 years. I would like to advocate today that the United States, in conjunction with other concerned nations, support a new approach to the quadrenniel celebration of international sports.

It is not too late to set up a site to realize these games for this summer if we begin implementation of this course of action now. Several universities in this country have already offered their services and facilities to the U.S.O.C. for use "in a major athletic event" next summer. If no one else in the world wants to host such an event—open to athletes of all countries whether or not they compete in Moscow—one or several of these offers should be accepted. As announced by Lord Killanin, the games would go on as scheduled in Moscow, despite the cries of protest from the U.S. Government and other countries. The leadership of the I.O.C. would be welcomed, but if they and our own Olympic committee do not realize the merits of accepting such an alternative, then they should abdicate thier role in international sports and give the individual sports groups that belong to it the opportunity to form a new organization to run next summer's free games. The question of future sites could then be addressed, using either one or several rotating sites on a permanent, depoliticized basis.

Mr. President, in the interest of all athletes around the globe, to show our respect for the striving toward excellence,

and in keeping with the olympian principles of international brotherhood and peace, I urge the immediate establishment of a new commission to organize our international games. We cannot delay if we wish to succeed; the United States must take the lead and act now.●

THE MOTOR CARRIER REFORM ACT OF 1980

● Mr. CANNON. Mr. President, when I introduced the Motor Carrier Reform Act of 1980 (S. 2245) on February 1, 1980, I indicated that I would shortly submit a section-by-section analysis to be printed in the RECORD. I now submit the analysis for the RECORD.

The analysis follows:

SECTION-BY-SECTION ANALYSIS

TITLE

The Act is to be cited as the "Motor Carrier Reform Act of 1980."

PURPOSE OF THE BILL

Section 2 states that the purpose of the Act is to reduce unnecessary regulation by the Federal Government.

CONGRESSIONAL FINDINGS

Section 3 stresses the importance to the national economy of a safe, sound, competitive, and fuel efficient motor carrier system. It also states that in order to achieve such a system, Congress finds it necessary to revise the statutes governing Federal regulation of the motor carrier industry. Those statutes are outdated, tend to inhibit innovation and growth, and fail to sufficiently encourage operating efficiencies and competition.

In revising the statutes, Congress also intends to give the Interstate Commerce Commission explicit direction for the regulation of the motor carrier industry and to ease that industry's uncertainty about the future of regulation by the Commission. The Commission is admonished to stay within the powers vested in it by the new law.

Finally, this section states that Congress intends that the changes in the statutes and any resulting changes be implemented with the least amount of disruption to the transportation system as possible.

NATIONAL TRANSPORTATION POLICY

Section 4 of the Act amends the national transportation policy set forth in title 49. Specifically, it declares that it is Federal policy with respect to motor carriers of property to rely to the maximum extent feasible upon competition to meet the needs of the public, to encourage price and service options, to achieve energy and economic efficiency, to provide opportunities for adequate profits and fair wages and working conditions, and to improve and maintain a sound privately owned motor carrier system.

MOTOR CARRIER ENTRY POLICY

Section 5 adds a new subsection to Section 10922 of title 49 to govern applications for authority to operate as motor common carriers of property. New subsection (b) retains the traditional test that all applicants must be fit, willing, and able. However, it makes it easier for applicants to obtain certificates by requiring the Commission to grant certificates unless it finds on the basis of a preponderance of evidence that the transportation would be inconsistent with the present or future public convenience and necessity. In other words, it creates a presumption that the proposed transportation is in the public interest. Under the current law, the applicant has the burden of proving that the transportation meets the public convenience and necessity test. In applying this test, the Commission is directed to consider evidence of public support as well as the quality and quantity of existing service in the market. In balancing the evidence, the Commission may consider the effect of granting the application upon existing carriers but shall not find that diversion of revenue or traffic is in and of itself inconsistent with the public convenience and necessity.

While the new subsection eases the applicant's burden, it does not relieve the Commission from its responsibility to consider each application on an individual basis. In fact, paragraph (b)(2) specifically prohibits the Commission from instituting the so-called "master certificate" approach to granting certificates. That approach is one that the Commission has adopted in some limited areas and is considering using in other areas. Pursuant to that approach, the Commission makes one general finding of public need for a specific type of transportation without looking at the individual carriers and situations involved. Paragraph (2) makes it clear that the Commission is obliged to look at each application and decide whether the transportation would be inconsistent with the public need.

In the case of some types of transportation, the legislation does more than modify the public convenience and necessity test. It actually eliminates the test altogether. Specifically, paragraph (b)(3) provides that the Commission shall not apply the public convenience and necessity test to applications for authority to provide transportation to points not served by a certificated carrier, transportation services as a direct substitute for abandoned rail service, certain transportation for the Federal Government, and, to a limited extent, transportation of packages weighing 100 pounds or less.

Finally, in order to expedite the application process, the legislation limits the carriers who can protest applications filed under subsection (b). Under paragraph (b)(4), the only carriers that may protest an application are carriers which recently have performed service within the scope of the application, carriers which have filed an application for substantially the same traffic, and carriers the Commission grants leave to intervene.

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATIONS

Section 6 further amends section 10922 of title 49 by adding a new subsection on restriction removal. Specifically, subsection (h) directs the Commission to eliminate all gateway restrictions and circuitous route limitations imposed upon motor common carriers of property. Further, it requires the Commission to implement expedited procedures for processing applications by individual carriers seeking removal of a number of other restrictions included in the carriers' certificates. Under the expedited procedures, a carrier will be able to apply to broaden the categories of commodities which it is authorized to haul, to begin serving intermediate points on its certificate, and to begin performing round-trip service where only one-way service is authorized. The Commission must take final action on the applications no later than 120 days after they are filed with the Commission.

Since the beginning of motor carrier regulation, the Commission has restricted motor carrier operations both geographically and functionally. Often, this practice has been exacerbated by the applicants themselves who have filed applications of extremely narrow scope in order to forestall would-be protestants.

The result is that carriers' operating authorities often are overly complex and contain restrictions that are wasteful of fuel, expensive, inefficient or otherwise not in the public interest. Further, the Commission's backlog of cases has risen sharply as it has become increasingly difficult for it to process the large number of narrowly-drawn applications.

The purpose of this section is to help simplify the whole certificate process and to eliminate those restrictions which do not further the public interest. Also, by providing carriers with the opportunity to broaden their operating authorities through an expedited process, it should ultimately help reduce the Commission's normal workload.

EXEMPTIONS

Section 7 amends section 10526(a) of title 49 to include additional motor carrier transportation exemptions. Subsection (a) of the legislation will allow carriers to transport in the same vehicle mixed loads of regulated and exempt commodities, and will extend the agricultural exemption to include uncooked meat and bananas, and some agricultural production items purchased by farmers. Subsection (b) expands the current exemption for air cargo.

Currently, fish, poultry, livestock, vegetables, and fresh fruits (except bananas) are exempt from Commission regulation. The legislation will accord the same treatment to the transportation of red meats and bananas. The rationale behind the provision on mixed loads and agricultural production items, is to reduce empty backhauls and improve carriers' operating efficiency.

Under current Commission regulations, the air cargo exemption allows transportation of property only within certain mileage limits of an airport. The legislation would eliminate the mileage limits, and exempt the transportation of property by motor vehicle, provided it is part of a continuous movement which, prior or subsequent thereto, has been or will be transported by aircraft, or in some emergency situations by motor vehicle.

OWNER-OPERATORS

Section 8 amends chapter 105 of title 49 by adding a new section 10527 allowing owner-operators to haul regulated commodities in conjunction with the movement of their exempt commodities. The owner-operators must perform the transportation themselves and register their vehicles with the Commission. The owner-operators may charge no less than the lowest tariffs on file for the transportation of the commodities they choose to carry. In order to register with the Commission, the owner-operator is required to offer proof of insurance or other type of security and to designate agents on whom service of process in a court proceeding may be made.

The section is considered necessary to improve owner-operators' efficiency, increase conservation of fuel, and reduce the costs of transporting agricultural commodities.

PRIVATE CARRIAGE

Section 9 of the Act amends section 10524 of title 49 by adding a subsection that would permit compensated intercorporate hauling as lawful private carriage. Under current law, the Commission regards members of a corporate family as strangers and prohibits them from providing transportation for compensation for each other without a certificate or permit. New subsection (b) specifically authorizes such transportation if the parent company owns directly or indirectly an interest of 51 percent or more in each of the subsidiaries. Under this subsection, a corporation wishing to serve other members of the corporate family would file a simple notice with the Commission. A copy of the notice would be published in the Federal Register, and would be carried by each private carrier in its vehicle, so as to give evidence that it has the right to carry not only for itself, but for related corporations in which the parent owns a 51 percent or more interest.

MOTOR CONTRACT CARRIERS

Section 10 of the Act amends several sections of title 49 on motor contract carriers.

Subsection (a) amends the definition of motor contract carrier and the criteria to be used by the Commission in acting on permit applications to delete the reference to the number of shippers to be served by the carriers. Until recently, the Commission interpreted that language to mean that a contract carrier could serve no more than eight persons. The Commission has since abolished that rule and subsection (a) ratifies the Commission's action. With these changes, contract carriers will continue to be required to meet the standard of dedication of equipment or providing a service to meet a shipper's distinct need, but will be able to expand their service to more shippers. Subparagraph (3)(a) authorizes contract carriers to serve shipper associations and other entities that do not own the freight being shipped.

Subsection (b) amends section 10930(a) of title 49 to eliminate the current restriction upon a carrier operating in both a contract and common carrier capacity. The Commission recently concluded through rulemaking that such dual operations are consistent with the public interest and transportation policy.

Subsections (c) and (d) authorize contract carriers to provide services and transportation to freight forwarders.

Subsection (e) adds a new section 10925 (e) to title 49. It sets up a procedure for converting contract carrier permits to common carrier certificates. The Commission must determine that the operations of the holder of the permit are no longer that of a contract carrier, but instead constitute common carriage.

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

Section 11 adds a new subsection to section 10708 of title 49 which provides individual carriers with greater freedom to set rates in response to market demands. Under this subsection, the carrier will be free to raise its rates 10 percent above or reduce them 10 percent below the level which the rate was one year prior to the point of reference.

This provision will encourage competition among individual carriers by allowing each of them complete freedom to set its own rates within the zone. At the same time, the width of the zone is set so that consumers will be protected in areas where there may not be adequate competition to keep such rates from being excessive.

The Commission's authority to suspend and investigate a proposed rate on the basis that it would be discriminatory or predatory, is not affected by this subsection.

RULE OF RATEMAKING

Section 12 amends section 10701 of title 49 by adding a subsection (e) that requires the Commission in proceedings to determine the reasonableness of rate levels for motor carriers of property, to authorize revenue levels that are adequate to permit well-managed carriers to cover their costs and earn a fair return. The standards adopted by the Commission under this subsection will enable carriers to achieve revenue levels that provide for a flow of net income, plus depreciation, assure repayment of debt, permit the raising of capital equity, attract and retain capital in amounts adequate to provide a sound motor carrier system, and cover the effects of inflation by taking into consideration estimated future costs.

Subsection (b) amends section 10704 (b)(2) of title 49. In prescribing a rate for a motor carrier of property, the Commission will continue to consider the effect of the rate on the movement of traffic by that carrier. However, the Commission will not consider the other factors listed in paragraph (b)(2). Instead, it will consider the factors included in new subsection (e) of section 10701.

RATE BUREAUS

Section 13 of the Act amends section 10706 of title 49 by redesignating subsection (b) as (c) and adding a new subsection (b) to govern the rate bureau agreements of motor common carriers of property.

Paragraph (b)(2) of section 10706 directs the Commission to approve a rate bureau agreement if it determines that the agreement fulfills each requirement of subsection (b), unless it finds that such agreement is inconsistent with the national transportation policy. Under the current law, the Commission is required to approve such agreements only when it finds that the agreements will further the national transportation policy. Assuming the agreement meets the requirements of subsection (b), the Commission will have less discretion than it now has in deciding whether to approve the agreement.

Paragraph (b)(3) contains a number of new requirements which the agreements and the rate bureaus must meet. Some of these are related to limitations on the ability of members of a rate bureau to discuss or vote upon certain rate proposals. Specifically, subparagraph (3)(B)(i) provides that after January 1, 1981, only those carriers that have authority to participate in the transportation to which a proposal applies may vote on the proposal. Under subparagraph (3)(C), carriers may not discuss or vote on rates which individual carriers propose pursuant to section 11 of this legislation which establishes a zone of rate freedom. Finally, subparagraph (3)(D) provides that effective July 1, 1983, no carriers may discuss or vote on single-line rates. The legislation provides that phasing out of voting and discussion on single-line rates over a sufficient length of time to allow the industry and shippers to prepare for the change in the way in which they have been doing business. Also, it provides Congress with an opportunity to review the effect of the legislation's other reform measures, including the procedural reforms in the rate bureau area, before the final lifting of the rate bureaus' antitrust immunity.

Other significant requirements contained in paragraph (b)(3) prohibit a rate bureau from interfering with a carrier's right of independent action, from protesting tariff items published by or for the account of a carrier, and from acting on employee proposals for changes in tariff items published by or for the account of any of its member carriers. Further, this paragraph requires rate bureaus to open their meetings to the public. Specifically, subparagraph (3)(B)(v) provides that upon request, a rate bureau must divulge the names of the proponents of any rates or rules and how member carriers vote on them, and must admit any person to any meeting at which such proposals will be discussed or voted on.

Subsection (b) of this section of the legislation directs the Commission, the Secretary of Transportation, and the Comptroller General to submit separate reports to the Congress by July 1, 1982 on the probable effect of eliminating antitrust immunity for the discussion of single-line rates and on the need for continued antitrust immunity with respect to joint rates.

LUMPING

Section 14 of the Act amends chapters 111 and 119 of subtitle IV of title 49 by adding provisions addressing the problem that some carriers and owner-operators have had with having to pay large fees to so-called "lumpers" to load and unload their vehicles. Frequently, such fees are required to be paid, regardless of whether the carrier or owner-carrier is willing to perform that service himself. Also, the carrier or owner-operator often are not reimbursed by the shipper for the fees.

Subsection (a) adds a new section 11109 to title 49. Under this section, a consignor or consignee who requires a truck driver to use assistance in loading or unloading the vehicle, either must provide such assistance or must compensate the driver for all costs associated with securing such assistance. Further, this section makes it unlawful for anyone to coerce or attempt to coerce a driver to use loading or unloading assistance which is not required by the consignor or consignee or which the driver otherwise would not use. In the case of a tariff filed by a carrier which provides for loading or unloading by the carrier, the rates paid would be considered to include compensation sufficient to meet the requirements of this section.

Subsections (b) and (c) establish civil and criminal penalties for violations of new section 11109.

MOTOR CARRIER BROKERS OF PROPERTY

Section 15 amends section 10924 of title 49 by adding a new subsection to govern applications for licenses to be motor carrier brokers of property. New subsection (b) eliminates the requirement that the Commission find that the transportation for which the person is to be a broker will be consistent with the public interest and the national transportation policy. The Commission must determine only that the applicant is fit, willing, and able.

Subsection (b) of the legislation redesignates section 11108 of title 49 as 11109, and inserts a new section on contracts for exempt agricultural transportation. New section 11108 directs the Commission to promulgate regulations requiring brokers and owner-operators to use written contracts to govern agricultural transportation which is otherwise exempt from the Commission's jurisdiction. The regulations are to include minimum requirements and conditions for the contracts.

FINANCE EXEMPTIONS

Section 16 amends sections 11302(b) (issuance of securities) and 11343(d)(1) (consolidation, merger, and acquisition of control) of title 49. Both of these sections contain exemptions which turn on the dollar amount involved in the transaction. Those dollar amounts have remained unchanged for many years. The legislation raises them upward to reflect the inflationary trend in the economy.

UNIFORM STATE REGULATION

Section 17 of the Act directs the Secretary of Transportation, in consultation with the States and the motor carrier industry, to develop recommendations regarding State regulation of licensing, registration and filings for interstate motor carriers. Currently, the States' regulations often are confusing, lack uniformity, and are unnecessarily duplicative and burdensome.

POOLING ARRANGEMENTS

Section 18 amends section 11342 of title 49 by adding a new subsection on pooling arrangements by motor common carriers of property.

Under the new subsection, any party to an agreement governing a pooling arrangement may apply for Commission approval of the agreement. The applicant must file the agreement with the Commission not less than thirty days before its effective date. The Commission must approve the agreement without hearing, unless it determines either that the agreement is of major transportation importance, or that it will unduly restrain competition. If either of those factors is present, then the Commission is directed to hold a hearing on the agreement.

The purpose of this provision is to expe-

dite the procedures for Commission consideration of the agreements. This should lead to greater use of pooling arrangements. Such arrangements can be beneficial to the shipping public in the form of more frequent and expeditious service than otherwise available in areas where shipments are small in size and number. The arrangements also allow carriers to reduce their operating expenses.

JOINT RATES AND THROUGH ROUTES

Section 19 amends section 10705 of title 49. It authorizes the Commission to require the establishment of through routes and joint rates between motor carriers of property, and between those carriers and rail and water carriers. Currently, these carriers can enter into such arrangements on a voluntary basis. The amendments would enable the Commission to require coordinated service between and within the several modes where it is needed, but is not being performed voluntarily. Such authority should end in the establishment and maintenance of dependable joint-line service responsive to the needs of the shipping public.

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

Section 20 of the Act amends section 10928 of title 49 to provide for grants of temporary and emergency temporary authority to motor carriers of property.

New subsection (b) is based on the existing statute with two changes. Grants of such authority shall be made under procedures developed pursuant to Commission regulations. The Commission must take final action on an application filed under this subsection no later than 90 days after it is filed.

Subsection (c) establishes a statutory provision on emergency temporary authority for the first time. It is based on Commission regulations. The Commission will have 15 days to take final action on an application.

PROCEDURAL REFORM

Section 21 amends sections 10322, 10323, and 10324 of title 49. These sections set forth the procedures governing non-rail proceedings.

Subsection (a) amends section 10322 to provide that the Commission or a division shall review an initial decision when a timely exception is filed by an interested party, and the initial decision is that of an individual Commissioner, an employee board, or an employee delegated by the Commission to act under section 10305. It also provides that the Commission or a division can review such a decision on its own initiative. This amendment would eliminate the authority of an employee board to review such decisions. It is to be read in conjunction with the amendments to section 10323. Those amendments do away with the requirement that an application for rehearing, reargument, or reconsideration be granted if the matter was delegated for initial decision to an individual Commissioner, board, or employee and the matter was not previously reviewed. The change means that a party will have the right to have either the Commission or a division review the initial decision. However, if the party fails to file an exception, the party will no longer have the right to automatic rehearing, reargument, or reconsideration. That matter will be discretionary with the Commission or a division.

Parargaph (b)(3) of the legislation also eliminates the language in subsection 10323 (c) which subjects a decision of the Commission or a division to additional scrutiny under section 10323. There appears to be no need for such multiple appeals.

Under paragraph (a)(2) of this section of the legislation, an initial decision will no longer be automatically stayed or postponed because it is under review. Similarly, under subsection (c), the filing of an application for rehearing, reargument, or reconsideration of a decision by a division, individual Commissioner, or employee board will no longer operate to automatically stay or postpone the decision. In both instances, the matter of a stay will be discretionary with the Commission. This is important in view of the time limits in new subsection 10322(c) which requires the Commission to take final action on applications for motor carrier certificates or permits no later than 270 days after the applications are filed with the Commission.

ENFORCEMENT

Section 22 amends section 11702(a)(4) of title 49 to grant the Commission independent litigating authority with respect to motor carriers. Currently, the Commission has the authority to seek independently injunctive relief against motor carriers. However, it may not seek such relief for civil money penalties. Those enforcement actions must be brought by the Department of Justice. It is believed that this limitation is a barrier to adequate Commission enforcement of its Congressional mandate. Subsection (b) of this section of the legislation will empower the Commission to initiate and conduct civil litigation in its own name.

Subsection (a) removes the reference to rail carriers from section 11701(c) of title 49. This change will give to all regulated carriers a like guarantee of an end to formal Commission investigations within a three-year period.

Subsection (c) amends section 1114 of title 18 to establish Federal jurisdiction for assaults on Commission officers or employees engaged in the performance of official duties. Currently, this section covers assaults on officers and employees of the executive branch. There appears to be no reason to distinguish between employees of the executive branch and employees of independent regulatory agencies like the Commission, when they are engaged in investigative, inspection, or law enforcement functions.

COOPERATIVE AND SHIPPER ASSOCIATIONS

Section 23 of the Act amends section 10526 of title 49 to allow an agricultural cooperative association to haul up to thirty-five percent of its total interstate tonnage in nonfarm, non-member goods, in movements incidental and necessary to its primary business as a cooperative. The current law limits such transportation to fifteen percent of total interstate tonnage. The change will reduce the number of cooperative-owned trucks returning empty to agricultural product origins, and thus improve the efficiency of trucking operations servicing the cooperative members' outbound transportation needs.

In order to ensure that the cooperative association does not exceed the tonnage limitation and abides by other requirements in the Act, the legislation also provides that the Commission can require the association to make reports and maintain records related to such transportation. Further, the Commission can bring enforcement actions against noncompliant associations.

The Commission's authority to require reports and records, and to bring enforcement actions is extended to shipper associations, as well. Currently, the Commission has no authority over these associations whose purpose is to provide certain services to members only on a non-profit basis. The intent of this section is not to give the Commission a mandate to impose a new regulatory regime, but rather to provide sufficient enforcement tools to assure that each cooperative and shipper association is legitimate and not a "sham".

At present, the Commission has had to treat these associations and cooperatives as "shippers" rather than carriers. Accordingly, their compliance and enforcement program has been severely curtailed. History has shown that many "sham" associations have been able to conduct illegal interstate operations and be literally free of ICC conventional monitoring to which all regulated "carriers" are subject.

CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL OF A FREIGHT FORWARDER

Section 24 of the Act amends sections 11323 and 11343 of title 49 to extend to freight forwarders the right to acquire other types of carriers with the approval of the Commission. Currently, section 11323 prohibits a freight forwarder from acquiring other carriers, but permits those carriers to acquire freight forwarders. Subsection (c) of the bill repeals section 11323. Subsection (d) amends section 11343 by including transactions involving freight forwarders. Under section 11343, consolidations, mergers, and acquisitions of control may be carried out only with the approval and authorization of the Commission. Paragraph (d)(2) includes a grandfather clause to cover acquisitions of freight forwarders accomplished prior to July 1, 1980 under section 11323. They will be deemed to be approved and authorized by the Commission.

Subsection (a) amends section 10741(c) of title 49 to make it clear that a freight forwarder may not discriminate against any carrier in favor of a carrier controlled by, or under common control with, such freight forwarder.●

ANNIVERSARY OF THE GEORGIA HUSSARS

● Mr. TALMADGE. Mr. President, on February 12, 1733, James Edward Oglethorpe and a group of English settlers arrived at Yamacraw Bluff, near Savannah, and colonized the area that is now the State of Georgia.

Three years later, on February 13, 1736, General Oglethorpe organized one of the Nation's most historic military commands, the Georgia Hussars. The Georgia Hussars has participated, as a unit, or by its members, in every war since its founding, bringing honor and glory to the State of Georgia and to the Nation.

This troop fought many battles against the Spanish and their Indian allies, including the "Battle of Bloody Marsh" on St. Simons Island, which insured that Georgia would remain an English colony. They also fought valiantly during the American Revolution, and at the present time, the Georgia Hussars continues to serve Georgia and the Nation in the Army National Guard.

February 13, 1980, marked the 244th anniversary of this distinguished group. In view of this, I submit for the RECORD two resolutions honoring the Georgia Hussars which were adopted in the Georgia House of Representatives and the Georgia Senate last year.

The resolutions follow:

RESOLUTION

Whereas, the Colony of Georgia was founded on February 12, 1733, as a military buffer for the English colonies north of the Savannah River and the Spanish Territory of Florida; and

Whereas, when Governor Oglethorpe found it necesseary to have mounted troops, he organized a troup of mounted rangers on February 13, 1736, and appointed Hugh MacKay, Captain; and

Whereas, this was Georgia's first Troop of Horse (later Dragoons and then Cavalry), consisting of volunteers from other Georgia military commands which included HBM's the 42nd Regiment (presently known as the "Black Watch" Scottish Highlanders); and

Whereas, this Troop fought many battles against the Spanish and their Indian allies, including the "Battle of Bloody Marsh" on St. Simons Island; and

Whereas, they fought valiantly during the American Revolution at the first Battle of Savannah (known as the riceboats) and throughout the war in Georgia, Florida, and South Carolina, including the Battle of Savannah on October 9, 1779, where they were part of the Georgia Legion led by Brigadier General Casimir Pulaski, and during which he was mortally wounded; and

Whereas, the Georgia Hussars, one of our nation's most historic military commands, was specially recognized for service in the Revolution and given battle honors at ceremonies in Washington, D.C., on August 29, 1976, by then Secretary of the Army, Martin R. Hoffman; and

Whereas, the Georgia Hussars has participated as a unit or by its members, in every war since its founding, bringing honor and glory to Georgia and the nation, its battle honors being a continuing legend of gallantry above and beyond the call of duty; and

Whereas, the Georgia Hussars continues its service to Georgia in the Army National Guard on this, its two hundred and forty-third anniversary.

Now, therefore, be it resolved by the House of Representatives that this body hereby recognizes the service and the many sacrifices and gallant actions of the citizen-soldiers of the Georgia Hussars in peace as well as in war, which have brought honor and glory to the State of Georgia as well as to themselves.

Be it further resolved that the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this Resolution to the Honorable George Busbee, Governor of Georgia; to the Honorable Jimmy Carter, President of the United States; to each member of the Georgia delegation to the United States Congress; and to Colonel (Ret.) Lindsey P. Henderson, Jr., President of the Georgia Hussars.

RESOLUTION

Whereas, the Colony of Georgia was founded on February 12, 1733, as a military buffer for the English colonies north of the Savannah River and the Spanish territory of Florida; and

Whereas, Governor Oglethorpe, finding it necessary to have mounted troops, raised a troop of mounted rangers on February 13, 1736, and appointed Captain Hugh Mackay as commander; and

Whereas, Georgia's first Troop of Horse, later Dragoons and Cavalry, consisted of volunteers from other Georgia military commands such as the HBM's 42nd Regiment, who are presently known as the Black Watch Scottish Highlanders; and

Whereas, the Georgia Hussars fought valiantly during the American Revolution in the campaigns in Georgia, Florida and South Carolina; and

Whereas, as part of the Georgia Legion, it participated in the first Battle of Savannah and the Battle of Savannah on October 9, 1779, where the Legion's commander, Brigadier General Casimir Pulaski, was mortally wounded; and

Whereas, the Georgia Hussars is one of our Nation's most historic military commands and was specially recognized and given battle honors at ceremonies in Washington, D.C., on August 29, 1976, for its service in the American Revolution; and

Whereas, the Georgia Hussars has participated as a unit or by its members in every war since its organization and has brought honor and glory to Georgia and our nation; and

Whereas, its battle honors are a continuing legend of gallantry above and beyond the call of duty as exemplified by the continued service to Georgia in the United States Army National Guard on this its two hundred and forty-third anniversary.

Now, therefore, be it resolved by the Senate of the State of Georgia that this Body goes on record as recognizing the long service, many sacrifices and gallant actions of these citizen-soldiers of the Georgia Hussars in peace as well as war. Their service has brought honor and glory to the State of Georgia and to themselves.

Be it further resolved that the Secretary of the Senate is hereby authorized and directed to transmit an appropriate copy of this Resolution to the Honorable George Busbee, Governor of Georgia; to Jimmy Carter, President of the United States; to each member of the Georgia delegation to the United States Congress; and to Colonel (Ret.) Lindsey P. Henderson, Jr., President of the Georgia Hussars.

COST OF REFUGEE ASSISTANCE TO EXCEED $2 BILLION

● Mr. HUDDLESTON. Mr. President, last year my amendment to the Refugee Assistance Act required the President to submit a report to Congress on the total costs of our domestic and foreign refugee assistance efforts. This report has finally been completed and the results are surprising. In fiscal year 1980 Federal, State and local governments will spend an estimated $1.7 billion and this will escalate to $2.112 billion in fiscal year 1981.

The continual and rapid rise in the cost of our refugee assistance efforts should be a matter of serious concern to Congress. While the United States should continue to have a reasonable and humane refugee program, it must be tempered by overall budget restraints. Our refugees assistance efforts will have to be looked at very critically in light of the fact that many domestic assistance programs are scheduled to remain at the same level or be cut back in fiscal year 1981.

Unfortunately, those cost figures are only estimates and could still increase. A January 1980 assessment of the Indochinese refugee program by the HEW Inspector General found that many of the needs of refugees resettled in this country are not being met. The report states:

Doubling the number of refugees will likely result in further reductions in the extent and quality of services; if current problems are not addressed, this could become a major national issue.

I ask that both of these reports be printed in the RECORD.

The reports follow:

INTRODUCTION AND SUMMARY OF FINDINGS

INTRODUCTION

This report was prepared in accordance with Section 4 of the Supplemental Refugee Assistance/Cambodian Relief Assistance Act (PL 96–110), which requires the President to report to the Congress on the total cost of U.S. refugee assistance, both in this country and abroad, provided by the U.S. Government as well as by state and local governments.[1] This reporting requirement was originally introduced as an amendment to the bill by Senator Walter Huddleston of Kentucky. In remarks about the amendment on the floor, Senator Huddleston indicated that he expected an accounting of all direct costs of foreign and domestic refugee assistance and a "good faith estimate" of indirect costs[2] to the American taxpayer.

In order to show all identifiable costs, this report consists of four sections. Sections I describes U.S. assistance to refugees abroad, including contributions to international organizations involved in refugee and humanitarian relief. The Food for Peace program, and direct bilateral U.S. aid for refugee-related programs. Section II outlines the initial costs of resettling refugees in the United States, including overseas processing, transportation, and grants to the voluntary agencies for reception and placement of refugees in this country. Section III presents the costs to the Federal Government of funding state and local programs specifically for refugees in need of assistance after their arrival in this country, such as cash and medical benefits, English and vocational training, special education assistance, and mental health counseling. Also included are the costs attributable to refugee assistance for other federal programs intended to serve all needy U.S. residents, such as food stamps and low-income housing assistance. Section IV reviews the estimated financial impact of refugee admissions on state and local governments, with a focus on programs providing special services to refugees, such as education. However, this section does not attempt to assess the impact on broader programs serving all residents (such as public safety, transportation, and environmental protection), since there is no way to track the impact of refugees as opposed to any other segment of the population, nor would the exclusion of refugees from their services have a significant impact on their costs.

Throughout this report, costs are calculated or estimated on the basis of refugee admissions in 1975, when the Indochinese refugee program began following the fall of the noncommunist governments of Indochina and when emigration began to increase dramatically from the Soviet Union and other socialist countries. Since 1975, about 300,000 Indochinese, 19,000 Cubans, and 83,000 Soviets, Eastern Europeans and other refugees have resettled in the United States.

Calculations for Fiscal Years 1980 and 1981 are based on the following projected admission rates:

	1980	1981
Indochinese	168,000	168,000
Soviet, Eastern Europeans and others	50,000	54,000
Cuban ex-political prisoners	3,000	4,800
Total	221,000	226,800

These projected admission rates are for planning purposes only. Actual admissions

[1] Section 4 of PL 96–110 states "not later than 60 days after the date of enactment of this Act, the President shall report to the Congress—

(1) the estimated total costs to the United States Government, during Fiscal Year 1980 and Fiscal Year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs."

[2] *Congressional Record*, November 2, 1979, p. 30748.

will be subject to Presidential determination and consultation with the Congress under provisions of the Refugee Act of 1979, now pending final Congressional action. These levels will also depend on Congressional approval of the necessary funds. (Fiscal Year 1981 amounts are in included in the President's budget request.)

Cost estimates for Fiscal Year 1980 and 1981 reflect the two-year time limit for full federal reimbursement to state and local governments proposed in the Administration's original version of the Refugee Act of 1979. The duration of full federal reimbusement differs in the House and Senate version of the bill and will have to be resolved in conference. These cost projections may have to be adjusted, depending on final Congressional action on the Refugee Act. All years referred to are fiscal years.

SUMMARY OF FINDINGS

The total cost borne by federal, state and local governments for refugee assistance abroad and in this country is estimated to be $1.7 billion for Fiscal Year 1980, and $2.112 billion for 1981. These costs cover U.S. contributions for humanitarian assistance to millions of refugees and displaced persons overseas, most of whom will be repatriated or resettled elsewhere rather than be admitted to the United States; the processing and transportation of refugees admitted to this country; special services designed to help refugees become self-sufficient and contributing members of American society as soon as possible; and the use of general federally funded programs by refugees who meet normal eligibility requirements.

The aggregated costs of refugee assistance are undeniably substantial in absolute terms, and they represent both a major undertaking by the United States and a growing charge to U.S. taxpayers. In recent years public attention has increasingly focused on refugee programs and the impact of refugees on our society, particularly since increased admissions have coincided with greater competition with other disadvantaged residents of this country over low-cost housing, entry-level jobs, and other scarce resources. In order to keep the cost of U.S. refugee assistance in perspective, it is important to consider the following factors:

1. As well as benefiting a growing refugee population in this country, U.S. refugee programs assist millions of other needy refugees and displaced persons all over the world. About 25 percent of federal outlays for refugee assistance are attributable to the U.S. share of care and maintenance of refugees overseas awaiting repatriation or resettlement, or for food aid to people displaced by war and famine (as in Kampuchea).

2. Refugee assistance is a major component of U.S. foreign policy. The United States has a long tradition of providing humanitarian relief to people in need, wherever they may be, and in supporting the relief efforts of countries in which refugees seek temporary asylum. Equally important, such relief is an essential element in U.S. efforts to minimize the serious political, social and economic strains that the presence of refugees creates in friendly countries such as Thailand and the other Southeast Asian states, Pakistan, and Somalia.

3. In some areas of the world, such as Southeast Asia, conditions may not permit repatriation or absorption of the refugees in the countries of first asylum, and resettlement in third countries like the United States may be essential to save lives and maintain the principle of first asylum.

4. Resettlement of refugees in the United States is not a new policy. Throughout our history we have absorbed large waves of immigrants, and since World War II we have had a national policy of assisting in the resettlement of refugees in this country. Freedom of emigration, especially of people from the Soviet Union and Eastern Europe, has been a major goal of the American people, the Congress, and successive Administrations. The United States has implicitly acquired a responsibility through its support for free emigration to insure that the emigres will be offered new homelands.

5. Federal outlays for refugee assistance are only a small part of the total budget (less than one-quarter of one percent, or 0.0025) each year. State and local costs of refugee assistance represent an equally small proportion of their total expenditures.

6. Estimated costs for refugee assistance do not take into consideration the tax contributions and other financial benefits that refugees provide once they have settled in this country.

7. The federal government encourages participation in refugee assistance by the private and voluntary sectors, both overseas and in this country, to assure that U.S. contributions help as many refugees and displaced persons as possible. Contributions from voluntary agencies and the public at large are not included in this report, since they are often difficult to assess in dollar amounts.

Summary of Federal, State and local funding for refugee assistance

[BA in millions of dollars]

	1980	1981
International refugee assistance:		
Department of State/Agency for International Development:		
Migration and Refugee Assistance	$201.1	$253.0
UNRWA	52.0	[1]
Food for Peace	55.0	55.0
Section 495 F	14.2	[1]
Sections 533 and 534 ESF	25.5	[1]
Kampuchean Relief	[2] 25.0	See text
U.S. Emergency Refugee and Migration Assistance Fund	40.0	15.0
Department of Defense	4.0	4.0
Peace Corps	0.2	0.7
Subtotal	417.0	327.7
Initial U.S. resettlement:		
Department of State:		
Migration and Refugee Assistance	255.1	299.3
Office of the U.S. Coordinator for Refugee Affairs	0.5	0.5
Immigration and Naturalization Service	2.5	2.5
Security clearances	1.5	1.5
Subtotal	259.6	304.2
Domestic resettlement services:		
Department of Health, Education and Welfare:		
Refugee Assistance	524.0	598.5
AFDC	22.9	41.0
SSI	10.8	17.4
Medicaid	14.0	26.5
Indochina Refugee Children Assistance Act	12.0	[3]
Department of Agriculture:		
Food and nutrition service	126.0	212.0
Other programs	$2.0	$2.0
Department of Commerce	0.3	0.3
Department of Housing and Urban Development	12.2	17.6
Department of Justice	1.0	1.0
Department of Labor	53.0	53.0
ACTION	0.8	0.8
Subtotal	779.0	980.1
State and local services:		
Cash and medical benefit	2.6	106.5
Elementary/Secondary education	242.0	384.0
Subtotal	244.6	500.5
Total	1,700.2	2,112.5

[1] These programs are consolidated in the Migration and Refugee Assistance Appropriation in 1981.

[2] Additional amounts totalling $40 million have been provided through the Food for Peace Program or as a contribution to the UNHCR funded from the Migration and Refugee Assistance appropriation. These amounts have been included as costs incurred by those accounts.

[3] Costs for special educational programs for refugee children are included in the Refugee Assistance account for fiscal year 1981.

SECTION 1: INTERNATIONAL REFUGEE ASSISTANCE

The U.S. Government expects to contribute $417.0 million for humanitarian and refugee aid overseas in Fiscal Year 1980. In 1981 that figure is expected to decrease to $327.7 million, primarily because of uncertainty over requirements for Kampuchea and several other refugee assistance programs. These programs include those of the United Nations High Commissioner for Refugees (UNHCR), the International Committee for the Red Cross (ICRC), the United Nations Relief and Works Agency (UNRWA), and the Intergovernmental Committee for European Migration (ICEM). This section also includes an analysis of U.S. food aid for refugees and displaced persons and U.S. bilateral and related refugee assistance.

The United Nations High Commissioner for Refugees

In 1980 the United States will contribute up to $161,950,000 to the refugee programs of the UNHCR. Of this total, $125,500,000 is allocated for the care and maintenance of Indochinese refugees and the construction of new refugee processing centers (RPCs) in the Philippines and Indonesia, $20,000,000 is for refugees and displaced persons in Africa, $15,000,000 is for the victims of hostilities in Cyprus in 1974 (of which $13,000,000 was appropriated at Congressional initiative) and $1,450,000 is for refugees in the rest of the world.

In 1981 the Administration is seeking appropriations totalling $141 million for the continuation of these programs.

International Committee of the Red Cross (ICRC)

The ICRC has a long-standing policy of providing assistance to victims of war and civil discord. During 1980 the Administration plans to contribute $5 million to support ICRC activities in Africa. An additional $1 million will be contributed to the general program of the ICRC. During 1981 our total contributions to the ICRC are expected to be $8 million, of which $7 million will be for assistance in Africa.

Intergovernmental Committee for European Migration (ICEM)

The United States is a charter member of ICEM, which arranges medical screening and transportation of refugees to countries of permanent resettlement, largely to the United States. The Administration will contribute $4,120,000 in 1980 and $5,000,000 in 1981 for membership and the voluntary contributions for regular activities of ICEM and the Committee's program of selective resettlement of migrants to nations with recognized skill shortages.

United Nations Relief and Works Agency (UNRWA)

UNRWA is responsible for assisting 1.7 million Palestinian refugees. In 1980 the Administration expects to contribute $52 million to this program. In 1981 the Administration proposes to raise that contribution to $62 million in view of the severe financial problems currently confronting UNRWA.

Food for Peace

Food aid is a vital component of the U.S. response to major refugee disasters. In 1980 the Administration has already contributed $25 million worth of Food for Peace (PL 480 Title II) commodities and transportation to assist in the Khmer relief effort and $30 million more to assist in feeding refugees in Somalia, Pakistan and elsewhere. Growing refugee needs (especially those in Kampuchea, Pakistan and Somalia) may require using additional contributions from the Food for Peace program in the remainder of 1980. In developing an estimate of 1981 contributions, we are projecting a continuation of the current year level.

Assistance to Israel in Resettling Soviet and Eastern European Refugees

The Congress, at its own initiative, appropriated $25 million in 1980 to provide support to Israel in meeting the cost of resettling Soviet and Eastern European refugees. The President is requesting the same amount in the 1981 budget.

Section 533 Economic Support Funds (ESF)

Due to concern for the serious refugee problems in southern Africa, the Administration has instituted a special ESF program for that area. In 1980 an estimated $10.5 million will be provided for refugee-related activities in southern Africa. Beginning in 1981 this program will be merged into a program of special refugee assistance projects in Africa funded through the Migration and Refugee Assistance appropriation of the Department of State.

Section 495 of the Foreign Assistance Act

The Congress has directed that funds provided in 1980 be redirected to allow for an expanded program of assistance to refugees in Africa. These funds are expected to total $14.25 million in 1980 and will be used for refugee assistance and education. This program will be continued but will be merged in 1981 into a $12 million program for special refugee assistance projects funded through the Migration and Refugee Assistance appropriation.

Assistance to Victims of the Kampuchean Famine

Through the middle of January, the United States had contributed nearly $50 million in cash (excluding contributions to the UNHCR discussed above), commodities, or services to this relief program. This includes the $25 million in Food for Peace commodities contribution discussed earlier.

The total cost of this program is difficult to estimate because of uncertainty over future deliveries of food to Kampuchea. Should the barriers to effective food distribution lessen in coming months and deliveries continue, the costs of this program to the U.S. may double to approximately $100 million. On the other hand, if the relief effort is restricted primarily to the Thai-Khmer border feeding programs, the costs will not rise as significantly.

Resettlement in Southeast Asia of Indochinese Refugees

The State Department requested $2 million in 1980 to start a program of resettlement for Indochinese refugees in Southeast Asia. Since it appears unlikely that the first-asylum nations will agree to accept refugees for permanent resettlement, these funds may be reprogrammed for other refugee needs. No funds are requested for this program in 1981.

Reimbursement to the Department of Defense

The Department of State requested $17 million for 1980 to reimburse the Department of Defense for air reconnaissance support for rescue of refugees at sea and for transportation of refugees to RPCs. The funds have now been reprogrammed to finance a combined air reconnaissance program and a modified refugee transportation system. This program is not expected to continue into 1981.

U.S. Emergency Refugee and Migration Assistance Fund (Emergency Fund)

The Emergency Fund was established by the Congress as a source of financing for emergent refugee needs. Since the uses of the Emergency Fund are, by definition, not foreseeable, it is difficult to project actual expenditures. In 1980 $40 million is requested, including a special appropriation of $25 million to finance emergency group refugee admissions to the United States under new authority sought in the pending Refugee Act. In 1981 $15 million is requested.

Department of Defense

The Department of Defense expects to incur directly costs of approximately $4 million (which are not reimbursable by the Department of State) in both 1980 and 1981 to care for refugees rescued at sea by U.S. Navy ships. These include the costs of feeding, providing short-term housing and medical care to refugees rescued by Navy vessels in Southeast Asia.

Peace Corps

The Peace Corps has signed an agreement with ICEM to recruit and sponsor qualified former volunteers and others to serve as medical screeners and processors in support of the refugee resettlement program in Southeast Asia. This program will provide 38 volunteers in 1980 at a cost of $245,000 and 68 volunteers in 1981 at a cost of $686,000.

SECTION II: INITIAL U.S. RESETTLEMENT COSTS

The initial Federal costs of resettling refugees in the United States involve selection and processing, transportation, and initial reception and placement services. These costs are largely funded by the Department of State. Small costs also are incurred by those agencies involved in the process of refugee security clearances and actual admission to the U.S.

Department of State

The Department of State expects to resettle 168,000 Indochinese refugees in this country in 1980, at a cost of $200.3 million. The Administration has budgeted $221.2 million to admit another 168,000 Indochinese refugees in 1981. But actual admission levels will be subject to a Presidential Determination and consultations with the Congress before the beginning of the fiscal year, under the terms of the pending Refugee Act of 1979. The increased costs in 1981 reflect the effects of inflation on transportation and initial reception and placement activities.

Cost estimates for 1980 and 1981

[In millions]

	1980	1981
Selection, documentation and other processing costs	$10.9	$9.5
Transportation	105.4	121.8
Reception and placement grants	84.0	89.9
Total	$200.3	$221.2

Funds requested for transportation of refugees in 1980 and 1981 are provided to ICEM as a source of capital for loan funds. Refugees sign promissory notes against the loan fund with repayments used to finance a portion of transportation costs in future years.

The Department of State estimates costs of $49.8 million in 1980 to finance the resettlement of 36,000 Soviet, Eastern European and other refugees.

This estimate includes (in millions of dollars):

Contractual assistance provided by voluntary agencies to refugees	[1] $29.5
Transportation and related services	7.2
Reception and placement grants	12.6
Far East refugee program	.5
Total	49.8

[1] The contractual services provided by the voluntary agencies include the care and maintenance of refugees while they await processing for resettlement, their actual processing, and in some cases English-language training.

Unexpected increases in emigration from the Soviet Union in recent months make it likely that the United States will admit up to 50,000 non-Indochinese refugees in 1980. The Administration will consult with the Congress on these increased admissions on enactment of the Refugee Act of 1979. Any additional costs resulting from increased admissions will be met by reprogramming 1980 refugee appropriations.

In 1981 the Administration is projecting a flow of 54,000 refugees from the Soviet Union and Eastern Europe at an estimated cost of $73 million. This includes (in millions of dollars):

Contractual services provided by the voluntary agencies	$41.6
Transportation and related services	11.3
Reception and placement grants	20.2
Total	73.1

As in the case of the Indochinese refugees, the funds requested for transportation of these refugees are contibuted to loan funds managed by ICEM. There is again some degree of self-financing for refugee transportation as a result of the repayment by refugees of the travel loans.

Department of Justice

The Immigration and Naturalization Service (INS) has staff in Europe and Asia to process refugee applications for resettlement in the United States. INS estimates that total costs for this service will be less than $3 million in each year.

Security clearances

Prior to approval for admission to the United States, refugees receive security checks—on such matters as narcotics, visa fraud, and other illegalities—conducted by several federal agencies. Total costs are approximately $1.5 million in both years.

Administration expenses

Administrative support of the refugee program in the Department of State will cost about $5 million in both 1980 and 1981. Operating and salary costs for the Office of the U.S. Coordinator for Refugee Affairs will be about $550,000 in each year.

SECTION III: FEDERALLY FUNDED DOMESTIC ASSISTANCE PROGRAMS

In accordance with U.S. laws and traditions, refugees admitted for resettlement receive the assistance necessary to become productive and self-sufficient. The domestic programs designed to meet the pressing financial, medical and social needs of refugees, and other needy Americans, are detailed below.

Department of Health, Education, and Welfare

The HEW funded refugee assistance program has six major components.

1. State administered programs.—States are reimbursed for their costs in providing cash and medical assistance through federal/state shared programs such as A.F.D.C. and Medicaid and General Assistance (which is normally funded entirely by state and local governments). In 1980 States receive these reimbursements without regard to the length of time an individual refugee has been in the U.S. For 1981 the estimates provided assume that Congress will approve the President's proposal to provide special federal reimbursement to States for refugees only during their first two years in the country. Funds are also provided to State agencies for English language and vocational training, employment counseling and a variety of social services similar to those funded under Title XX of the Social Security Act. The estimated cost for 1980 is $405.2 million; and 1981 projection is $459 million.

2. Voluntary agency programs.—Matching funds are provided to voluntary resettlement agencies which provide comprehensive resettlement services to Soviet Jewish refugees. These services include cash and medical assistance, training, social services and special counseling. The President's budget includes $32 million in 1980 and $36 million in 1981 for this program.

3. Cuban program phasedown.—States are reimbursed for costs related to Cuban refugees who arrived in this country prior to October 1, 1978. Funds are provided for cash and medical assistance, education, and administrative costs not covered by other federal programs. Because these refugees no longer present a special burden to the states, funding is gradually being phased out under the terms of a Congressionally agreed-upon timetable. The estimated cost is $53.3 million in 1980 and $44.8 million in 1981.

4. Education assistance for children.—Discretionary grants are awarded to selected local school systems to meet the unique educational needs of refugee children. In 1980 a supplemental appropriation of $23.2 million has been requested to fund the 1980/81 school year. Funding of $44.3 million is proposed in the 1981 budget to forward fund the 1981/82 school year.

5. Preventive health.—Improved health screening services are being proposed to identify health problems of Indochinese refugees which adversely affect the individual, but which do not pose a public health threat. The estimated cost is $6.3 million in 1980 and $7.9 million in 1981.

6. Federal administrative costs.—Funds are included to provide policy direction and technical assistance to state employment training programs and social service agencies, and monitor state welfare programs. Estimated costs are $4 million in 1980 and $6.5 million in 1981.

Aid to Families with Dependent Children (AFDC)

While the Refugee Assistance program pays the normal state share of cash assistance costs, the federal share is included in this separate appropriation. To qualify for assistance, refugees must meet normal AFDC eligibility requirements (with certain exceptions). HEW estimates that refugees benefits will be $22.9 million in 1980 and $41.0 million in 1981 through this entitlement program.

Supplemental Security Income (SSI)

This entitlement program, funded entirely by the federal government, provides cash assistance for needy, aged, blind or disabled refugees and other individuals who meet SSI eligibility requirements. HEW estimates that refugees will receive $10.8 million in benefits in 1980, and $17.4 million in 1981.

Medicaid

Similar to the arrangement for AFDC, the Refugee Assistance appropriation pays the normal state share of specified medical assistance costs for refugees who qualify under state Medicaid program. Costs in the Medicaid account represent the normal federal matching share of this assistance. HEW estimates that refugees will receive $14 million in 1980 benefits and $26.5 million in 1981.

Formula Grants for Education of Refugee Children

In 1980 Congress appropriated $12 million under the authorities of the Indochinese Refugee Children's Assistance Act for the 1979/1980 school year for special costs associated with the education of Indochinese children. In the 1981 budget discretionary grants will be provided to local school districts for special refugee education programs under the Refugee Act, as discussed above.

Department of Agriculture

The food stamp program, administered by the Food and Nutrition Service (F&NS), provides coupons redeemable for certain food items based on income levels and family size. F&NS estimates that refugees will receive $115.4 million in 1980 benefits, and $191.6 million in 1981.

The school lunch and breakfast programs provide free or reduced price meals to students from low-income families. F&NS estimates that refugees will receive $10.6 million in benefits in 1980, and $20 million in 1981.

Programs of the Family Extension Service and the Forest Service Job Corps Center also assist refugees. Costs in both 1980 and 1981 are estimated to be $2 million.

Department of Commerce

The National Sea Grant Program (which aids Gulf Coast fishermen) and a Minority Business Development Administration counseling program in Beaumont, Texas provide assistance to refugees. The Department estimates that total costs will be approximately $300,000 in each year.

Department of Housing and Urban Development

Refugees are eligible for Public Housing and Section 8 housing along with other low-income persons. The Department estimates that as many as 5,500 families currently receive benefits through these programs at a total potential cost of $12.2 million in 1980. HUD estimates that an additional 5,600 families may begin to use housing provided through these programs in 1981, bringing the total cost to about $27.6 million.

Department of Justice

The Community Relations Service provides assistance to local communities in resolving situations of potential conflict. The Department estimates that CRS involvement in refugee matters will absorb less than $1 million in available resources in either 1980 or 1981.

Department of Labor

Refugees are eligible for Job Corps, Comprehensive Employment and Training (CETA) and Federal-State Employment Service programs, along with other needy individuals. Although refugees may have special needs for jobs programs, utilization rates have been relatively low. The Department anticipates increasing the number of Indochinese refugee youth enrolled in the Job Corps from 500 to 2,000 during 1980, and continuing this level through 1981. Other youth programs to meet special needs are also being developed. Estimated total costs will be $53 million in both 1980 and 1981.

Adult refugees are eligible for training through CETA programs. However, the decentralized CETA operation makes it difficult to identify separately refugee participants. The Department of Labor is modifying its data collection systems to provide both the number of refugee participants and associated costs. This information will be available in several months.

ACTION

Programs utilizing the skills of volunteers to assist in the refugee resettlement program are financed by this agency. ACTION estimates that the total cost of the programs will be approximately $750,000 in either 1980 or 1981.

SECTION IV: STATE AND LOCAL SERVICES

The Federal Government has financed the special costs associated with the temporary and transition services required by refugees during their initial resettlement. Since large flows of Soviet and Indochinese refugees have occurred only in the last five years, State and local governments have incurred only a small share of the total costs of refugee assistance. As refugees become more assimilated into American society, State and local governments will begin to assume a share of these costs more commensurate with their normal share of costs for assisting other needy Americans.

This policy on financing of refugee assistance has been clearly expressed in the Refugee Act which is currently receiving final Congressional action. The President's version of the bill establishes that for the twenty-four months following the admission of a refugee that the federal government is authorized to finance the full cost of services required to aid in the adjustment of a refugee to life in the United States. Following that two-year period financing for certain cash, medical and social services would become consistent with policies for other Americans and normal cost sharing rules between the Federal and State governments will apply.

State and local costs directly attributable to refugees are largely limited to the traditional non-federal functions of financing and providing elementary and secondary education. Based on the age distribution of Indochinese refugees (approximately 29 percent are of school age) and average per pupil expenditures, these services are estimated to cost $241.2 million in 1980 and $394 million in 1981.

In 1980 State and local expenses for cash and medical assistance to refugees will be $2.6 million, largely attributable to refugees whose full needs cannot be met through the special voluntary agency program discussed in Section 3 of this report. In 1981 these costs are estimated to be $106.5 million reflecting the cost sharing principles of the Refugee Act. Offsetting reductions in federal costs have been assumed, though the increased financial incentives provided under the Refugee Act for State and local govern-

ments to assimilate more rapidly refugees into community economic and social life may result in reduced total refugee assistance costs.

As was previously noted, the indirect costs of State and local government programs which do not provide services to refugees as a distinct population group have not been estimated here.

SERVICE DELIVERY ASSESSMENT: REPORT TO THE SECRETARY

INTRODUCTION

Background

The United States has resettled about 200,000 Indochinese refugees since 1975. The early waves of refugees were first sent to U.S. military bases before being assigned to a voluntary agency (volag) for resettlement. By the end of 1975, it was believed that the crest of refugee flight to the U.S. has passed; the camps were closed and a direct resettlement program was instituted which was thought to be capable of handling the few expected newcomers.

This past summer, President Carter pledged to double the monthly quota of refugees from 7,000 to 14,000—168,000 refugees per year—the largest resettlement program the U.S. has ever attempted. The legislation for the current program expired on September 30, 1979, and important changes are being considered.

The current direct resettlement program is run by eight voluntary agencies who receive $350.00 from the State Department for each refugee resettled. These agencies may provide a wide range of services to refugees including lodging, food, clothing, cash, health services, counseling, English language training, education and vocational training.

HEW is responsible for administration of the Indochinese Refugee Assistance Program (IRAP) located in the Social Security Administration. In FY '79, the IRAP budget contained $143.4 million. Almost 75% of these funds ($105.7 million) are spent for financial and medical assistance to refugees and state administration of the program. The remaining $37.8 million is spent on: (1) special projects for English, employment training and mental health ($7.5 million) which are administered directly by HEW; and (2) various social services ($30.2 million) administered by state agencies largely through Title XX purchase of service contracts. The Office of Education administers a program which provides funds to local educational agencies to provide educational services for Indochinese children. This program was not reviewed in this assessment.

Last June, the Secretary initiated several reviews of the IRAP program in order to have better information on which to base program decisions and strengthen HEW leadership and management. This assessment focuses on the current experiences of refugees and service providers at the local level.

Study purpose and design

The purpose of this assessment is to describe the general living conditions of Indochinese refugees in the United States and the extent to which federally-funded programs are assisting them. Specifically, the assessment was to determine:

I. How are the refugees doing?

II. How useful are voluntary agency resettlement efforts?

III. How useful are HEW's current programs?

IV. How well does the 'system' work?

V. Can the current programs absorb large numbers of new refugees?

Discussions were held with over 800 people in 15 states during this study, including 500 refugees, 335 service providers and voluntary agencies, and 80 Americans selected at random. The initial phase of the study consisted of largely open-ended discussions to identify key issue areas. The data shown in this report is from the structured field work conducted from August 6–17, 1979, in New York, Pennsylvania, Florida, Louisiana. Illinois, Iowa, Texas, California, and Oregon. These states were chosen because they have large concentrations of refugees, represent a wide geographic spread and provide a range of both urban and non-urban sites.

The numbers and percentages which appear in this report are intended to give the reader a sense of how study participants responded to certain questions, but the data cannot be assumed to be statistically reliable.

MAJOR FINDINGS

I. Most refugees are living in marginal circumstances; they speak little English, are trapped in the secondary job market or on welfare, and live in overcrowded, ghetto-like housing. New arrivals have less education, little skilled employment experience and more serious health problems than "old wave" refugees. Some refugees, however, have had great success.

II. Upon arrival most voluntary agencies do not provide refugees with the vital services essential to self-sufficiency. Although refugees are considered a federal responsibility, there is no uniform approach or policy for resettlement services.

A. There is inadequate notification of and preparation for the arrival of refugees. Many refugees move from the initial resettlement area.

B. Refugees receive little information regarding their rights and responsibilities and have little understanding of American economic practices and social customs.

C. Most voluntary agencies are advising refugees to find work immediately, others, following a different agency philosophy, advise obtaining English or work training while being supported on public assistance.

D. Current resettlement efforts largely consist of assistance for immediate survival needs (food, housing, jobs, clothing). Refugees receive insufficient help with daily living skills, information and referral and interpreter services. There is no standard set of sponsor responsibilities. Additionally, voluntary agencies provide inconsistent amounts of cash assistance.

III. Refugees have many needs which are not sufficiently met by the private sector or by HEW services. There is tremendous variation in the availability and quality of services provided to refugees.

A. There are significant differences among states in the type and extent of services available to refugees.

B. The demand for English training far surpasses all other service needs, yet few intensive programs are available to refugees.

C. Most refugees are working in the secondary job market, yet few are receiving employment training or assistance.

D. Although refugees generally receive emergency health care from public clinics, health screening is rare in the United States. Dental care is spotty.

E. Many refugees are experiencing emotional problems; the failure to resettle refugees in an orderly manner exacerbates the problem.

F. Most refugees use welfare for a short time. English and employment training are essential to attain self-sufficiency.

G. Housing and transportation are major problems for refugees, particularly in areas where there are good job opportunities.

IV. There are serious weaknesses in the current refugee assistance "system".

A. The lack of cooperation and coordination among service providers and voluntary agencies at all levels of government has resulted in fragmentation of services and poor interagency referral at the local level.

B. Funding mechanisms are unnecessarily confusing and duplicative. Federal and state government responsibilities are poorly defined. The program lacks accountability and refugee involvement in decision making.

C. Many local service providers and volunteers are incredibly dedicated and work long hours to assist refugees.

V. Doubling the number of refugees will likely result in further reductions in the extent and quality of services; if current problems are not addressed, this could become a major national issue.

A. Refugees are settling in areas in which either the *job* or housing markets are highly competitive.

B. Negative public opinion is increasing significantly; given existing programs and resources, we can expect continued tension and demonstrations.

C. Unless program policy changes are instituted and additional resources secured, newly arriving refugees will cause greater strain in many communities.

I. How are the refugees doing?

Some refugees have had great success in this country: they own homes and businesses and have children in college. Most of these families are "old wave" (arrived prior to January, 1978) and have more than one job or wage earner in the household. By American standards, they have attained middle class status.

A few refugees are in desperate situations. They live in abject poverty, with severe mental or physical health problems, in neighborhoods where they fear for their personal safety. They are often confused and isolated.

Most refugees, however, live in marginal circumstances. Fifty-nine percent of the respondent households have at least one spouse working despite the fact that most of them speak little or no English. Many work in the secondary job market at or near the minimum wage. In case of recession, they may be among the first to be laid off. They tend to live together in clusters in order to survive; they help each other with job referrals, car pools, interpreter services and social support.

"Other Indochinese people make me to be happy and make me to forget my loneliness, helplessness and hopelessness in this country." (Hmong refugee).

"Old wave" refugees reflect a wide range of backgrounds, but some of them are well-educated and had been exposed to western culture. The "new wave" refugees in Asian camps are also said to have diverse backgrounds, but proportionately there are more persons with little formal education, nontransferable job experience and little exposure to Western urban life. Many of these refugees have developed physical health or emotional problems as a result of being in the Asian camps for a long time.

Refugees express gratitude to the people of the United States and their government for bringing them here and allowing them the opportunity for a new life. They ask for very little, but acknowledge that they need help. The most frequently expressed wish is for the U.S. government to bring more refugees from Asian camps as soon as possible. For themselves, they ask for English language and job training so that they can become productive American citizens as soon as possible.

"We want in the near future to have a job and not be a problem to the government." (Vietnamese refugee).

II. How useful are current voluntary agency resettlement efforts?

A. Initial arrival and secondary migration: There is inadequate notification and preparation for the intial arrival of refugees. Many refugees move from the initial resettlement area.

Refugees are flown directly from the Asian camps to their final U.S. destination. Numerous complaints were heard about refugees be-

ing stranded overnight in airports en route to their destination. Local volags are often unaware of incoming refugees and their characteristics. Little notification is given to local governments or other service providers. The expected increase in refugee arrivals will likely worsen this situation.

Forty-one percent of the refugees we spoke to had moved from one city to another since their arrival in the U.S. The primary reasons given for moving are family/friend reunification (mentioned by 62 percent), better job opportunities (25 percent), more amenable climate (13 percent), and better services (6 percent). There are no accurate national data on the extent and nature of refugee migration. Services are severely strained where substantial in-migration occurs.

B. Orientation: Refugees receive little information regarding their rights and responsibilities and have little understanding of American economic practices and social customs.

Service providers state that the types of information most often not provided to refugees include:

Legal rights and responsibilities (mentioned by 25 percent). Refugees unwittingly break the law. Further, they do not understand the circumstances under which the law can protect them. Immigration problems, landlord/tenant agreements and property and liability insurance present new concepts. In some sites there are numerous complaints about lack of police protection. Refugees often do not understand that certain documents, such as drivers' licenses, are required and often do not know how to obtain them.

Explanation of American customs and social behavior. Some refugee behavior patterns which are perfectly acceptable in the Indochinese culture are simply not acceptable in this country (e.g. men holding hands and undiapered children). Refugees are unprepared for the American reactions to such incidents. Some refugees have lost their jobs because they did not know they had to call in sick; others do not realize they have to make an appointment to see a doctor.

Economic practices (banking, taxes, credit cards, life insurance, etc.). Many financial and economic concepts need to be understood such as banking practices, credit cards, life insurance and taxes. Some refugees have not paid taxes because they do not understand or are unaware of our system of taxation. Others have been exploited in major purchases with long term credit.

C. Volag Advice and Cash Assistance: Volags advise refugees according to individual agency philosophy and provide inconsistent amounts of cash assistance.

The decision to go to work immediately or to learn English first is believed to significantly influence the long-range economic self-sufficiency of new arrivals. Two-thirds of the volags and sponsors report that they strongly advise refugees to begin working immediately. "Restores dignity" and "for their own pride and self-respect" are common rationales. Some say that its refugees go on welfare while in full-time training, they will become long-term welfare recipients. "ESL hinders their becoming self-sufficient (volag).

The selection of actual services to be provided rests with each local volag. The volags/sponsors usually provide at least some cash and locate housing, often paying the first months' rent. About half the refugees indicate they were provided with food, furnishings and clothing; only 45 percent received some kind of orientation and/or help with practical living problems. Forty-three percent of the refugees indicate they currently are most likely to rely on members of their families or other refugees for assistance.

Most volags stop providing assistance when the refugees get a job, except in cases of emergency; sponsors may retain their relationship over a longer time period. Local volags in areas with heavy in-migration often experience overload, which may result in lower quality service to all refugees in that area.

Most refugees are aware of welfare and health agencies and Indochinese multi-service agencies (where they exist). For other problems, refugees are most likely to rely on other refugees for information and referral. In most sites, there is no overall responsibility for assisting refugees with information and referral. As a result, almost all service providers (96 percent) indicate that they help refugees with I&R, but 57 percent indicate that they consider this to be the sponsor's responsibility.

Many service providers, especially Indochinese employees, spend much time assisting refugees with transportation, job interviews, grocery shopping and translation services. While some projects are funded to provide this type of much needed service, other projects are providing these services even though they receive funding for other purposes.

Twenty percent of the service providers serving substantial numbers of refugees have no bilingual staff. Cambodian, Laotian and Chinese interpreters are rare. Even where service agencies employ a range of bilingual staff there are too few for the caseload. Agencies without interpreters report using other refugees or borrowed bilinguals. Most refugees bring their own interpreter, usually a family member or friend, who often speaks limited English and must take a day off work to provide this assistance. Even Social Security offices do not provide interpreters.

II. How useful are HEW programs?

A. State disparities: There are significant differences in the scope of services among states.

Based on 1978 data, Washington State has 75 percent more total IRAP funds than Texas, which has 2.5 times more refugees. Pennsylvania has received more than twice as much IRAP money as Louisiana, even though both have roughly equivalent refugee populations. These differences are primarily due to different levels of cash/medical assistance and state initiative in seeking funds for refugee services. Welfare benefits, Medicaid coverage and Title XX eligibility requirements vary substantially from state to state and have a major effect on the ability of refugees to obtain needed services. Opportunities, particularly for English and job training, are very limited in some states.

8. *HEW program efforts.*

1. English Language Training: Most refugees cannot communicate in English. There are not enough English language programs where training is available, much of it is haphazard. Good English programs often have long waiting lists and huge classes.

The English capability of the refugees in this study is quite low. Only one-third of all the refugees could be understood by the survey team. Almost half of the old wave refugees had difficulty communicating and 25 percent could not communicate without an interpreter. Refugees and service providers consistently state their most important need is to learn English. "This is a wealthy society, but since I don't know the langauge, everything is shut off to me." (Ethnic Chinese)

Twenty-eight percent of the refugees have not had any English training in this country; almost half (46 percent) of the refugees who arrived in 1979 are not currently taking English. They are unable to take language training due to lack of classes, competing work pressures, poor location/scheduling of classes, insufficient child care and transportation and Title XX eligibility requirements.

Two-thirds of the refugees want at least 20 hours per week of English instruction, in sessions of 4 to 6 hours per day. Given this intensity, most refugees feel they could learn enough English to get along in less than one year. English language teachers agree, saying a period of 6 to 12 months of intensive English training would be adequate for most refugees, but refugees illiterate in their own language will need 2 to 3 years. In most places, intensive language training is simply not available. Three-quarters of the refugees report receiving less than 20 hours per week (in one site, refugees were found to be enrolled in three different programs in order to get 45 hours of training per week).

The quality of English training varies substantially. Some classes provide specialized ESL for Indochinese taught by highly trained teachers; others are drop-in classes in church basements taught by volunteers. Some are vastly overcrowded (a class of 100 students to a single teacher was observed in one site).

Good ESL classes are characterized by study participants as:

Small, not more than 20 students.

Taught by enthusiastic and culturally sensitive teachers. Refugees prefer bilingual teachers or aides for beginning students. "The teacher could say banana all day, but until she said it in Laotian, I don't know what it means." (Hmong refugee) Many prefer American (ESL) teachers thereafter in order to learn proper pronunciation.

Composed of students of similar English speaking ability. Most refugees do not object to the mixing of nationalities.

Those which emphasize conversation and pronunciation, not grammar.

Use subject matter directed to the needs of the students. The use of visual materials is popular. Team members observed English classes where refugees were learning to shop, change money, keep checkbooks and read local maps. Refugees and teachers are enthusiastic about field trips and guest lecturers on practical matters (carpentry, cooking, etc.).

2. Employment Services: Many refugee families have no wage earner. Refugees are largely limited to the secondary job market, which does not provide health insurance or other fringe benefits. Job counseling and vocational/skills training are scarce. Eligibility criteria and English requirements often exclude refugees from mainstream skill training programs.

Over one-third of the refugee households have no wage earner. The major reasons for unemployment are inability to speak English, poor health, lack of relevant work experience and inadequate orientation to the United States work practices. Contrary to American belief that Indochinese women do not work outside the home, one-third of the women are currently employed, compared with 55% of the men. Highly trained refugees are often underutilized (e.g. a neurosurgeon studying welding, an international law professor studying auto mechanics). Some refugees with few skills in Indochina may be doing relatively better in the U.S.

Two-thirds of the refugees interviewed had not been to a job counseling/placement agency. Only half of the respondents who used a job counseling program were sent to an employer, and only half of these were hired. Most refugees say they found their current job through other refugees (33%) or sponsors and volags (17%).

Good job counseling/placement agencies are described as providing:

(1) Assessment of prior education and work experience.

(2) Development of a career plan including additional experience and training needed to meet career objectives.

(3) Orientation to United States work practices.

(4) Identification of job openings and referrals.

(5) Job development to create slots which fit refugee needs.

(6) Follow-up assistance after job placement.

Most agencies concentrate their resources on function 4, identifying job openings and sending refugees out for interviews. Agencies vary substantially in their attention to functions 1, 2 and 6. Orientation to U.S. work practices and job development/promotion for refugees are largely overlooked.

Mainstream employment agencies without bilingual personnel are generally ineffective. Some bilingual job counselors in other agencies are sometimes poorly trained and have little knowledge of job market conditions, transferability of skills, licensing or training requirements. Job counseling/placement agencies which use teams of Indochinese and American workers seem to work well.

Many refugees want job training. Seventy-five percent of the refugees who completed skill training say they got jobs in the area for which they were trained. There are not enough skill training programs/slots. English requirements and income eligibility preclude many refugees from enrolling in CETA and other mainstream skill training programs.

3. Health services: Physical and dental health screening and treatment is sporadic. Few health professionals believe refugees are endangering the American population with communicable diseases, although many refugees do have parasites, skin rashes, poor nutrition and diseased teeth. Public health facilities are overwhelmed in some areas. There are delays in getting Medicaid cards: Medicaid does not cover treatment of some illnesses. Interpreters are frequently unable to understand and explain Western medical practices.

One-third of this year's arrivals have not received medical attention, although health professionals say virtually all of them need health screening. One sponsor indicated, "Our refugee family came with six different types of parasites, active T.B. and terrible teeth. One child alone had nine abscessed teeth; another needed open heart surgery." Reasons include: 1) patient overload in clinics with bilingual personnel: 2) lack of clarity as to who will pay for screening outside of federal facilities; and 3) lack of interaction of local health officials and volags. Although many refugees appear to have severe dental problems, 54 percent of the refugees have not had any dental attention, including 39 percent who have been here more than three years. Reasons for lack of dental care include high cost and no Medicaid coverage in some states. Health providers indicate that the threat of communicable disease has been overstated by the media. They suggest that HEW provide the public with accurate information to ameliorate these fears.

Health providers say their single most troublesome problem is a lack of interpreters, although most providers say they have some kind of Indochinese staff (primarily Vietnamese). Only 23 percent of the refugees who needed an interpreter report that one was available at the facility they visited. "Difficulty to explain my teeth hurting symptom to the dentist." (Cambodian Refugee) Forty-six percent of the refugees indicate they use refugee friends as interpreters. The few practicing Indochinese physicians are extremely overworked. Almost two-thirds of the health providers volunteer that there are definite cultural problems, e.g. refugees come in only for acute problems, do not follow prescribed medical instructions and are reluctant to discuss personal health problems.

Fifty percent of the refugees report paying for health care by Medicaid. In some states, long delays in Medicaid reimbursement is reported. In areas where few physicians see Medicaid patients, refugees report long waiting periods to see a doctor. Medicaid does not cover initial health screening, some treatments and medications and, in some states, dental care. In one state, it is strongly suggested that many refugees are on cash assistance in order to be eligible for Medicaid. Refugees who work in the secondary job market seldom have health insurance and cannot afford to pay for health care.

Health education is rarely provided both because there is no Medicaid coverage and providers are busy treating acute illnesses. Health education is important since refugees are unfamiliar with American food, child health, immunizations, and the use of prescription drugs. Few health education materials are printed in Indochinese languages. Some exemplary materials have been developed, but distribution has been very limited.

4. Mental Health: Many refugees are experiencing emotional problems characterized by personal sorrow (depression, homesickness, loneliness) which is traditionally handled within the Indochinese family. Culture shock, poor orientation, inability to communicate, separation of families, social isolation and financial insecurity greatly increase refugee despair. The failure to resettle refugees in an orderly manner exacerbates the problem. Western methods of treatment are not believed to be effective with the Indochinese.

Seventy-six percent of the refugees indicate that many refugees experience emotional problems. Primary causes are said to be separation of families and cultural shock. The vast majority of the refugees report that people suffering from these problems receive help from their families and other refugees or deal with their problems alone.

"When I first came, I thought I had committed suicide. I thought I had lost more than most—not money—but what I believed in. I was very depressed and didn't know what I wanted—I didn't care." (Vietnamese person of prestige.)

"There is no way we can relate to their sense of loss. It is worse than death—like an unfinished funeral." (mental health worker) Many mental health workers note that emotional problems are often related to physical health or other practical "life situation" problems. Mental Health workers see such manifestations as depression, alcohol/substance abuse, family tensions and psychosomatic illness. Few respondents think the problems are clinically severe. Those having the greatest emotional difficulties are the elderly, people who do not speak English, particularly women alone in the home, and single persons.

Few refugees use community mental health centers. Only twelve refugees, nine from one state, mention mental health centers as a resource. Indochinese people find it difficult to discuss personal problems and the use of an interpreter increases their discomfort.

Many refugees stress the need for cultural centers. They believe such centers can provide orientation and other programs to help reduce these problems. "It is important for people who have lost everything to have a place to socialize and to pray and to calm their problems." (Laotian refugee)

5. Welfare: Most refugees use welfare briefly. Welfare policies vary from state to state and dramatically affect the choices available to refugee families.

"I feel bad about I cannot support myself. I feel I am not the good son of the family if I stay on welfare." (Hmong refugee).

Two-thirds of the refugee respondents have been on welfare at some time (41% are currently receiving public assistance). About 70% of former and recent recipients are or were on the rolls for eight months or less. Very few welfare workers think refugees are likely to need more than two years of cash assistance. They describe long term recipients as elderly heads of household with large families, no English or few job skills.

It has been suggested that refugees often continue on welfare after securing a job in order to supplement low earnings. However, only 13% of the wage earning households also collect welfare.

In one state, welfare benefits are so low that refugees can rarely avail themselves of formal training ($184.50/month for the average refugee family of six). In another state, welfare benefits are quite liberal and refugees are urged to get a year of training while on cash assistance ($625/month for the same size family).

AFDC and IRAP cash assistance work requirements are of value only when the Work Incentive Program (WIN) or Employment Services (ES) offices have bilingual workers. Because there are so few bilingual workers most refugees are assigned to an inactive status.

Seventy-four percent of the refugees with experience on welfare report no problems. Those who have problems mention long delays in eligibility determination (three months), late payments, reporting requirement and difficulty in filling out forms.

6. Housing: Housing is extremely difficult to find and very costly in these areas. In other areas, housing is available, but in unsafe neighborhoods. Although refugees consider their physical facilities to be adequate in these places, many are overcrowded. Transportation is another related problem in areas where houses are far away from jobs and services.

Refugees have great difficulty finding housing. Large Indochinese families are not welcome by private landlords. Exorbitant rents are reported. In one area where housing is particularly scarce, first and last months' rent, a deposit, and an additional $100 per head for more than five occupants is sometimes charged in advance. In addition to the common problem of public housing scarcity, there is intense competition with other low-income groups who believe that refugees are being given preference in public housing projects. "Refugees dilute services to regular residents of public housing." (Service provider). Most public housing officials report little involvement with the refugee program. Only 3% of the refugee respondents live in sponsor-owned homes or apartments. About one-fourth of the "old wave" refugees own their own homes.

Refugees rarely express dissatisfaction with their housing, even when conditions appeared dismal to the interviewer. (A family of eight, who arrived here four years ago, is living in a two-room shack with one double bed.) Complaints from refugees center on overcrowding. Concern about personal safety and fear of crime are also reported by people in the refugee community. Language barriers prevent refugees from communicating with police and neighbors.

IV. How well does the current system work?

A. Interagency relationships: There is a marked lack of cooperation and coordination between local service providers and voluntary agencies. The agencies involved in the resettlement, sponsorship, training, job counseling, and health care of refugees often have little knowledge of each other's programs. Interagency referral of refugees is haphazard and often impersonal.

The most frequent complaint expressed by service providers is interruption in federal funds.

Field teams report that voluntary agencies and service providers are generally aware of each other but do not relate in any substantive way. There are isolated examples of joint planning and coordination of service which result in better services for refugees. Referrals among agencies are perfunctory. "Getting services is often a matter of luck."

In many places, refugees constitute a small proportion of mainstream providers' caseloads and therefore are a low priority. "Most social service agencies have only meager information about refugees." (Social service caseworker). Lack of bilingual staff and cultural sensitivity alienates it from refugees. Refugees do not demand coordination from the system because they do not want adverse publicity which might affect reunification with their family members still in Asian camps.

There is no mechanism or incentive in most communities for agencies to decide together what services are needed and who will provide them. Where a state or local agency has assumed this role, it is sometimes resented by other service providers. The federal government has done little to bring these groups together.

B. Systems problems and inefficiencies: Current funding mechanisms need to be simplified. Federal and state government responsibilities require further definition. The program lacks accountability.

Local refugee programs may be funded out of State Department resettlement funds, HEW IRAP funds through the State Title XX system or HEW IRAP special projects. These funds may be used for the same or similar services. This system is inefficient, confusing and unnecessary. The Title XX system per se has distinct disadvantages both to refugees, who often do not receive services due to an inappropriate income eligibility determination, and to service providers who complain about excessive Title XX paperwork. Special project requirements were said to be reasonable.

With the exception of the volags, there is strong agreement among agencies that there should be a single administrative system for project funds. Most voluntary agency representatives think the current structure works adequately. A deep division exists between those who strongly recommend that HEW fund all local service provided directly through a competitive process and those who want HEW to fund states who in turn would directly fund local service providers.

Arguments for the federally managed system include: 1) refugee programs are 100 percent federally funded; project grant decisions should be made by federal officials; 2) federal management would provide more standardization of services and reduce service disparity among states; and 3) administrative practices could be simplified and provide a basis for development of program performance standards.

Arguments for a state arranged system include: 1) state management would encourage state governments to commit state resources for refugees or coordinate the funds with other mainstream funded services; 2) state management allows more flexible definition of services and management control; and 3) state management allows restriction of services to those offered to other low-income groups.

The IRAP program has poor management controls. Monitoring of grants and contracts by federal and state officials appears sporadic. (One-third of the service providers request more monitoring and evaluation of programs.) Some refugees and service providers are concerned about possible mismanagement of federal funds and recommend stronger controls.

Few Indochinese refugees appear to be involved in program and policy decisions. Most refugees employed by volags and service providers are in staff positions and do not participate in agency decisions. There appears to be little involvement of Indochinese associates in the development or implementation of services.

C. Local workers: Many local service providers and volunteers are incredibly dedicated and work long hours to assist refugees.

Field teams observed incredible efforts on the part of local voluntary agencies and service providers to provide support to refugees. Many people, particularly the Indochinese staff, are working extremely long hours under constant pressure at low wages. Many of these workers spend much of their personal time providing counseling, orientation, interpretation and transportation to other refugees. Some Indochinese associations, sponsors, and other community volunteers devote remarkable time, energy and money assisting refugees (e.g. some "old wave" refugees had housed as many as 20 different new families in their homes until they could get started on their own).

V. Can the current programs absorb large numbers of new refugees?

A. Refugees are settling in areas in which either the job market or the housing market are highly competitive.

The ability of the local economy to absorb significant numbers of new refugees has not been thoughtfully considered in resettlement. Apart from immediate service needs, such as language and living skills, the most fundamental needs of new refugees when they arrive are jobs and housing. The ability to secure either is largely a function of local market conditions. Jobs are more plentiful in California and Texas, but housing is expensive and public transportation is inadequate.

B. Negative public opinion is increasing significantly; given existing programs and resources, we can expect continued tension and further demonstrations. This is becoming an intensely emotional issue.

"They seem so angry about us trying to stay alive. I don't know why we must be so much their enemy." (Vietnamese refugee).

There are an increasing number of newspaper and television stories regarding the tension and conflict between refugees and Americans in various parts of the country.

There are essentially three reasons for this conflict:

Because many refugees do not understand American social customs, refugees often behave in ways which are perfectly normal in Indochina but are offensive to Americans. These incidents result in difficulties with neighbors and the legal system.

Many refugees do not understand the "unwritten rules" of American business practice. The incident in Seadrift, Texas is illustrative. By encroaching on American fishermen's customary rights, refugees engendered the ill-will of local citizens to the point of violence. The inability of refugees to communicate with Americans about their differences heightens suspicion and anger.

Americans resent the real and perceived government benefits to refugees. Indochinese refugees are treated differently in terms of certain welfare and program benefits; sometimes they are given priority in public housing. Other low income Americans, especially non-English speaking minorities, resent this special treatment. Other Americans resent the use of their tax dollars to support refugees from an unpopular war. The IRAP program has not been adequately explained to the American public. The belief that the government buys houses, cars and fishing boats for refugees is typical of widespread misconceptions. Some of these misconceptions can be explained by refugee behavior: Americans find it hard to believe that a refugee can buy a car or fishing boats with cash, unless the government gave him the money. "I am annoyed at these refugees who drive around in Mercedes and take food stamps and welfare money out of a Gucci purse in supermarket lines." (newspaper poll)

These factors are contributing to misunderstandings and tension in many communities.

A random telephone survey of 80 Americans indicates that recent press coverage on refugees is reaching most of the population. Almost half expressed negative feelings, while only one-third had a positive reaction to bringing the refugees here. If the refugees are admitted to the country, however, 45 percent of the respondents indicated they would welcome them in their city.

C. Unless program policy changes are instituted and additional resources secured, newly arriving refugees will cause greater strain in many communities.

Refugees are currently receiving insufficient assistance, particularly with orientation, English language and employment training. New arrivals are believed to need much more assistance than those who came in the first wave. They will initially increase welfare rolls, need more time to learn English, require comprehensive orientation to western social/economic practices and need thorough health screening and treatment.

Most voluntary agencies say they can handle additional large numbers of refugees if additional resources are provided; however, most other service providers do not believe they can serve substantial numbers of refugees even if funding were increased commensurately. This study raises some serious questions about the quantity and quality of services currently provided. If the numbers are doubled, funds will have to be doubled just to continue the patchwork of services currently available. A far more creative approach must be taken to give refugees a basic set of tools with which to enter the American mainstream.

Although there are many difficulties in providing assistance to refugees, numerous respondents comment on the remarkable inner strength and energy of the refugees despite their war and Asian camp experiences.

"Overall, their resiliency is much more startling than their depression. They are doing much better than they should be, considering what they have been through. These people are survivors—they can do most anything." (Mental health counselor).

FOREIGN POLICY

● Mr. STEVENSON. Mr. President, our colleague from the other body, PAUL SIMON, had the courage to utter some uncomfortable truths when he delivered the annual Adlai Stevenson lecture at Illinois Wesleyan University earlier this month. His words deserve attention and repeating. Mr. President, I ask that Representative SIMON's lecture be printed in the RECORD.

The lecture follows:

FOREIGN POLICY: RESPONSE TO NEED OR RESPONSE TO PASSION?

Late in 1951, Governor Adlai E. Stevenson wrote an article for Foreign Affairs which appeared in April, 1952. Written long before Harry Truman announced his decision to step down from the presidency, Governor Stevenson wrote: "This is a campaign year in America, and we must expect oversimplification of issues . . . Men, even responsible men, will wander far afield in search of votes. They will capitalize on every discontent, every prejudice, every credulity, even in the deadly serious business of foreign policy. Will we emerge from the ordeal of the campaign more aware of the true causes of our difficulties and the magnitude of the stakes involved? Or less aware? Will

we emerge better prepared to turn with fortitude to the work in hand? Or worse prepared?"

The Stevenson observations are as pertinent in the election year of 1980 as in 1952. There is danger in an election year that we cheer or jeer rather than think, that we react more than we reflect, and that we respond to national need with national cynicism.

Adlai Stevenson had a willingness to utter the unpopular, to make us think, to make us uncomfortable in our world of platitudes and easy answers. And I should note that his son, the senator, has followed the same thoughtful course.

Let me discuss with you a few concerns I have. And, most likely, ruffle a few feathers along the way.

I am concerned by our misunderstanding of the Soviet threat.

I share the public revulsion at the Soviet invasion of Afghanistan. But our tendency to view the Soviet threat as primarily military ignores the truth and Afghanistan provides the example. Months before the invasion, on April 28, 1978 the government of that country was overthrown and a pro-Soviet regime installed. That is fairly typical of Soviet gains. Soviet gains in the third world are generally made where there is the unhappy mix of poverty and desperation. Today there are only two nations which can be counted on to support Soviet policy no matter how illogical and torturous its course: Bulgaria and Cuba.

Cuba typifies Soviet conquest—without troops—rather than Bulgaria. The danger of Soviet expansion across Western Europe by armed forces is small; the danger of Soviet armed intervention in Iran or Pakistan is somewhat greater, but probably still small. But you can be sure that the Soviets are exerting every effort to secure power through subversion in those two countries and a host of others. Poverty and misery are the allies of Soviet expansion. Yet we move with great reluctance against those two Soviet allies.

A Congressman or Senator or candidate can make a speech calling for more weapons and less foreign economic aid—and receive applause—and yet it does not seem to occur to the speaker or the audience that such a stand plays into Soviet hands.

For fiscal year 1981 we will probably increase our military spending by about $20 billion. That will weigh heavily on our economy, spur inflation, and I fear do little, if anything, to deter the fundamental Soviet threat. If we spent $1 billion of that amount to promote exchanges, and $2 billion of that amount to give greater opportunity to the world's hungry and hopeless and desperate—and reduced pressure on our budget by not spending the additional $17 billion—my guess is that we would be making a significantly greater contribution to peace and stability than our extra nuclear weapons and other equipment will provide. I favor a strong defense, but if we had had twice the number of submarines and bombers and nuclear weapons and manpower in recent months, it would not have changed the course of events either in Iran or Afghanistan. Greater understanding of the Soviets and greater sensitivity to the problems of the people of Iran and Afghanistan might have made a difference. Responding to the Soviet threat solely in terms of arms build-up is responding in terms which serve our national passion, not our national interest.

Both the Soviets and the United States tend to be largely insensitive to the problems as perceived by the other side. The best way for the United States to reduce the Soviet threat is through mutual understanding. Just as we have concerns about some of their actions—they clearly miscalculate our response—so we easily misunderstand their perspective. We see no problem with deployment forces and bases close to Soviet territory, but we get excited when they have far fewer troops and weaponry in Cuba. I am not excusing Soviet actions. I do suggest that we must communicate much more with each other, try to understand each other, and, where possible, reach agreements that reduce the likelihood of world destruction. That is not the only way we deal with the Soviet threat, but it is an approach which should be used much more.

I am concerned by our unilateral actions.

A host of examples could be provided. Our announcement that we will not tolerate Soviet intervention in the Persian Gulf is an example. I thought that was always our policy. What is new? Precisely what did we mean? Did we consult with the Persian Gulf Nations? Did we consult with the Western European nations which are much more dependent on Persian Gulf oil than we are? Consultation cannot become paralysis of policy, which it easily can become, but more consultation should take place.

By far the most impressive leader among the Western Nations today is Chancellor Helmut Schmidt of West Germany, and he has suggested that a division of labor in response to the Soviet invasion of Afghanistan might be wise. Wouldn't it also be wise to try a division of labor beyond the Afghanistan issue? The international agencies—such as the World Bank—have generally served well, but multi-lateral approaches have not reached the point of either efficiency, sophistication or political independence where they can provide all of the necessary help to developing nations.

But do we need six nations coming in with individual aid programs? Are there countries where U.S. assistance might endanger the stability of a government, but German or Dutch or Danish or Japanese assistance would not? The British leadership on Rhodesia/Zimbabwe—with the U.S. pulling out of its former leadership role—is an example of what might happen more frequently. The U.S. is no longer the completely dominant economic figure it once was, and there is no reason we should pretend that we are. We still have more economic muscle than any other nation, but the responsibilities of responding adequately to the hopes and aspirations of other nations—and for stopping aggression—call for a shared leadership role.

I am concerned with our imprudence in language which leaves friend and foe uncertain.

A few days ago, the New York Times quoted Chancellor Schmidt of West Germany as saying: "We do not need nervousness, war cries or excited or provocative speeches. What we need, instead, is carefully thought out crisis management." Some years ago Chicago had a mayor who rode to popularity in part by a pledge to "punch King George in the nose." He never came near King George, of course, but he appealed to our sense of bravado. Now—particularly after the unprovoked Afghanistan invasion—our speeches receive cheers when we threaten to "punch the Russians in the nose" so to speak. These speeches satisfy our emotional—and political—needs, but they add nothing to the cause of peace and stability.

We in the United States seem to have a propensity for speaking and then reflecting, rather than the reverse. That is better than no reflection, but the dangers of accidental war increase when others do not understand our positions clearly, when they are uncertain if we mean what we say. Parents know that if you tell a child that there will be "no television tonight until you have your school work done," the parent had better stick by it—both for the child's sake and the parent's sake. Uncertainty breeds problems.

It also means that the parent should be careful in "drawing the line," in suggesting punishment. The international arena has some similarities. We should not announce one day that the presence of a brigade of Soviet troops in Cuba is unacceptable and two weeks later find them acceptable. We should not announce an economic blockade of Iran, that we will proceed with it despite a Soviet veto in the United Nations, and then quietly drop the blockade. In this uncertainty the Soviets, rightly or wrongly, detect weakness of leadership and this invites Soviet adventurism that too easily could lead to that flash point we all fear.

In an interview with a French publication on the implications of the Afghanistan invasion, former Secretary of Defense and Energy, James Schlesinger, noted:

"In my judgment the Soviets . . . have been quite prudent in the conduct of international affairs . . . Over the years they have moved when it was low-risk to move . . . It is only when strategic vacuums are created that they move. That is as much our responsibility as theirs."

I am not suggesting that every struggle within a developing nation be turned into an East/West confrontation, but when our intelligence activities detect Soviet troops massing in a border situation, a quiet phone call from our leadership to theirs, before any action, is much to be preferred to public speeches of denunciation afterwards; the former has the potential to save the situation, the latter to aggravate it. We should speak on international issues with more deliberation, choosing our words carefully, and making sure our course follows our words.

I am concerned that our policy and our culture cuts us off from much of the world.

In many countries official U.S. policy is to have no contact with groups within the country which oppose the government in power. Three weeks ago I spent a day and a night in the Sahara where I met with the leaders of the Polisario, the group fighting for independence for the Western Sahara, formerly Spanish Morocco, now claimed by Morocco.

The United Nations and the Organization of African Unity have called for a referendum by the people of that area to determine what course they want for themselves. The United States has announced approval of an arms shipment of $230 million for Morocco, which is trying to hold onto the territory and opposes the referendum, at least at this time. Morocco's King, in many respects, has provided amazingly enlightened leadership for his country, and Morocco has been our friend.

But for us to isolate ourselves from reality by ordering our embassies in Morocco, Algeria, and Mauritania to have no contact with the leaders of the Polisario does the King of Morocco no good and brings no respect to the United States. Morocco controls five cities. It is almost a rerun of Vietnam. I am not suggesting that we should endorse the Polisario cause, nor even the referendum (though I personally favor that), but before we send $230 million in weapons to one side of this conflict, there ought to be a few U.S. officials spending a night in a tent in the Sahara, as I did; there ought to be a willingness to listen to the other side; there ought to be a willingness to find out which side is likely to win and to help extricate our friends from a war if it is unwinnable. And the Western Sahara is only one example.

In Iran, we acceded to the Shah's requests and had virtually no contact with the National Front and other opposition forces. But we did neither the Shah nor ourselves any favor by that acquiescence and isolation. And I tend to believe that we do our good

friends, the Israelis, no good by refusing to talk to the Palestine Liberation Organization leaders. U.S. policy should gradually shift from ignoring opposition forces to listening to them—not in terms of recognition, or support, but simply to listen, because if we are better informed, we are more likely to make sound decisions.

I do not suggest that we suddenly drop all commitments not to have contact with the opposition, for some of our friends would be disquieted and uneasy if there were a sudden, major reversal. But the word should quietly spread that a new policy is coming, that the U.S. is willing to listen, to be open.

Our cultural isolation is caused, in part, because we are among the most benighted of nations in the development of foreign language skills. We are the only nation in which you can graduate from college—or even earn a doctorate—without having had a year of a foreign language during all of your school years. When both our security needs and our economic needs suggest that foreign language study and the understanding of other cultures is increasingly important, our foreign language enrollments in both absolute numbers and in percentages continue to experience decline. Marie Antoinette said, "Let them eat cake." We say, "Let them speak English," blissfully unaware that each year a decreasing percentage of the world speaks English. And by our cultural isolation, we invite Vietnam-type blunders and continued adverse balances in trade.

Our isolation is more than language isolation. I have a fair understanding of Christianity and Judaism and the various divisions within each, but I know little about Islam and its divisions. I need to grow. All of us need to grow. And as we show in interest in others—their languages, their beliefs, their hopes, their fears, we will find ourselves better understood.

I am concerned by the mistrust I find toward government.

I understand the mistrust. Watergate, Vietnam, congressional corruption, bureaucratic ineptitude, all add to less than the beatific vision of government we would like. But our government is better than the image. And where we have had the government and the private sector working together closely—as in agriculture—we have made amazing strides. Our government is, surprisingly, smaller than it was two decades ago relative to our population. In 1960 we had 13.1 federal government employees per 1,000 population, and today we have 12.5 per 1,000 population. But the facts and public perception differ, and the public is concerned.

But is the public mood such that we seriously do not want to use government, for example, to guarantee the right of senior citizens to have dentures and hearing aids; that we do not want to use government to encourage productivity rather than nonproductivity; that we do not want to use government to encourage exports? Has the Proposition 13 fever so permeated the nation that good school programs must suffer? Are there no new frontiers for this nation, and will our government be powerless to help us enter those new frontiers?

Part of the mistrust in government has been self-induced, for the abuse by government policymakers is not only corruption by money, which substitutes a moneyed interest for national need, but corruption by polls, which substitutes subservience to public opinion for service to the national need. Public officials who take polls before they take stands, who hold their finger to the wind to determine public policy, are an anemic crew who ill serve the ship of state. They win elections that way, but the nation loses while they win. These people—whether at the local, state, or national level—are leaders in name and by title, but not in fact. Can you imagine Harry Truman taking a poll to determine where he stood on an issue?

We must rid the body politic of open bribery; we must gradually change our system of financing campaigns, for sometimes the financing of campaigns comes close to bribery; and we must nominate and elect people in both political parties who have the courage to be unpopular, who are willing to risk their political hides for the welfare of a community, state and nation. Neither the energy problem nor the inflation problem is insoluble, but the administration, the Congress, and the public are continuing to look for easy, comfortable answers to solving them. There are no such answers, and the sooner you demand of public officials the tough answers, the sooner we will be on the road to solving our problems.

I am concerned that the self-examination which must take place in government also takes place with the host of constituencies which help to shape government policy.

Business has shown much more of a social conscience than it did two decades ago, but there are other problems. Two decades ago, 400 of Fortune's top 500 companies controlled two-thirds of the corporate wealth of the nation. Today it is 200 with that power. Will business come up with constructive answers for economic concentration or will our economy be further weakened by lack of competition before we are forced into answers which may be extreme? Unions have contributed immensely to the productivity of the nation, but abuses of unemployment compensation are real and now discourage productivity. Will union leadership face up to this or must an answer be imposed by those less sympathetic to working men and women?

Whenever the minimum wage goes up, youth unemployment goes up. Should we have a youth differential in the minimum wage as the West Europeans? Can we as a society afford to just ignore the problem of increasing numbers of young people who cannot get jobs, who are not learning good work habits? Farmers have enriched this nation nutritionally and economically, but does it make sense, morally or economically, to pay farmers $600 million a year for not producing food in a world of hungry people?

The media has halted abuses by the powerful in government, but is it equally good at building trust in government when it is merited? Members of the House and Senate who travel to other countries generally fulfill an important and needed public service. Where there is abuse of that travel privilege, it should be criticized.

But I have yet to read or hear an editorial criticizing members of Congress who do not travel, yet that is a much greater abuse of public service. And academicians, with their wealth of background, too often have contributed less than they might, in part because of an excess of cynicism that is part of the campus scene. There is a veneer of sophistication about cynicism that has special appeal on a campus. A touch of cynicism is healthy, but fundamentally the cynics are not going to build a better world. We need your background to enrich and inspire and lead, not tear down.

If every person, every group, every profession, every association, every community looks for self-improvement, collectively we can contribute immensely.

The last time I saw Adlai Stevenson was at a dinner held in honor of his son who had just been inaugurated as State Treasurer. The dinner was held in a small room above Saputo's restaurant in Springfield, sort of the Lucca Grill of Springfield. He enjoyed himself as much as anyone there. He was proud. He was buoyant.

That pride, that buoyancy, that clarity of thought, we need today. No one person can give it to us. But together we can strive toward it. And to the extent we achieve it, we will have inherited his rich legacy.●

THE ROCK ISLAND RAILROAD

● Mr. PERCY. Mr. President, today, I testified before the Senate Subcommittee on Surface Transportation concerning the need to provide temporary service over the Chicago, Rock Island, and Pacific Railroad. I ask unanimous consent that the full text of my statement before the subcommittee be printed in the RECORD.

The statement follows:

TESTIMONY BY SENATOR CHARLES H. PERCY

Mr. PERCY. Mr. Chairman, I commend the Subcommittee for holding this hearing to review proposals to provide temporary service over the Chicago, Rock Island, and Pacific Railroad.

It is an end of an era for the Rock Island as we know it. I am not quite sure when the downfall of the Rock began. However, I remember in 1963 the Rock Island Board of Directors approved a plan to merge with the Union Pacific. Nearly 12 years later the Interstate Commerce Commission approved the merger application. The problem: The prospective partner was no longer interested in the aging bride-to-be. Several months later, the Rock Island filed for bankruptcy. Last September, the Interstate Commerce Commission directed the Kansas City Terminal Railway Co. to take over the operation of the bankrupt and strike-torn Rock Island Railroad. In a matter of time, Trustee William Gibbons' plan for liquidation of the Rock will be put into effect.

Today, we are faced with the prospect of the ICC directed service order over the Rock's system running out on March 2. Without an extension of this service the system will simply shut down even though there are a number of companies interested in purchasing parts of the Rock. As a first step toward reaching this unreasonable goal of terminating service over all of the Rock's lines, the ICC is allowing the Kansas City Terminal Railway Co., the Rock's directed service carrier, to begin embargoing inbound shipments into the Rock Island system the day after tomorrow. This action must be stopped.

The Department of Transportation has received letters of intent from various companies expressing an interest in acquiring most of the Rock's lines in Illinois. Thus, an interruption of service over these lines in the near future may be unnecessary and cause undue hardship to shippers, employees and consumers, not to mention the dimension of this disruption to our communities as a whole. In Illinois, at least, the following would be impacted:

Loss of jobs: There are 2,882 Rock Island employees in Illinois who would lose their jobs immediately.

Over 350 businesses disrupted: A disruption of service on the Rock's lines could cause untold layoffs at plants and manufacturing companies depending on shippers supplies. In addition, there would be a ripple effect on consumers of the products shipped by the Rock. In just the past few weeks, I have heard from Illinois businesses that would be affected. They include: Archer Daniels Midland Co., Marshall Putnam Oil Co., Pabst Brewing Co., E. I. DuPont DeNemours and Co., Bellrose Silica Co., Ralston Purina Co., Ottawa Silica Co., A. E. Staley Mfg. Co., Garvey International, Inc., the PQ Corp., Bemis Co., Hiram Walker & Sons, Inc., WABCO,

Sherwin Williams Co., Pullman Corp., Agar Products, Keebler Baking Co., Metron Steel, Solo Cups Co., OwensIl., Georgia Pacific, CID Warehousing Co., Clear View Plastic Co., and Caterpillar Tractor Co.

Loss of commuter service: Over 14,000 daily commuters on the Chicago to Joliet run would lose this service. This at a time when we are asking the American public to conserve our precious energy resources and cut back on automobile driving.

Highways: The Department of Transportation estimates that on a yearly basis the Rock originates and terminates over 132,000 carloads of traffic in Illinois. Some of these carloads could be moved by trucking firms. However, much of Illinois' highway system is relatively old and was not designed to handle the increase in truck traffic that has already occurred in the last decade. By dramatically increasing the volume of truck traffic on these roads, Illinois' highway system would have a greater strain placed on it than it currently has.

Example: Sherwin Williams, the world's largest manufacturer of paints, annually moves 2,500 carloads on the Rock system out of Calumet. If rail service becomes unavailable a minimum of 10,000 trucks would be needed to carry this traffic. Of course there would be further complications by trucking these products since there are regulations governing certain hazardous materials over the highway system.

In reviewing these implications of shutting down the Rock, my main objective is to obtain a smooth transition period during which companies interested in acquiring portions of the Rock will have that opportunity without disruption to the communities involved. I recognize that the entire system cannot be preserved as it now exists. That decision has been made. My purpose is to support the Subcommittee's effort to devise an equitable transition period leading to the continuation of a system that is viable.

There are several portions of Senator Kassebaum's proposal, S. 2253, the Rock Island Transition Act, which I strongly support because it provides the transition time needed to resolve this problem.

It extends the existing ICC directed service order, slated to expire on March 2, to April 2. I believe that this action would provide the time frame needed to interest companies in acquiring portions of the Rock and the time frame needed for those carriers who have expressed an interest an opportunity to firm up their offers of purchase.

After April 2, 1980, it provides continuing directed service over all those lines which the Secretary of Transportation has identified "as being the subject of bonafide offers of purchase until the transactions are consummated." As I understand Sen. Kassebaum's bill, the ICC would have a 120 day limit in which to reach a decision on all proceedings filed by April 2, 1980, which involve a sale, transfer, or lease of any line of the Rock Island.

As far as labor protection for the Rock employees and the type of federal assistance which will be made available to prospective purchasing railroads, I am reserving judgment until I have an opportunity to review the Department of Transportation's proposals. I understand that the Department will be testifying later today on its recommendations.

Since the Department of Transportation has received letters of intent from prospective acquirers for over 95 percent of the Rock's freight traffic, I encourage the Subcommittee to provide the reasonable transition time necessary for these bids to be consummated.●

THE 62D ANNIVERSARY OF INDEPENDENCE OF THE REPUBLIC OF ESTONIA

● Mr. LUGAR. Mr. President, on February 24, free Estonians will celebrate the 62d anniversary of the proclamation of the independence of the Republic of Estonia. The Estonian American National Council has issued a statement on this occasion, and I ask that it be printed in full in the RECORD.

The statement follows:

STATEMENT

Recently 40 years elapsed from the signing of the notorious Stalin-Hitler pact of August 23rd, 1939, which offered to Nazi-Germany a welcome pretense for starting World War II. In secret protocols of the same pact Hitler agreed to consider parts of Eastern Europe, including the three Baltic Nations—Estonia, Latvia and Lithuania—as belonging to Soviet Russia's so-called "sphere of influence."

Consequently, Stalin received a free hand to forcibly annex these three independent nations, which remain illegally occupied by the USSR to this very day.

Soon after the conclusion of the said pact, Estonia signed, on September 28th, 1939, under military threat and without the possibility of any help from abroad, a Pact of Mutual Assistance with the Soviet Union.

Although this pact was forced upon the Estonian Government, the latter tried painstakingly to fulfill its treaty obligations. The then Estonian foreign minister Professor Ants Piip, in a private letter to one of the Estonian envoys, emphasized that at least two major things were achieved: war was avoided, and the Peace Treaty with Soviet Russia remained in force. He considered the Peace Treaty as the most important international act of Estonia, which legally guaranteed Estonia's position among other independent states.

February 2nd, 1980, marks the 60th anniversary of this Peace Treaty, which was concluded by Estonia after a victorious War of Independence. This war was started by Russian invasion of Estonian territory at the end of the year 1918.

In the abovementioned Peace Treaty Soviet Russia explicitly renounced voluntarily and forever all rights of sovereignty over the Estonian people and territory, and recognized the independence of Estonia.

Estonia had proclaimed itself an independent republic on February 24th, 1918. The decision was based on President Woodrow Wilson's declaration about all peoples' right to self-determination. Even Soviet Russia under its ruler Lenin had claimed to adhere to this principle.

The Allied Powers of World War I were at first somewhat hesitant about recognizing the newly emerged independent country. Their positive reaction was mainly achieved thanks to the fierce and successful fighting of the Estonian Army in the War of Independence. In May 1919, for instance, the Baltic Commission of the Peace Conference in Paris admitted unanimously that "the Estonians had done miracles."

During a period of twenty years of independence the Estonian people demonstrated successfully what a small nation is able to achieve in all fields of life when it enjoys peace and freedom.

In 1940 this came to an abrupt end by the devious acts of a big totalitarian neighbor—Communist Russia. Since then the Estonian people have suffered extremely heavy human and material losses. This situation still persists. Estonia is economically exploited by the governing Moscow regime. Those who dare make any requests for freedom and justice, relying on the stipulations of the Helsinki Final Act, are either confined to mental hospitals or sentenced to prison terms. Needless to say that such sentences are made in conformity with the ill-famed mock trials of the Stalin era.

Nevertheless, again and again bold freedom fighters make their voices heard, one of the last evidences being an appeal on the 40th anniversary of the Stalin-Hitler pact and addressed to the Secretary General of the United Nations. This appeal was signed by 45 representatives of the three Baltic Nations. Unfortunately, such urgent appeals from the countries which once were members of the League of Nations seem to fall on deaf ears.

At the same time the United Nations has opened its doors to a great number of states which rightly have been liberated from the yoke of colonialism. Such colonialism, however, still prevails in vast regions of Eastern Europe, where over one hundred million people are subjugated to an intentional process of Russianization.

One of the more imminent concerns of the Estonian people is the fact that the Yachting Regatta of the Olympic Games of 1980 is to take place in Tallinn, the capital of Soviet-occupied Estonia.

As a free nation, the Estonians would have been delighted to welcome the world's yachtsmen to their country. Now they are looking at this event with mixed feelings. They anxiously expect that the outside world would refrain from any acts which would damage the justified claims for freedom of the Estonian people or the international status of the Republic of Estonia.

The United States has never recognized the forcible annexation of Estonia, Latvia and Lithuania by the Soviet Union, which fact is of great moral support to the people of these nations.

The 62nd anniversary of the proclamation of the independence of the Republic of Estonia is approaching and Estonians over the whole world are commemorating their national holiday on February 24th. They confirm at such occasions their determination to fight for the restoration of the independence of their native Estonia. At the same time they hope that world public opinion will support them in this struggle for freedom and justice.●

A STORY OF BRAVERY

● Mr. MORGAN. Mr. President, I would like to enter the name of Alfred Pleasants of Durham, N.C., into the record books as one very brave young man.

Recently, on a hiking trip, Alfred Pleasants' companion fell through the ice on a pond and struggled to pull himself out. Alfred, who is a Cub Scout, had the foresight and presence of mind to assist him in the fashion aimed at preserving both lives. Alfred propped himself against a log and gradually got his friend out of the icy water.

I want to commend Alfred Pleasants for his bravery and quick thinking. I am sure that his training in the Scouts and his personal courage came into play in saving the life of another human being.

Few of us are ever placed in a life and death situation. Alfred Pleasants, at the age of 8, faced such a crisis and rose to the challenge. His act was truly that of a hero and I wanted to let the Senate of the United States know this young man's story.

Without objection, I ask that two news accounts of Alfred's rescue be placed in the RECORD at this point.

The news accounts follow:

[From the Durham (N.C.) Morning Herald, Feb. 7, 1980]

CUB SCOUT PULLS CHUM FROM POND IN HOPE VALLEY

(By Richard Jones)

Wednesday's school holiday began and ended like any young hiker's dream, but for 8-year-old Alfred Pleasants and 7-year-old Bryan White, the middle was a bit more like a nightmare.

Alfred, a Cub Scout, may have saved Bryan's life. Bryan fell through thin ice on a pond in a woods off Hope Valley Road.

Alfred, son of John and Blair Pleasants of 4309 Malvern Road, pulled Bryan, of 3914 Wynford Drive, from the freezing pond then managed to find help at a barn so Bryan wouldn't freeze in his soaking clothes.

Mrs. Pleasants and Alfred told the story:

The two boys had been hiking in the woods when they discovered the pond. After Bryan walked out onto the pond and fell through, Alfred moved across the ice, propped himself against a log, pulled Bryan out of the water and carried him to shore.

Then the two began looking for help. After some searching, they found a young woman, Florence Goode, feeding a horse in a barn. She took the boys to her home, where they changed into dry clothes and warmed up.

From there, they rode a horse back home.

Alfred, a member of Epworth United Methodist Church Cub Scout Pack 461, said he had never been taught how to save someone who had fallen through ice, but remembered a Boys' Life picture on how to use sticks and distribute weight on ice. Alfred (his friends call him Alfie) said he used a stick to help pull Bryan in.

"Yes, we're proud of him," said Mrs. Pleasants. "He could have run for help (instead of pulling out Bryan), but then it would have been too late because there was no one around."

Mrs. Pat White, Bryan's mother, was grateful, naturally.

"I don't know that he (Bryan) was aware that it was a pond," she said. "He'd never been back there before. He might have thought it was something small that had frozen over, with the snow on the ground.

"But I'm thankful he wasn't alone."

So for both boys the day ended happily.

Bryan was a little worried but warm, his mother said.

And Alfred got to ride a horse home, his first ride on a "real" horse, plus a phone call from a newspaperman which, Mrs. Pleasants said, sent his 4-foot-4, 60-pound body several feet off the ground.

[From the Durham (N.C.) Sun, Feb. 7, 1980]

FAST THINKING IS KEY TO RESCUE

(By Keith Upchurch)

A Durham boy who rescued his 7-year-old friend from possible drowning in an icy pond off Hope Valley Road said today he had to "think fast" when he saw his friend fall through the pond's thin ice.

Alfred Pleasants, 8, of 4309 Malvern Road, pulled Bryan White of 3914 Wynford Drive out of the icy pond in woods off Hope Valley Road yesterday.

Alfred said this morning he and Bryan had been hiking in the woods when they discovered the pond. He said when Bryan walked out onto the pond and fell through, he had to "think fast" because he knew his friend was drowning. He said the water was about four feet deep, and was up to Bryan's nose.

Alfred carefully moved across the ice toward Bryan. He saw a log sticking out of the icy water and used it to brace himself as he extended his hand to Bryan and lifted him out of the water.

He said he carried Bryan for several feet until he was able to walk by himself.

The two boys walked about a half mile looking for help when they found a young woman, Florence Goode, feeding a horse in a barn. She took the boys to her home, where they changed into dry clothes, warmed up, and had some hot cocoa, Alfred said.

They rode a horse back home. Alfred said part of the journey was "fun" since neither he nor Bryan had ever ridden a horse before.

Alfred, son of John and Blair Pleasants, is a member of Epworth United Methodist Church Cub Scout Pack 461. He said he never had been taught how to save someone who had fallen through ice, but recalled a picture in Boys' Life, a Scout magazine, showing how to use sticks to pull someone to safety and how to distribute body weight on ice.

Mrs. Pleasant said she and her husband are proud of Alfred.

"He could have run for help (instead of pulling Bryan out), but then it would have been too late because there was no one around."

Bryan's mother, Mrs. Pate White, said she was grateful.

"I don't know that he (Bryan) was aware that it was a pond. He'd never been back there before. He might have thought it was something small that had frozen over, with the snow on the ground. But Im thankful he wasn't alone."●

CONSTANTINO BRUMIDI, CITIZEN OF THE UNITED STATES

● Mr. DECONCINI. Mr. President, I wish to call to the Senate's attention a small ceremony that took place in the Capitol yesterday. My distinguished colleague from New Mexico, Senator PETE DOMENICI, and several other distinguished guests, including Congressmen FRANK ANNUNZIO and JOHN BRADEMAS, and I participated in this ceremony, which paid tribute to a man whose contributions to our Nation may be largely unrecognized. I am speaking of Constantino Brumidi, who has been called the "Michelangelo of the Capitol." Yesterday was the 100th anniversary of his birth.

I am a relative newcomer to Congress. However, I have always been in awe and admiration of this building in which we stand today. It is a building that truly inspires patriotism in Americans. It is as distinctive as any governmental seat in any country in the world; its architecture and artwork are a fitting tribute to this great land and to our system of government. Constantino Brumidi, who is becoming increasingly well regarded in artistic circles, was a man of extraordinary skill, possessing that indefinable artistic ability which allowed him to capture the vibrant spirit of our democracy. His work, which is visible in virtually every corner of the Capitol, has enriched our heritage forever.

Mr. President, I am proud to note that it was largely through the efforts of a citizen of my home State of Arizona that Constantino Brumidi's name and memory became immortalized here. Dr. Myrtle Cheney Murdock, wife of then-Congressman John Murdock of Arizona, had discovered Mr. Brumidi's unmarked grave in Washington's Glenwood Cemetery and, after considerable effort, persuaded Congress in 1950 to establish a marker for that grave.

Through the efforts of several appreciative Members of Congress, a fine sculptress, Miss Jimilu Mason, was commissioned to create a bust of Mr. Brumidi for display in the Capitol. That bust, which I am sure my colleagues will agree is one of which Mr. Brumidi himself would have been proud, was dedicated in 1968 and is on display in the foreign relations room of the Senate wing, where yesterday's ceremony took place. Mr. Brumidi, who labored intensely for 25 years making this building beautiful and died almost anonymously, has finally achieved a measure of the recognition he so justly deserves.

Constantino Brumidi was a simple man, Mr. President. He signed his work with a simple: "C. Brumidi, artist, citizen of the United States." No doubt he would have suffered a certain amount of embarrassment at being called the Michelangelo of the Capitol. Yet, to those of us who work here, and to the many thousands of visitors who have the privilege of seeing his work each year, it is not an inaccurate or undeserved title. He was a deeply patriotic man, and he is a credit to Italian-Americans and to all citizens of this country. As an Italian-American myself, I am particularly pleased to be able to honor him today.●

SENATE JOINT RESOLUTION 126—FEDERAL BUDGET REFORM

● Mr. LUGAR. Mr. President, on December 19 of last year, the Judiciary Subcommittee on the Constitution voted 5 to 2 to report to the full committee Senate Joint Resolution 126. Senate Joint Resolution 126 proposes a constitutional amendment to reform Federal budget, tax, and spending procedures. I would like to take this opportunity to indicate my support for this resolution.

Senate Joint Resolution 126 proposes two changes in our current budgetary three-fifths vote of both Houses of Congress to adopt a deficit budget. This provision is intended to restore a balanced Federal budget as the norm of our practice. Second, it would require a specific vote to increase the Federal share of the economy. As such, it would counter the nonlegislated tax increases that arise as a result of the operation of progressive tax rates in a period of inflation.

Senate Joint Resolution 126 represents the culmination of many months of hearings, discussions, and drafting by the subcommittee members and their staffs. Senators DECONCINI, THURMOND, HEFLIN, HATCH, and SIMPSON deserve high praise for their efforts and for the product which they have reported to the full committee. Many Senators, including myself, have submitted proposed amendments to balance the budget to the Subcommittee on the Constitution. Some favored prohibitions against unbalanced budgets; others favored limits on Federal spending; and yet others favored limits on Congress power to tax. I am certain that each of these proposals would accomplish some of the ends of

the others. From these related, but quite distinct, proposals, the subcommittee was able to craft an amendment which arguably gives something to each of them. At the same time, Senate Joint Resolution 126 is duly attentive to the proper scope and form of a proposed amendment to the Constitution of the United States. Senate Joint Resolution 126 writes no "economic policy" into the Constitution; it simply restores a balance to Federal taxing and spending. There is nothing antidemocratic about this proposal. If the elected representatives of the American people wish to vote higher taxes, they may do so at any point. Senate Joint Resolution 126 simply requires that this be done straightforwardly, and not through inflationary increases that are never voted upon. Genuine representative government deserves no less.

Mr. President, I am hopeful that all Senators who introduced balanced budget or other budgetary amendment proposals will add their names as cosponsors to this proposal. I am hopeful, too, that before long all Senators will have the opportunity to vote upon Senate Joint Resolution 126 on the floor of the Senate.●

INTERIOR DEPARTMENT DOCUMENTS ON THE IMPERIAL VALLEY

● Mr. NELSON. Mr. President, sometime this year the Supreme Court will make a decision on whether the Imperial Valley is subject to the acreage limitation provisions of reclamation law. During the Senate's debate on S. 14, the Reclamation Reform Act, I commented extensively on this matter.

Recently, three important documents concerning this case have come to my attention. The documents detail the decision of the Justice Department not to appeal a 1971 court decision to exempt Imperial from reclamation law. Because of the importance of these documents, I wanted to make them available for my colleagues' inspection. I therefore ask that they be printed in the RECORD.

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

THE SECRETARY OF THE INTERIOR,
Washington, D.C., April 5, 1971.

Re *United States* v. *Imperial Irrigation District*, Civil No. 67-7-T, U.S.D.C. Southern District of California.

Hon. JOHN N. MITCHELL,
Attorney General of the United States, Department of Justice, Washington D.C.

DEAR JOHN: I have reviewed the facts and circumstances of the above captioned case as well as the memorandum decision by the United States District Court with my Solicitor, Mitchell Melich. Additionally, we have conferred on the matter with Deputy Attorney General Kleindienst.

They are both of the opinion that an appeal should not be taken in this case and I fully concur with this view. Therefore, I recommend that the United States not appeal the decision of the U.S. District Court, to the U.S. Court of Appeals.

Yours sincerely,

ROGERS C. B. MORTON.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., April 5, 1971.

Re *United States* v. *Imperial Irrigation District*, Civil No. 67-7-T, U.S.D.C., Southern District of California.

Hon. JOHN N. MITCHELL,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On January 7, 1971, Assistant Attorney General Shiro Kashiwa asked for the Department of the Interior's recommendation for or against an appeal from the United States District Court's judgment entered February 9, 1971, in the subject action, holding that the land limitation provisions of reclamation law do not apply to privately owned lands in Imperial Irrigation District.

I have reviewed the memorandum opinion of Judge Turrentine dated January 5, 1971, and the entire factual background which gave rise to this case. Under the circumstances this Department recommends that an appeal not be taken, of the trial court's decision, to the Ninth Circuit Court of Appeals.

Also, I have reviewed this case with Deputy Attorney General Kleindienst and he concurs in this recommendation that no appeal be taken.

Sincerely yours,

MITCHELL MELICH,
Solicitor.

OFFICE OF THE SOLICITOR GENERAL,
Washington, D.C., April 8, 1971.

MEMORANDUM FOR THE FILES

Re *United States* v. *Imperial Irrigation District*, et al., No. 67-7-T, S.D. California.

I have concluded not to authorize an appeal in this case.

Since this conclusion is contrary to the recommendation of Assistant Attorney General Kashiwa of the Lands Division, and is contrary to the recommendations of three members of my own staff, it is incumbent on me to write this memorandum expressing the reasons for my conclusion. The Solicitor of the Department of the Interior has recommended against appeal, although he gives no reasons for his conclusion.

It is also appropriate to note that various types of pressures have been circulating about including items received in the mail, columns by Jack Anderson, and others. With great care, and to the best of my ability, I have tried to be indifferent to these pressures, and to decide the question (which it is my duty to decide) strictly on the merits. I have tried to approach the problem as a lawyer, and as a Solicitor General, responsible on this matter at this point for the sound administration of justice and of governmental action.

1. Irrigation in the Imperial Valley was originally a private enterprise. On this basis, the Valley grew and developed. By the early 1920's, the irrigated area had reached virtually its full extent.

2. The Boulder Canyon Project Act did not make possible the reclamation of any appreciable amount of land in the Imperial Valley. The land had already been reclaimed. The Boulder Canyon Project Act, by providing for the All American Canal, did provide for a more stable water supply for the Valley, by eliminating the risks of taking the water through Mexico; and it provided protection against the considerable risk of flooding with which the Valley had long been threatened. There is no doubt that this was a benefit to the Valley. Except in a very broad sense, though, it did not amount to reclamation. It helped to protect reclamation which had already occurred under private enterprise, but it did not make possible the cultivation of any appreciable number of additional acres.

3. Of great importance is the fact that there were already large land holdings in the Imperial Valley at the time the Boulder Canyon Project Act was adopted. By the late 1920's, the Valley had for many years been probably the most intensively farmed area in the United States. It was, indeed, the source of a large amount of fresh produce marketed all over the country. Much of this was produced on large land holdings. The Imperial Valley had never been a "homesteading" area. It had long been an area where large scale farming was conducted although there were some smaller farms, too.

4. It may well be that Congress could have provided that the improvement resulting from the construction of the All American Canal should be made only on condition that all large holdings be broken up, and that land holdings thereafter be limited to 160 acres. There is certainly nothing in the statute which says this expressly. As I have already indicated, the situation was not akin to the usual reclamation project, which brings new land into cultivation, and can appropriately provide that its benefits should be widely shared among small land holders. Here the Imperial Valley was already well established, and functioning on a very large scale, with many large holdings. It is, it seems to me, a rather different thing to say that large holdings must be broken up than it is to say that large holdings shall not be formed in a new development.

5. I recognize fully that arguments can be made on the basis of the statutory provisions, particularly those referring to "the reclamation laws," that the proper construction of what Congress did is that land holdings in the Imperial Valley should be reduced to 160 acres, in effect, retroactively. Arguments can be made the other way, too. On either basis, the arguments are extremely technical and complex. Neither conclusion can be said, in my judgment, to be clear or "required" as a matter of ordinary principles of statutory construction.

6. Similarly, the legislative history is far from clear, but can be read to provide support for either view. There are clear statements in the legislative history that the 160 acre limit was not involved. These are included in the opinion of the district court. Similarly, there are explicit statements in the legislative history (referred to in Mr. Kashiwa's memorandum) to the contrary. Actually, though, the entire legislative history is extremely complex. It is very hard to have any conviction that any of these items of legislative history have any close relation to the statute as it was finally enacted. The one thing that can be said about the statute passed by Congress is that it contains no express provision on this question and that the arguments that can be made about it, by reference to other statutes, and so on, are complex, and not very convincing.

7. In this situation, we have what seems to me to be the determinative factor in this case. This is the announcement made by the Secretary of the Interior, Ray Lyman Wilbur in February, 1933. This was to the clear effect that the 160 acre limitation was not applicable in the Imperial Valley, for the reason that no new water was being sold under the All American Canal project.

This was a clear and specific administrative determination, contemporaneously made, by the officers charged with the administration of this statute. As far as I can determine, it did not cause a ripple at the time, and it was not seriously questioned in Congress, or elsewhere. Indeed, there was a local court decision confirming it. I do not put much stress on that, but it is a part of the picture which shows that this question was determined in 1933, that it was long regarded as settled, and that many actions were taken in reliance on it.

One of the arguments frequently made by the government is that of the importance of administrative determinations, particularly those contemporaneously made by the officers charged with the administration of the statute involved. This is familiar doctrine in the tax field, and it has long been applied in many other areas of the government. Moreover, there is a further doctrine. Good government requires a substantial measure of stability. There needs to be a basis for reliance on positions taken by responsible administrative officers. Here the position had been outstanding for 34 years before the present suit was filed. Although I make no suggestion that the statute of limitations applies in this case, the usual period of the statute of limitations with respect to real property is 20 years. There is reason behind such provision.

It is said that the action by Secretary Wilbur in February, 1933, was taken in the dying days of the Hoover administration, and therefore, for some reason, is not entitled to great weight. These were, however, the officers who had been responsible for the construction of the Hoover Dam, and who had carried out all of the negotiations under the Boulder Canyon Project Act, and particularly those with respect to the All American Canal. They were the ones who were then charged with the administration of these statutes. It is hard for me to think of officers who would have been better qualified to know what the appropriate resolution of this problem was. Moreover, they could well have felt that it was not fitting to let such a matter go over to the new administration, since they were directly responsible for it, and had the experience to deal with it.

On this matter, it seems to me significant, too, that no steps were taken by the immediately succeeding administration to upset the determinations made in February, 1933. If there had been serious doubts about this, it seems clear that they would have been raised in the Franklin D. Roosevelt administration. If prompt doubts had been raised, we would not have a long continued administrative construction, and the situation today would be very different. But the initial questions were raised about this only in the mid 1940's, and only with reference to another valley served by the project. Application to the Imperial Valley was soon denied, and no action was taken which directly opposed the conclusion of Secretary Wilbur in the Imperial Valley until the opinion of the Solicitor of Interior on December 31, 1964.

This was more than 31 years after Secretary Wilbur's determination. Whether there was any political motivation in this, I do not regard it as relevant. The significant thing, it seems to me, is that the prior determination had then been outstanding for 31 years, had been widely understood and accepted, and had been extensively relied upon.

8. To me, the essence of this case is essentially a question of good administration of the government. Is it sound to have a government system in which official determinations are made, on questions which are at least debatable, are then outstanding for more than 30 years, and are then decided another way by a succeeding governmental official? This does not strike me as good administration, or good government. Of course, life is filled with uncertainties, including commercial life and the ownership of property. But one of the functions of government is to provide for stability and to make it possible for the people to rely on situations which have been determined, and where they make commitments on the basis of that determination.

To me, the controlling factor in this case is the determination of Secretary Wilbur in February, 1933. This was later confirmed by Secretary Krug in 1948. I do not think that it is sound, 38 years later, to be presenting serious questions about that action. Whether it was right or wrong, it was made; and such an administrative determination, on a question at least doubtful should be sustained after a lapse of 38 years.

9. I have given careful consideration to the question whether, agreeing that the underlying questions here are arguable, an appeal should not be authorized simply for the purpose of obtaining a decision of an appellate court on an obviously important matter. Indeed, that would be the easy way out; and it has been tempting. I have given consideration to the question whether I am leaning over backwards. However, I have come to the conclusion that it is not appropriate for me, on this matter, simply to say that it is a doubtful question, and so it should be decided by the court of appeals.

The responsibilities of the Solicitor General cannot be described in a few words. If he authorized appeals in every case where the question was doubtful, a great many more government appeals would be taken than in fact are taken. It is very clear that the Solicitor General is an advocate and not a judge. However, he is a very special sort of advocate. He has a responsibility with respect to government litigation, and he is expected to exercise some control over it, so that cases are not presented simply for the purpose of getting a decision. He has some responsibility in some cases to see that cases are not presented which should not be presented, that cases are not presented where the government's position is, on his best analysis, not one which the government should be interested in.

For the reasons I have already given, this seems to me to be such a case. No matter where I look and turn, I cannot get away from the administrative decision which was made, by officers having responsibility in the area, in February 1933, now 38 years ago. I would not say that it is a breach of faith or a breach of trust for the government to seek to change that decision. I have concluded that, in my judgment, it simply is not good government and that it is not a position which, in the particular circumstances of this case, the United States should be advancing before a court.

In summary, it is not just that I think an appeal to the Ninth Circuit Court of Appeals would be unsuccessful, but that I think that it ought to be unsuccessful. In such circumstances, it does not seem to me appropriate to authorize an appeal.

10. It is clear that there are many defects in the opinion of the district court in this case. It misquotes the statute, and makes other errors. I do not think, though, that these are really very significant. In particular, I do not think that they have the significance which is attached to them in the long memorandum from Mr. Kashiwa. It remains the fact that there is nothing really explicit in the statute, and that the statutory provisions require a good deal of rather involved reading together to support the government's position—a reading together which essentially ignores the special and unusual situation and background of the All American Canal project.

The opinion likewise has some rather sweeping language which might be regarded as having some general effect on the application of the reclamation laws to other projects. It is suggested that there should be an appeal for the purpose of getting this language qualified or disapproved, even if the appeal did not lead to any different result with respect to the Imperial Valley. I am not able to conclude that this is an adequate basis for an appeal. In the first place, these portions of the opinion of the district court are dictum at most, with respect to other projects, and they are rather clearly dictum. I do not think that the precedent will be of any serious moment in subsequent cases involving other areas with different histories and backgrounds. In the second place, I do not think it is appropriate to take an appeal simply for the purpose of getting an opinion limited or corrected, if we think the court reached the right result. Since I think the court here did reach the right result, because of the long continued administrative practice, I do not think that the undue breadth of the opinion is an adequate basis for appeal.

11. In reaching this conclusion, I have sought to consider only the merits of the controversy, and to focus my examination on the responsibilities of this office for the proper handling of government litigation.

For the reasons indicated, however, after full and careful consideration, I have come to the conclusion that there should be no appeal in this case.

ERWIN N. GRISWOLD,
Solicitor General.

[From the Washington Post, Apr. 9, 1971]

LAND GRAB

Sen. Clint Anderson (D-N.M.) has made an 11th hour effort to wrench California's lush Imperial Valley from the land barons.

At issue is not just the valley, but hundreds of thousands of other Western acres which get vital federal water at ludicrously low rates.

Such wealthy corporate landowners as Irvine Land, Purex and United Fruit—backed by the powerful Farm Bureau—now hold up to 12,000 acres each of federally-watered Imperial Valley land despite a law that limits holding to 160 acres.

These land conglomerates cite a disputed 1933 memo from a lame-duck GOP administrator to justify their grip. They have been upheld, surprisingly, by Federal Judge Howard Turpeptin who has refused to enforce the 160-acre law.

Now the Interior and Justice Departments are debating whether to appeal. After all, the land barons are heavy GOP contributors and have made private calls upon both departments. President Nixon has also fought the 160-acre limitation for 22 years.●

A PROPOSED NEW NORTH ATLANTIC TREATY OF TECHNOLOGICAL COOPERATION AND TRADE

● Mr. GOLDWATER. Mr. President, it has come to my attention that a very important paper addressing the survival of the free world was presented at the NATO 30th Anniversary Conference held in Brussels, Belgium, last September. This draft paper, authored by Thomas A. Callaghan, Jr., argues that the security of the West requires a return to the original concept of NATO as an alliance for the achievement of balanced collective forces with a conventional military capability sufficient to deter Russian aggression. Mr. Callaghan contends that instead of fulfilling the concept of balanced collective, conventional forces, operating together for the defense of Europe as one geopolitical entity, NATO has become what amounts to an intercontinental nuclear nonaggression pact between the United States and the Soviet Union.

An adequate and credible conventional defense of Europe does not require large increases in European defense expenditures, according to Mr. Callaghan. Rather, it requires relatively modest increases of about 5 percent in real terms per year, plus full and nonduplicative military-industrial cooperation within Europe.

In order to achieve these goals and to meet the challenge of renewing collective efforts within the entire alliance, Mr. Callaghan proposes a new treaty which would establish the rules that would govern intercontinental military trade and cooperation between Europe and North America. He suggests this new treaty be called the North Atlantic Treaty of Technological Cooperation and Trade, a treaty creating a structured North Atlantic Defense Market among the nations of the North Atlantic Alliance.

Mr. President, I believe the suggestions made by Mr. Callaghan deserve careful study by Congress and the President. In order to make my colleagues aware of this thoughtful and provocative paper, I submit the text, as revised by the author, for the RECORD.

The text follows:

A NEW NORTH ATLANTIC TREATY OF TECHNOLOGICAL COOPERATION AND TRADE (REVISED TEXT, NOVEMBER 20, 1979)

(By Thomas A. Callaghan Jr., Director, Allied Interdependence Project)

(Originally Presented at the NATO 30th Anniversary Conference, Brussels, Belgium, September 1–3, 1979)

A SALT II PROSPECTIVE

The SALT II Treaty will probably be seen, in years to come, as an intercontinental nuclear non-aggression pact between the United States and the Soviet Union. The Americans and Russians have agreed (in effect) to remove their queens from the global chessboard, except to protect their own kings from checkmate. What contingencies will constitute checkmate are still unclear.

But the play for control of the board will continue—with bishops, knights and rooks. The Warsaw Pact has them. NATO does not. Thus the Alliance comes face to face with a crisis it has been courting for twenty-five years.

A NATO RETROSPECTIVE

The North Atlantic Treaty was signed, and ratified, while the United States still had a monopoly of atomic weapons. If ever atomic deterrence was sufficient unto itself for the defense of Europe, it was then. But in 1949, the leaders and nations of the Alliance realized (as seemingly they do not now) that a strong, collective, conventional military capability was needed to deter Russian aggression.

In his 1969 memoir, Present at the Creation, Dean Acheson tells of presiding at the fourth session of the North Atlantic Council in London in 1950, at which "the basic problems, which NATO has never been able to solve, began to emerge."

The North Atlantic Council was considering the recommendation of its Defense Committee that Alliance governments (in Acheson's words) provide a progressive increase in defense forces—

". . . based on the creation of balanced collective forces rather than balanced national forces. By this was meant a force for the defense of Europe, complete and balanced in its components when viewed as a collectivity, rather than a collection of national forces each complete with all the necessary component arms. The latter was beyond the economic means of Europe. . . ."

Council members were asked in the course of the debate, "What would be the fate of an imperiled nation if the collective force did not come to its aid?"

There was (predictably) an attempt to gloss over the question. Dean Acheson tells us he intervened to insist that this was a real issue, that it should be understood, faced and resolved. He emphasized to the North Atlantic Council that:

"The sole point at issue was that in raising the forces for the defense of the area, economic necessity required that all duplication of effort be eliminated."

The concept of "balanced collective forces" was approved unanimously by the North Atlantic Council on 17 May 1950. The deputy members of the Council were instructed to remain in continuous session in London "in an attempt to push forward the development of the collective defense."

The momentum thus generated (and spurred by the Korean invasion) continued for the next several years. The Alliance nations agreed on all that was conceptually needed, then and now, for the defense of Europe:

A forward strategy to resist aggression as far to the east as possible

Integrated and balanced conventional forces

Equitable burden-sharing, including balance of payments relief

A collective European defense procurement effort

American economic cooperation in armaments

In the end, it all came to naught. What went wrong?

For one thing, as Dean Acheson himself acknowledged, "while we Americans talked of balanced collective forces, our own military planning and budgeting were undertaken aloof and apart from Europe." This problem continues to this day, though the Carter Administration is trying to correct it.

For another, the Korean War stalemate diminished the fears of a Russian attack. At the same time, dollar deficits, the demand for post-war recovery capital, material shortages, and inflation, all combined to make additional European defense spending politically burdensome.

TWO WRONG TURNINGS

But two events, more than any others, doomed the efforts to raise balanced, collective, conventional forces for the defense of Europe. One was the defeat of the European Defense Community (EDC) which made it structurally impossible. The other was the doctrine of massive nuclear retaliation, which made it conceptually unnecessary.

The concept of collective forces had not yet been rooted in structures within which it could grow, when the building of the most important structure collapsed. Some aspects of the EDC may have been too ambitious. Most were not.

If NATO was ever to become more than a sub-nuclear Potemkin Village, there had to be agreement within Europe (and between Europe and North America) on a single, coherent defense strategy. All NATO nations had to agree they would be fighting the same war together—defending Europe as one geopolitical entity. NATO Europe's thirteen weak nations would have to heed Benjamin Franklin's advice to another weak thirteen: "We must all hang together, or, most assuredly, we shall all hang separately."

The EDC made "hanging together" possible. There would be common military requirements. A European defense procurement effort, and a continental European defense industrial base, would provide large weapons inventories at reasonable cost. When the military assistance phase of American economic cooperation in armaments ended, a new military trade phase would insure standardized weapons procured on an inter-continental scale. Thus, NATO's forces could operate together.

The attainment of these objectives became moot when the United States put forth the doctrine of massive nuclear retaliation. This was never a valid, war-fighting strategy for the defense of Europe. It was, however, an all too credible budget-fighting scheme. It emphasized nuclear deterrence. The conventional defense of Europe, except for a tripwire, became unnecessary. But the paradox, as Senator Sam Nunn (Dem., Georgia) points out in his Foreword to the English version of Belgian General Robert Close's book, Europe Without Defense? is that—

"NATO today maintains far fewer men under arms than it did during the era of massive nuclear retaliation—a strategy which relegates non-nuclear forces to an almost perfunctory role."

Massive nuclear retaliation—"more bang for the buck"—meant defense on the cheap. For the United States, the high cost of conventional forces, swollen by the Korean War, could safely be cut back. This made the much lower cost of providing nuclear forces and weapons politically attractive. It also appealed to a Europe still recovering from World War II. The United States would now bear the cost of Allied nuclear deterrence. Each European government, and particularly those with colonial commitments, would be free to determine how much it could afford to spend to maintain its own national segment of the tripwire.

Politically difficult questions of collective defense could be put aside. There would be peace and prosperity for all NATO nations, under the American nuclear umbrella.

THE $150.0 BILLION PFR YEAR TRIPWIRE

By 1961, Allied leaders began to warn of the danger of the North Atlantic Alliance having but two strategic options: surrender, or nuclear war. These warnings have never been heeded. Today, NATO's conventional forces are collectively so weak that Allied government and military officials argue only over the number of days they might resist, before resorting to nuclear weapons.

Earlier this year, for example, the House Armed Services Subcommittee on NATO Standardization, Interoperability and Readiness found that:

"Incredibly, after 30 years, NATO now hopes, by 1983, to develop a capability to fight for 30 days.

"The European shortages of ammunition and replacement stocks are critical; evidence available to the subcommittee suggests that European forces will begin to run out of equipment and ammunition in a matter of days rather than weeks or months."

The fourteen armed nations of the North Atlantic Alliance are spending nearly $150,000,000,000 per year—more than $12.0 billion per month—on general purpose forces. This sum should be sufficient to provide strong conventional forces for the defense of Europe. It does not! Why? Because each nation spends its money for the national (rather than collective) defense.

The concept that 14 sovereign nations could forge a credible, collective, conventional defense capability—without a collective military-industrial effort—has failed miserably.

Every Allied government determines what weapons it will buy, when, in what quantities, and for what military purpose. Some rich nations are poorly defended, as are (unfortunately) all poor nations. Unnecessary duplication (indeed multiplication) of Allied defense-industrial effort abounds. Logistic support for what German General Johannes Steinhoff called "a museum of weapon systems" is provided by 14 national defense ministries for 39 armed forces. No wonder that NATO Secretary General Joseph Luns spoke of "a logistics nightmare that may well prove impossible of support."

The provisioning of forces, and the provisioning of war reserve stocks, is also a national responsibility. Defense ministries (European and North American) buy weapons without adequate ammunition, aircraft without adequate repair parts, missile launchers without

adequate numbers of missiles. Shortages of fuel, ammunition and other expendable limit operational training, and severely reduce Allied readiness. The short-war/long-war argument is effectively foreclosed by the long lead times—and gaps of months and years—between war reserve replenishment orders, and first production deliveries.

The massive five-thousand mile Soviet military threat to Europe is seen through fourteen national prisms. The Allies do not agree on the magnitude of the threat. They have yet to agree on a strategy for meeting the threat. As a consequence, NATO's Integrated Military Command today commands almost nothing that is integrated:

Neither its tactical doctrine for the defense of Europe;

Nor its military equipment requirements;

Nor its weaponry, its ammunition, nor its repair parts;

Nor its war reserve "days of supply";

Nor its logistics, its communications, nor its operational training.

Yet successive American Secretaries of Defense have estimated that NATO and the Warsaw Pact are devoting approximately the same resources to the development, production, training, maintenance, operation and support of general purpose forces. What do these roughly equal resource commitments produce?

For the Warsaw Pact it produces a massive, standardized collective force, capable of operating effectively together.

For NATO it produces a de-standardized collection of national forces, qualitatively uneven, quantitatively inferior, unable to fight for the same period of time at the same munitions expenditure rates, and with only a limited ability to rearm, refuel, repair, reinforce, support, supply or even communicate with one another.

Seen in this light, it is not the conventional force buildup of the Warsaw Pact that threatens Europe. It is NATO's own self-inflicted wounds. The Russians are not ten feet tall. They just seem that way, because Allied governments have collectively cut themselves off at the knees.

Allied Heads of Government, their Congress and Parliaments, should ask themselves:

Do we have a moral right to place an annual $150.0 billion tax burden upon our people, to produce conventional forces collectively so weak, that a Warsaw Pact attack could only be met by surrender, or nuclear war?

NO ECONOMIC REASON FOR NATO TO BE INFERIOR

The collective weakness of Allied conventional forces contrasts starkly with the great economic strength of NATO.

Europe and North America are the two richest, most technologically advanced industrial economies in the world.

NATO Europe alone is the second richest economy, and the third most technologically advanced military-industrial base.

The twelve armed nations of NATO Europe have a combined Gross National Product (GNP) 88 percent as large as the United States; 127 percent greater than the Warsaw Pact!

The fourteen armed nations of NATO have a GNP 289 percent greater than the Warsaw Pact.

The Warsaw Pact's GNP is only 35 percent of NATO's GNP.

Thus, there is no economic reason for NATO to be inferior to the Warsaw Pact.

The Russians have great respect for the industrial prowess of the West. One might argue that if the Alliance nations had built a collective military-industrial base fifteen or more years ago, the Russians would have recognized the hopelessness of trying to beat the NATO nations on the weapons production floor. Unfortunately, NATO's greatest deterrent and defensive capability—its collective industrial strength—has not even been put in play.

The consequences of this folly were summarized as follows by Oliver C. Boileau, President of Boeing Aerospace Company, in an address to a Financial Times Conference in London in 1977:

"The weapons planners in the communistic nations are capitalizing on what we in the free enterprise system proved long ago—that one large production run is cheaper and more efficient than many small ones. They are beating us at our game!

"The money we waste in duplication could much better be spent in providing our troops with fewer [different] weapons in greater numbers, and in developing weapons which improve the ability of our forces to work and fight together."

NATO EUROPE: AN AMERICAN MILITARY PROTECTORATE?

In politics, as in physics, there is a Newtonian Third Law which says that for every action there is always an equal and opposing reaction. The actions that have been taken to strengthen the North Atlantic Alliance have produced strong reactions, particularly in the United States Congress.

Questions are being asked concerning the Alliance—its strength, its weakness, its readiness for war, its staying power in conflict—that were generally ignored in the past. There is particular interest in learning: what happens if deterrence fails? Ambiguities in the nuclear deterrence/conventional defense equation that could once be passed off as "confusing the Russians", and therefore an element of Allied strength, are now recognized as elements of weakness.

The partnership the Europeans have wanted for so long is being examined in detail, and found wanting. The following are examples of Congressional attitudes:

"The committee continues to be concerned about providing our NATO forces with viable options other than the use of nuclear weapons in the event of war. Western Europe cannot be defended by American conventional forces alone." (Senate Armed Services Committee, 1978)

"The strength of NATO defenses depends less on the capabilities of the U.S. forces than it does on the capabilities of the remaining three-quarters of forces provided by the Western European Allies. Most European forces are not as well provided with weapons, equipment and supplies as U.S. forces. They are less able to sustain combat in the face of an intense Warsaw Pact attack." (Congressional Budget Office, 1978)

"The term 'two-way street' as used by the Europeans, is a political device to secure economic benefits for European industries, and often has little or nothing to do with enhancing military effectiveness." (House NATO Subcommittee, 1979)

"Our European partners today muster an aggregate GNP over twice that of the Soviet Union. They can and should do more. We must make it plainer than ever before that improvements in American forces in Europe are of little value without significant improvements in Allied forces." (Senator Sam Nunn, 1979)

"The subcommittee examined the issue of burden-sharing, asking why the United States should:

"Provide nearly ⅔ of the Alliance defense funds?

"Devote nearly 50 percent more of its gross domestic product to defense than the average of NATO Europe?

"Spend three times as much on military research and development as all its European Allies combined?

"Spend more than twice as much per capita on defense as the average of NATO Europe and ⅔ more than the next closest country?" (House NATO Subcommittee, 1979)

"For the past five years, the committee has placed great emphasis on defense programs oriented to NATO. The United States has paid a price for improvements in NATO warfighting capability. In the years 1974–80, in real terms, American expenditures for its NATO forces (including reinforcements) have increased by 3.3 percent per year; and decreased by 1.5 percent per year for all other forces." (Senate Armed Services Committee, 1979)

"We must make it clear to our Allies that U.S. forces outside Europe protect not only American interests, but European interests as well, and that by improving their own forces in Europe they allow the United States to better protect free world interests elsewhere." (Senator Sam Nunn, 1979)

"This section of the proposed legislation requires the Secretary of Defense to make an annual assessment of the readiness status of American and Allied NATO forces, to report the deficiencies to the Congress, together with planned budget actions (by the U.S. and its Allies) to correct the deficiencies." (House Armed Services Committee, 1979)

". . . the present shortfall in Western European defense demands unique solutions.

"We cannot have an adequate deterrent or fighting capability on the cheap. For the present, the solution will not be found in less—it must be secured by more—more modern equipment, more efficient planning and training.

"Our defense appears to be based more on hopes and wishes—if we have enough time, if we get enough cooperation, if everything goes according to plan—our plan—we can survive and ultimately restore the continent to its present balance.

"We are deluding ourselves and the people who rely on us if we do not move out of our present dream-world, and into the world of reality." (House NATO Subcommittee, 1979)

There is concern in the Congress with testimony that the NATO goal of a 3 percent annual growth was admittedly dictated by political realities, and is insufficient to reverse the NATO-Pact conventional balance. The House NATO Subcommittee concluded that the NATO Long Term Defense Plan will have little impact on NATO readiness until the 1990s.

But individual members of the Congress find nothing more perplexing—more bewildering—than Europe's apparent contentment in the role of a military protectorate of the United States. "They don't seem to have the slightest interest in defending themselves," one Representative told me.

In an interview in the February-March 1979 issue of NATO's Fifteen Nations, NATO Secretary General Dr. Joseph Luns tried to explain the attitudes of European Governments and Parliaments, saying:

". . . theoretically it seems odd that a group of European nations which have more inhabitants than the Soviet Union, far more gross national product, far more technological know-how—and I'm talking about civilisation in a general sense—that they should be unable to defend themselves. But that is a result of the fact that the priorities have become so different since the last war.

"In the social sector our expenses have gone sky high in all countries, to an extent not even dreamt of before the war. I would be the last to say we should stop it. Even if I wanted it, I wouldn't say so because it's impossible, it's a political impossibility. In other words, to expect the countries of NATO [Europe] to go back to their original spending, which at the inception of the Alliance was about double of what it is now, is unrealistic.

"We do spend in real terms something more than 20 years ago, because our gross

national product has risen so much, but our defence burden is far less than it was 20 years ago. But you cannot ask parliaments, they will not do it, and their governments will not even propose it, to double their defence outlay. It is not realistic and therefore you must take it as it is.

"In other words, we do depend in the foreseeable future on strong American support and an American presence in Europe. We must see it as it is. Therefore when people say Europe must defend itself, I think it's splendid but I don't see it happening."

Dr. Luns overstates what the Congress, and most Americans, expect of Europe, when he speaks of European Parliaments being asked to "double their defence outlay". Only if the United States were to withdraw from Europe would increases of that magnitude be necessary.

Adequate conventional defense does not require large increases in European defense expenditures. It does require relatively modest near-term increases (about 5 percent in real terms per year for several years), plus full and nonduplicative military-industrial cooperation within Europe, and between Europe and North America. Dr. Luns recognized this need, for he went on to say that:

"Even if there was a real European superstate, a federated state let us say, even then that state would have to spend more than the sum of the defence budgets of the countries which currently set their own expenditures. There would be more efficiency, there should be a greater yield, but still they would have to spend more, so it is not very realistic.

"But I repeat, it would be a very good thing if European countries would cooperate more, would take more common decisions, would have the same sort of armaments. And this would be conducive to European unity."

Here Dr. Luns is much closer to what the Congress, the President, and other Americans have long sought, namely for Europe to organize its defense procurement efforts (in the words of the Culver-Nunn Legislation) on "a united and collective basis", so that NATO can mount a credible, collective conventional defense.

Nuclear parity is NATO Europe's OPEC—an end to the days of defense on the cheap. It ends the American military protectorate of Europe. It should also end the American practice of conducting its military planning and budgeting aloof and apart from Europe.

Nuclear parity will profoundly change the assumptions and relationships of the United States with its Allies. The realities of Allied security are beginning to intrude upon those who would prefer the ambiguity and gloss of Allied tranquillity. In Dean Acheson's words, these collective security issues must be understood, faced and resolved.

COUPLING STRENGTH, AND DECOUPLING WEAKNESS

In his testimony in July on the SALT II Treaty, General Alexander M. Haig, Jr., former SACEUR, told the Senate Armed Services Committee that while—

". . . a conventional attack would be met in kind, the serious, historical imbalance in conventional forces favoring the Warsaw Pact has led to the common expectation among our Allies of early resort to nuclear weapons—both tactical and strategic."

In a colloquy with the Senators following his formal statement, General Haig characterized the concept of deterrence based on Mutual Assured Destruction (MAD) of populations as not moral, not logical, not credible.

Ambassador Clare Booth Luce has called MAD this generation's Maginot Line! It is a MADness that lulled NATO into a false sense of security as the Warsaw Pact tortoise relentlessly built up its conventional forces. It is a MADness that still leads some to believe that the Russians can be persuaded to renounce at the negotiating table what they have already won on the production floor—ignoring the great Russian pride of accomplishment, and the Russian economic deprivation that made it possible.

Many Europeans fear that if NATO's conventional forces are collectively strong enough to defend Europe from a Warsaw Pact attack, without recourse to nuclear weapons, it will decouple the American inter-continental, continental and battlefield nuclear commitment to the defense of Europe. They understandably fear that for the third time this century, European cities will be destroyed, and Europe's peoples slaughtered or made homeless, in a devastating conventional war of attrition.

In the United States, there is growing Congressional concern that, with nuclear parity, Americans may find themselves precipitated into a nuclear war because of the unnecessary weakness of Allied conventional forces. Understandably they fear American cities may be destroyed in a nuclear exchange to protect European cities from conventional destruction.

Europeans doubt the conventional defensibility of Europe. They argue for early resort to battlefield nuclear weapons. Americans fear rapid escalation from battlefield, to continental, to inter-continental nuclear weapons. As Senator Sam Nunn put it five years ago, in a report to the Senate Armed Services Committee:

"This dependence on the nuclear crutch in Europe is no longer feasible. Nobody has any experience in fighting nuclear wars, and nobody knows what would happen if one were to start. Some people feel that NATO could use tactical nuclear weapons without much chance of a similar response from the Warsaw Pact, and that escalation from tactical nuclear weapons to strategic nuclear weapons could be controlled. . . . The point is that nobody is certain about what would happen."

Escalation risks the annihilation of two continents, their civilizations and economies, with radiation effects lingering for decades, or centuries, if not millenia. This is simply too high a price to pay to retrieve a military disaster that might have been avoided by strong conventional forces.

The issue is not, as the Europeans have seen it, the coupling of nuclear forces to conventional forces. The issue is coupling American strength to European weakness, and then having to suffer the consequences. Coupling American strength to European strength will always have popular and political support. But strength to weakness will lead to decoupling, even of conventional forces. Senator Sam Nunn said recently:

"In this century, Americans have died in large numbers on European battlefields. We are prepared to do so again if necessary, but only for a Europe that is dedicated to its own defense."

There are Americans who don't share the European view of the indefensibility of NATO Europe. They cite the Russian reverence for their World War II "Hero Cities"—Kiev, Kursh, Leningrad, Minsk, Moscow, Sevastopol and Volgograd (Stalingrad)—the cities that could not be taken (or were only taken) after a prolonged seige that took a heavy enemy toll. The Russians understand the defensibility of cities. Deterrence would be greatly enhanced if the European Allies were prepared to mount a stalwart urban NATO defense, and proclaim with Churchillian defiance, "We will fight in the cities, we will fight in the streets, we will never give up!"

An urban defense strategy would say to the Russians that however much you might covet Europe's labor force, and its technological and industrial base, you will never capture it intact. It would end the temptation of a short, blitzkrieg conquest of Western Europe.

A stalwart urban defense permits a counter-attack strategy—also well understood by the Russians. It would put them on notice that a Warsaw Pact attack on Western Europe would not only fail, but would inevitably lead to a war of liberation in Eastern Europe and the Soviet Union. This too is deterrence.

There is nothing provocative in such a stance. The North Atlantic Alliance would still vigorously pursue peaceful coexistence with the Warsaw Pact, but NATO would now be flying the Don't Tread On Me flag of early American history. This is a concept of defense and deterrence that would appeal to the youth of Europe and North America, who expect their leaders to order nuclear war as a last (and not a first) resort.

Some argue that the Alliance is politically too fragile to face up to the many problems involved in structuring a credible, collective conventional capability. If they are right, so be it. Something will have been learned, and the American, Canadian and European governments can plan accordingly. But more likely we will learn that the Alliance has a strength, a vitality and a nerve that the timid could never plumb. Given leadership, direction and challenge, the nations will respond with a vigor that will command their own respect, and that of the Russians.

Before his election, President Jimmy Carter promised a high priority for revitalizing the North Atlantic Alliance, saying:

"The period that lies ahead can be as exciting and challenging as the period after World War Two, in which the European Communities, NATO, the Organization for Economic Cooperation and Development (OECD), and the other great institutions of our day were fashioned. The opportunity is there. Working closely together, Europe and the United States can seize it—for their good and that of mankind."

AMERICANS NOW SEEK REASSURANCE FROM EUROPE

Nuclear parity has brought the North Atlantic Alliance full circle. The concept of nuclear deterrence without a credible conventional defense is finding fewer supporters in the United States.

For thirty years, European governments have sought assurances of American strength, and American will. And now it is the Americans that are seeking assurances of Europe's collective strength, and Europe's collective will. The United States provides little more than 20 percent of NATO's conventional forces. Europe provides the other 80 percent. No Allied nation—not even the United States—can insure the defense of Europe.

It is this simple reality that is turning American policy back towards the Alliance's early concepts of collective conventional defense, and collective military-industrial cooperation. If the burdens and benefits of Allied defense are equitably and collectively shared between Europe and North America, then the North Atlantic Alliance could redress, and thereafter maintain the conventional force balance in Europe, without economic strain.

For this to be possible, the twelve armed nations of Europe must organize their defense industrial base on an efficient and competitive basis. This is the thrust of the Euro-Group Defense Ministers Report to their governments (1975), the Tindemans Report to the European Council (1975), the Klepsch Report to the European Parliament (1978), and the Critchley Report to the Western European Union (1978). All argue the need for Europe to aggregate its defense procurement market and organization on a continental scale.

The Culver-Nunn Legislation (1976) and President Carter at the London NATO Summit (1977) encouraged European efforts to establish a common European development and production base. Unfortunately, the progress being made by the Independent European Programme Group (IEPG), established in 1976 as a result of the EuroGroup Report, has been disappointingly slow.

Americans are beginning to understand what Jean Monnet meant when he said:

"...the United States has only one reliable European ally—Europe!"

The conventional force balance can never be redressed until the two-pillar partnership concept of endless Allied rhetoric is resurrected, and made to work. This doesn't mean nothing can be done without a united Europe. It does mean that no progress can be made until Europe's defense procurement is organized (in the words of the Culver-Nunn Legislation) on "a united and collective basis".

Only then can there be a two-way street in military trade on an inter-continental scale. Only then can the burdens Americans want shared be balanced by the benefits Europeans want shared. Only then can all unnecessary duplication of effort be eliminated.

THE NORTH AMERICAN DEFENSE MARKET

NATO nations are spending enough to maintain the conventional force balance, once it has been redressed.

How then does the Alliance overcome the political inertia that keeps the nations from collectively employing the necessary resources? The law of inertia was explained to us in high school in terms of a freight car—forty men were required to get that freight car moving; but once moving, one man could keep it moving. That's the task facing the Alliance—getting a collective defense-industrial effort moving!

In April 1941, Canadian Prime Minister Mackenzie King met President Franklin D. Roosevelt at Hyde Park to discuss a similar problem: how to mobilize the resources of the North American continent.

They decided that each country would produce and provide the other with the defense equipment it was best able to make. The weapons and equipment which Canada produced, and sold to the United States—in turn provided Canada with the dollars it needed to buy weapons and equipment from the United States.

To show they meant business, President Roosevelt and Prime Minister King established dollar purchase goals to be met by each country. Each country, they said, would (in the twelve months following the Hyde Park Agreement) place orders with the other for between $200.0 million and $300.0 million of military equipment. The purchase targets may seem small until we translate them into 1979 dollars: between $1.0 billion and $1.5 billion in orders from each other in twelve months!

In the 38 years since the Hyde Park Agreement, there has been a North American Defense Market between Canada and the United States. In the past 30 years that statistics have been kept, there has been over $10.5 billion in military trade between the two countries. Until recent years, no attempt was made to balance trade on either an annual, or project basis. The peak American trade deficit (1971) was $544.3 million. The peak Canadian deficit (1979) stands at more than $565.0 million.

In other words, twenty years have seen $5.0 billion bought by the United States from Canada, and $5.5 billion bought by Canada from the United States.

No similar trading structure exists within the North Atlantic Alliance.

A NEW NORTH ATLANTIC TREATY

The fourteen armed nations of the Alliance are spending $40.7 billion per year on conventional weapons development and production, and an even larger sum on logistic support.

When one begins to discuss a $40-plus billion annual military trading structure between Europe and North America with congressmen, parliamentarians, industrialists and labor leaders, words like "faith", "trust" and "confidence" begin to surface. And they should. However inadequate and inefficient the national defense efforts of the Alliance might be, nobody wants to discard the known and adopt the unknown.

Memoranda of Understanding (MOUs) won't provide the assurance people seek. MOUs have no magic to stir public and political comprehension and support. An MOU can not allay fears and suspicions. The armaments cooperation issues are too volatile, too politically charged, and the consequences of mistrust or misunderstanding too portentous, to be resolved by an instrument other than a treaty. Only a treaty can define the rights and obligations of sovereign states to one another. Only a treaty can bind the national defense economies of the Alliance together.

"The Thirteenth Anniversary of the first treaty can best be marked by beginning work on a new North Atlantic Treaty of Technological Cooperation and Trade."

The first Treaty called forth a collective military force for the defense of Europe. But it was flawed because it failed to call forth a collective military-industrial effort, without which there can be no collective security below the nuclear threshold.

The new treaty would generate a popular and political consensus on each side of the Atlantic, supporting renewed collective efforts within the entire Alliance. It would:

Join the enormous technological and industrial resources of Europe and North America in a two-pillared North Atlantic Defense Market;

Establish a continental European defense industrial base, and a European defense procurement agency;

Provide for the equitable sharing of Allied defense burdens and benefits keyed to the European and North American pro rata share of the combined NATO GNP;

Employ this same GNP formula (currently 56 percent North America, 44 percent Europe) to provide military assistance and support to the less developed countries of the Alliance—thereby greatly strengthening the Southern Flank;

Encourage the less developed countries of the Alliance to participate in the collective effort as soon as practicable;

Permit Japan, Australia and New Zealand to accede to the treaty on the same terms at a later date.

The new treaty would respond to the challenge laid down by Under Secretary of Defense (Policy) Robert W. Komer, when he told the members of the Atlantic Treaty Association (ATA) Assembly, that:

"If we pool our resources and efforts and pull together, we can generate credible and capable coalition defense for the 80s at a politically acceptable cost.

"This is the biggest challenge confronting NATO. The real test of NATO in the 80s will be how well both sides of the Atlantic collaborate with each other in a hundred different fields."

This "biggest challenge confronting NATO" can better be understood if one contrasts the sum of the Alliance's fourteen national defense investment efforts, with what the Alliance could collectively achieve "if we pool our resources and efforts and pull together."

Allied nations currently spend $40.7 billion per year on weapons acquisition. If Europe was carrying its fair share of Allied defense burdens (44 percent), that sum would be increased by more than $10.0 billion per year. If Canada did likewise, another $2.2 billion would be added. And if all unnecessary duplication of effort could be eliminated, more than $10.0 billion of waste would be available each year for weapons acquisition.

A structured North Atlantic Defense Market, with burdens and benefits collectively shared, would thus total more than $60.0 billion per year. The fears on each side of the Atlantic of loss of business, and loss of jobs, would be swept away (to use President Kennedy's phrase) by "a rising tide that raises all boats".

The treaty would establish the rules that would govern inter-continental military trade and cooperation between Europe and North America. It would inspire "faith", "trust" and "confidence". It would give the Alliance a new popular and political mandate. It would infuse the Alliance with a cohesion, a vitality, an excitement and purpose it has not had for years.

PROVISIONS OF NEW TREATY ESTABLISHING A NORTH ATLANTIC DEFENSE MARKET

Establishing a North Atlantic Defense Market would be the largest peacetime politico-economic cooperative effort ever undertaken by free people in their own defense. It would test whether the nations of the North Atlantic Alliance have the political will, the political wisdom, and the institutional flexibility to match the military-industrial discipline of the Soviet-dominated Warsaw Pact.

Building the cooperative structure (a two-way street) will require a public and political consensus generated first, by a Congressional Resolution and then by the Treaty binding all Alliance countries.

The first step would be a Vandenberg-style Resolution, passed this time by both Senate and House, stating it to be the sense of the Congress that the President of the United States should begin negotiations with the Canadian and European Allies leading to a North Atlantic Treaty of Technological Cooperation and Trade. The President of the United States, with the declared bipartisan support of the United States Congress, would then propose a transatlantic bargain to Europe, to be embodied in the treaty. The United States would:

Offer to join Europe and Canada in determining new weapons and equipment requirements for the collective defense of Europe;

Offer to agree with Europe and Canada on an efficient but equitable assignment of new weapons development and production projects, so that (over the years) there will be a balance in prime contract dollars spent in Europe and in North America;

Offer to open all American subcontracts for agreed NATO systems to competition on a reciprocal basis, so that all NATO weapons and equipment subcontracts will be competitively awarded on each side of the Atlantic by the end of the tenth year.

Offer to share equitably the cost of providing military weapons and equipment assistance to the less developed countries of the Alliance until such time as they can earn their own way through military trade, or through economic growth;

Offer to increase the total American defense budget by at least 4 percent per year in real terms for the next five years.

In return, the United States would ask Europe to organize its defense procurement efforts "on a united and collective basis", and specifically agree:

To establish an institution within the North Atlantic Alliance (presumably the Independent European Programme Group) which would permit the European Allies collectively to plan, finance and manage inter-continental, non-duplicative, multi-annual, multi-project defense research, development, production and support programs with the United States and Canada;

To increase Europe's collective defense expenditures by at least 5 percent per year in real terms for five years, until Europe's

total defense expenditures equal its pro rata share of NATO's combined GNP, or until lower levels are mutually agreed;

To share with Canada and the United States the cost of military assistance to the less developed countries of the Alliance, while taking positive steps (as recommended by the EuroGroup) to encourage the effective participation of those countries in military production and trade;

To join with the United States and Canada in progressively opening all Allied defense subcontracts to competition by the end of the tenth year;

To compensate fully for the United States' annual balance of payments deficit on military account, by either:

(1) Reimbursed use of American weapons and test facilities which Europe lacks;

(2) Reimbursed use of American operational and other training facilities, particularly when such use would result in European defense budget economies;

(3) Upgrading Allied weapon systems of American origin by modification to the current American standard in Europe, thus increasing interoperability;

(4) Replenishing war reserve deficiencies by purchasing ammunition and other expendables from the United States;

(5) Assuming American basing chores and costs in Europe;

(6) Or, by procurement of American weapons and equipment;

To agree to permit Japan, Australia and New Zealand to accede to the treaty, on the same terms and conditions at a later date.

Other provisions of the treaty would address critical inter-Allied problems. The treaty would:

Establish fixed minimum percentages of Allied defense budgets to be devoted annually to investment and support (including war reserves), so that increased manpower costs are not met by reducing funds required for modernization and readiness;

Establish fixed minimum percentages of Allied defense procurement funds to be allocated each year to basic research, and "technological building blocks", to insure both the viability and inviolability of the North Atlantic defense technology base;

Require reliable statistics to be developed and maintained, so that Allied policy differences could be debated and resolved from a common data base;

Provide that no Allied government could deny defense production to another, except in accordance with the treaty itself, or other inter-Allied agreements (thus substituting multilateral Allied arms export restraints for unilateral American restraints);

Require Allied governments to establish security policies and procedures which (other things being equal) would facilitate Allied cooperation;

Provide that military trade need not be balanced at the prime contract level on either a project, or annual basis;

Establish a two-tier (senior and junior), two-campus (Europe and North America) NATO Industrial College where Allied government officials, military officers, defense industry executives, and defense trade union leaders, could together learn the art, science and lessons of efficient multinational cooperation;

State explicitly that the treaty's implementation is to be governed by the golden rule—that each Allied government will interpret and apply the treaty's provisions as it would wish them interpreted and applied to its own government.

But there would be more to the bargain than that. The Treaty would re-affirm the American pledge to defend Europe by every means at its disposal, including its battlefield, continental and inter-continental nuclear forces, provided Europe agreed to join in building a collective, conventional capability sufficient to defend Europe against a Warsaw Pact attack, without recourse to nuclear weapons except as a last resort.

SHORT-, MID- AND LONG-TERM GOALS

With the bargain struck, Europe and North America would follow the lead taken by President Roosevelt and Prime Minister King. They would establish goals to be met.

The Soviet Union's 15-year head-start in the build-up of the Warsaw Pact conventional forces would not permit the nations to focus on new development projects only. Short-term results must also be sought. The Alliance must achieve the optimum interoperability of current inventories. War reserve "days of supply" must be brought to agreed uniform levels. The Standardization Agreements (STANAGs) must be implemented. There must be procurements from one another, and a start made on common logistic support.

Employment and other political benefits must begin to appear within the terms of incumbent Congressmen and Parliamentarians.

But long-term goals must also be established, so the Alliance never again finds itself fielding forces that can not refuel, rearm, repair, reinforce, support, supply or even communicate with one another.

The President of the United States, working with the Congress, would propose the following mid-, short-, and long-term goals.

SHORT-TERM GOALS

Current Inventories and Days of Supply: Europe and North America would each pledge to spend $1.0 billion per year, for the next five years, over and above current defense budgets:

To achieve optimum interoperability of current weapons, equipment and communications, and

To reach agreed uniform war reserve "days of supply" throughout the Alliance

Equipment Standardization Agreements (STANAGs): Europe and North America would together implement each year at least 20 percent of the material STANAGs already agreed, and would implement each new material STANAG within a year.

Within three years of implementation, each STANAG item would be procured by open, competitive bidding by both Europe and North America.

Procurement: A three year goal of $3.0 billion of defense procurement orders from one another; with European production of American systems, in case there was a short-fall in Europe's ability to produce $3.0 billion of competitive systems of their own.

MID-TERM AND LONG-TERM GOALS

Research: A three year goal for harmonizing all defense basic research.

Development: An initial three year goal of $4.0 billion of complementary development projects underway on each side of the Atlantic.

Logistics: A four year goal for common logistic support of all common weapons and equipment now in Allied inventories.

Military-Industrial Interdependence: By successive development, procurement and logistic support goals, Europe and North America would (by the twelfth year) achieve complete military-industrial interdependence within a fully-structured North Atlantic Defense Market.

Some say these goals are ambitious. They are! Some even say they are too ambitious. They are not. Assume for a moment that the transatlantic bargain is agreed by all Alliance nations; that the treaty has been negotiated and ratified; that the new cooperative structures are in place, and fully manned; that the governments have ordered full speed ahead on 1 January 1980; and then reflect upon the fact that:

Decision, development, production, deployment and training lead times are such that we would be into the 21st century before the North Atlantic Alliance could field the same collective conventional force capability that the Warsaw Pact has today!

DO WE DARE PROCEED ANY SLOWER?

Fortunately, the short-term goals will correct the most glaring conventional force deficiencies. Interoperable equipment modifications could begin in the second year. Significant increases in war reserve stocks would also begin in the second year. By the mid-80's, NATO forces could operate together. The short-term goals would also generate many tens of thousands of additional defense industry jobs on each side of the Atlantic—and within the terms of incumbent Congressmen and Parliamentarians.

The political and economic benefits would be widely distributed, thereby minimizing (if not completely eliminating) transitional economic and employment dislocations. And the political cohesion, the public confidence, and the real and measurable military results obtained in the early years, would guarantee the political commitment to see the job through.

But all efforts need not come to a halt pending negotiation and ratification of the treaty. Quite the contrary. When the Congress has passed the Vandenberg-style resolution, the United States could (on an interim basis) cease bilateral dealings with the individual European countries, and work with Europe on a collective basis, presumably through the Independent European Programme Group (IEPG).

A COHERENT POLICY OF COLLECTIVE DEFENSE, DETERRENCE AND DETENTE

The benefits of the new treaty would transcend its initial emphasis on NATO military-industrial cooperation.

Within the NATO area itself, Kremlin leaders would see that Europe and North America, the two richest, most technologically advanced industrial economies in the world, had finally pooled their enormous resources for their common defense. The ability of the North Atlantic Alliance to cooperate in peacetime would unequivocally signal a will to cooperate, if necessary, in the event of a Warsaw Pact attack.

But basing the military-industrial cooperation on total defense budgets (rather than some ill-defined allocation of the costs of the conventional defense of Europe)—and subsequently adding Japan, Australia and New Zealand—would also signal the determination of the industrialized nations of the West to defend (and equitably share the costs of defending) their vital interests worldwide. The backward nations of the Warsaw Pact could no longer continue to out-produce, and out-deploy the West.

In the post-Brezhnev era, sometime in the 80s, this could be the most effective deterrent to Soviet military temptations.

Critics of adequate American defense in the Congress and elsewhere, could no longer complain (as rightly they do now) that the United States is bearing a disproportionate share of the Free World's defense burdens. Indeed, they would see that once all the Allies got the "freight car moving", efficiencies of scale would permit first a leveling, and then a reduction (in real terms), of the defense burdens of every Allied nation, including the United States.

Nor could other critics complain (as rightly they do now) that commitments to a NATO defense diminish the security of the West outside the NATO area.

Cooperative structures, macro-economic in scale, and demonstrated to be necessary to provide adequate defense "at a politically acceptable cost", are bound to garner public and political support. This will have an appeal to the imagination and idealism of our youth. That in itself is of critical importance. The least noticed weakness of the North Atlantic Alliance is of the spirit—its lack of relevance to, and support from, the youth of Europe and North America.

The cooperative and effective utilization of Allied defense resources to lessen the danger of nuclear war is but a first step towards fashioning a world our youth will want to live in.

This new treaty might have been called one of "Military Cooperation and Trade". It is not, and purposely so. If the Alliance can develop the political techniques and structures to achieve Economic Cooperation in Armaments, then it shall also have developed the type of European/North American/Far Eastern political structures which can be adapted to economic cooperation in almost every area of civil technology; energy, nuclear safety, nuclear waste management or disposal, environmental control, housing, materials, transportation, food production, space, etc.

Civil technological cooperation would not be exclusive. In time it would be extended to all other OECD countries. OPEC participation would also be sought. And, in the spirit of the Marshall Plan offer which Stalin rejected, civil technological cooperation should also be available to the Warsaw Pact.

The Soviet Union badly needs western civil technology. They can acquire it (as at present) by hard currency purchases, or by Allied credits. But as long as Allied economic assistance is available to the Soviet Union in this fashion, there is no need for them to divert resources from defense.

We are thus fueling a dynamic disequilibrium that may one day destroy this planet.

But the West could use its collective technological and industrial wealth to induce the Soviet Union to make detente a fearless reality. How?

By withholding technological cooperation with the East (whether for credits or for cash) as long as the Soviet military buildup continues;

By offering civil technological cooperation between East and West as soon as the Warsaw Pact was prepared to reduce its forces to a non-threatening threshold, so that both NATO and the Warsaw Pact could divert resources from military to civil technological investment.

The West would thus be using its vast technological and industrial resources not only for its own defense, but also to build a secure bridge between East and West. We would, for the first time, be pursuing a coherent and mutually reinforcing policy of collective defense, deterrence and detente.●

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

EXTENSION OF TIME FOR COMMENCING ACTIONS ON BEHALF OF CERTAIN INDIANS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 2222, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2222) to extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.

The Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment. On page 2, line 2, strike "30" and insert "31" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by striking out "after April 1, 1980" and inserting in lieu thereof "after December 31, 1984".

(b) The proviso in section 2415(b) of title 28, United States Code, is amended by striking out "on or before April 1, 1980" and inserting in lieu thereof "on or before December 31, 1984".

Mr. MELCHER. Mr. President, S. 2222 is a bill to extend to December 31, 1984, the time in which the United States may bring a claim for damages on behalf of Indian tribes or individuals.

On December 17, 1979, the Senate Select Committee on Indian Affairs held oversight hearings on the progress of the Departments of the Interior and Justice in identifying and processing claims of Indians and Indian tribes which might be affected by the Federal Statute of Limitations (28 U.S.C. 2415). The testimony received at that hearing demonstrates a strong and immediate need for an amendment of this statute to extend the time limits.

The witnesses who testified before the committee represent a cross section of persons who would be affected by this legislation: Administration witnesses from Interior and Justice; field and regional solicitors with the Department of the Interior; Indian and non-Indian groups who had participated in the Interior Department research efforts; tribal representatives whose interests would be adversely affected if the statute is not extended; and non-Indian witnesses who believe their interests might be adversely affected if the statute is extended.

The testimony shows that aside from planning, the Department of the Interior did not begin a concerted effort at claim identification and processing until early in 1979, when funds for this project first reached Interior and a Presidentially imposed hiring freeze on all agencies was lifted. In January of 1979, the Department of the Interior testified that it was aware of approximately 700 outstanding cases. Through the research efforts conducted in 1979 by independent contractors, this figure jumped to approximately 9,500 claims. During the course of the year 1979, the Department was able to dispose of approximately 2,700 claims either by rejection for lack of merit or by successful resolution without litigation.

The number and nature of these claims varies greatly from one area of the country to another. In the North Central States, California, and, to a lesser extent, the Pacific Northwest, large numbers of "forced fee" cases have been identified. These involve individually owned trust allotments in which the Department of the Interior issued fee patents to the land without the consent or approval of the Indian owner, thus subjecting the property to State and local taxation, exposing the property to debt foreclosures, or freeing it for sale without requirement of secretarial consent. Many other claims arise from trespass over Indian-owned property by utility companies or State or local governments. In Arizona and California there are claims for improper pumping or diversion of water. In many areas of the country there are significant claims for unlawful extraction of mineral resources. In New Mexico the claims of the pueblos cannot even be identified until new and extensive surveys are completed.

In some of these areas there has been movement toward negotiated resolution of claims. In other subect areas the recent identification of claims has not allowed adequate opportunity to even formulate concepts for settlement discussions.

In Arizona and Utah there has been forward movement toward negotiated settlement of water claims. In the last Congress the water claims of the Ak Chin Indian community were settled and the select committee now has before it settlement legislation involving the San Luis Rey Water District in California. In Minnesota, a 1977 opinion of the State supreme court opened up possibilities of individual Indian claims on large numbers of allotments, title to which may have been unlawfully acquired. A large number of these claims arise on the White Earth Reservation. It appears there are possibilities for negotiated settlement of these claims but there has not been sufficient time to commence settlement discussions.

As previously noted, the Department of the Interior presently has before it some 9,768 claims. Witnesses for both the Departments of Interior and Justice stated that they would not be able to complete work on the pre-1966 Indian claims within the time allowed by the present statute of limitations. This testimony was supported by many additional witnesses. Failure to extend the time limits now provided will, unnecessarily, bar many meritorious claims of Indian tribes and individuals; it will cause the filing of a multitude of lawsuits which might be rejected if adequate time is allowed for administrative review on the merits; and it will deprive the United States of adequate opportunity to negotiate settlements outside of court. The mass filing of these cases will also cause unnecessary financial burdens on private individuals and local governments which may be named as defendants, and will additionally tax the resources of the Departments of Interior and Justice, U.S. attorneys' offices, and courts.

S. 2222 will extend the time limits for filing Indian claims to December 31, 1984. I believe the interests of all concerned would be best served by enactment of this legislation. The additional time provided by this bill should enable the Departments of Justice and Interior sufficient time to determine those claims which have merit, and initiate settlement negotiations or litigation. It will also provide Congress an opportunity to consider legislative solutions which are fair and just to all parties concerned.

Mr. President, I think it is obvious that this bill addresses a concern that extends throughout many parts of the country. Unless we want mass injustices to result by not extending the statute of limitations, or, on the other hand, if we

do not want to clog the courts with a lot of unnecessary proceedings, it is imperative that we enact this bill. I believe it is a fair and just bill, and the testimony we have received on the bill at our public hearings demonstrates that it is vitally needed.

Mr. President, I yield to the Senator from Maine, on his time.

Mr. COHEN. Mr. President, I oppose the enactment of Senate bill 2222.

The purpose of this bill before us today is to once again extend the statute of limitations due to expire on April 1, 1980, for certain contract and tort claims for money damages brought by the United States on behalf of Indian tribes, bands, or individual Indians where land is held in trust or restricted status.

Prior to 1966, there was no statute of limitations imposed on contract or tort claims brought by the United States although there was a time limitation for actions brought by private individuals. Intent on remedying this inequity and preventing the presentation of stale claims by the Government, Congress enacted a 6-year-and-90-day limitation in which the Government could bring actions in behalf of Indians based upon contract or tort claims. The original statute of limitations would have expired on July 18, 1972. However, the Bureau of Indian Affairs and the Solicitor's Office of the Department of Interior indicated that they were not able to perform the necessary work to identify and process all potential claims; and Congress once again extended the statute, this time for an additional 5 years, to July 18, 1977, with assurances from the Department of Interior that this was an adequate amount of time to complete their work. As the July deadline approached, the Department of Interior once again indicated that a further extension was necessary.

I was serving in the House of Representatives at that time, as a member of the House Judiciary Committee. As I recall, the Justice Department asked for an extension of some 10 years. The Judiciary Committee recommended in its bill an extension of 5 years; and when it came to the floor of the House of Representatives, we voted for a 2-year extension.

Then, during a conference with the House and the Senate, we agreed to a 2½-year extension until April 1 of this year; but it was made absolutely clear by all parties concerned, including the chairman of the Interior Committee in the House, Mr. UDALL, that this was the final extension.

Now, as we near the end of this extension, this 2½-year period, the Department of the Interior once again tells us that a further extension is necessary. The Department of the Interior has had almost 14 years to process and dispose of these claims; and after each extension, they have given assurances that they could complete the work in the time allotted. Yet, rather than reducing the number of outstanding claims to be processed, the potential claims keep increasing at a dramatic rate. In 1977, the Solicitor to the Department of Interior indicated that unprocessed cases could exceed 1,500. In December 1979, the Assistant Secretary for Indian Affairs indicated that the Bureau has in excess of 9,500 claims before it. The more times an extension is approved, the more cases seem to surface.

For this reason, Mr. President, I urge my colleagues to oppose this measure.

I must say that I am not unmindful of a major claim that is pending before the courts in the State of Maine. As a matter of fact, we received word today that the attorney general in my State would like to see an extension of the statute of limitations in order to allow the parties to continue to try to work out a settlement, without forcing court litigation, which would have a very severe economic impact upon the State of Maine.

However, in good conscience, I must say that in view of the fact that I was the one who fashioned the amendment in the House of Representatives that limited the original extension, in July of 1977, to 2 years, and had agreed to a compromise of 2½ years, with the understanding that it was the last and final extension, even though it is in my State's best interests to extend the statute, under the circumstances, I feel compelled to vote against this extension and to urge my colleagues to do the same.

Mr. President, I yield such time as he may need to the Senator from Oklahoma.

Mr. BELLMON. I thank the Senator from Maine.

Mr. President, I have an amendment at the desk, and I ask that it be reported.

The ACTING PRESIDENT pro tempore. Until the committee amendment has been disposed of, floor amendments are not in order. One committee amendment is outstanding.

Mr. MELCHER. Mr. President, we have one committee amendment that is technical in nature, to make the dates conforming. I ask that it be reported at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 2, strike "30" and insert "31".

Mr. MELCHER. Mr. President, this amendment would just make the dates conform. December 31 is the correct date.

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

UP AMENDMENT NO. 984

(Purpose: to extend the statute of limitations with respect to certain claims of Indians)

Mr. BELLMON. Mr. President, I repeat my request. I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 984:

At the end of the bill, add the following new section:

SEC. 2. The amendments made by the first section of this Act shall be applicable only with respect to those Indian claims identified, on or before December 31, 1981, by the Secretary of the Interior as an Indian claim or potential claim and published in the Federal Register in accordance with this section.

Mr. BELLMON. Mr. President, the issue before the Senate today is a request for a third extension to the statute of limitations for Indian claims. This time limitation applies to the filing of certain contract and tort claims by the United States on the behalf of American Indian citizens.

In the Bureau of Indian Affairs testimony before the Senate Select Committee on Indian Affairs, it was stated that due to belated funding and personnel problems, over 9,000 claims remain to be processed. The problem is that the Bureau of Indian Affairs and the Department of Justice do not have time to process the remaining claims and file the meritorious actions by April 1, 1980. The committee bill provides an extension of the filing of actions to December 31, 1984.

My amendment would provide that a time limitation of December 31, 1981, be set for the identification of claims. This gives ample time for the Bureau of Indian Affairs to complete the field studies necessary for identification of claims. The amendment states that the Bureau of Indian Affairs would file a listing of those identified claims with the Solicitor of the Department of Interior by that date. The listing of the identified claims would be published in the Federal Register by the Secretary of Interior.

If Congress sets the date of December 31, 1981, as the limitation for the identification of claims, an orderly investigation and processing of these claims could be conducted by the Bureau of Indian Affairs and the Department of Justice. The filing of the meritorious actions would be completed by the limitation date of the committee bill, December 31, 1984.

Mr. President, I join in the comments of the Senator from Maine.

I was serving as a member of the former Interior Committee, back in 1972, when the extension of the Indian Claims Commission came before that committee for renewal. I recall vividly interrogating witnesses as to whether or not, if we gave this 5-year extension, they would be able to complete their work.

Those 5 years have gone by, and now another 2½ years are about to go by, and still, according to the evidence, the Commission has some 9,000 claims remaining to be processed.

The purpose of my amendment is to begin, in an orderly way, the phasing out of the Indian Claims Commission. I believe that no matter how much time we give them, when that date runs out, they will come in here and say, "We still have hundreds or thousands of claims remaining," and they will tell us that it is too abrupt to cut off the existence of the Commission. They will make out a case that we have to give them another 2 or 5 years, and this can go on indefinitely.

With this amendment, we are trying to put a termination on the time for the filing and identification of new claims. Thereby, once no more new claims are being filed, the Commission will be able to process the claims that have been identified. When the time extension runs out, their work will have been completed,

and they cannot say that they still have a big backlog of claims on file.

That is the purpose of the amendment, and I hope the manager and the assistant manager of the bill can see the merit in the amendment and will accept it.

Mr. MELCHER. Mr. President, on the majority side, we accept this amendment. It is a fair amendment.

However, I want to make it clear that the bill before us does not deal with the Indian Claims Commission. The Commission itself has been terminated, and those cases that were before the Commission have been transferred to the Court of Claims. This is a different matter we are addressing here.

Mr. COHEN. Mr. President, I should like to address a couple of questions to the Senator from Oklahoma.

I point to page 21 of the report in connection with the hearings held before our committee, in which I raised a question to one of the witnesses, Mr. Nitzshke.

I asked him, in essence, what the time frame was in which these cases had been coming to the office and how old they were, how new. I told him that what I was concerned about was that as each day goes by, more and more cases come in, and whether or not we have a sort of weaving of the rug and unweaving during the evening—that we would have more cases at the end of that 2½-year period than we had to begin with.

Mr. Nitzshke said:

Answering your last question first, cases come in on a daily basis. We are still receiving new cases every day and we anticipate we will continue—

That is to receive new cases—

As long as the program lasts or at least until April 1st.

So the Senator from Oklahoma raises a valid point, and it seems to me what he is trying to achieve are, in effect, two statutes of limitations, namely, one for the filing of a claim with the Commission itself or bringing it to the attention of the Justice Department or the Department of the Interior, and another for the expiration of the statute itself.

I do not have any objection to this particular approach.

I commend the Senator for what he is trying to achieve, but I do raise a question. Now I am not sure about the constitutionality of such a dual standard to have an extension of the statute of limitations for a 2-year period and yet within that extension of the statute itself to have a cutoff of the 1-year period so that, unless one files his claim within 1 year, he would not qualify to have it come under the statute of a 2-year extension.

As to whether that violates any concepts of due process I am not prepared to say. But having raised that as a caveat I will say I have no objection to the Senator's amendment.

Mr. BELLMON. Mr. President, I cannot respond authoritatively to the question the Senator has raised regarding the constitutionality of this approach.

We have tried to draw this in a way that we feel would meet the constitutional requirements and if for some reason it does not the matter could later be challenged.

I hope that the manager and floor manager will accept the amendment.

I yield back my time.

The PRESIDING OFFICER. Does the Senator from Maine yield back his time?

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

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

The amendment was agreed to.

Mr. MELCHER. Mr. President, I wish to make it clear that, if this bill is not passed and we do not extend the statute of limitations, it will not prevent actions in Federal courts by individual Indians or Indian tribes on claims that they have. The suits would be likely to be filed anyway by individual Indians or Indian tribes.

What the bill will allow, if we pass it, permitting the extension of the statute of limitations will give the Department of the Interior and the Justice Department the opportunity to identify the claims, to assist in identifying claims, to eliminate many of them, and hopefully to be able to negotiate out a settlement on remaining claims without going to court.

We think that is meritorious and we think it is only fair that the Department of the Interior, in fulfilling its trust responsibility, continue to assist individual Indians and Indian tribes on determining whether or not they have legitimate claims.

That is the sum and substance of the bill. I think it is meritorious. I think it is needed, and I hope the Senate agrees with it.

Mr. CRANSTON. Mr. President, I wish to express my support for S. 2222, which I am cosponsoring. The Bellmon amendment, which sets a relatively short deadline for the formal identification of new claims, is not an unreasonable addition. I believe it is necessary to set an outer limit on the time within which claims can be identified.

However, many of the smaller tribes and bands, particularly including those in California, who lack the administrative staff and legal and investigative resources to identify all those potential claims which they may be entitled to file, may have a problem with this deadline. These tribes and bands are dependent for BIA assistance in identifying these claims, and the BIA has been notoriously slow in providing that assistance.

The California Indian Legal Services program, which has been furnishing legal aid to these Indian groups, provided testimony which listed an estimated 1,700 potential claims in Round Valley alone, as a result of a cursory examination of the BIA records for that area.

While I believe that an end to this process should be achieved, I do not believe that people with just claims should be denied justice arbitrarily, by virtue of a deadline adopted by the government when that same government's inaction has kept these injustices from coming to light all these years.

While I support this legislation, with such agreement as can be reached over the Bellmon amendment, I want to express the caveat that it may be necessary to consider further extension of these deadlines before they expire, if all potential claims have not by that time been formally identified as a result of either government action or inaction. Of course, I believe the potential claimants should be required to exercise due diligence in the prosecution of these claims.

I ask unanimous consent that the statement of California Indian Legal Services on December 16, 1979, before the Senate Select Committee on Indian Affairs, which describes my concerns in detail, be printed in the RECORD.

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

STATEMENT BY CALIFORNIA INDIAN LEGAL SERVICES

INTRODUCTORY PROVISO

At the outset please note that California Indian Legal Services (hereinafter CILS), was informed at the very last moment of the opportunity to present testimony before this committee. Consequently, the discussion of 2415 concerns herein is merely a general descriptive overview of our concern. Therefore we request that we be allowed to reserve the right to provide the committee with a more detailed supplementation of the matter herein presented.

Background re: Why CILS became involved in assisting the Bureau of Indian Affairs in the investigation of 2415 claims in California.

In late June of 1979 CILS discovered that only ten (10) 2415 claims had been identified by the Sacramento Area Office of the Bureau of Indian Affairs for potential prosecution. (See Exhibit A attached hereto obtained from the Solicitor's Department, Washington D.C. documenting claims identified throughout the state.) The notion that only ten claims were identified was incomprehensible to us given the following factors: (1) first hand input of multiple 2415 related concerns obtained from communications with various allottees and tribal representatives; (2) the fact that there are more than 100 Indian tribes in California scattered over a vast amount of land; (3) the nature of the manner in which trust land was acquired in California i.e., by various executive orders in other than a unitary fashion; (4) the lack of coherent administrative jurisdiction by the BIA over Indian land and in some instances overlapping jurisdiction.

CILS' concern with the small number of claims identified in California was further reenforced upon being informed in mid-June of an August 1, 1979, administratively imposed, cut-off date for the submission of 2415 claims. (See Exhibit B, p. 2 attached hereto i.e. memo of February 1, 1979 from the Acting Director of Trust Responsibilities). Since by its term, the statute allows for the filing of claims up and until April 1, 1980, CILS was concerned that many members of the California Indian community, not on notice of the administrative cut-off date, would have their claims go unaddressed.

HISTORY OF CILS' UNDERTAKING TO ASSIST THE BIA IN 2415 CLAIMS IDENTIFICATION

Between July 9, 1979 and July 20, 1979, on its own initiative, undertook to negotiate a

contract with the Sacramento Area office of the BIA to assist in the 2415 claims identification process. Although CILS signed off on the contract by July 26, 1979, our involvement in the project was not triggered until after August 6, 1979, the date on which the Bureau of Indian Affairs finally entered its signature to the agreement.

By the term of the contract CILS was allowed beyond the August 1, 1979, administratively imposed cut-off date to identify and submit 2415 claims. During this period CILS researchers were reportedly to be given the same access to Bureau files as BIA employees. Under each understanding, CILS agreed to attempt to search through the individual allotment files and tribal land files in the state to look for evidence in those files supporting further 2415 claims. Moreover, during its negotiating with the Bureau, CILS was also asked to assess the extent of the forced fee patent problem throughout the state. (Even though, as of the time of the contract, neither the Solicitor's office nor the Justice Department did know how they were going to resolve the prosecution of forced fee claims). Briefly, forced fees are issuance of a fee patent prior to expiration of the trust period without application and valid competency determinations.

As per the terms of the agreement with the BIA, CILS fielded a team of 24 researchers and two attorney coordinators, and designated from our own staff a 2415 coordinator in each of the CILS offices throughout the state. However, since the contract was not fully executed until August 6, 1979 CILS was unable to have our researchers selected, trained and in the field until the latter part of August. Researchers in the northern part of the state were selected and trained by August 20 and 21st. Researchers in the southern part of the state were selected and trained by August 28th. In a month and a half CILS was able to present the Bureau with approximately 700 potential claims. Given the short time of our contract, thorough documentation could not be provided. Problems in supportive documentation did not rest solely upon the lack of time, but also were encountered due to the total lack of any coherent system of file keeping within the Bureau.

At the time of negotiating the contract CILS was informed that a "uniform" and comprehensive file system existed in the state pertaining to Indian land matters. Such a statement was misleading at best. A given allotment file can, and often did, have information in five different states, D.C. and nine different physical plants. Fee patents are kept in Suitland, Maryland. Trust patents are kept in Portland, Oregon. Conveyances made to the Bureau of Reclamation are stored in Denver, Colorado. Individual allotment files are partially stored in D.C. and partially stored in California. The California storage locations include, but are not limited to, San Bruno, Laguna Nigule, Palm Springs, Sacramento and Hoopa. In further regard to the sufficiency of the data contained within the Bureau file in California, note should be taken of certain very alarming statements made by BIA employees to CILS 2415 researchers. Specifically, various of our researchers were informed that five years ago allotment files in California were selectively purged of information. Thus it is hard to tell whether salient data can be obtained from these files without extensive research and investigation in the field among the tribes and allottees concerned. Needless to say, there was no time to attempt this necessary task within the confines of CILS' contract with the BIA.

CILS did seek out potential claims not identified in the BIA file search. By the terms of our agreement with the Bureau we undertook to solicit and generate claims via a multi phased advertising campaign. By the latter part of August CILS bulk mailed 34,000 newspaper/flyers describing 2415 claims and highlighting the cut off date to all Indian organizations, reservations and rancherias throughout the state. These newspapers contained claim form, inserts to which could be filled out and returned to CILS offices for research and submission to the Bureau. The newspaper mailing was followed by a second mailing in the first week of September of a poster highlighting the 2415 information already conveyed. By September 1, 1979 CILS also distributed a 30 and 60 second public service spot to all 60 TV stations in the state, highlighting the October 1 deadline for 2415 claim submission in California and the availability of CILS officers throughout the state for aiding in claim filing. This is in stark contrast to prior BIA efforts. By September 6, 1979 CILS also issued both a 25 and 30 second public service spot to all radio stations in the state.

Prior advertising of the 2415 claims process in California had been misleading i.e. it led people to believe they had up and until April 1, 1980 to submit claims. But no matter how hard we may have attempted to get the word out concerning the October 1 administratively imposed cut off date, it must be emphasized that, given the brevity of our involvement under the Bureau contract, the Indian community in California was only given a month to digest and respond to the advertisement.

As to be expected with such a short impact period for these media efforts, many claims are still coming into CILS offices throughout the state, and given the administratively imposed cut off date these claims may not be processed as a matter of policy by the Interior, or if not as a matter of policy, as a matter of reality in light of time constraints and insufficient personnel.

In its short term contract with the Bureau, CILS feels that it only touched the iceberg of potential 2415 claims in California. And in light of the situation, we can't be sure which part we touched. No one from Interior or Justice knows. They can't know. We do at least know that there are many allotment and tribal land files which we never even got to in our research process. Moreover, there is no way that the Bureau had the time to intelligently research and analyze the implications of the claims submitted.

CILS has been informed that of the 700 potential claims it identified, as little as 50 or maybe even 10 may be referred for litigation by Interior to the Justice Department, and fewer still may pass Justice's screen. Based on letters CILS has seen, sent from the Bureau, many of these claims appear to have been dismissed from consideration on grounds that further documentation was necessary. We have also found that this was the plight of several claims identified prior to the 1977 extension. However, if further time could be spent, and resources made available, we believe that many of the claims submitted to the Bureau can be thoroughly documented and proved.

CILS has been given no feedback on the criteria applied by the local Bureau or solicitors' office regarding how they determine to reject or pursue a claim. Given the short time period the Sacramento solicitor's office has had to review and assimilate the claims we presented, we have no assurances that arbitrary and capricious standards of review are not being applied.

To the contrary, we have specific reason to believe, based on our involvement in the contract, that Bureau decision making had to be cursory and non-systematic.

From the inception of its involvement on the 2415 claims project with the Bureau, CILS noted the lack of a coordinated system in the Bureau office concerning the 2415 process. No rational systematic approach seem to have ever been developed by the Bureau or Solicitor's office in California. To adequately and rationally address 2415 problems in the State of California, CILS urges the committee to extend the statute for a three year period, and that as a part of this extension sufficient resources and personnel be made available to process the claims.

To provide for the active pursuit of 2415 claims we believe that an independent team of special prosecutors should be appointed to address further investigation and prosecution of 2415 claims; particularly, where, as in many cases, the issue of a third party liability also includes the government. (Such as in under-appraisals of timber sales and forced fee patents situations).

During our participation in the 2415 contract we heard direct statements from BIA and Solicitor's office personnel to the effect that claims involving any potential government liability would be rejected.

Dated: December 16, 1979.

Mr. MELCHER. Mr. President, I ask unanimous consent that a statement by Senator GRAVEL be printed in the RECORD.

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

STATEMENT OF SENATOR GRAVEL

I wish to go on record in support of this measure before us. Because of the sheer numbers of claims before it, the Department of the Interior will not be able to comply with the April 1, 1980 deadline imposed by Congress for bringing actions for damages in behalf of Native American groups arising from claims dating prior to 1966. This legislation does not pass judgment on these claims but merely increases the time frame until December 31, 1984 in which the Department can bring action on the thousands of pending claims.

Like other states, Alaska has several Native groups whose land was held in trust or in some restricted status prior to the Alaska Native Claims Settlement Act. Several claims are now pending before the Department of Alaskan Native groups, including the people of Admiralty Island. Thus, I think it is only fair that such claims arising prior to 1966 be afforded the opportunity to be considered by the Department and possibly pursued in court based on their merits.

I thank the floor managers of the bill for this opportunity to speak on this important matter and for their diligence in bringing the bill to the floor in a most expeditious manner. I encourage my colleagues to vote favorably on this measure.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MELCHER. Mr. President. I yield back the remainder of my time.

Mr. COHEN. Mr. President, I have one final comment to make.

I appreciate what the Senator from Montana has said. This will not prevent actions from being filed by individual tribes or individual Indians, but it will in fact, if the statute is not extended, prevent the United States from continuing to either process or investigate these particular claims. I think what it does is strike at the heart of the issues.

If we say we will extend it for a certain period of time and then this is the last time, we should not retrench on that particular pledge.

What we are doing here today is rescinding in essence a pledge that was made certainly by the Members of the House of Representatives and those who are in charge of the matters pertaining to Indian affairs, saying this was the last time. That means April 1 of this year.

So I think that we are going to have to restore a respect for the law, and in my judgment we have too many laws, either being over enforced or under enforced, and in either event they breed a contempt for the rule of law. If we have a law that says the statute shall expire such and such a date, and we agree this is the final extension, we should abide by that particular pledge.

For that reason I again urge my colleagues to oppose this particular extension of the statute of limitations.

The PRESIDING OFFICER. Do Senators yield back their time?

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

The PRESIDING OFFICER. All time has been yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The bill having been read the third time, the question is, shall it pass?

So the bill (S. 2222), as amended, was passed, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by striking out "after April 1, 1980" and inserting in lieu thereof "after December 31, 1984".

(b) The proviso in section 2415(b) of title 28, United States Code, is amended by striking out "on or before April 1, 1980" and inserting in lieu thereof "on or before December 31, 1984".

SEC. 2. The amendments made by the first section of this Act shall be applicable only with respect to those Indian claims identified, on or before December 31, 1981, by the Secretary of the Interior as an Indian claim or potential claim and published in the Federal Register in accordance with this section.

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

Mr. COHEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

BLACK HISTORY MONTH

Mr. STEWART. Mr. President, February is Black History month around the country. It is a time when black Americans take stock of the tremendous contributions that they have made to our great Nation. It is important that all Americans not lose touch with their historical antecedents. The late President Lyndon Baines Johnson once said that—

History is more than a record of man's conflict with nature and himself. It is the knowledge which gives dimension to the present, direction to the future, and humility to the leaders of men. A nation, like a person, not conscious of its own past is adrift without purpose or protection from the contending forces of dissolution.

Our history has been the sustaining force throughout the 200-odd years of our great republic. Our history, like our people, is rich in its diversity. Our Nation has been called a melting pot and, indeed, it is. The inscription over the rostrum in this Chamber reads "E Pluribus Unum," "One out of Many." The American people are indeed one people who have come out of the many races and nationalities who are our forebears.

Mr. President, as we observe Black History Month, I want to take note of outstanding achievements which black Alabamians have made to our great Nation. George Washington Carver, one of the most renowned horticulturists of his period, lived and worked in Tuskegee, Alabama. Dr. Carver did more for southern agriculture than any other single person. Through his pioneer research into uses for the peanut and sweet potato, he gave the southern farmer another cash crop at a time when the boll weevil had devastated our cotton crops. Because of his efforts, the peanut industry is a multi-billion dollar enterprise. We often forget that Dr. Carver is the inventor of both peanut butter and peanut oil.

Another black Alabamian whom we are extremely proud of is Booker T. Washington. While he was not a native Alabamian, he did all of the work for which he is remembered in Alabama. Booker T. Washington is considered by most to be the father of black education in this country. He did so much to teach blacks and whites the virtues of industry and thrift. He built an institution to teach his people the marketable skills to enable them to fend for themselves in a highly competitive society.

The list of black Alabamians who have contributed to the cultural, economic, and social development of this Nation goes on. The great heavyweight boxing champion Joe Louis, the prolific operatic soprano Marian Anderson and W. C. Handy, the father of the blues, are just a few. We are indeed fortunate to have so many illustrious black Americans to call Alabama home.

Until recent years far too little has been recorded about the many deeds and accomplishments of black Americans. I am pleased that we are beginning now to recognize and emphasize these contributions because I feel they will add an important dimension to the educational growth of our young people—both black and white. It has been a long, difficult struggle to overcome the artificial barriers of racism, and while we still have a long way to go, I believe this kind of effort can only help us reach our ultimate goal. Black Americans have a rich and full heritage to celebrate, a heritage that is intertwined in the growth and development of this great Nation of ours.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 581, S. 1390.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1390) to promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Commercial Motor Vehicle Safety Act of 1979".

FINDINGS

SEC. 2. The Congress finds—

(1) that it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) that improved commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries, and the level of property damage related to commercial motor vehicle operations;

(3) that enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) that interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

PURPOSE

SEC. 3. It is declared to be the purpose of this Act to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles when operating such vehicles, and to assure increased compliance with the commercial motor vehicle safety and health rules,

regulations, standards, and orders issued pursuant to this Act.

TITLE I—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 101. For purposes of this title, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(B) if such vehicle is designed to transport more than 10 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(5) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(6) "Secretary" means the Secretary of Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Government of the Northern Marianas.

DUTIES

SEC. 102. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 103. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purpose of this Act. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, and orders or before promulgating new rules, regulations, standards, or orders. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 1 year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 1 year after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to section 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if he determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(d) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within 1 year after the date of enactment of this title.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities to insure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Director shall attempt to minimize paperwork burdens, to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

GENERAL POWERS

SEC. 104. (a) The Secretary is authorized to conduct, directly or indirectly, such research, development, demonstrations, and training activities as are considered appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 103 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out his functions under this title, the Secretary is authorized to perform such acts including conducting investigations and inspections, compiling statistics, making reports, issuing subpenas, requiring production of documents, records, and property, taking depositions, holding hearings, prescribing recordkeeping and reporting requirements, and carrying out and contracting for such research, development, testing evaluation, and training as he determines necessary to carry out the provision of this title, or rules, regulations, standards, or orders issued pursuant thereto. With respect to the provisions of this title, if the Secretary approves a plan pursuant to section 111 of this title, the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as he determines appropriate to carry out the provisions of this title.

INSPECTIONS AND WARRANTS

SEC. 105. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

(ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of administrative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate

is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 106. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless its is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 107. (a) If the Secretary finds that a violation of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as hereinafter provided, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines tthat a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That except for recordkeeping violations, no civil penalty provided under this Act shall be assessed against an employee for violations of this Act unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service or order an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not later than 10 days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this Act or who knowingly and willfully makes any false statement or representation required under this Act shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both: *Provided, however,* That if such violator is an employee he shall only be subject to penalty if while operating a commercial motor vehicle his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed $2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement including injunctive relief, of any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

(i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

SEC. 108. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult with and inform the Attorney General of the United States of his activities pursuant to this section.

PROTECTION OF EMPLOYEES

SEC. 109. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title or other authorities of the Secretary relating to commercial motor vehicle safety, or has testified or is about to testify in any such proceeding, or because such employee has exercised, on behalf of himself or others, any right afforded by this Act.

(b) No person shall discharge, discipline, or in any manner discriminate against an

employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Within 60 days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a proposed order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days, file objections to the proposed order and request a hearing on the record. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the proposed order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall be in accordance with the provisions of district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

GRANTS TO STATES

SEC. 110. Under the terms and conditions of this title, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

STATE ENFORCEMENT

SEC. 111. (a)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing rules, regulations, standards, and orders in compliance with this title. Such plan shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this title, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce the provisions of this title;

(E) provides civil penalty procedures, rights, and remedies comparable to those set forth in section 107 of this title;

(F) provides that all reports required pursuant to this title to be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(G) provides that such State agency will adopt such uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(H) requires registrants of commercial motor vehicles to make a declaration of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last 2 full fiscal years preceding the date of enactment of this Act.

STATE REGULATIONS

SEC. 112. (a) Except as may otherwise be provided in this or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this Act shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations (1) materially diminish commercial motor vehicle safety or the health and safety of employees, (2) are not required by compelling local conditions, or (3) unduly burden interstate commerce. If the Secretary makes such an affirmative determination, he may require such State to adopt Federal hours-of-service regulations.

FEDERAL SHARE OF COSTS

SEC. 113. By grants authorized under this title, the Secretary shall reimburse any State an amount not to exceed 80 percent of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 111(c) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 114. To carry out the purposes of sections 109 and 111 of this title, there is authorized to be appropriated an amount not to exceed $50,000,000 in fiscal year 1981, not to exceed $100,000,000 in fiscal year 1982, and not to exceed $100,000,000 in fiscal year 1983. Appropriated funds authorized by this section shall be used to reimburse to States the Federal pro rata share of costs incurred. Grants made pursuant to the authority of this shall be for periods not to exceed 1 fiscal year, ending at the end of a fiscal year.

ANNUAL REPORT

SEC. 115. (a) As part of the Secretary's annual report to the Congress required by section 12 of the Department of Transportation Act (49 U.S.C. 1658), the Secretary shall make a written report to the Congress concerning his efforts and his current plans to upgrade the safety and health of operators of commercial motor vehicles. The report shall include, but not be limited to, an evaluation of commercial motor vehicle safety or health programs of the Department of Transportation, an outline of problem areas and appropriate steps to alleviate them, and recommendations for closer coordination and cooperation among agencies of the Federal Government and between the Federal Government and the States to enforce the rules, regulations, standards, and orders issued pursuant to this title.

(b) Within 12 months after the date of enactment of this title, the Secretary shall prepare and transmit to the Congress a written report concerning the advisability of establishing a national commercial driver register to upgrade commercial motor vehicle safety through improved monitoring of traffic violations and accidents and of multiple State licensing. In the event the Secretary recommends the establishment of such a register, within 60 days after the submission of his report to Congress he shall publish in the Federal Register a Notice of Proposed Rulemaking describing the operation of a program to demonstrate the utilization of such a register.

APPLICABILITY

SEC. 116. Nothing in this title shall apply to the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

SEC. 117. (a) (1) Not later than 12 months after the date of enactment of this Act, the Secretary shall establish a Commercial Motor Vehicle Safety Advisory Committee and appoint the initial members of the Committee. The Committee shall be composed of the Secretary and 15 members each of whom shall be experienced in the safety regulation of commercial motor vehicles or technically qualified by training experience or knowledge to evaluate commercial motor vehicle rules or regulations. The Committee shall be appointed by the Secretary, after consultation with public and private agencies and organizations concerned with commercial motor vehicle safety. Members shall include representatives of State governments, the motor carrier industry, shippers, union drivers and independent owner-operators, and the public.

(2) A Chairman shall be selected by a majority of the members of the Committee.

(3) Each member appointed by the Secretary shall hold office for a term of 3 years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office after the date of enactment of this Act shall expire as follows: Five at the end of 1 year after the date such Committee members are appointed by the Secretary; five at the end of 2 years after the date such Committee members are appointed by the Secretary; and five at the end of 3 years after the date such Committee members are appointed, as designated by the Secretary at the time of appointment; and (C) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the Secretary who has served a 3-year term, other than Federal officers or employees, shall be eligible for reappointment within 1 year following the end of his preceding term.

(4) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary at not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The Advisory Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Deparment in the field of commercial motor vehicle safety. The Committee is authorized to review research projects or programs submitted to or recommended by it in the field of commercial motor vehicle safety and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of commercial motor vehicle accidents. The Committee is also authorized to review, prior to issuance, rules, regulations, standards, and orders proposed to be issued by order of the Secretary under the provisions of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The Committee shall meet with the Secretary (or his designee) at least once every year.

TITLE II—SAFETY ASPECTS OF FIT, WILLING, AND ABLE DETERMINATIONS

SAFETY ASPECTS OF FIT, WILLING, AND ABLE DETERMINATIONS

SEC. 201. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10934. Safety aspects of fit, willing, and able determinations.

"(a) (1) In making any determination under this subchapter as to whether a person is fit, willing, and able to provide transportation or other services, the Commission shall seek the advice of the Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') with regard to the safety-related aspects of any such determinations. The Commission may not authorize a person to provide transportation or other services if the Secretary determines that, as to the safety-related aspects of such determinations, that person is not fit, willing, and able to provide those services, and the Commission may not deny a person authority to provide transportation or other services on the basis of considerations within the authority of the Secretary under this section, except when the Secretary determines that such person is, as to safety-related matters, not fit, willing, and able to provide those services.

"(2) The Secretary shall advise the Commission of his determinations with regard to the safety-related aspects of fit, willing, and able determinations in accordance with the provisions of this section.

"(3) Nothing in this section shall apply to fit, willing, and able determinations by the Commission regarding the authority of a person to provide transportation or other services as a broker or water carrier.

"(b) In the case of applications to the Commission for new or additional authority, the determinations of the Secretary with regard to the safety-related aspects of fit, willing, and able determinations shall be provided to the Commission as follows:

"(1) Immediately upon receipt of an application under this subchapter for authority to provide transportation or other services, the Commission shall forward to the Secretary a copy of such application.

"(2) Within 60 days of receipt of the application by the Commission, the Secretary shall notify the Commission as to whether, as to matters related to safety, the Secretary determines the applicant fit, willing, and able to provide the transportation or other services in question. Within such 60-day period, if the Secretary is unable to make such determination, he may notify the Commission that he will require an additional period, not to exceed 20 days, to make such determination. Failure by the Secretary to reply to the Commission within 60 days of receipt of the application by the Commission, or, in the case where an extension of time has been secured, within 80 days of receipt of the application by the Commission, shall be construed as a determination by the Secretary that, with regard to safety, the applicant is fit, willing, and able.

"(3) The applicant, the Commission, and other interested persons may submit information and recommendations to the Secretary as to whether, with regard to safety-related matters, the applicant should be considered fit, willing, and able to provide services. If any relevant fact material to the determination of the safety-related aspects of whether the applicant should be considered fit, willing, and able to provide services is in dispute, and resolution of that fact would be aided by the taking of evidence under oath with opportunity for cross-examination, the Secretary may certify the dispute to an employee of the Department who shall have the power to administer oaths. Such employee shall conduct such proceedings as appropriate to resolve the dispute and shall recommend a finding to the Secretary. There shall be no interlocutory appeal of the finding of the Secretary as to the factual dispute.

"(4) After consultation with the Secretary, the Commission may authorize an applicant to provide transportation or other services on an emergency basis, for a period in advance of the Secretary's determination with regard to safety-related matters as to whether the applicant is fit, willing, and able to provide such services. No such authorization shall extend for a period of more than 80 days.

"(c) (1) In any case where a person is authorized to provide services under this subchapter, that person shall, with regard to safety-related matters, be deemed fit, willing, and able to provide such services until such time as the Secretary may determine that such person is with regard to safety-related matters, no longer fit, willing, and able to provide those services. Except when the Secretary determines that the public safety requires the utilization of the authority provided in paragraph (2) of this subsection, determinations may be made under the authority of this subsection only after notice and opportunity for hearing, open to participation by all interested parties, pursuant to section 554 of title 5, United States Code. The Secretary may commence such hearing upon his own motion, or upon the request of an interested party, and shall conduct such a hearing upon the request of the Commission. When the Secretary determines that a person subject to the provisions of this paragraph is, with regard to safety-related matters, no longer fit, willing, and able to provide such services, the Secretary shall request the Commission to revoke, or to suspend all or part of the authority of that person to provide such services, and the Commission shall immediately order such revocation or suspension. Such request by the Secretary shall be accompanied by a brief written statement, to be issued by the Commission with its order, of the reasons for the Secretary's determinations.

"(2) In any case where the Secretary determines that the continued provision of services by a person poses an imminent hazard to safety, the Secretary shall request the Commission to revoke, or to suspend all or part of, the authority of that person to provide such services and the Commission shall immediately order such revocation or suspension, but only to the extent necessary to abate such hazard. Such request by the Secretary, to be binding on the Commission, shall be accompanied by a brief written statement, to be issued by the Commission with its order, supporting the issuance of the order. As used in this paragraph, an 'imminent hazard' exists when there is a substantial likelihood that serious harm will occur, as a result of the continued provision of services by a person, prior to the completion of an administrative hearing initiated to review whether, as regards safety-related matters, that person is fit, willing, and able to provide services.

"(3) Persons adversely affected by any order issued pursuant to paragraphs (1) and (2) of this subsection are entitled to a subsequent hearing pursuant to section 554 of title 5, United States Code, to be commenced by the Secretary within 10 days of issuance of the order.

"(d) Determinations by the Secretary as to whether an applicant is, with regard to safety-related matters, fit, willing, and able to provide services, may be reviewed in the United States court of appeals for the circuit in which the applicant has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit, if petition for review of such determination is filed within 30 days of such determination by the Secretary. Review of such determination by the Secretary shall consider only whether the determination was supported by substantial evidence or was otherwise not in accordance with law. No objection which was not urged before the Secretary or his designated agent in the course of administrative proceedings may be considered by the court, unless reasonable grounds existed for failure or neglect to do so.

"(e) The Secretary shall promulgate regulations establishing the basis for the Secretary's determinations with regard to the safety-related aspects of fit, willing, and able determinations. Such regulations may include the establishment of requirements bearing on the ability of an applicant to safely perform services, such as requirements that an applicant—

"(1) register with the Secretary, thereby providing notice of his intent to operate;

"(2) demonstrate knowledge of, agree to, and provide evidence, including accident and compliance histories and out-of-service ratios, of his ability to operate in compliance with all standards applicable to commercial motor vehicle safety promulgated by the Secretary, including hours of service rules, and including rules, regulations, standards, and orders promulgated pursuant to this title, the Department of Transportation Act, and the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.);

"(3) carry such documentation as the Secretary may require;

"(4) carry adequate liability insurance or enter into comparable bonding arrangements;

"(5) designate an agent for service of process; and

"(6) carry and display vehicle identification in such form and manner as the Secretary may require.

The Secretary may also promulgate such regulations as the Secretary may determine appropriate to assist in the implementation of this section, including rules to require that applications filed with the Commission include such information as the Secretary may require to assist the Secretary in making determinations as to whether, with regard to safety-related matters, a person is fit, willing, and able to provide transportation or other services.".

(b)(1) Except as provided in paragraph (2) of this subsection, the provisions of this Act shall take effect on the date of enactment of this Act.

(2) The provisions of subsection (a) of this section shall take effect 180 days after the date of the enactment of this Act, and on such date, the provisions of section 4(e) of the Department of Transportation Act (49 U.S.C. 1653(e)), so far as they require the Secretary of Transportation to report to the Commission regarding the safety records of persons who would be subject to the provisions of subsection (a) of this section, are superseded.

(3) The general powers provided to the Secretary of Transportation in section 104 of this Act are available to the Secretary of Transportation in his implementation of section 10934 of title 49, United States Code.

(c) The index for subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new item:

"10934. Safety aspects of fit, willing, and able determinations.".

TITLE III—MISCELLANEOUS PROVISIONS

SAVINGS PROVISION

SEC. 301. All rules, regulations, standards, orders, or determinations issued under sections 204(a) (1), (2), (3), (3a), and (5) of part II of the Interstate Commerce Act or issued by the Secretary relating to commercial motor vehicle safety shall be continued under this Act until such time as they may be modified by the Secretary.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STAFFORD. Mr. President, I ask unanimous consent that the following staff members of the Committee of Environment and Public Works have the privilege of the floor during consideration and votes on S. 1390: Richard Harris, Lee Fuller, Jean Schrag, John Yago, and Bailey Guard.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. EXON. Mr. President, I ask unanimous consent that the following staff members of the Commerce Committee, Mr. Will Ris, Mr. Dan Jaffe, and Mr. Rich Fitzsimmons of my staff, be allowed floor privileges for the debate on the upcoming bill.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

SHIPPERS EXPORT DECLARATION BILL

Mr. DURENBERGER. Mr. President, today I added my name as a cosponsor to S. 2165, the shippers export declaration bill, introduced by Senator RIBICOFF at the request of the administration. This bill would amend section 301 of title 13, of the United States Code, to protect the confidentiality of export data from the shippers export declaration (SED) as required by the Census Bureau for statistical purposes.

U.S. exporters are required, under the Export Administration Act of 1969, to file an SED form. These forms are collected at U.S. ports by the Customs Service which forward them to the Census Bureau, where the information is compiled for statistical purposes. The SED is the principal source for calculating the U.S. balance of payments.

The SED contains some sensitive business information, such as the price of the commodity to be exported and the ultimate consignee; because of the obvious necessity of keeping this information confidential the Export Administration Act exempts the SED from the disclosure procedures of the Freedom of Information Act. However, that exemption expires on June 30 of this year. S. 2165 would extend the exemption indefinitely.

The entries on the SED have always been handled as highly sensitive information. The Census Bureau has fully respected the confidentiality of these forms, and wants to continue to do so. However, that policy is being challenged by some shippers, carriers, warehousemen, handlers and brokers—all of whom service the export industry and want to enhance their own competitive positions domestically. The policy is being challenged in other quarters by those who see the continued exemption as an encroachment on the access to public documents, as guaranteed under the Freedom of Information Act. Those who would change the present law and policy concede that some information on the SED must remain confidential, but want other nonsensitive items to be available to the public. Their solution is to exempt some SED entries from disclosure, but allow public access to others. This approach is proposed in S. 2164, the shippers export declaration bill introduced by Senator PERCY and cosponsored by Senator RIBICOFF. I believe there are sound policy and administrative reasons for extending the current policy of exempting all SED entries from the disclosure provisions of the Freedom of Information Act.

Allowing public access to sensitive information about the products U.S. firms sell abroad will damage our international

competitive position. Foreign markets are extremely competitive.. Our companies will not be able to break into new markets or continue their foothold in existing ones if we publicize the names of foreign customers, a description of the goods they buy, and the prices of our products. Foreign competitors will simply undersell U.S. exporters.

Our balance-of-payments problems are familiar and well-documented. Our trade deficit is about $34 billion, and this total cannot be blamed on the price of imported oil alone. If our oil imports had been less, we still would have been faced with a trade deficit. In 1975, the United States had a $20 billion trade surplus in manufactured goods; in 1978, we had a $5.8 billion deficit. We need to turn these trends around; we cannot afford to take risks that might damage our international competitive position further.

A strong export policy contributes to a strong domestic economy:

One out of every eight manufacturing jobs in the United States depends on exports.

The products of every third acre of U.S. farmland are exported. Each dollar of those agriculture exports stimulates more than a dollar's worth of output in food related industries.

One out of every $3 of U.S. corporate profits is derived from international activities.

It is obvious that the U.S. Government must stimulate exports. Unfortunately, our current foreign economic policy is not shaped systematically, but almost by accident. We cannot afford any more "accidents," such as allowing public access to sensitive export data that will be used by foreign competitors against our firms.

A few months ago, Congress approved a trade reorganization plan to strengthen our ability to sell products abroad. That plan shuffled trade responsibilities from five or six Federal departments and agencies to two: The Department of Commerce and the Office of the Special Trade Representative. The basic purpose of the effort was to consolidate responsibility for policymaking and implementation, and thus enhance the Federal Government's ability to sell abroad. It would be a mistake to approve a bill now that would work at cross-purposes with that earlier action. That is why I believe it is so important to support S. 2165, and maintain the confidentiality of all entries on the SED.

Administratively, it is not feasible to exempt some SED items from public disclosure, and permit access to others. Partial disclosure will not work because it is nearly impossible to determine which information to place in the confidential category and which to place in the nonsensitive category. Confidential information varies from company to company and from one industry to another. Furthermore, if bits and pieces of information are made public, they can be pieced together with data from manifests, bills of lading, and similar documents, and with some insight, the full picture will emerge to our competitors abroad.

If some information is to be made available to the public, a two-part or multi-part SED would need to be designed. Not only would such a form be cumbersome and increase handling and paperwork, but it would vastly increase the chance of error. It would be too easy to file the sensitive section incorrectly in the nonsensitive file cabinet. Only a small percentage of errors in the 9 million SED's submitted annually could result in enormous adverse consequences. At a time when Congress and the bureaucracy are striving to simplify operations, reduce paperwork, and increase efficiency, there is no good rationale for introducing new complications. The entire SED should remain confidential.

The decision to exempt the SED from the Freedom of Information Act should be an easy one. It is clear that the risks of disclosing any of this information heavily outweigh the advantages to be gained by a few companies.

U.S. PARTICIPATION IN THE MOSCOW OLYMPICS

Mr. DURENBERGER. Mr. President, today marks the deadline set by President Carter for the withdrawal of Soviet troops from Afghanistan. In the month since the President set his arbitrary deadline, the world has continued to witness with outrage the tragedy and horror of the Soviet invasion of Afghanistan. Soviet troops remain in Afghanistan and reinforcements pour in daily. The fighting continues and citizens of Afghanistan continue to die, victims of Soviet aggression.

Under these circumstances, Americans can do no less than reaffirm our commitment against participation in Moscow Olympics. We must make clear that we will not belittle the spirit of the Olympics by conducting the games of peace in a nation at war.

Continued Soviet intransigence about the crisis in Afghanistan is not surprising. Having set themselves on a course of aggression, the Soviets were unlikely to be dissuaded by American deadlines. To expect otherwise was both unrealistic and naive.

The use of a deadline was an inappropriate response to the Soviet invasion. The issue was not whether the Soviets should remain in Afghanistan beyond some arbitrarily set date; the issue was and continues to be the invasion itself.

My cosponsorship of the original Olympics resolution in the Senate was based on my belief that the United States must make it clear, through a variety of actions, that the Soviet behavior in Afghanistan is intolerable. Failure to act on this belief in the hope that an arbitrary deadline would somehow induce the Soviets to leave Afghanistan would have missed the point. The Senate resolution urging the International Olympic Committee to relocate the games was a sanction, not merely leverage to get the Soviets to leave Afghanistan. Regardless of whether the Soviets leave, their actions must be confronted and challenged.

The passing of the President's deadline now gives us the opportunity to confront directly the Soviet invasion. I am pleased that the U.S. Olympic Committee itself has recognized the gravity of the issues involved and has agreed to abide by the President's request.

The best solution is to relocate the summer games. However, my visits with Minnesotans and with athletes from around the country have convinced me that those people directly involved with the Moscow Olympics will support a U.S. boycott of the games.

The thrill and excitement of the games at Lake Placid remind us that a boycott of the Moscow Olympics is a serious measure and would be a hardship on the athletes who have trained for many years. But Americans have shown that they will sustain hardship in order to adhere to principle. In this case the principle is clear: Americans will support peace and will stand fast in the face of aggression.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WAIVER OF THE PASTORE RULE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may continue to speak out of order, notwithstanding the Pastore rule, until the managers of the bill begin their statements on the pending business.

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

EMPHASIZING THE POSITIVE ABOUT THE BUREAUCRACY

Mr. PROXMIRE. Mr. President, along with the Congress, the object of most scorn, derision, ridicule, and mistreatment are the so-called bureaucrats in our Government, and I think it is a shame. The people I know who work for the Federal Government are good and decent and conscientious people who come in early and stay late and do a fine job. It is easy to make a target of the bureaucracy. It is a massive group of people who cannot defend themselves.

Of course, as in any group, there are some people who are not competent or diligent, but, certainly, they have been given a bum rap.

I was delighted to see a column by Douglas Costle, head of the Environmental Protection Agency, in which he listed specifically some of the superb accomplishments of the people in the bureaucracy.

About 2 years ago, I gave a series of speeches on the floor about what is right with our Government. I think this article by Mr. Costle is right along that line. It is such a thoughtful and perceptive article that I call it to the attention of my colleagues. I do hope that the people in this country will begin to appreciate the excellent service which many people in Government are providing and which they rarely get any credit for.

Mr. President, the article to which I refer was printed on February 16, 1980, in the Washington Star, and is entitled "Creativity in the Bureaucracy." This article was written by Mr. Douglas M. Costle, Administrator of the Environmental Protection Agency; and four of his points deserve the attention of the American public and elected officials.

First, this article includes examples of important innovations that Federal employees have made in areas affecting us both in war and peace. From these discussions, all Americans might reasonably conclude that parts of the bureaucracy have much more creativity and spunk than are commonly recognized.

Second, this article points out that the publicity given to venal, incompetent, or lazy bureaucrats often obscures the fact that the vast majority of Federal employees are honest, competent, and hard working. This observation, I believe, is quite important. While I have seldom hesitated to criticize some Federal programs, I contend that, in fairness, we must continue to give credit to the countless Federal employees who, day by day, serve the national interest. We must be conscious of the fact that morale among Federal employees will decrease if cynicism among the public increases.

Third, I share Mr. Costle's view that worthwhile Government programs and employees must receive more even-handed publicity, especially from the press. For this reason, I recently delivered 25 speeches discussing how and why our Government has worked effectively. While I have given "Golden Fleece" awards for certain Government programs involving ironic, ridiculous, or excessive expenditures, I also have seen the need to grant "Merit" awards to Government agencies in recognition of cost savings, quality work, and other exemplary achievements.

Fourth, Mr. Costle suggests that "the most flagrant Government scandals—from Teapot Dome to Watergate—were created by elected officials and their political appointees, not by career Government employees." He then places the blame for the behavior of elected officials and their political appointees: "Decade after decade," he maintains, "the major problem with Government hasn't been lazy bureaucrats; it's been lazy voters. It's been us."

Elected officials and the public would do well to ponder this point. Meanwhile, these officials and the public can appreciate the fact that, on the whole, the bureaucracy is much more creative and honest than has been commonly thought. To help publicize this fact and emphasize the positive aspects of the bureaucracy, I ask unanimous consent that Mr. Costle's "Point of View" be printed in the RECORD.

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

CREATIVITY IN THE BUREAUCRACY

A senior member of the DuPont family, now deceased, once was asked how many people worked at the chemical company's Wilmington, Del., headquarters. He paused a few moments to reflect, then answered, "About half."

I treasure the story because, apart from its gentle humor, it is one of the few admissions I have seen that at least some employees in the private sector dope off now and then. What we usually get is a portrait of the free-enterprise worker toiling ceaselessly to boost GNP, while the government worker snoozes over his stapler.

Even when governmental employees do something well, the praise is frequently tempered by a sense of surprise at this astonishing behavior. Recently the Washington Post complimented the Environmental Protection Agency for two cost-saving innovations in the control of air pollution. "EPA deserves congratulations," the Post concluded, "for that governmental rarity—a creative and practical new idea."

In point of fact, government workers come up with new ideas at a surprising rate. Civil servants patent about 1,500 inventions a year. The Office of Personnel Management (formerly the Civil Service Commission) reports that during 1978 the government adopted 42,512 employee suggestions that saved $132 million in tangible first-year benefits.

"Suggestions" is a humble term, connoting ideas for saving paper clips and cutting down the phone bill. But ideas contributed by federal employees over the years go far beyond such mundane matters and touch nearly every aspect of our common life, in war and peace:

The radio proximity fuse—second in importance only to the atomic bomb in World War II—was invented by civil servants. So was the Sidewinder missile, a heat-seeking device so sensitive it can sniff out and home in on a smouldering cigarette from 100 yards away.

After lavishing millions of dollars on a prototype "supersonic" fighter that failed to exceed the speed of sound, Convair gambled on the radical "Area Rule" design of a federal engineer who had warned the industry that its own designs wouldn't work. On its first flight, the new plane broke the sound-barrier while it was still climbing.

Some consumer industries are based on inventions by federal workers. The heat process used to can hams and other meats was developed by two men: George Hormel and a Department of Agriculture employee. Aerosol dispensers, originally intended to arm soldiers with insecticides against malaria-carrying mosquitoes, were invented by Agriculture scientists. Miniaturized electronics circuits, which make computers smaller and calculators cheaper, were developed by Army technicians trying to cram gear into missile nose cones.

Rachel Carson's Silent Spring—undoubtedly the most important single stimulus to the environmental movement—grew out of reports she read about the side-effects of DDT during her 16 years as biologist and chief editor of the U.S. Fish and Wildlife Service.

Despite universal hostility to "red tape," we all have reason to be grateful for a memorable piece of it: the refusal of Dr. Frances Kelsey (then and now an employee of the Food and Drug Administration) to license thalidomide for sale in this country.

The vast majority of civil servants' contributions do not, of course, involve such drama. Like most jobs in the private sector, most jobs in government are routine. Unlike business employees, however, government employees are on our common payroll, and are easy targets for our common criticism.

More often than not, it's a bum rap. For every civil servant whose venality, incompetence or inertia gains public notice, there are a hundred more turning in an honest day's work for an honest day's pay in some job that exceeds the jurisdiction, interest or competence of business.

The most flagrant government scandals—from Teapot Dome to Watergate—were created by elected officials and their political appointees, not by career government employees. Decade after decade, the major problem with government hasn't been lazy bureaucrats, it's been lazy voters. It's been us.

RATIFY CONVENTION BEFORE MEMORY FADES

Mr. PROXMIRE. Mr. President, throughout history genocide has been perpetrated by men against their fellow men. Little was done, however, until the world was swept with repulsion at the horrors inflicted by the Nazi state. Now, more than 30 years after the adoption of the Genocide Convention, this Senate has yet to act, and with each passing year it becomes more difficult to do so. Yet, this very fact makes it imperative that we do not forget and that we do not succumb to the dangers of apathy and complacency.

For this purpose then, let us recall the essentials of the convention, the provisions which spell out the repugnant act of genocide. Article I declares that genocide is a crime against mankind. Whatever the circumstances, whether in war or in peace, genocide is to be deterred and castigated by international law.

Article II defines the crime. It acknowledges that assault upon groups, whether they be national, ethnical, racial, or religious in nature, may involve both physical and psychological measures. Genocide is understood to be the destruction or attempt to destroy the whole or substantial part of these groups by: Killing, causing serious bodily harm, or the permanent impairment of mental faculties, restricting births, forcibly transferring children, or inflicting upon the group conditions of life designed to cause its physical destruction. It is clear that the intent to impose bodily destruction or mental disintegration are equally reprehensible.

Article III delineates the genocidal acts which are punishable. Genocide or the complicity in genocide is a crime. So, too, is the attempt to commit, conspiracy to commit, or the act of public incitement to commit any act of genocide.

Having outlined the essential provisions of the convention, let me share with you some words, spoken over 30 years ago, which cut through the heart of this Senate's inaction. Assistant Secretary of State Ernest Gross had this to say to the United Nations Assembly in December 1948:

> In a world beset by many problems and great difficulties, we should proceed with this Convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man.

That was over 30 years ago. The urgency of this statement must not become locked in the past. I will not submit to the notion that after so many years the convention rings hollow of any promise. We must protect the future for the young and those yet unborn. We must ratify the Genocide Convention.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1979

The Senate continued with the consideration of the bill S. 1390.

Mr. PERCY. Mr. President, I ask unanimous consent that Bill Mayer and Jerry Block, of the Governmental Affairs Committee, be granted the privileges of the floor during the discussion and votes on the pending bill.

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

Mr. EXON. Mr. President, I ask unanimous consent that Cindy Douglass, Kris Wilkes, and Matt Scocozza be granted the privileges of the floor during the consideration of S. 1390.

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

Mr. EXON. Mr. President, passage of S. 1390, in my view, is essential to improved truck and bus safety in the United States. Deaths on our Nation's highways recently have been increasing at an unacceptable rate. Truck and bus accidents have played a significant role in this disturbing trend.

S. 1390 provides a systematic approach to remedying the present deficiencies in the commercial motor vehicle safety area.

First. The legislation increases civil and criminal penalties for violation of Federal commercial motor vehicle safety and health requirements. Widespread violation of Federal commercial motor vehicle safety regulations must be brought to an end. Safety inspections by Federal inspectors throughout this country have consistently uncovered vehicles with defective brakes or other serious deficiencies in important safety equipment. S. 1390's improved enforcement tools will provide significant incentives for commercial motor vehicle companies and their drivers to take the necessary safety precautions to avoid sending dangerous vehicles out on our Nation's highways.

Second. S. 1390 provides grants to States in order to assist them in developing programs to greatly increase enforcement of commercial motor vehicle safety regulations. Presently, the Federal Government has an extremely limited number of commercial motor vehicle inspectors. Also, there is no systematic Federal/State cooperative program in the commercial motor vehicle safety area. This matching grant program, by providing the means for strengthened State inspection programs, will assure that there is a far greater chance of detection of violations of safety or health regulations. To fund this critical program, the authorization levels in S. 1390 are $50 million in fiscal year 1981, $100 million for fiscal year 1982, and $100 million for fiscal year 1983. The matching grants are to be on an up to 80/20 basis. The legislation emphasizes that this authorization is only for extending the present programs of the States and that the States through their own funding mechanisms must maintain their present level of effort in the commercial motor vehicle safety area to be eligible for matching grant funding.

Third. This legislation assures rapid investigation of nonfrivolous complaints which allege material violations of commercial motor vehicle safety and health rules and regulations. Also, S. 1390 provides protection for complainants from being disciplined, discriminated against, or discharged pursuant to their filing a complaint concerning safety or health violations. Employees often are the first to be aware of violations and deserve "whistle-blower" protection. These employee complaint and whistle-blower protection provisions are similar to provisions that have proved to be effective in the Toxic Substances Control Act and other safety and health legislation passed by the Congress.

Finally. S. 1390 would designate the Department of Transportation as the agency with the responsibility for fit, willing, and able determinations in the safety area. Our hearings demonstrated that the Interstate Commerce Commission, which presently has this responsibility, has little or no expertise in the safety area. This legislation, therefore, provides DOT, the agency with the primary expertise, with the responsibility for this extremely important safety function. The ICC's existing authority to make fit, willing, and able determinations on economic grounds, however, is unaffected by this legislation. The committee expects the Department of Transportation and the ICC to coordinate closely together in this area in order to avoid duplication and overlap, causing unnecessary burdens on affected groups. However, if the Secretary of Transportation finds there are additional requirements necessary for safety, then appropriate requirements can be established.

Mr. President, I believe this is an extremely important piece of safety legislation. It is an outgrowth of legislation originally introduced by Senator PERCY and carefully refined by the committee. The Senate Commerce, Science, and Transportation Committee passed it without opposition, and I ask my colleagues to provide it strong support.

Mr. President, I yield the floor.

Mr. PERCY. Mr. President, S. 1390, the Commercial Motor Vehicle Safety Act of 1979, is before the Senate for consideration. In recent years, unsafe trucking practices on our Nation's highways have reached epidemic proportions, threatening the health and safety of truckdrivers and the American motoring public. Last June, I—together with Senator KENNEDY, distinguished chairman of the Judiciary Committee, Senator PACKWOOD, the distinguished ranking Republican on the Commerce Committee, and Senator MAGNUSON, the distinguished chairman of the Appropriations Committee and the ranking Democrat and former chairman of the Commerce Committee—introduced this bill to promote commercial motor vehicle operators.

Mr. President, I wish to express my appreciation for the thoughtful and expeditious consideration given to this important measure, by the distinguished chairman of the Commerce Committee, Senator CANNON. His continuing concern and interest in this area has proved instrumental in bringing this important legislation before us today.

I would like to offer public commendation for my distinguished colleague, Senator ROBERT PACKWOOD, over the years, has consistently displayed a keen interest in upgrading the safety of transportation in the United States. The thoroughness, imagination, and dedication he brings to his work in this field have been of demonstrable importance, particularly his vital contributions to the progress of this bill through the legislative process.

Similarly, many thanks are due to my distinguished colleague, Senator EDWARD KENNEDY, for his help in developing this important legislation. His support and advice proved invaluable, and his abiding interest in this critical area of health and safety is well known to all of us.

An extremely important and powerful Senator WARREN MAGNUSON, who has long demonstrated his overriding concern for safety issues, especially those related to transportation. Over the past decade he was a pioneer in the regulation of commerce in the name of health and safety. His leadership and activity in this important area remain strong and vital.

Mr. President, there is an urgent and life-threatening problem now running rampant on America's highways. Our roads are plagued by what appears to be an epidemic of unsafe trucks. These trucks threaten the health, and, indeed, the lives, of both the motoring public and of the truckdrivers themselves. The state of our highways is horrendous. Each year, more Americans are killed on the road than were killed in the Vietnam war in any year, and trucks have contributed disproportionately to the record. Hardly a day passes when we do not see on the local news the horrifying wreckage of a big rig crashed on the side of a highway.

Urgent legislative remedies are now required. I believe the Commercial Motor Vehicle Safety Act of 1979, S. 1390, would go far toward creating a truly effective program of upgrading truck safety.

In recent years, improper truck maintenance, unfit equipment, overloading and often unreasonable driving schedules have contributed to the creation of severe hazards over the roads. Truck accidents and fatalities have increased at an alarming rate. According to the latest figures compiled by the Department of Transportation, of the 50,000 highway fatalities in this country in 1978, 17,578—or nearly 35 percent—were caused by trucks and buses. Heavy trucks alone were responsible for 11 percent of these fatal accidents, despite the fact that they account for less than 1 percent of vehicles on the road. This is a significant

increase, for in 1975 heavy trucks were involved in only 7.8 percent of fatal accidents. While the number of vehicle miles traveled by heavy trucks rose 14 percent from 1975 to 1977, the number of these trucks involved in fatal accidents increased 29.3 percent.

In 1978, 5,075 Americans were killed in accidents involving heavy trucks, an alarming increase of 53 percent over 1975. During the same period, the number of all highway fatalities increased 12.6 percent, of itself a significant climb.

Heavy trucks pose particularly severe hazards to automobiles and their occupants. In a fatal accident involving a heavy truck and a passenger car, 97 percent of the deaths are to the occupants of the car. Per 100 million miles, the involvement of heavy trucks in fatal accidents is 165 percent greater than the involvement of passenger vehicles.

The recent rash of truck accidents has rendered truck driving one of the more dangerous occupations in America. The truck is a driver's jobsite; the road, his workplace. They are both replete with hazards. In 1978, fatalities to occupants of heavy trucks numbered 1,010—a 41-percent increase over 1975. A 1976 Wisconsin study showed that truckdrivers were nine times as likely as all other workers to be killed in work-related accidents.

The latest accident data compiled by the Bureau of Motor Carrier Safety (BMCS), indicates that, in 1978, interstate motor carriers of property and passengers reported approximately 35,000 accidents, which resulted in 3,200 fatalities, 3,400 injuries, and $310 million in property damage. This represents, since 1975, an increase of 43 percent in fatalities, 29 percent in injuries, and a startling 96 percent in property damage. And, according to the Bureau, these figures are understated because a significant number of accidents went unreported.

Inadequate law enforcement is largely to blame for this shoddy record. In a series of Federal roadside spot checks conducted during 1978, over 42 percent of the 26,000 vehicles inspected by the BMCS were deemed "imminently hazardous" and were immediately ordered off the road until repaired. Yet, the Bureau was able to inspect less than 1 percent of the 3 million commercial motor vehicles under its purview. It is reasonable to believe, therefore, that many more unsafe vehicles and conditions go undetected.

I also want to point out that, in my home State of Illinois, truck accident rates have skyrocketed in the last 4 years, according to the Illinois Department of Transportation. For all trucks—including sizes ranging from pick-ups to combination tractor-semi-trailer rigs—the number of vehicles involved in fatal accidents increased 99 percent from 1975 to 1978. Combination vehicles alone, the so-called big rigs, were involved in fully 10 percent of fatal highway accidents in the State last year.

In 1978, there was a 47-percent increase in the number of combination vehicle accidents on Illinois highways. The figures for all trucks indicate that there was a distressing 116-percent rise in the number of trucks involved in highway accidents.

A 1977 General Accounting Office (GAO) report, entitled "The Federal Motor Carrier Safety Program: Not Yet Achieving What the Congress Wanted," concluded:

> In view of the limited accident data obtained, the continuing infrequency of safety inspections, and the high rate of trucks taken out of service after inspection, little assurance exists that most motor carriers are complying with Federal safety regulations.

Federal and State authorities currently lack the manpower and funds to deal adequately with the burgeoning number of heavy trucks. As a result, thousands of big rigs zoom down the highways in bad repair, overloaded, and unsafely driven, because their operators and owners know that the odds of being stopped are about as good as the oil companies losing money next year.

Inadequate enforcement is, in turn, due, in large part, to shortcomings in present truck safety statutes. Outmoded and antiquated laws now bind the hands of the authorities, rendering them nearly helpless even when they do find violations. This bill aims to redress these shortcomings, and to strengthen the hand of the safety authorities.

Civil fines can be an effective deterrent to safety violations. However, at present, civil penalties can only be assessed against a driver or a company for failure to keep proper paperwork. They are not applicable to any other safety violation, such as the failure to maintain safe brakes or to load the truck within prescribed limits. In these instances, the BMCS can only bring formal criminal prosecutions in court or initiate a time-consuming administrative hearing.

This has proved to be a difficult and ineffective process. For instance, in 1978, BMCS detected over 110,000 safety violations during nationwide road checks of 25,695 vehicles and drivers. Yet, Bureau investigators were able to develop only 319 cases, either in court or for administrative action. The majority of these cases were not accepted by the Department of Justice for criminal prosecution.

The effectiveness of the Bureau's safety program could be greatly enhanced by expanding civil forfeiture authority to include all types of substantial violations of safety regulations.

Moreover, the maximum amount for fines for safety violations have not been revised since 1957. They are now seriously out of line with fines for violation of other Federal regulations. Low penalties, coupled with the lengthy process of criminal enforcement, do little to discourage future violations. It is imperative that we raise these fines and set realistic time limits for the prosecution of cases and processing of fines.

Concerned truck drivers and trucking employees are often a great boon to trucking safety. Because their lives and health depend upon the safety and fitness of their vehicles, many such drivers are anxious to find out defects in their rigs. But when these drivers refuse to drive a hazardous vehicle, or report a significant violation to the authorities, many times they find themselves fired or punished as a "reward" for their diligence.

The Interstate Commerce Commission now provides no restraints upon employers who retaliate against these whistleblowers. The sad result is that trucking employees are extremely hesitant to report even the most flagrant safety violations. The Government has lost a potentially important ally in its fight to protect truckers and the public.

Historically, Congress has taken a keen interest in protecting the health and safety of America's workers. The Occupational Safety and Health Act protects nearly every worker in America, with the notable exception of many of those in the trucking industry. At the time it was argued that, since the Department of Transportation already had authority to regulate trucking industry safety practices, no additional coverage was necessary.

However, experience has shown that occupational protections afforded truckdrivers are woefully inadequate. The Federal Government has done little to stem the rapidly rising number of truckdrivers killed on the highways. Working conditions inside the cabs of trucks are also deteriorating. Vibration, exhaust fumes, and extreme temperatures all make truck driving a serious risk to driver health, and to the safety of the public.

In light of these hazards, measures are urgently needed to protect this country's truckdrivers. It is inexcusable that protections accorded truckers lag so far behind those affordable to other workers. The Secretary of Transportation has experience in regulating and monitoring the safety of the trucking industry. He would be the logical and most effective choice to assume responsibility for protecting the health and safety of truckdrivers.

Nearly 3 million heavy trucks roll down America's highways every day. And yet, the BMCS, the lead agency in enforcing truck safety, has only 158 inspectors and safety officers. Clearly, we need to bring far greater resources to bear on this life-threatening problem.

Many trucking firms and drivers are conscientious about highway safety. Yet, a regrettable few—an unscrupulous minority—are lax in their commitment to safety. Federal and State vehicle safety programs must be improved to prevent them from posing a danger to both the general public and other truckers.

In the name of effectiveness and economy, the individual States should be encouraged to actively assist the Federal effort. Each of the 50 States now has an existing program for the enforcement of highway safety. The State of California alone has more truck inspectors on the job than the BMCS has to patrol the entire country. Clearly, the vastly superior resources and manpower of the States would be a valuable addition to the Federal enforcement effort.

But the Federal Government now provides no funding to the States for this purpose, and thus no incentive exists for

them to cooperate. With adequate incentives—for instance, reimbursement for a percentage of the cost of operating strong uniform truck safety programs—much could be done to crack down on speeding, tailgating, sloppy maintenance, and overloading.

With proper incentive, States could operate both more permanent and portable weigh scales to prevent heavy loads which are destroying our roadways, and which make vehicles dangerous to drive. Increased enforcement personnel would slow down all vehicles, not just trucks, with the result that thousands of lives would be saved.

Without prompt remedial action, the state of our highways will steadily worsen. This bill builds upon and expands past legislation to create what I consider to be a truly effective truck safety program. In drafting this legislation, we have sought to reduce the load on our already overburdened courts. We have tried to alleviate the unnecessary delays that so often plague our regulatory process. And, we have sought ways to encourage compliance with safety regulations that do not plunge industry neck deep in paperwork.

Provisions of S. 1390 would greatly enhance the effectiveness and efficiency of the Department of Transportation in regulating and enforcing truck safety and the health and safety of truck-drivers. It directs the Secretary of Transportation to address those areas which have caused the grievous problems since the DOT was created 11 years ago.

To accomplish these goals, S. 1390:

Raises civil fines from $500 to a maximum of $10,000 for serious safety violations;

Authorizes the Secretary of Transportation to regulate the health and safety of working conditions for truck-drivers and insure that trucks are safely maintained and operated;

Provides for 1-year imprisonment and/or a maximum $25,000 fine for knowing and willful criminal violations;

Expands Federal truck safety jurisdiction to include all commercial motor vehicles, both interstate and intrastate, over 10,000 pounds;

Authorizes the Secretary to conduct on-the-job inspections and investigations;

Protects trucking employees from discipline, discharge, or discrimination for refusing to drive an unsafe vehicle or for reporting safety violations;

Authorizes a uniform reporting system to eliminate excessive paperwork required of trucking firms and truckers;

Encourages States to assist in the enforcement of truck safety by offering them Federal financial incentives;

Allows States to apply for exemptions from particular Federal regulations if their proposed regulations do not diminish safety;

Authorizes the Secretary of Transportation to rule on the safety aspects of fit, willing, and able determinations by the Interstate Commerce Commission;

Requires the Secretary to promulgate any rule or regulation according to a specific and expeditious timetable;

Authorizes the Secretary of Transportation and the Director of the National Institute for Occupational Safety and Health, in consultation with the Secretary of Labor, to undertake a study of the health hazards to which truck drivers are exposed;

Authorizes the Secretary to order those vehicles or employees out of service which pose an imminent hazard to public safety, and

Requires the Secretary to report yearly to the Congress concerning his efforts to improve truck safety, and assessing the advisability of establishing a National Commercial Driver Register.

The provisions of this bill would greatly enhance the effectiveness and efficiency of DOT in regulating and enforcing truck safety. Abuse of present regulations has resulted in countless deaths, injuries, and loss of property. This situation will not improve itself. The time to crack down is now.

The commercial trucking industry is critical to the business of America and continues to grow in leaps and bounds. In 1977 alone, intercity freight transported by trucks amounted to 561 billion ton-miles. The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the road will double. Our highways should not be deathtraps—they were built for the safe enjoyment and use of all Americans.

This legislation has been greatly enhanced by the diligence and concern of various driver representatives—namely, the International Brotherhood of Teamsters and the Professional Drivers Council. From the start, they have provided keen insights and original ideas to protect the health and safety of their members and the motoring public. This legislation would not have been possible without the outstanding contributions of these conscientious advocates who have well represented their member employees with diligence and concern.

Likewise, the American Trucking Associations (ATA) is to be highly commended for the outstanding contributions they have made to the development of this legislation. The ATA has displayed a sincere and abiding commitment to upgrading the safety of its industry. The Executive and SCORE Committees of ATA, consisting of many highly dedicated, safety conscious trucking executives, devoted hundreds of hours to poring over the provisions of this bill. Subsequent ATA endorsement is the result of an immense amount of interchange and consultation. It is a tribute to the ATA to have taken such a bold position of leadership on this important issue.

Mr. President, the Commercial Motor Vehicle Safety Act of 1979, S. 1390, is the product of over 2 years of painstaking study and negotiation. It enjoys the support of every major organization representing the trucking industry, and has received the unanimous endorsement of the Committee on Commerce, Science, and Transportation. I believe it deserves Senate support as well.

Mr. President, I thank my distinguished colleague (Mr. EXON) for the floor management of this bill.

My early years in the Senate were devoted essentially to the problems of the Vietnam War, Mr. President. I can recall the hundreds of hours that we all devoted to listening to young people protest that war, to various groups petitioning the Congress of the United States to end that war. Always, there was the haunting thought that that war, 10 years in duration, had cost 50,000 lives and hundreds of thousands of injured and disabled. The bill before us is a bill that will have a far greater effect upon the lives and safety of all Americans than the whole Vietnam War.

The death rate due to accidents involving trucks and busses, if continued at the present trend, will exceed 200,000 for 10 years, not just 50,000. I say "just" because any life lost that does not have to be lost is a source of deep regret. Yet, we do not have sufficient public consciousness about highway deaths. We somehow feel this is a price we have to pay for a fast-moving society that needs to keep on the move.

I think of the resistence that I had years ago to the introduction of a bill that I had sponsored at the time to require a 55-mile-per-hour speed limit on all Federal highways. I was accused of slowing up the economy, strangling the effort of people to move ahead; there was the feeling that somehow, there should be freedom, particularly on the part of young people, to push that pedal down and see how fast that car can go. Yet I did not have to be reminded of the fact that, in Chicago, we have one of the most advanced and largest rehabilitation institutes in the world. In that institute, the No. 1 cause of people coming there is tragic automobile accidents. You can see them in room after room and ward after ward—young people incapacitated for life, crippled, maimed. Of course, the dead are not there, just the injured.

So I say that this measure that is before us today is a tribute to the Committee on Commerce, to our colleagues who have worked with us on this measure, a measure that is just as important as ending a tragic war, a measure designed to contribute to reducing the tragedy of death on the highways in America.

Mr. President, as I have said, unsafe trucking practices have reached epidemic proportions: In 1978, 17,500 Americans were killed by trucks and buses, nearly 35 percent of the annual motor vehicle-related fatalities. Heavy trucks alone were responsible for 5,075 deaths, an increase of 53 percent since 1975.

When are we going to end this madness? When are we going to say, "Enough is enough"? And what can we do about it?

We did, in part, slow this trend by the 55-mile-per-hour speed limit. According to well-established statistics, we have saved approximately 13,000 lives a year and tens of thousands of injuries since the passage of that one law—this, in addition to saving millions of barrels of oil. It was put in as an energy measure. In the back of my mind, and apparently in the minds of many on the floor of the Senate who fought for that legislation,

were the lives that could be saved by such a measure. Here again is a chance to move forward after analyzing a problem, and through the passage of a law, reverse this trend in highway deaths.

Shoddy safety procedures have rendered truck driving one of the more hazardous occupations in America today. The reason the truck drivers and truckers of America are for this bill is that they know the hazards of that job cannot be continued. In 1978, over 1,000 occupants of heavy trucks were killed in accidents. This was an increase of 41 percent over 1975. Negligent or improper maintenance of vehicles is perhaps the single greatest contributor to this frightening decline in safety. In 1978, the Bureau of Motor Carrier Safety in DOT inspected nearly 26,000 vehicles. Incredibly, 42 percent of these were deemed "imminently hazardous" and were immediately ordered off the road.

Mr. President, I just drove, a weekend ago, from Denver to Vail, Colo. On virtually every mountain incline there, there were huge illuminated signs telling a truck driver that if he losses control of his rig, there is a sand hill provided for him on the side of the road so he can drive into it and stop that truck. So frequent are faulty brakes on trucks in Colorado, that they now have to make special provisions for runaway trucks.

If we go out and look on a highway—395, 295, go down to Williamsburg—if we figure that on a statistical basis, 4 out of 10 of those trucks are "imminently hazardous" by our own Department of Transportation's definition, we shall recognize why the fastest-growing death rate in America is from unsafe trucks. There is something we can do about it. We can do what the Commerce Committee has seen fit to unanimously recommend.

This Congress and this Senate can work rapidly when they have the facts available. We have the facts available and the whole industry united, truckers, members of the Teamsters Union, and others, supporting this effort to move ahead and remove this tremendous hazard.

S. 1390 takes into account that there is inadequate authority that severely impairs the Federal truck safety enforcement effort.

DOT has jurisdiction only to regulate vehicles operating interstate, despite the fact that the majority of trucks operate intrastate.

It is a little confounding that we have a whole Department of Transportation, a department our Governmental Affairs Committee was responsible for establishing some years ago, which we tend to think of as somehow providing for the safety of the trucking industry, but which in reality has no jurisdiction, whatsoever, over most of the trucks we see on the road.

The BMCS has extremely limited authority to levy fines for violations. Instead, it must turn to time-consuming criminal prosecutions which receive low priority in the Justice Department.

We wondered why DOT could not do something with the authority they now have. We were dumbfounded to learn that they have to bring criminal charges through the Justice Department for any safety violation, putting these violations in competition with organized crime, with drug abuse, with all the other prosecutions with which Justice has to deal. We found that the priority of truck safety prosecutions was very low, despite the fact that day after day people are being slaughtered and killed on the highways.

Fine levels have gone unchanged since 1957. What has happened to the dollar since 1957? As the dollar has gone down, the impact of the present fine level has severely shrunk. The fine level, even though the problem has become exacerbated, is one-third what it was when fines were established in 1957.

We also found that cooperation between Federal and State truck safety enforcement efforts is minimal. We thought there could be and should be a body of evidence to show the Federal Government and the States are working together on a common national problem, instead we found grave discrepancies and duplications in Federal and State laws and regulations undercut safety and are often burdensome both to drivers and the trucking industry. Safety enforcement is further hampered by inadequate protections from arbitrary discharge and discrimination which prevent trucking employees, especially drivers, from reporting safety violations or refusing to operate unsafe vehicles.

Here we found a problem similar to the one which we dealt with through whistle blower protection legislation for Federal employees. There was a great reluctance on the part of Government employees to ever come in and testify before Congress, because, if they did, they would be recriminated against.

We found a similar pattern here. If someone would come in to give evidence about unsafe vehicles, to complain about them, the inflation pressures and the pressures on profits being such as they are, they would likely find themselves out of a job the next day.

There was no protection for anyone who, in the public interest, brought this to the public attention.

This legislation is the product of over 2 years of painstaking study and negotiation, with the invaluable contributions of the International Brotherhood of Teamsters, the Professional Drivers' Council, and the American Trucking Associations. They all support S. 1390. The Commerce Committee has unanimously endorsed the bill, for which I am deeply grateful.

In summary, S. 1390 raises civil fines from $500 to a maximum of $10,000 for serious safety violations. With a $500 fine, the loss could be made up by just another day on the road. Many trucks were not called off the road despite the fact that they were dangerous to drive. Why not take a chance? A $500 fine is equivalent to a $5 parking ticket when we consider the amount of money that can be made on a truck with a full load for 1 day.

But with a $10,000 potential fine, violators are going to think twice about that. Any serious safety violation, and they will pull that truck off the road.

What we have to do is increase the penalty and make it easier to impose so that it will no longer be cost effective to keep a truck on the road if it is unsafe.

S. 1390 authorizes the Secretary of Transportation to regulate the health and safety of working conditions for truck drivers and insure that trucks are safely maintained and operated.

It provides for 1-year imprisonment and/or a maximum $25,000 fine for knowing and willful criminal violations.

It expands Federal truck safety jurisdiction to include all commercial motor vehicles, both interstate and intrastate, over 10,000 pounds.

It authorizes the Secretary to conduct on-the-job inspections and investigations.

It protects trucking employees from discipline, discharge, or discrimination for refusing to drive an unsafe vehicle or for reporting safety violations.

Just like Federal employees who come before Congress to talk about the malfeasance they see in office, they should not be permitted to be fired because they, in the public interest, have testified about something they know is wrong and not in the public interest.

So we want to protect the whistleblowers, the truckdriver who simply says that this truck is unsafe to drive, is a hazard to everyone he is going to pass or approach on the highway.

We want something done about it. We want those people protected. The truckdrivers want them protected, and truckers now support protection for those people.

It authorizes a uniform reporting system to eliminate excessive paperwork required of trucking firms and truckers.

It goes to the heart of what we are trying to accomplish in regulatory reform. It improves rather than adds to the burden of paperwork.

It encourages States to assist in the enforcement of truck safety by offering Federal financial incentives of up to 80 percent of the cost of State truck safety programs which conform to the approach of this bill.

Finally, it authorizes the Secretary to order those vehicles or employees out of service which pose an imminent hazard to public safety.

Mr. President, there are very few pieces of legislation we are able to audit in their aftereffect as carefully as we will be able to audit this legislation.

I hope the Commerce Committee will see fit to put together the figures once this bill has become law and is in effect. How many lives have we saved? How many injuries have we saved? This impact will be greater than ending the Vietnam war.

This bill is straightforward. It is simple. I think it should have universal support. It will be a giant step forward in making the highways safer for every

single family out on the highway and, just as important, safer for the truckdrivers who are engaged in one of the most hazardous occupations today.

Mr. EXON. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of S. 1390: Kevin Curtin, Ed Hall, Aubrey Sarvis, and Bill Diefenderfer.

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

● Mr. PACKWOOD. Mr. President, as the ranking minority member of the Senate Commerce Committee and as a cosponsor of the bill, I join Senator EXON in urging my colleagues to support S. 1390, the Commercial Motor Vehicle Safety Act.

The necessity for reducing the fatalities and injuries due to automobile and truck accidents on our highways has been the purpose of several major pieces of legislation over the years. The Congress has voted for safer highways, for lower speed limits, for safer automobiles, and for programs to improve driver behavior.

Our votes have worked to reduce highway fatalities despite an ever-increasing number of vehicles on the highways traveling more miles. Yet despite this effort, there has long been a serious gap in highway safety legislation. Heavy trucks have not been adequately regulated, nor have the present regulations been adequately enforced. Senator PERCY has long recognized this gap and has over the years fought for improved commercial motor vehicle safety. I commend him for his efforts and join with him as a cosponsor of S. 1390.

The bill was introduced and referred to the Senate Commerce Committee where, under Chairman CANNON's leadership, hearings were held, and the bill was favorably reported to the Senate by a unanimous vote.

I also wish my colleagues to be aware of the tremendous support this bill has received from both truckdrivers and the trucking industry. Efforts by representatives of these groups have clearly made this a workable proposition.

S. 1390 will improve highway safety as follows:

Title I of the bill authorizes the Secretary of Transportation to establish regulations related to commercial motor vehicle safety and the commercial motor vehicle drivers' health while operating the vehicle. A commercial motor vehicle is defined as any self-propelled or towed vehicle used on the highways with a weight in excess of 10,000 pounds; or any such vehicle used to transport more than 10 passengers; or any vehicle used to transport hazardous materials. Vehicles used in farming or logging operations are exempt.

The bill also authorizes the Secretary to conduct commercial motor vehicle safety research and training. The Secretary is authorized to conduct investigations and inspections without advance notice and is required to investigate any nonfrivolous written complaint alleging that a material violation of the title is occurring. Civil and criminal penalties are established for violations of the act. In addition, the Secretary is authorized to place a vehicle out of service if such vehicle poses an imminent hazard to public safety. The bill also provides protections for employees who report a violation of the act or refuse to operate an unsafe vehicle. The employees' remedy is patterned after the employee protection provisions of the Toxic Substances Control Act.

States are authorized to assume responsibility for enforcement of the standards and incentive assistance funds are available to the States to develop and institute enforcement plans. The amounts authorized subject to an 80/20 Federal/State share are $50,000,000 in fiscal year 1981, $100,000,000 in fiscal year 1982, and $100,000,000 in fiscal year 1983.

The Secretary is also required to study and report to Congress on the advisability of a national commercial driver register.

The bill also establishes a Commercial Motor Vehicle Safety Advisory Committee to advise the Secretary on matters relating to commercial motor vehicle safety.

Title II of the bill authorizes the Department of Transportation to make the determination as to whether a commercial motor carrier is fit, willing, and able as to the safety-related aspects of that determination. Currently, the Interstate Commerce Commission is responsible for such determinations although the ICC does not have the expertise or responsibility for commercial motor vehicle safety.

Again, I strongly urge my colleagues to support this legislation.●

Mr. EXON. Mr. President, I ask unanimous consent that the committee substitute be considered as original text.

The PRESIDING OFFICER. Without objection, the amendment is agreed to and is considered as original text.

UP AMENDMENT NO. 985

(Purpose: Make technical amendments)

Mr. EXON. Mr. President, I send to the desk a number of technical amendments and ask that they be considered and agreed to en bloc. These amendments are strictly technical and do not alter the substance of the legislation.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes technical amendments, unprinted, numbered 985.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 23, line 12, strike "Government" and insert in lieu thereof "Commonwealth".

On page 42, line 12, insert a comma immediately after "enforcing".

On page 43, line 9, strike "to" the first time it appears therein.

On page 43, line 13, insert "such" immediately after "use".

On page 46, line 12, strike "109" and insert in lieu thereof "110".

On page 48, line 7, insert a comma immediately after "members".

On page 48, line 9, insert a comma immediately after "training".

On page 49, line 6, strike "appointment,"; and insert in lieu thereof "appointment;".

On page 49, line 14, strike "retary at" and insert in lieu thereof "retary, but".

On page 55, line 8, insert a comma immediately after "services".

On page 57, line 8, strike "Act,", and insert in lieu thereof "Act (49 U.S.C. 1651 et seq.),".

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

UP AMENDMENT NO. 986

(Purpose: Provide authorizations)

Mr. EXON. Mr. President, I send to the desk the following amendment. Again, this is essentially technical, but it is a funding mechanism.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 986.

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

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

The amendment is as follows:

On page 59, immediately after line 2, insert the following new section:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 302. (a) There are authorized to be appropriated to the Secretary of Transportation for fiscal year 1981 not to exceed $1,500,000, for purposes of carrying out the provisions of section 103(d) of this Act.

"(b) There are authorized to be appropriated for fiscal year 1981 not to exceed $150,000, for purposes of carrying out the provisions of section 115(b) of this Act.

"(c) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983 not to exceed $125,000, for purposes of carrying out the provisions of section 117 of this Act.".

Mr. EXON. Mr. President, this amendment provides specific authorizations for:

First, a study of health hazards facing truck drivers provided for in section 103(d) of S. 1390;

Second, a report by the Department of Transportation concerning the advisability of establishing a national commercial driver register provided for in section 115(b) of S. 1390; and

Third, the activities of the Commercial Motor Vehicle Safety Advisory Committee established by section 117 of this act.

When this legislation was passed by the Senate Commerce Committee, there were no specific authorizations provided for these functions. The committee intended to have these programs provided for out of the discretionary funds of the Department of Transportation. In discussions with the Budget Committee, it was pointed out that such discretionary funding will be more limited than in previous years; therefore, the committee decided to provide specific authorizations for these programs. Therefore, to carry out the activities of the Commercial Motor Vehicle Safety Advisory Committee, a $125,000 authorization is provided for fiscal years 1981

through 1983. A one-time authorization of $1.5 million is provided for the health hazards study. Finally, $150,000 is provided to investigate the advisability of the development and establishment of a national commercial driver register. These authorization levels have been arrived at after discussions with the relevant agencies and are analogous to similar studies and programs that have been undertaken in the past.

Mr. President, I believe these authorization levels are the bare minimums necessary for the carrying out of these programs, and I ask that they be approved at this time.

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

Mr. EXON. Mr. President, the manager of the bill has no further amendments at this time.

Mr. PERCY. Mr. President, with the exception of a possible amendment by Senator PACKWOOD, I believe the minority has no further amendments. Senator PACKWOOD is tied up in a conference at this time. There are other amendments to be offered. I think it would be Senator PACKWOOD's preference that he stay in conference as long as he can and that the other amendments precede his. But if there are no further amendments, I will send word to Senator PACKWOOD that we are ready for him.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 987

(Purpose: To amend title 23, United States Code, to establish uniform national standards for weight and length of vehicles using the National System of Interstate and Defense Highways, and for other purposes)

Mr. MELCHER. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the proper place insert the following:

Section 127 of title 23, United States Code, is amended by adding the following at the end thereof:

"No State may enact or enforce any laws denying reasonable access to and from the Interstate System on roads providing access between the Interstate System and terminals and facilities for food, fuel, repairs and rest. Notwithstanding any other provision in this section, no State may enact or enforce any law regarding the Interstate and Defense Highways which provides a gross maximum overall weight limit of less than eighty thousand pounds and less than twenty thousand pounds per single axle and thirty-four thousand pounds per tandem up to a gross overall weight limit of eighty thousand pounds, nor may any State enact or enforce any law which provides a gross overall length limit of less than sixty-five feet (excluding length required by energy conservation devices and/or designs) for tractor, semi-trailer and other motor vehicle combinations and receive its apportionment of funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 nor shall the Secretary of Transportation approve any project under section 106 in any such State. Notwithstanding any limitation relating to vehicle widths contained in this section a State may permit trucks or combinations thereof having a width up to 102" to operate over interstate highways with traffic lanes designed to be of a width of 12 feet or more under special permit authority if the State undertakes and implements the results of traffic engineering studies at locations where such vehicles will operate. Such studies shall consider remedial responses required to enhance safety such as the need for advisory speed and other signing, reduced speed limits, and warning of potential hazards due to high winds. States shall issue such special permit authority for a period of one year and only upon finding, that such width is necessary for fuel efficient movement of freight and that the granting of such permit will not negatively impact highway safety.

The cosponsors of UP amendment No. 987 are: Senators Levin, McClure, DeConcini, Boren, Bellmon, Stewart, Zorinsky, Baucus, Riegle, Morgan, Jepsen Stone, Church, Cohen, and Packwood.

Mr. MELCHER. Mr. President, the amendment at the desk is the outgrowth of legislation I introduced on June 20 of last year.

It was S. 1383, and it was introduced at the height of the truck strike that gripped this Nation in late spring and early summer of the past year. My intent in introducing this legislation was to provide uniform national standards for weight and length of trucks operating in interstate commerce.

Presently, Mr. President, there are certain States which because of their present laws preclude the efficient utilization of and fuel conservation in the motor carrier industry. I quote from the report of the Secretary of Transportation to the President entitled "Problems of Truck Owner-Operators":

Particularly troublesome are the states known as the "barrier states." These states, ranged along the Mississippi River, render it effectively impossible to take advantage of the higher weight limits in effect in the majority of states on transcontinental shipments.

Until 1966, the States regulated truck size and weight limits. That year, in the interests of setting standards for interstate truck transportation, Congress established a maximum gross weight limit of 73,280 pounds on the Interstate System. The Federal limit allowed for some exceptions to this maximum, but States could still set their maximum limits below 73,280 pounds and could regulate truck lengths.

In 1973 and 1974, first the President and later Congress, established the 55 mile-per-hour speed limit. The new speed and the resulting longer truck transit times created a shortage of truck capacity in the short-run. To help offset this shortage, Congress raised the maximum weight limit to 80,000 pounds. As it stands today, the limit is permissive. It still grants certain exceptions and allows States to adhere to lower maximum limits. There is no Federal standard for the length of trucks.

Several States along the Mississippi River and in the East have retained the 73,280 pound limit. These "barrier" States interfere with the efficiency of interstate movements by maintaining the lower weight maximums in the face of lowered speed limits. This limitation most seriously affects long hauls of dense commodities that must move across "barrier" States. For example, a truck moving from California to New York must confrom to the regulations of the most restrictive State along the way. In some cases, truckers may take circuitous routes to avoid States with lower maximum weights. In these cases, the "barrier" States reduce the productivity and overall capacity of the trucking industry, and add to the fuel required to meet the highway transportation needs of the economy.

S. 1383 provided standards for our interstate and national defense highways which would have effectively eliminated these barriers. S. 1383 included a gross overall weight limit standard of 80,000 pounds while preserving the present grandfather clause for those States exceeding that standard. This bill also sets national standards of 20,000 pounds for a single axle and 35,000 pounds for tandem axles. Additionally the bridge formula was changed to accommodate these national standards. Finally, an overall length standard of 65 feet was established.

Subsequently, after much analysis, on October 11, I introduced printed amendment 510, an amendment in the nature of a substitute to S. 1383. This amendment and S. 1383 have been cosponsored by 20 of my colleagues including Senators MCCLURE, DECONCINI, CHURCH, RIEGLE, GOLDWATER, BELLMON, EXON, STONE, BAUCUS, YOUNG, HEFLIN, MORGAN, BOREN, STEWART, STEVENS, ZORINSKY, COHEN, PRESSLER, JEPSEN, and LEVIN.

The only change to S. 1383 made in the printed amendment was to the bridge formula. The bridge formula incorporated in the substitute is the table C which was recommended to the 88th Congress as House Document 354. Section 108(k) of the Federal-Aid Highway Act of 1956 required a study of bridge stress.

In response to 108(k), tables A, B, and C were recommended as complying with the bridge stress requirements. Table B was eventually written into law where it now exists codified in section 127 of title 23 of the United States Code. However, I must emphasize that all three tables as recommended to Congress by the Department of Transportation meet the stress requirements of the bridges on the Nation's interstate and defense highways.

The original basis for increasing the tandem axle weight was to remove the economic incentive to place the fifth forward to put more weight on the steering axle and reduce weight on the tan-

dem axles so that they remain under the present 34,000 pound limit. State length limits are also an incentive for the placement of the fifth wheel forward so that no trailer cube space needs to be sacrificed. Additionally, the trade off between cab space and trailer cube has been a point of friction between labor and management.

Cab size and the steering axle weights were the subject of extensive hearings before the Senate Commerce Committee in September of 1978. These hearings revealed the concern of many for the impact on safety of placing the weight on the front steering axle, the placement of the fifth wheel, and reduced cab size.

This Nation can no longer afford to allow our States to interfere with interstate commerce as a few are today doing through the regulation of truck weight and length limits.

The U.S. Rural Transportation Advisory Task Force which was chaired jointly by the Secretary of Transportation Goldschmidt and Secretary of Agriculture Bergland recommended:

> Incentives to encourage states to increase truckload limits to 80,000 pounds and length limits to 65 feet on interstate and other major highways, along with incentives to states trying to resolve varying state regulations.

That is exactly as I am doing here today.

Weight limits affect all businesses that move their goods by truck. However, agriculture has a special interest in maximizing truck capacity. Agricultural trucking often involves long hauls and perishable products. Many agricultural commodities are heavy and dense, so that a trucker loading to the 73,280 pound limit may still have the cubic capacity to carry more. Consequently, lower weight limits force agricultural shippers to use more trucks than they would need otherwise, and finding available trucks may be difficult when trucks are in short supply.

This enforced inefficiency has important implications for producers and consumers of a variety of farm products that move by truck. A large percentage of agricultural traffic must cross the States along the Mississippi. The following exhibit shows flows of feeder cattle to five major feeding States. Red meats for Eastern States come from States either in or west of the weight limit barrier. Poultry raised heavily in the Southeast move by truck to destinations in the Northeast, Midwest, and West. The following table shows relative shares of total production in relevant areas:

AGRICULTURAL PRODUCTION LOCATION, SELECTED COMMODITIES 1978

	Production of U.S. total in—	
	States west of barrier [1]	Barrier [1] and bordering States
Fresh vegetables	0.65	
Fall potatoes	.60	
Applies	.39	
Cattle, live weight		0.84
Hogs, live weight		.60
Broilers, live weight	.12	

[1] A "barrier" State is defined as one for which truck load maximums are below the Federal statutory limit of 80,000 lb on the Interstate Highway System.

In addition, Mr. President, I must point out that the limitation on truck length is a specific and peculiar problem for livestock producers who must ship their feeder cattle often into States that have the limitation on length.

Going to fresh fruit and vegetable movements, I might point out, Mr. President, that these are especially long-haul commodities. Fresh produce is grown predominantly in the Pacific States. Much of it moves by truck to the major consuming markets in the Northeast quadrant of the United States. In 1975, the average length of haul for fresh fruits and vegetables was over 2,000 miles. For many of these fresh commodities, transportation costs account for a large percentage of retail price. Sometimes transport cost is even greater than the product's value to the producer.

To my fellow Senators who represent the producers of agricultural products and consumers as well, I have at my desk charts from the U.S. Department of Agriculture showing the flow of agricultural commodities to the marketplace and which vividly illustrate the need for this amendment.

A higher weight limit on the interstates of the barrier States of 80,000 pounds and a length limit of 65 feet would be in the interest of agriculture because it would increase trucker productivity and reduce transport costs. Extending these limits to other major highways would make agricultural trucking more effective, especially in the case of movements of fresh meats to eastern markets. A high standard in all States would also benefit agriculture's transportation providers. Under the current condition of disparate weight limits, the payloads of hauls through the "barrier" States are approximately 15 percent below the maximum. Higher payloads could be important to truckers hauling agricultural commodities, particularly to the small businessmen—the independent owner-operators—who haul much of the Nation's fresh produce.

The higher weight limit need not decrease highway safety or increase State highway and road maintenance costs unduly. Congress has the authority to regulate "interstate" commerce and transportation on the interstates. If these are to be made standard, however, it is logical that any additional costs resulting from this regulation be covered by Federal user charges.

There are estimates available of the total savings in fuel or in other transportation costs of increases in maximum weight and length limits. For commodities sufficiently dense to load trucks to 80,000 pound gross weights, the cargo weight would increase about 15 percent if maximum gross weights were raised from 73,280 to 80,000 pounds. Fuel use per vehicle mile increases only modestly as cargo weight increases.

Until better data on fuel requirements and commodity flows become available, it is difficult to give estimates. It is clear that movements of perishables are primarily long-haul. Therefore, change in weight limits affecting only a small portion of an entire trip for perishables has a "leverage" effect on cost and fuel savings.

What are the fuel savings that can be realized from uniform national weight and length standards?

The savings from this type of legislation cannot be simply qualified in terms of gallons of gasoline to be saved since these savings when passed on through the economy have a beneficial multiplier effect.

Our distinguished colleague from Iowa, Senator JEPSEN, and a cosponsor of my bill in the February 7, 1980 CONGRESSIONAL RECORD, made a fine statement in support of our legislation. He made reference to the initial estimate made by the Stanford Research Institute for the Federal Energy Administration that 225 million gallons of fuel could be saved annually by establishing uniform weight and length standards. Additionally, according to my colleague, a study by the Iowa State Department of Transportation concluded, and I must say astoundingly:

> The benefit-cost ratio shows that for each dollar in increased highway wear, society will receive 4.2 dollars in benefits in the form of reduced transportation costs.

I repeat, $4.2 for each additional dollar in wear; a 4-to-1 return.

In testimony before the Committee on Environment and Public Works, Thomas Browne, vice president, United Parcel Service, stated that according to a UPS study UPS alone in the seven States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee their fuel savings would exceed 900,000 gallons a year and 2.2 million gallons nationally a year if twin-trailer combinations of up to 65 feet are allowed.

In the same hearings before the Senate Environment and Public Works Committee, the Administrator of the Federal Highway Administration estimated national fuel savings of between 50 and 200 million gallons of fuel.

According to Don Phipps, president of the Iowa Independent Truckers Association, Iowa alone can save 7.9 million gallons of fuel, in testimony at the October 25 hearing.

Edward Kiley, appearing on behalf of the American Trucking Association, said that Stanford Research Institute's 200-million-gallon figure was conservative since it was based solely on intrastate movements whereas interstate movements are where the very large savings can be made.

The national cooperative highway research program estimates total fuel savings could reach as high as 875 million gallons per year or more than 7 percent of total diesel now consumed.

There was initially concern expressed for the additional wear and tear that would be caused by the increase to 35,000 pounds for the tandem axle and for the change in the bridge formula. The amendment being offered today has none of these changes. The amendment will cause minimal additional wear to our highways. The only wear that will occur will be as a direct result of the national standard of 80,000 pounds.

There are numerous organizations supporting this amendment. They are: The

Owner-Operators, Independent Drivers Association, the American Trucking Association, the Private Truck Council. National Governors' Association (except for 65 feet), United Parcel Service (for 65 feet only), American Farm Bureau, Western Montana Independent Truckers Association, National Broiler Council, Iowa Independent Truckers Association, Truck Trailer Manufacturers Association, South Dakota Independent Truckers Association (West Chapter).

Mr. President, we are in an emergency situation. Our Nation must respond to our energy crisis. This amendment is one clear and direct conservation measure. It will save literally millions, and over 2 to 3 years into the billions, of gallons of fuel. We cannot afford to allow this incongruity of State law to preclude the conservation required of the times.

Even if there is to be additional wear, I say let us employ our fellow Americans to repair that wear and not send any more dollars overseas than are absolutely necessary.

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

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I am a cosponsor and supporter of the amendment of the Senator from Montana, and I want to address my remarks to a very, very specific part of that amendment. That is the part of the amendment that will allow States, if they wish, to increase to 102 inches the width of trucks.

First, let me say there are 25 States today that allow wider vehicle lengths than the current Federal law of 96 inches.

Those were States that were grandfathered into the system when the 96-inch width was set by Federal law. So we have 25 States now that exceed it.

All my amendment does is give to the other States the discretionary authority to decide whether or not they want to go to 102-inch width trucks. And I say discretionary authority because they can only do that after a study which would determine that there would be no adverse safety impact.

Buses that haul passengers today are allowed to go to 102 inches. There would seem to be no reason why we would allow buses, which haul people, to be 102 inches wide and limit trucks and, ironically, limit them in only half of our States to 96 inches.

A principal reason for the slight increase in the width is that most standardized containers today are 4 feet or 8 feet long or wide. At 96 inches you cannot get these containers to be stacked side by side. You cannot take a 4-by-8 piece of plywood and put two of them side by side in a car that is limited to 96 inches. They just will not quite cram in.

Consequently, we have truck upon truck upon truck hauling containers that are standard 4 by 8 or 4 by 4's being very fuel inefficient because they cannot be stacked side by side, which would take about 97, 98, or 99 inches. The 102-inch width would accommodate that.

Study after study has recommended going to the 102 inches. Those studies include the 1964 U.S. Government study, the 1973 U.S. Department of Transportation study, the 1979 Department of Transportation study, and a recent study by the Michigan Highway Safety Research Institute which, interestingly enough, from a rollover standpoint, found that 102 inches is safer than 96 inches. It is obvious that the wider you make a truck, the broader that you are able to pack it and the greater its density of weight spread out across a certain width, the more difficult it is to roll it over. So from a rollover standpoint it is literally safer than a narrower truck.

The American Association of State Highway and Transportation Officials supports 102 inches. The Western Association of State Highway and Transportation Officials supports it. The forest products and paper industry and, as of today, the American Trucking Association support it.

There is no adverse argument to the 102-inch width. There has been some objection—it is the only objection that I know of—from the American Railway Association. But the objection is understandable. If, indeed, trucks were allowed to be 102 inches wide and they could haul standard containers that are 4 by 4 or 4 by 8's and stack them double, side-by-side, in a truck, that makes a truck more efficient, makes it more competitive, and the railroads would just as soon not have that increased competition.

So, Mr. President, for that reason, I hope that not only will the Melcher amendment pass, which I think is a good amendment, but that this provision within it makes it a doubly good amendment because it would allow the trucks to be just wide enough—no wider than the buses that are now allowed on the road—to accommodate standard packaging containers.

Again, I emphasize that all it does is allow the States, if they wish, to go to 102 inches. It does not compel it. It does not overrule their authority. It simply allows them to, and only after they have made a finding that allowing the trucks to go to that width would present no impairment of safety.

Mr. STAFFORD. Mr. President, I find, with regret, that I must rise in opposition to the pending amendment. If I might have the attention of the distinguished author of the amendment, the principal author, I will ask one or two questions, simply to make certain that I am talking about the amendment that is currently pending in front of the Senate.

This amendment is the one which would require some 14 States to establish or permit an 80,000-pound limit on highways, and those 14 States currently have limits that are lower than that and generally up to 73,280-pound level. Is that correct?

Mr. MELCHER. Mr. President, I believe the Senator is correct that 14 States would be affected by it.

Mr. STAFFORD. In the same amendment that is pending in front of us, as I read it, if any State declined to comply with the 80,000-pound limit, that State, under the amendment, could be denied funds under section 108(b) of the Federal-Aid Highway Act of 1956 for highway construction and repair. Am I correct in that?

Mr. MELCHER. The Senator is correct.

Mr. STAFFORD. And the last sentence on the first page of the copy of the amendment which I have is the part that Senator PACKWOOD has recently been discussing, which does permit a width up to 102 inches on trucks operating on the interstate highway system. So that we are now dealing with both, originally, the Melcher amendment and the Packwood amendment in one package?

Mr. MELCHER. That is correct.

Mr. STAFFORD. I wonder if the Senator could advise the Senator from Vermont a little bit on the first sentence of the amendment, which states: "No State may enact or inforce any law denying reasonable access to and from the interstate system on roads providing access between the interstate system and terminals and facilities for food, fuel, repairs, and rest."

Would that mean the State would have to permit weights up to 80,000 pounds on any highway? For example, even a dirt road leading from a restaurant to an interstate system?

Mr. MELCHER. No. Mr. President, I would respond that I do not read the amendment that way and that is clearly not our intent. The reasonable access would be set by the Department of Transportation.

Mr. STAFFORD. In other words, to establish a legislative history, if I understand the Senator's amendment, it would require that the 80,000-pound weights be permitted only on highways immediately providing access to the interstate system and terminals and facilities for food, fuel, repairs, and rest, and highways of a type that could properly carry an 80,000-pound load without undue damage. Am I correct in that?

Mr. MELCHER. I think that is correct. I think that the Senator has properly stated it.

Mr. STAFFORD. I thank the Senator very much for helping to clarify that about this amendment.

Mr. President, the amendment which my distinguished colleague from Montana (Mr. MELCHER) has offered would have an impact on the interstate and Federal-aid highway system. Very frankly, in the opinion of the Senator from Vermont, it is an invasion of the jurisdiction of the Environment and Public Works Committee, of which I am the ranking minority member. In fact, a point along this line is the fact that the original Melcher amendment, then S. 1388, which has been modified, I appreciate, was referred to the Committee on Environment and Public Works for hearings sometime prior to the present.

This Senator does not believe that this is the time to make any changes in the current Federal regulations governing truck size and weight standards. The Senator from Vermont is not convinced that such a change will provide more benefits than costs.

The Transportation Subcommittee of the Senate Environment and Public Works Committee, on which I serve, held hearings on the truck size and weight issue last October. Testimony was received on several legislative proposals including S. 1383, introduced by the Senator from Montana (Mr. MELCHER) and S. 1689, the legislation proposed by the administration. While there were many different opinions expressed on the degree of impact either uniform or increased truck weights would have, there was general agreement that there would be an adverse impact regarding highway deterioration.

At the same time, there was conflicting testimony on what the net fuel savings would be with either uniform or increased weight standards. The argument has been made that additional energy used in repairs and rehabilitation of deteriorated highways and bridges due to heavier trucks would offset any fuel savings created by uniform or increased truck weights. Estimates have been made on how much fuel could be saved through other means such as observing the speed limit and proper tire inflation. In fact, observing the speed limit, selecting more fuel efficient vehicles and maintaining proper tire pressure would, according to the trucking industry's own estimates, save more than twice as much fuel as mandating uniform truck size and weight standards.

The Senator from Montana (Mr. MELCHER) might argue that he is not increasing gross truck weight limits on the Interstate System; he is only making them uniform at the current Federal limit of 80,000 pounds. There was considerable debate on this issue in 1974 when the Federal weight limits were increased from 73,280 to 80,000 pounds. It was acknowledged during that debate that such an increase would result in a 20-percent reduction of the service life of highway pavement. Because it was agreed that there would be this kind of impact and because the States have traditionally borne the costs of highway maintenance, it was also agreed that States should have the option of remaining at 73,280 pounds if the increased costs were unacceptable to a particular State. While most States have conformed to the Federal maximum limits, as noted earlier, 14 States elected not to do so. Many of these 14 States are located along the Mississippi Valley and have soil conditions which are not ideal for highway construction, so consequently the impact as far as increased costs are concerned may be even greater for these States.

For these 14 States, uniformity will be an increase. I would remind my colleagues that these 14 States already have the authority to raise their truck weight limits at any time to 80,000 pounds either permanently or on an emergency basis, and many of them actually did so temporarily during the last fuel crisis.

During consideration of the Surface Transportation Assistance Act of 1978, the Congress included provisions requiring two studies which directly relate to the truck size and weight issue.

The first requires the Department of Transportation to conduct a study examining the impact of both uniform truck size and weight standards and higher weight limits, and the impact of these various standards on highway construction, maintenance, and bridge design. This report is due in January 1981.

The second report is the highway cost allocation study to determine highway costs and how these costs should be allocated to the various users of the highway system. This report will be available in January 1982. I believe in order to make responsible decisions in this area we must have the best possible information available and that includes the findings of these two reports.

Finally, the Federal Government is going to have to make some very difficult decisions as to where the Federal highway dollar should be invested. The message we are getting from the States is that highways and bridges are deteriorating at an alarming rate while the cost of maintenance and replacement is skyrocketing. At the same time, revenue projections for the highway trust fund over the next 5 to 10 years are looking grim indeed as a result of several factors including gasohol incentives in the form of tax exemptions and decreasing gas consumption.

This Senator regretfully must oppose the amendment offered by the Senator from Montana (Mr. MELCHER) because I do not believe we have the evidence at this point which supports any change in current Federal truck size and weight standards.

I must also oppose that portion of the amendment which has been principally sponsored by Senator PACKWOOD. This also, in the opinion of the Senator from Vermont, is an invasion of the jurisdiction of the Senate Environment and Public Works Committee, on which, as I pointed out, the Senator from Vermont is the ranking minority member. Our committee has not yet had the opportunity to examine this issue. This Senator believes it is important to do so before such legislation is considered.

The amendment would allow States to issue special permits for a year for vehicles carrying loads up to 102 inches wide on the Interstate Highway System. The current Federal width standard is 96 inches. States are now allowed to set their own width standards for roads not on the Interstate System. They are also allowed to issue special permits for wider loads on the Interstate System on a one-time basis.

This Senator understands that this amendment seeks to address a specific problem in the State of Oregon involving a specific industry. But I am concerned that such an exception made for one State, Oregon, must necessarily be extended to all States. Similarly, such an exception made to provide relief to one industry will have to be extended to all industries.

The amendment would restrict these wider vehicles to lanes constructed to a width of 12 feet—or to the Interstate System. This raises the question though of how will we keep these vehicles from using roads other than the Interstate System, and they must use other roads to pick up and deliver their products. The primary and secondary roads have not been designed for such widths and increasing the number of larger trucks on these roads concerns me.

While current interstate standards could probably accommodate 102-inch wide vehicles, it must be noted that many of the high occupancy vehicle lanes which are being added to interstate routes are not being constructed to that standard. It is my understanding that some of them are being built narrower; 102-inch widths may very likely have additional safety impacts on exit and access ramps and in passing other vehicles.

This Senator is not convinced that we now have adequate information in this area to know what kind of impact such a provision has on safety and on the entire Federal-aid highway system.

For that reason, the Senator from Vermont must oppose this amendment in its entirety.

It has been my experience, Mr. President, since I have opposed larger truck widths, lengths, and weights before, that larger truck widths, lengths, and weights have come in any event, and probably may today. The Senator from Vermont drove some 350 miles on the Interstate System over the last weekend and in the opinion of the Senator from Vermont most of the trucks that were traveling on the roads I happened to be driving on were exceeding the speed limit by a substantial amount. They were fully as large, in my inexpert opinion, as could safely be accommodated on the highways of America. The Senator from Vermont believes this is not the time for any reason to increase either weights, lengths, or widths. I yield the floor.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Illinois.

Mr. PERCY. Mr. President, I have no questions regarding that part of the amendment offered by Senator PACKWOOD, which I support. But when coupled with an increase in weight, I would find myself opposed.

Mr. President, the Department of Transportation is presently involved in an extensive study of the whole problem of the effect of increased maximum truck weights on our Nation's highways. The results of this study are due in 11 months. They are due in January 1981. Senate action today to permanently raise interstate truck weight limits without the results of these studies, in my judgment, would be premature.

I feel that the committee that has jurisdiction over this matter should have the opportunity to study it carefully, should have the opportunity to take into account the exhaustive study now being made by the Department of Transportation. For us to precipitously move ahead without adequate committee study, without the completion of the basic report, and to move ahead in the absence of facts today, would be, I believe, a grave mistake.

Heavier vehicles increase pavement damage at an ever-increasing rate. We do not have to debate that. That is a well-known fact.

Extensive road tests conducted by the American Association of State Highway and Transportation officials have con-

firmed this. Pavement damage caused by one 80,000-pound truck is equivalent to that of 10,000 cars.

I would hope that any Senator, before voting on a measure that would have such a tremendous potential impact on their own State budget, would have an opportunity to study the report to the Congress by the Comptroller General, a reported dated July 16, 1979.

The title of the report is "Excessive Truck Weight: An Expensive Burden We Can No Longer Support."

The problem that is being pointed out by the Comptroller General is that existing truck weights may present a great problem. What we have under consideration in the proposed amendment of our distinguished colleague from Montana is to add to those weights.

The Comptroller General has concluded that:

> The Nation's highways are deteriorating at an accelerated rate and sufficient funds are not available to meet current needs or future requirements. Excessive truck weight is a major cause of highway damage. The rate of highway deterioration will slow down if excessively heavy trucks are kept off the highways.
>
> Federal weight limits and monitoring of State weight enforcement programs are inadequate to protect the $96 billion Federal highway investment made since 1956. The Congress should amend highway legislation to apply Federal weight limits to all Federal-aid highways and to prohibit issuance of overweight permits and exemptions when loads can be reduced to meet normal State weight limits.

The Comptroller General goes on to say:

> National statistics show that about 22 percent of the loaded tractor-trailers exceed State weight limits. The Department of Transportation must work with the States to develop an effective weight enforcement program to apprehend overweight trucks. Severe penalties that will deter overweight operations should be imposed.

I hope Congress will have the opportunity to study this report and then have an opportunity to study the exhaustive work being undertaken now by the Department of Transportation on truck weights. I think that that analysis should be made by the appropriate committee of the Senate before we proceed and vote favorably on the pending amendment.

Existing interstate rehabilitation needs are extensive and alarming. According to the Federal Highway Administration, nearly 8,400 miles of pavement and over 20,000 bridges on the interstate system are now in need of rehabilitation at a cost of $3 billion. Every year, an additional 4,500 miles of interstate deteriorate to the point where rehabilitation is required. According to the Federal Highway Administration (FHWA) estimates, an average annual expenditure of $950 million will be required over the next 20 years to keep pace with these needs.

Mr. President, current funding for interstate rehabilitation is inadequate. The Surface Transportation Assistance Act authorized $175 million per year in fiscal years 1979 and 1980 and $275 million per year in fiscal years 1981 and 1982 for rehabilitating the interstate system. Such funding falls far short of the $950 million investment level identified by FHWA.

If I could just take my own State of Illinois for the moment as an example here, Mr. President, increasing maximum gross truck weight from 73,280 pounds to 80,000 pounds with this amendment would reduce interstate pavement surface life by at least 17 percent. When we consider the extraordinary effort that States are making to balance their budgets, the services they are now cutting out, and many State needs, to approve a measure which would decrease interstate pavement surface life by 17 percent is, indeed, a severe blow to every single Governor, every State legislature, and every taxpayer in the respective States.

The Illinois Department of Transportation estimates the resultant increases in interstate rehabilitation costs at $9 million annually. The total Federal funding available for Illinois rehabilitation programs amounts to only $7 million annually, and this is inadequate to cover even present needs.

The issue of truck lengths is extremely complex. There are many questions raised by Senator MELCHER's amendment which require careful study: What are the safety effects of federally mandated increases in truck length? What about the trend of squeezing cab lengths to maximize trailer length within established overall length limits? These are questions which are vital to the health and safety of truck drivers and the motoring public. They are far too critical and complex to be decided on the Senate floor after a debate of relatively few minutes. They require the careful consideration of a committee with the appropriate expertise.

Mr. President, I should prefer to hold off this amendment until such time as the issue can be thoroughly studied by the appropriate committee and reported to the floor with a committee report. In the absence of such a study, I shall be compelled to vote against the amendment, even though I do favor that provision which has been incorporated by our distinguished colleague, Senator PACKWOOD of Oregon. That amendment, involving truck width on the Interstate Highway System, only applies under very special circumstances. These circumstances include, first, the State undertaking and implementing results of traffic engineering studies on locations where wider vehicles would operate; second, State finding that 102 inches width permits are necessary for fuel-efficient movement of freight; and, third, the State finding that such permits will not negatively impact on highway safety.

Those are three binding commitments and conditions that create the circumstances, the special circumstances, that would trigger the Packwood amendment.

In 1964, a Commerce Department report entitled "Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal Aid System" recommended increasing interstate truck width limits to 102 inches. In addition, the American Association of State Highway and Transportation officials support 102-inch truck width limits on interstate systems.

It appears that the Packwood portion of this amendment would have no direct impact on highway safety. However, I must point this out: once 102-inch-wide trucks are allowed on interstate highways, there will be pressure on the States to allow these trucks to operate on narrower roads, which then might succeed in creating a more hazardous result. I certainly would want to take a very close look at what that impact would be.

It appears that Senator PACKWOOD has attempted to make his amendment as restrictive as possible. If offered as a separate amendment, I could support it. If coupled with the pending amendment, which I think really requires greater study—and I am respectful of the deep study our distinguished colleague has put into this matter. He is knowledgeable in the field and I know that some interests in Illinois would strongly support his efforts. But, in view of the fact that a committee has not reported on this, in view of the fact that we are part way through a study by the Department of Transportation on this very issue, the Senator from Illinois would much prefer to have that study available and a report from the committee available before he votes on a matter that might have such a possible adverse impact on the highway system.

So I regretfully am forced to oppose this amendment.

Mr. MELCHER. Mr. President, I have taken note of the studies that have been mentioned. I had noticed one study will be completed in 1981 and another one will be completed in 1982. Meanwhile, we have the truckers having to use more fuel to go their roundabout routes to avoid the States where the limitations are less. Whether we accept the minimum or the lowest estimate of savings, which is 200 million gallons per year, that I have cited, or take the upper one, which is 875 million gallons saved in diesel fuel, either one of those figures is quite large. I should think that that speaks for itself on the need for the amendment.

I might point out that from one trucker strike to the next, this is always the hottest issue with the truckers. They have long asked for this. We have attempted to give it to them before. We have the opportunity today to go to a uniform length and width, and I hope the Senate can agree to the amendment.

The PRESIDING OFFICER. Who yields time?

The question is on agreeing to the amendment.

Mr. PRESSLER. Mr. President, I rise in support of Senator MELCHER's amendment to establish uniform weights and lengths in the trucking industry

As a cosponsor of S. 1383, I am deeply concerned about the hardship to truckers, the inefficiences in our transportation system, and the wasted fuel caused by variances in truck weight and length limits in different States. In many cases, due to lower weight or length standards, truckers are forced to stop and unload or drive a circuitous route to avoid certain "iron curtain" States with lower limits. In the interests of efficient com-

merce and fuel conservation, we must establish uniform national weight and length standards.

This committee has heard testimony on this issue in past hearings. The Environment and Public Works Committee, on which I serve, also held hearings on this problem at my request and heard from many representatives of the trucking industry in support of S. 1383.

While the issue of truck weight and length standards falls within the jurisdiction of the Environment and Public Works Committee, I wish to express today my strong support for the effort to establish national limits.

Mr. President, I urge my colleagues to support Senator MELCHER's amendment.

● Mr. RIEGLE. Mr. President, I wish to express my support for the Melcher amendment to S. 1390, the Commercial Motor Vehicle Safety Act of 1979. This amendment would set national uniform standards for the weight and length of trucks passing over the Nation's highways. It is an important piece of legislation because it would more efficiently utilize presently unused truck capacity and save energy.

At present, the trucking industry must contend with the problem of "barrier States." This effectively produces a barrier to trucks attempting to carry loads across the country because a truck must carry a lighter load at the time it crosses the border of a barrier State. This is a counterproductive practice, especially at a time when energy conservation is an important concern for all of us. One effect of the proposed amendment would be to provide an energy savings to the Nation by utilizing previously unused capacity in the trucking industry. A uniform national standard of 80,000 gross pounds overall would be set, with a length limit of at least 65 feet. The net effect of this action would be a more reasonable standard nationwide allowing a more efficient use of truck capacity and an easier passage from State to State, eliminating the confusion involved in the present archaic method which allows certain States to set limits below reasonable levels. The benefits of a uniform national standard for truck weight and length are apparent.

It has been our experience in Michigan that highways can withstand heavier load levels and that allowing these heavier levels does not result in a reduction in safety. At a time when efficient use of our resources is increasingly important, I consider the Melcher amendment to be in the national interest.●

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SEVERAL SENATORS. Vote!

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

The amendment (UP No. 987) was agreed to.

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

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

The motion to lay on the table was agreed to.

● Mr. CULVER. Mr. President, while I will not support the pending legislation for reasons I will make clear in this statement, I wish to restate my support for Federal legislation which will raise the minimum standards for truck weights and lengths along the Interstate Highway System to 80,000 lbs. and 60 feet during fuel emergencies. Such legislation will conserve fuel and protect truckers against precipitous increases in the cost of doing business during severe fuel shortages.

However, I am concerned about immediately raising the mandatory Federal minimum weight to 80,000 pounds on a permanent basis, as the pending bill would do. Currently, the administration is conducting a study, to be forwarded to Congress by the beginning of next January, on whether the minimum weight standard should be permanently raised. A second cost allocation study to assess how to fairly amend the trust fund in order to pay for the added wear on the Interstate System if heavier trucks are permitted is also under way. The Interstate System is already wearing out more quickly than we can complete the last new sections, and maintenance costs will continue to rapidly escalate in subsequent years. There is growing concern as to whether anticipated trust fund revenues will be adequate to meet these cost increases, and it is necessary for the Congress to be able to gage the additional revenue needs posed by heavier trucks in order to assure the continued integrity of the Highway Trust Fund. For these reasons it would be premature to enact this amendment now.

I want to reiterate my support for raising the Federal truck minimum to 80,000 pounds during fuel emergencies. I have introduced legislation to accomplish this and hearings have been conducted by the Transportation Subcommittee of the Senate Committee on the Environment and Public Works. I will continue to work for prompt congressional enactment of this measure, and urge the administration to accelerate the completion of its pending studies as quickly as possible so that Congress will have the data and information required to decide whether to raise the Federal truck weight standard permanently.●

Mr. EXON. Mr. President, as far as I know, there are no further amendments pending, or to be considered. As we proceed to third reading, I ask for the yeas and nays on final passage of S. 1390.

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

The yeas and nays were ordered.

Mr. EXON. Mr. President, I know of no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Ohio (Mr. GLENN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER (Mr. BUMPERS). Is there any other Senator in the Chamber who wishes to vote?

The result was announced—yeas 69, nays 16, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—69

Armstrong	Ford	Packwood
Baucus	Goldwater	Pell
Bayh	Hart	Percy
Bellmon	Hatfield	Ribicoff
Bentsen	Hayakawa	Riegle
Biden	Heflin	Sasser
Boren	Helms	Schweiker
Boschwitz	Hollings	Simpson
Burdick	Huddleston	Stevens
Byrd, Harry F., Jr.	Inouye	Stevenson
Byrd, Robert C.	Jackson	Stewart
Cannon	Jepsen	Stone
Chiles	Johnston	Talmadge
Church	Laxalt	Thurmond
Cochran	Levin	Tower
Cohen	Long	Tsongas
Cranston	McClure	Wallop
Danforth	Magnuson	Warner
DeConcini	Matsunaga	Weicker
Domenici	Melcher	Williams
Durenberger	Metzenbaum	Young
Durkin	Morgan	Zorinsky
Exon	Moynihan	
	Nunn	

NAYS—16

Bumpers	Heinz	Pryor
Chafee	Leahy	Roth
Culver	Lugar	Schmitt
Eagleton	Mathias	Stafford
Garn	Nelson	
Hatch	Proxmire	

NOT VOTING—15

Baker	Humphrey	Muskie
Bradley	Javits	Pressler
Dole	Kassebaum	Randolph
Glenn	Kennedy	Sarbanes
Gravel	McGovern	Stennis

So the bill (S. 1390) was passed, as follows:

S. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Commercial Motor Vehicle Safety Act of 1980".

FINDINGS

SEC. 2. The Congress finds—

(1) that it is in the public interest to enhance commercial motor vehicle safety and thereby to reduce highway fatalities, injuries, and property damage;

(2) that improved commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries, and the level of property damage related to commercial motor vehicle operations;

(3) that enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) that interested State governments can provide valuable assistance to the Federal Government in assuring that commercial motor vehicle operations are conducted safely and healthfully.

PURPOSE

SEC. 3. It is declared to be the purpose of this Act to promote the safe operation of commercial motor vehicles in or affecting interstate commerce, to minimize dangers to the health of operators of commercial motor vehicles when operating such vehicles, and to assure increased compliance with the commercial motor vehicle safety and health rules, regulations, standards, and orders issued pursuant to this Act.

TITLE I—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 101. For purposes of this title, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(B) if such vehicle is designed to transport more than 10 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(5) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(6) "Secretary" means the Secretary of Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

DUTIES

SEC. 102. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 103. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purpose of this Act. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, and orders or before promulgating new rules, regulations, standards, or orders. Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 1 year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 1 year after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if he determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subjected to judicial review as provided in chapter 7 of title 5, United States Code.

(d) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within 1 year after the date of enactment of this title.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities to insure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Director shall attempt to minimize paperwork burdens, to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

GENERAL POWERS

SEC. 104. (a) The Secretary is authorized to conduct, directly or indirectly, such research, development, demonstrations, and training activities as are considered appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 103 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out his functions under this title, the Secretary is authorized to perform such acts including conducting investigations and inspections, compiling statistics, making reports, issuing subpenas, requiring production of documents, records, and property, taking depositions, holding hearings, prescribing recordkeeping and reporting requirements, and carrying out and contracting for such research, development, testing evaluation, and training as he determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant thereto. With respect to the provisions of this title, if the Secretary approves a plan pursuant to section 111 of this title, the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as he determines appropriate to carry out the provisions of this title.

INSPECTIONS AND WARRANTS

SEC. 105. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

(ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of adminis-

trative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 106. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 107. (a) If the Secretary finds that a violation of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as hereinafter provided, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That except for recordkeeping violations, no civil penalty provided under this Act shall be assessed against an employee for violations of this Act unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service or order an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not later than 10 days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this Act or who knowingly and willfully makes any false statement or representation required under this Act shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both: *Provided, however,* That if such violator is an employee he shall only be subject to penalty if while operating a commercial motor vehicle his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed $2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement, including injunctive relief, of any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

(i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

SEC. 108. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the

Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult with and inform the Attorney General of the United States of his activities pursuant to this section.

PROTECTION OF EMPLOYEES

SEC. 109. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title or other authorities of the Secretary relating to commercial motor vehicle safety, or has testified or is about to testify in any such proceeding, or because such employee has exercised, on behalf of himself or others, any right afforded by this Act.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Within 60 days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a proposed order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days, file objections to the proposed order and request a hearing on the record. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the proposed order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

GRANTS TO STATES

SEC. 110. Under the terms and conditions of this title, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

STATE ENFORCEMENT

SEC. 111. (a)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing, rules, regulations, standards, and orders in compliance with this title. Such plan shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this title, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce the provisions of this title;

(E) provides civil penalty procedures, rights, and remedies comparable to those set forth in section 107 of this title;

(F) provides that all reports required pursuant to this title be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(G) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last 2 full fiscal years preceding the date of enactment of this Act.

STATE REGULATIONS

SEC. 112. (a) Except as may otherwise be provided in this or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this Act shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations (1) materially diminish commercial motor vehicle safety or the health and safety of employees, (2) are not required by compelling local conditions, or (3) unduly burden interstate commerce. If the Secretary makes such an affirmative determination, he may require such State to adopt Federal hours-of-service regulations.

FEDERAL SHARE OF COSTS

SEC. 113. By grants authorized under this title, the Secretary shall reimburse any State an amount not to exceed 80 per centum of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 111(c) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 114. To carry out the purposes of sections 110 and 111 of this title, there is authorized to be appropriated an amount not to exceed $50,000,000 in fiscal year 1981, not to exceed $100,000,000 in fiscal year 1982, and not to exceed $100,000,000 in fiscal year 1983. Appropriated funds authorized by this section shall be used to reimburse to States the Federal pro rata share of costs incurred. Grants made pursuant to the authority of this title shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

ANNUAL REPORT

SEC. 115. (a) As part of the Secretary's annual report to the Congress required by section 12 of the Department of Transportation Act (49 U.S.C. 1658), the Secretary shall make a written report to the Congress concerning his efforts and his current plans to upgrade the safety and health of operators of commercial motor vehicles. The report shall include, but not be limited to, an evaluation of commercial motor vehicle safety or health programs of the Department of Transportation, an outline of problem areas and appropriate steps to alleviate them, and recommendations for closer coordination and cooperation among agencies of the Federal Government and between the Federal Government and the States to enforce the rules, regulations, standards, and orders issued pursuant to this title.

(b) Within 12 months after the date of enactment of this title, the Secretary shall prepare and transmit to the Congress a written report concerning the advisability of establishing a national commercial driver register to upgrade commercial motor vehicle safety through improved monitoring of traffic violations and accidents and of multiple State licensing. In the event the Secretary recommends the establishment of such a register, within 60 days after the submission of his report to Congress he shall publish in the Federal Register a Notice of Proposed Rulemaking describing the operation of a program to demonstrate the utilization of such a register.

APPLICABILITY

SEC. 116. Nothing in this title shall apply to the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

SEC. 117. (a)(1) Not later than 12 months after the date of enactment of this Act, the Secretary shall establish a Commercial Motor Vehicle Safety Advisory Committee and appoint the initial members of the Committee. The Committee shall be composed of the Secretary and 15 members, each of whom shall be experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience or knowledge to evaluate commercial motor vehicle rules or regulations. The Committee shall be appointed by the Secretary, after consultation with public and private agencies and organizations concerned with commercial motor vehicle safety. Members shall include representatives of State governments, the motor carrier industry, shippers, union drivers and independent owner-operators, and the public.

(2) A Chairman shall be selected by a majority of the members of the Committee.

(3) Each member appointed by the Secretary shall hold office for a term of 3 years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office after the date of enactment of this Act shall expire as follows: Five at the end of 1 year after the date such Committee members are appointed by the Secretary; five at the end of 2 years after the date such Committee members are appointed by the Secretary; and five at the end of 3 years after the date such Committee members are appointed, as designated by the Secretary of the time of appointment; and (C) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the Secretary who has served a 3-year term, other than Federal officers or employees, shall be eligible for reappointment within 1 year following the end of his preceding term.

(4) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The Advisory Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of commercial motor vehicle safety. The Committee is authorized to review research projects or programs submitted to or recommended by it in the field of commercial motor vehicle safety and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of commercial motor vehicle accidents. The Committee is also authorized to review, prior to issuance, rules, regulations, standards, and orders proposed to be issued by order of the Secretary under the provisions of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The Committee shall meet with the Secretary (or his designee) at least once every year.

ESTABLISH UNIFORM NATIONAL STANDARDS FOR WEIGHT AND LENGTH OF VEHICLES

SEC. 118. Section 127 of title 23, United States Code, is amended by adding the following at the end thereof: "No State may enact or enforce any law denying reasonable access to and from the Interstate System on roads providing access between the Interstate System and terminals and facilities for food, fuel, repairs and rest. Notwithstanding any other provision in this section, no State may enact or enforce any law regarding the Interstate and Defense Highways which provides a gross maximum overall weight limit of less than eighty thousand pounds and less than twenty thousand pounds per single axle and thirty-four thousand pounds per tandem up to a gross overall weight limit of eighty thousand pounds, nor may any State enact or enforce any law which provides a gross overall length limit of less than sixty-five feet (excluding length required by energy conservation devices and/or designs) for tractor, semitrailer and other motor vehicle combinations and receive its apportionment of funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 nor shall the Secretary of Transportation approve any project under section 106 in any such State. Notwithstanding any limitation relating to vehicle widths contained in this section a State may permit trucks or combinations thereof having a width up to 102 inches to operate over interstate highways with traffic lanes designed to be of a width of 12 feet or more under special permit authority if the State undertakes and implements the results of traffic engineering studies at locations where such vehicles will operate. Such studies shall consider remedial responses required to enhance safety such as the need for advisory speed and other signing, reduced speed limits, and warning of potential hazards due to high winds. States shall issue such special permit authority for a period of one year and only upon finding, that such width is necessary for fuel efficient movement of freight and that the granting of such permit will not negatively impact highway safety.".

TITLE II—SAFETY ASPECTS OF FIT, WILLING, AND ABLE DETERMINATIONS

SAFETY ASPECTS OF FIT, WILLING, AND ABLE DETERMINATIONS

SEC. 201. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10934. Safety aspects of fit, willing, and able determinations.

"(a)(1) In making any determination under this subchapter as to whether a person is fit, willing, and able to provide transportation or other services, the Commission shall seek the advice of the Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') with regard to the safety-related aspects of any such determinations. The Commission may not authorize a person to provide transportation or other services if the Secretary determines that, as to the safety-related aspects of such determinations, that person is not fit, willing, and able to provide those services, and the Commission may not deny a person authority to provide transportation or other services on the basis of considerations within the authority of the Secretary under this section, except when the Secretary determines that such person is, as to safety-related matters, not fit, willing, and able to provide those services.

"(2) The Secretary shall advise the Commission of his determinations with regard to the safety-related aspects of fit, willing, and able determinations in accordance with the provisions of this section.

"(3) Nothing in this section shall apply to fit, willing, and able determinations by the Commission regarding the authority of a person to provide transportation or other services as a broker or water carrier.

"(b) In the case of applications to the Commission for new or additional authority, the determinations of the Secretary with regard to the safety-related aspects of fit, willing, and able determinations shall be provided to the Commission as follows:

"(1) Immediately upon receipt of an application under this subchapter for authority to provide transportation or other

services, the Commission shall forward to the Secretary a copy of such application.

"(2) Within 60 days of receipt of the application by the Commission, the Secretary shall notify the Commission as to whether, as to matters related to safety, the Secretary determines the applicant fit, willing, and able to provide the transportation or other services in question. Within such 60-day period, if the Secretary is unable to make such determination, he may notify the Commission that he will require an additional period, not to exceed 20 days, to make such determination. Failure by the Secretary to reply to the Commission within 60 days of receipt of the application by the Commission or, in the case where an extension of time has been secured, within 80 days of receipt of the application by the Commission, shall be construed as a determination by the Secretary that, with regard to safety, the applicant is fit, willing, and able.

"(3) The applicant, the Commission, and other interested persons may submit information and recommendations to the Secretary as to whether, with regard to safety-related matters, the applicant should be considered fit, willing, and able to provide services. If any relevant fact material to the determination of the safety-related aspects of whether the applicant should be considered fit, willing, and able to provide services is in dispute, and resolution of that fact would be aided by the taking of evidence under oath with opportunity for cross-examination, the Secretary may certify the dispute to an employee of the Department who shall have the power to administer oaths. Such employee shall conduct such proceedings as appropriate to resolve the dispute and shall recommend a finding to the Secretary. There shall be no interlocutory appeal of the finding of the Secretary as to the factual dispute.

"(4) After consultation with the Secretary, the Commission may authorize an applicant to provide transportation or other services on an emergency basis, for a period in advance of the Secretary's determination with regard to safety-related matters as to whether the applicant is fit, willing, and able to provide such services. No such authorization shall extend for a period of more than 80 days.

"(c)(1) In any case where a person is authorized to provide services under this subchapter, that person shall, with regard to safety-related matters, be deemed fit, willing, and able to provide such services until such time as the Secretary may determine that such person is, with regard to safety-related matters, no longer fit, willing, and able to provide those services. Except when the Secretary determines that the public safety requires the utilization of the authority provided in paragraph (2) of this subsection, determinations may be made under the authority of this subsection only after notice and opportunity for hearing, open to participation by all interested parties, pursuant to section 554 of title 5, United States Code. The Secretary may commence such hearing upon his own motion, or upon the request of an interested party, and shall conduct such a hearing upon the request of the Commission. When the Secretary determines that a person subject to the provisions of this paragraph is, with regard to safety-related matters, no longer fit, willing, and able to provide such services, the Secretary shall request the Commission to revoke, or to suspend all or part of the authority of that person to provide such services, and the Commission shall immediately order such revocation or suspension. Such request by the Secretary shall be accompanied by a brief written statement, to be issued by the Commission with its order, of the reasons for the Secretary's determination.

"(2) In any case where the Secretary determines that the continued provision of services by a person poses an imminent hazard to safety, the Secretary shall request the Commission to revoke, or to suspend all or part of, the authority of that person to provide such services, and the Commission shall immediately order such revocation or suspension, but only to the extent necessary to abate such hazard. Such request by the Secretary, to be binding on the Commission, shall be accompanied by a brief written statement, to be issued by the Commission with its order, supporting the issuance of the order. As used in this paragraph, an 'imminent hazard' exists when there is a substantial likelihood that serious harm will occur, as a result of the continued provision of services by a person, prior to the completion of an administrative hearing initiated to review whether, as regards safety-related matters, that person is fit, willing, and able to provide services.

"(3) Persons adversely affected by any order issued pursuant to paragraphs (1) and (2) of this subsection are entitled to a subsequent hearing pursuant to section 554 of title 5, United States Code, to be commenced by the Secretary within 10 days of issuance of the order.

"(d) Determinations by the Secretary as to whether an applicant is, with regard to safety-related matters, fit, willing, and able to provide services, may be reviewed in the United States court of appeals for the circuit in which the applicant has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit, if petition for review of such determination is filed within 30 days of such determination by the Secretary. Review of such determination by the Secretary shall consider only whether the determination was supported by substantial evidence or was otherwise not in accordance with law. No objection which was not urged before the Secretary or his designated agent in the course of administrative proceedings may be considered by the court, unless reasonable grounds existed for failure or neglect to do so.

"(e) The Secretary shall promulgate regulations establishing the basis for the Secretary's determinations with regard to the safety-related aspects of fit, willing, and able determinations. Such regulations may include the establishment of requirements bearing on the ability of an applicant to safely perform services, such as requirements that an applicant—

"(1) register with the Secretary, thereby providing notice of his intent to operate;

"(2) demonstrate knowledge of, agree to, and provide evidence, including accident and compliance histories and out-of-service ratios, of his ability to operate in compliance with all standards applicable to commercial motor vehicle safety promulgated by the Secretary, including hours of service rules, and including rules, regulations, standards, and orders promulgated pursuant to this title, the Department of Transportation Act (49 U.S.C. 1651 et seq.), and the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.);

"(3) carry such documentation as the Secretary may require;

"(4) carry adequate liability insurance or enter into comparable bonding arrangements;

"(5) designate an agent for service of process; and

"(6) carry and display vehicle identification in such form and manner as the Secretary may require.

The Secretary may also promulgate such regulations as the Secretary may determine appropriate to assist in the implementation of this section, including rules to require that applications filed with the Commission include such information as the Secretary may require to assist the Secretary in making determinations as to whether, with regard to safety-related matters, a person is fit, willing, and able to provide transportation or other services.".

(b)(1) Except as provided in paragraph (2) of this subsection, the provisions of this Act shall take effect on the date of enactment of this Act.

(2) The provisions of subsection (a) of this section shall take effect 180 days after the date of the enactment of this Act, and on such date, the provisions of section 4(e) of the Department of Transportation Act (49 U.S.C. 1653(e)), so far as they require the Secretary of Transportation to report to the Commission regarding the safety records of persons who would be subject to the provisions of subsection (a) of this section, are superseded.

(3) The general powers provided to the Secretary of Transportation in section 104 of this Act are available to the Secretary of Transportation in his implementation of section 10934 of title 49, United States Code.

(c) The index for subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new item:

"10934. Safety aspects of fit, willing, and able determinations.".

TITLE III—MISCELLANEOUS PROVISIONS

SAVINGS PROVISIONS

SEC. 301. All rules, regulations, standards, orders, or determinations issued under sections 204(a) (1), (2), (3), (3a), and (5) of part II of the Interstate Commerce Act or issued by the Secretary relating to commercial motor vehicle safety shall be continued under this Act until such time as they may be modified by the Secretary.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 302. (a) There are authorized to be appropriated to the Secretary of Transportation for fiscal year 1981 not to exceed $1,500,000, for purposes of carrying out the provisions of section 103(d) of this Act.

(b) There are authorized to be appropriated for fiscal year 1981 not to exceed $150,000, for purposes of carrying out the provisions of section 115(b) of this Act.

(c) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983 not to exceed $125,000, for purposes of carrying out the provisions of section 117 of this Act.

The title was amended so as to read:

A bill to promote highway safety, to reduce highway fatalities and injuries, to minimize property damage by encouraging the safe operation and maintenance of commercial motor vehicles, to minimize dangers to the health of operators when operating commercial motor vehicles, and for other purposes.

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

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators there will be no more rollcall votes today.

Mr. EAGLETON. Mr. President, I voted against final passage of S. 1390, because I object to unnecessary Federal preemption of a question previously left to the discretion of the States. The issue of truck weights is currently before the Missouri Legislature. It is the subject of heated questions over public safety and road maintenance costs. I just do not believe there is justification for the Federal Government to come barreling down

the road with an 80,000-pound mandate of this kind. I would have thought that over the past years Washington might have learned something. It does not have all the answers and does not always know best.

ROUTINE MORNING BUSINESS

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

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

REV. RAYMOND J. DE JAEGHER: "THUNDER ROARING FAR AWAY"

Mr. HELMS. Mr. President, today I wish to pay tribute to the memory of a great Christian and a great champion of freedom, the Reverend Raymond J. de Jaegher, who was called from this life on February 6, 1980. In the last 15 years, he had made many visits to Washington to give us the benefit of his unequaled knowledge of the political developments in the Far East, and he was widely known and respected on both sides of Capitol Hill. I would like to recount, very briefly, the facts of his astonishing life, career and ministry of 49 years in the service of the Lord.

Raymond de Jaegher was born in Courtrai, Belgium, on September 13, 1905. His father, a mining engineer, died a month before the outbreak of the First World War, and his mother, left with five young children, fled to England. The children remembered shivering with fear at the sight of the German Zeppelins, and they returned to Belgium in 1919 to find their family home totally destroyed. No doubt it was this early experience of the devastation of war that inspired in Father de Jaegher the abundance of compassion he was ever to show for refugees and victims of war in a life that was to see vast numbers of both.

As a young lad of 15, he happened to encounter his destiny in the person of a fellow Belgian, the Reverend Vincent Lebbe, who had been for many years a missionary of the Gospel in China. The imagination of the young Raymond caught fire from the zeal of Father Lebbe, as he labored tirelessly in Europe on behalf of Chinese students who had been stranded in France by the failure of a Chinese-French bank, a bank with close ties to the Communist Party in France.

A young radical by the name of Mao Tse-tung had set up a plan whereby young Chinese intellectuals would travel to France to imbibe socialist ideals at the fount of the French Revolution. Thereafter they would return home to become the nucleus of the movement to communize China.

The students, left penniless by the failure of the bank, abandoned by the socialists and Communists in France who had urged them to come, and unable to receive funds from their families in war torn China, were in desperate straits. Father Lebbe, recognizing their idealism and the important role they were to play in China's future, set about immediately to assist them and to salvage what he could of their educations and their lives. In doing so, he both inspired and encouraged the vocation of his young compatriot, who had conceived the great desire to go himself to China as a missionary. From Father Lebbe, his mentor and spiritual guide, Raymond de Jaegher received his Chinese name, Thunder Roaring Far Away.

ARRIVAL IN CHINA

Having finished his military service in the Belgian cavalry, and having completed his studies in theology and philosophy at Louvain University, Raymond de Jaegher departed for China where, in 1931, he was ordained a priest in the diocese of An Kuo. This was the year Japan invaded Manchuria, and war in one form or another would engulf China for the next 25 years.

Though it has become fashionable in some circles to question the value of missionary activity, and to disparage missionaries for their efforts among indigenous cultures, Father de Jaegher never approached China from an alien, Western point of view. From the start he mastered the Chinese language and identified himself totally with Chinese thought and custom. Many years later, while living in New York, he had the occasion to meet Alexander Solzhenitsyn, and Solzhenitsyn was known to refer to him as "the Chinese priest."

MAGISTRATE OF AN KUO

Through his parish work and his relief work among the Chinese fleeing the Japanese invasion, Father de Jaegher won over the confidence of the people to such a degree that when, in 1937, the Nationalist government decided to evacuate the district of An Kuo, taking with them the local magistrate, the police and the full ranks of officialdom, a delegation of the citizens came to his mission and implored him to become their district magistrate. He accepted the office, but declined the title, and thus became the acting magistrate of a district harboring half a million people. Within a month he had organized police protection and administrative services for 400 villages under his direction. It was a prodigious achievement, and to the end of his life he sopke of the gratification it had given him, not because he did the job so brilliantly, but because ordinary Chinese had vested such confidence in him, a young man and a Westerner, in their hour of extreme need.

There were to be many such hours of need in the harrowing decade to come. No sooner had he organized his district, than the Chinese Red Army appeared on the scene. Following in the wake of the Japanese, the Chinese Communists made it their business to seize the areas the Japanese, for want of manpower, could not occupy. Their rule was to be so ruthless and their liquidations so horrible in their unremitting effort to conquer all China that one could scarcely comprehend the magnitude of the suffering of the ordinary people. "We were to see all of this unrolling before our eyes," he wrote, "like a Chinese scroll painted by a devil."

From 1937 to 1943, when he was put in a Japanese concentration camp, Father de Jaegher lived and worked under the rule of the Chinese Red Army. These nightmare years are unforgettably documented in his gripping and evocative book, "The Enemy Within." The personal and collective tragedies of many of his flock during this period of subversion and betrayal and systematic extermination of the ancient Chinese culture and its moral patrimony are almost unbearable to read. During all this time, this priest so successfully outwitted and outbluffed his Communist overlords that they too ultimately approached him and offered to make him a Red Army General if he would go over to their side. Needless to say, this honor he declined.

SOVIET INVASION OF CHINA

After being liberated by the American Army from the Weihsien Concentration Camp, he proceeded to Peiping and was involved in refugee work. The shooting war in the Pacific may have ended with the surrender of Japan, but the war for the destiny of China was just entering its climactic phase.

Toward the end of 1945, the Soviet Union, which had been in the war of the Pacific for all of 6 days, started pouring its forces from Siberia into Manchuria, an area that had been held by the Japanese for 14 years. The Soviets did not scruple to sign the Sino-Soviet Treaty with the Nationalist government, the terms of which specified that Soviet troops would withdraw from Manchuria, but it was a treaty the Soviets would honor on their own peculiar terms.

As the Nationalists waited on the border, the Soviets descended upon the area, looting its mines and mills, its factories and arsenals and turning over enormous caches of Japanese arms to the Chinese Communists. When the Red Army departed, they made sure that the Chinese Communists were in firm control of Manchuria, and well equipped for their continuing offensive elsewhere in the country.

THE "AGRARIAN REFORMERS"

Mr. President, we are all familiar with the tragic blunders and mistakes that were made in that crucial period of China's history. "Liberal" spokesmen in our own Government seldom lost the opportunity to praise these "agrarian reformers" who were bringing "democracy" to China, the usual sort of "democracy" that proceeds from the barrel of a gun. Moreover, it is no secret that Chinese Communist sympathizers were doing everything to confound the work of the Marshall mission, which was vainly trying to negotiate a peace between the Nationalists and the Communists, and whose fatal mistake was to deal with the Communists not as a political party, but as a de facto government.

Father de Jaegher personally witnessed the extensive Communist efforts to curry favor with American officials, but his travels through the country made him aware of the ongoing attacks by Communist guerrillas, the riots and the panic they fomented among people already prostrated from war. He saw the bitter frustration and despair of Chinese villagers who wondered why there must

be continuing war, not between Chinese and Japanese, but between Chinese and Chinese.

Father de Jaegher wrote:

> There was no one to tell them that their communist agents were busy continuously in the cities, propagandizing from day to night, extolling the benefits of communism, painting a wonderful picture of life under the communists, telling the people how bad the Nationalists were, piling lie upon lie and promise upon promise.

Father de Jaegher spent the watershed year of 1948 traveling extensively in China, lecturing in universities and visiting churches and missions. When Peiping fell on January 23, 1949, he had every intention of continuing his work in South China, but the Communist juggernaut was steadily advancing. In Shanghai he was approached by a friend who told him he was marked for execution by the Communists and that he must leave the country, which he sadly and reluctantly did.

WORK IN VIETNAM

Thereafter he resumed his missionary work among the Chinese in Vietnam, where this whole appalling tragedy would be recapitulated. In his 10 years in Vietnam, Father de Jaegher worked ceaselessly to avert the same calamity that had befallen China. Besides serving as an adviser to President Ngo Dinh Diem, he helped to organize the Free Pacific Association. He founded two high schools, the Free Pacific News Agency, and the monthly Free Pacific Magazine. He founded a daily paper, the New Vietnam, and published monthly magazines in French and English in Saigon for the Asian People's Anti-Communist League.

Convinced that the battle for the freedom of Asia would be won or lost in the communications media in the United States, he came to New York in 1964 and established the Asian Speakers Bureau. He himself lectured extensively throughout the United States and made hundreds of apparances on college campuses and on radio and television programs. I well remember, the day that the death of Chairman Mao was announced, turning on my car radio and hearing Father de Jaegher giving a meticulous analysis of the power struggles that were even then shaping up in China.

Every year he visited the Republic of China on Taiwan, Hong Kong, South Korea, Japan, and other Asian countries to keep abreast of developments there. He wrote over a hundred magazine articles, books, and pamphlets. With Dr. Stephen Pan he was coauthor of "Peking's Red Guard," an exhaustive study of the Cultural Revolution. In New York he also served as a director of Sino-American Amity, an organization assisting Chinese students in the United States.

STAUNCH ANTI-COMMUNIST

It was in the latter period of his life that I came to know Father de Jaegher and his enormous range of activities to advance the cause of freedom in Asia. While a deep love of God motivated all his labors, he was no pacifist. His staunch anticommunism was not prompted by political considerations, but by religious considerations.

No human being, he felt, could live out his life in the service of God and his fellow man when he was enslaved by an ideology that was not only inhuman, but antihuman. He stressed that point ceaselessly, as he feared that the United States might be losing sight of it. President Carter's decision to give the Crown of St. Stephen, which was entrusted to the United States by the Hungarian people, in the final hours of World War II, to the Soviet-backed Communist Government of Hungary, and later his decision to abandon our Mutual Defense Agreement and our diplomatic relations with Taiwan, were particularly grievous blows to him.

Nevertheless, he refused to countenance defeat or despair. Even as he battled the cancer that ultimately took his life, the determination to go on fighting a righteous cause never left him. He kept up an exhausting schedule of appearances and a voluminous correspondence almost to the end. He greatly admired John Paul II and felt his long experience in dealing with the ways and means of communism was a particular gift of providence to the world.

Along with my staff, I feel privileged to have had the benefit of many discussions with th's extraordinary and exceptional man, who personally suffered all of the vicissitudes of missionary life of which the Apostle Paul has written. If freedom is ever restored to the captive nations of Asia, as, please God one day it shall, it will grow from the faith so tirelessly nurtured by this truly great servant of the Chinese people. He was buried on February 12 in the Benedictine Cemetery at Bristol, Va., and I join with the multitude of his friends in this country, and his friends around the world, in commending to the Lord this soul who endured the worst cataclysms of the 20th century with dauntless courage, and unquenchable hope.

THE RETIREMENT OF COL. BURTON A. PAQUIN

Mr. LEAHY. Mr. President, I pay a brief tribute to Col. Burton A. Paquin—a fellow Vermonter—who has served our country and our State for 38 years. Colonel Paquin served in the Air Force during World War II and the Korean war. He was also among the charter members of the Vermont Air National Guard, serving from 1946–50 and from 1952–66. Colonel Paquin has recently retired from 14 years of active duty as the U.S. Property and Fiscal Officer at Camp Johnson in Vermont. Our United States and our State of Vermont have truly benefitted from his long years of service. His honesty, fairness, and competence are well-known to those who served with him and to those who worked with him. The State of Vermont will miss Colonel Paquin because it knows the value of a good man. On behalf of all Vermonters, I want to extend sincere appreciation for his dedication. Mr. President, I believe that this small moment of the Senate's time has been well spent.

U.S. CONVENTIONAL MILITARY FORCES AND THE ALL-VOLUNTEER FORCE

Mr. LEAHY. Mr. President, this is a serious time for America—and a serious time for the world. Americans remain captive in Iran. The Afghan people remain the captive of a Soviet occupying army. SALT II is dead, and the entire process of nuclear arms control could unravel. The President has called for predraft registration and America could return to a peace time draft.

This time carries with it serious consequences and implications. We will increase defense spending, but our goal of balancing the Federal budget may very well be delayed because of these increases.

How we Americans respond—the choices we make—will strongly influence the security of our country for decades to come. We need only look at the alinement of nations today to realize how these choices will affect other nations.

One of the most important lessons we must learn from these difficult times is something I have tried to call attention to during the 5 years I have represented Vermont in the U.S. Senate. The lesson is that we must improve our conventional arms capability and halt the country's unfortunate and militarily inadvisable drift toward too rigid a reliance on nuclear weapons.

From the frustration and anxiety which Americans have experienced during these past months, must come a defense policy which will recognize that conventional military forces and their state of readiness are essential to protecting our citizens and our national interests.

I believe increased defense spending is necessary, but only if we direct this increased spending to the neglected areas of our conventional forces. Our gross national product and the amount of money that we Americans can spend on defense is not unlimited. We cannot simply stand back and throw money at the problem. We can spend money quickly on major weapon systems which will not be operational for years to come, or we can balance our approach to defense and spend more cautiously on conventional forces. That can help us today.

While I have been in the Senate, there have been a number of debates over various weapon systems. Some were built. Some were not. In many cases when they were built they forced this country to rely a little more heavily on its strategic nuclear forces. At the same time, our conventional forces were sadly neglected. Does anyone doubt that a new aircraft carrier, and the escorts necessary for it, deny us the money and shipbuilding capacity to build numerous fast missile firing surface ships? Would it not have made more sense to totally modernize our tank forces then to spend $6 or $7 billion for an ABM system that was closed 1 week after opening because it was obsolete? We can all think of other examples.

Each time this country committed itself to a major weapon system, our defense posture became more rigid—with

a shorter range of options. As a result, we can deliver a nuclear warhead to the other side of the world in 30 minutes, but the more realistic step of moving forces into a trouble spot such as the Persian Gulf can take up to 30 days.

Both the Soviet Union and the United States have such enormous strategic nuclear capability that neither can win in an all-out nuclear war—instead, we would destroy each other and quite possibly, the rest of the world. I, for one, want an alternative.

That alternative is a strong, effective, modern, well-equipped conventional force. Let us not confuse the military means of protecting ourselves, here and abroad, with symbols. Symbols are weapons that do not contribute to the ability of a commander and his soldiers in the field to achieve their military objectives at a given place, at a given time. Symbols, as we all well know, do not enhance a soldier's ability to survive.

I have never known a critic of defense spending who did not call for a strong national defense. I have never heard one of my colleagues who call for a higher defense budget deny the need to eliminate waste and inefficiency in military spending. What we must remember is that the issue is not less spending or more spending, but efficient spending—targeted spending. Before we commit billions to a major strategic weapon, we must make sure that there are ample funds for fuel, for training, for operations and maintenance and for readiness.

Our overall national defense cannot and does not hinge on whether or not we build any single weapon system. We cannot consider major weapons while we neglect the basics. We must see that the soldier in the field with a jamming rifle is taken care of first. We cannot—and never could—compensate for a lack of conventional military capability by increasing nuclear arms.

We cannot consider military hardware in a vacuum. This Nation's defense is based on people and preparedness as well as equipment. The key, then, to our defense policy is not to lose sight of all the components of our national defense.

Before I close my general comments and hear your specific questions, I want to take a moment to speak about one component of our national defense—the Volunteer Force.

The key issue in the debate on the Volunteer Force is the fulfillment of our manpower goals with enough qualified people to defend our country.

If this Nation—for reasons of national security—needs a draft or predraft registration to realize this goal, I will support these actions.

But I do not believe that taking these steps today will most effectively and efficiently meet this goal.

We must remember that, coupled with our reserve and National Guard units, the All-Volunteer Force is the only trained reliable force available to the United States today. In fact, under any system of registration and draft, there would be no significant change in the makeup of our Armed Forces for well over a year. What I believe we must do is apply the additional resources and national commitment to making the Volunteer Force work better for us today.

I wish the President had set specific goals for the All-Volunteer Force and a specific period of time—18 months—to carry out those goals. This should have been done with the understanding that if they were not reached within that period of time, we would go to an actual registration system.

Unfortunately, the President did not take this step—and I am troubled that he did not call on young Americans to serve their country before recommending registration.

Our modern military, with its sophisticated weapons, requires highly trained soldiers. Our experience has shown that if people are drafted, most will leave the service by the time they are becoming proficient at their given positions. After all, it takes more training today to operate a tank than it took to fly a World War II fighter plane. A draft cannot solve this problem now.

We can maintain a strong military force only when we recognize the need for training and experience. We must address the problems of retention and recruitment. A fair, realistic increased pay scale is one such step. I supported efforts to increase the salary of our military personnel above the level proposed by the President. I will continue to support efforts to improve training, education, and inducements for the best of our military to reenlist. Retention—not recruitment—is the immediate solution. The problems that do exist can be solved, but the country, the Congress, and the Defense Department must fully support the all-volunteer concept.

We must reach a consensus on the question of the draft and the future of the All-Volunteer Force. This, however, is but one aspect of our defense. We are faced with a much larger task: We must set the future course of American defense and foreign policies. We must begin today—in a time of crisis.

We must coordinate our defense policy with our foreign policy. We should not make foreign policy commitments where we do not have a real interest. And let us stop making foreign policy commitments that require a military backup when we know the military backup is not available to us. And once we have committed our military forces in carrying out our policies, let us realize that the days are over when we can rely solely on a nuclear deterrent—if those days ever existed. To have a true deterrent, we must improve our conventional arms capability, thus decreasing our reliance on nuclear weapons.

During the years, I have served on the Armed Services Committee, the Defense Appropriations Committee, and the Select Committee on Intelligence, I have become convinced that we can still move away from policies that leave us little or no flexibility. We can avoid the development of a rigid defense posture that give us options that lead inexorably to nuclear war. But in developing such a policy, we must have the funds to guarantee that the basic needs are met—operations, maintenance, training, and supplies.

Congress and the rest of the country are finally realizing that an increase in nuclear arms does not—and, indeed, never could—compensate for lack of conventional capabilities. More and more, people realize that using tactical nuclear weapons to compensate for conventional weapons is only a trigger for strategic Armageddon.

Instead of the global game of chance that hopes a nuclear war could remain limited, we should take the more responsible step of providing an adequate conventional alternative. There really is no substitute for a well-equipped, well-trained, and well-maintained conventional force. Without this, we are eventually left with the unacceptable alternatives of nuclear war or capitulation.

Not all of the answers will be easy, and, indeed, not every one of them will even be right. The course is clear, however, and it can be followed if we who make the policy for our country, will move forward with strength, resolve, and with unity.

MISSISSIPPI AND NATIONAL JAYCEES SPONSOR ENERGY AWARENESS DAY

Mr. COCHRAN. Mr. President, I take this opportunity to commend the Mississippi and National Jaycees organizations for their efforts in sponsoring Energy Awareness Day, February 10.

The Jaycees sought to get everyone to do three things on "E Day": turn thermostats down three degrees to 65, avoid all unnecessary travel, and curtail unnecessary use of electricity. Although there are no firm estimates of the energy savings possible from this conservation, the Department of Energy has estimated that lowered thermostats and minimal car pooling would save our country 1.17 million barrels of oil per day. By comparison, the $20-billion synfuels package has a production goal of 1.5 million barrels of oil per day by 1995.

The activities for Energy Awareness Day included participation by the Jaycee chapters in every State, recognition through gubernatorial or legislative proclamation in some 25 States, and monitoring of electricity meters by Jaycees in order to determine the amount of energy savings.

I think that we need to commend the Jaycees and to encourage them and other organizations to participate in efforts such as Energy Awareness Day. The real benefit from days such as this is that more and more people are made aware of the savings that can result from conservation and of the ease with which those savings can be achieved. With efforts like this, we can immediately reduce our energy consumption and improve our ability to supply our own needs.

TRIBUTE TO FORMER SENATOR A. S. MIKE MONRONEY OF OKLAHOMA

Mr. BOREN. Mr. President, this past week, Oklahomans lost a great leader and friend in the passing of former U.S. Senator A. S. Mike Monroney.

I have a special feeling about Mike Monroney. My father and Mike served from Oklahoma together in the U.S. House of Representatives for 8 years. When Mike Monroney made his first race for the U.S. Senate in 1950, he spent the night at our home after delivering a campaign speech in my hometown. To a young man of 9, it was an exciting event and one which I vividly remember.

The widow of Mike Monroney, Mary Ellen Monroney, and his son, J. Michael, were among the first to extend a warm welcome to me and my wife when I began my service in the Senate last year.

Senator Monroney served his state and his country as both a Congressman and a Senator. He was a Member of the House from 1939 to 1951, and entered the Senate in 1951, serving until 1969. In 1945, he received the Collier's Award for Distinguished Congressional Service.

He was a native of Oklahoma City and a graduate of the University of Oklahoma. Before entering public service, Senator Monroney worked as a newspaper reporter and political writer.

His accomplishments were many. Probably the greatest tribute to his service was the establishment of the Federal Aviation Aeronautics Center in Oklahoma City at Will Rogers World Airport.

The center, which bears his name, is the only facility in the world for training airport traffic controllers.

It was due to Senator Monroney's foresight that this center was built. Senator Monroney was a true pioneer of aviation who worked to pass the bills and build the bases so that aviation could become what it is today in this country.

He was a leader in legislative reform. As a Congressman, Senator Monroney served as vice chairman of the Joint Committee on the Organization of Congress that drafted the Legislative Reorganization Act of 1946, popularly known as the LaFollette-Monroney Act.

This act reorganized and reduced the number of congressional committees, and instituted a number of reforms to make both Houses operate more efficiently.

Among his many other accomplishments, Mike Monroney was instrumental in setting up the International Development Association, an affiliate of the World Bank.

In the late 1950's, Senator Monroney envisioned a multilateral effort to invest funds productively in poor nations, many of which were just coming into independence at that time.

His efforts have succeeded beyond anybody's expectations. What was once an American foreign aid burden is now a genuine international effort. In the latest IDA replenishment, 33 nations have agreed to contribute $12 billion. Over the years, the U.S. share has declined from 60 percent to 27 percent.

Thanks in part to Mike Monroney, this effort has been a wise investment for the United States because for every dollar put in, there is a return of $3.

Senator Monroney served with distinction. He was a great statesman.

More than any other attribute, Mike Monroney was known as a friend to the public. His pleasing smile was famous. He was well-known for his kindness and for the encouragement and example which he gave to many young people from Oklahoma who wished to enter public life.

Mike Monroney will be missed. But his accomplishments will remain with us as living examples of his dedicated service to the people of Oklahoma and the entire country.

Oklahomans are proud of Mike Monroney because of his ability as a legislator. Above all, we are proud that his record was that of a good and decent human being. His life and career stand as a testament to the possibility that the effective public official can remain an individual of absolute integrity and solid ethical standards.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Is the Senate still in morning business?

The PRESIDING OFFICER. The Senate is still conducting morning business.

CETA MARCHES ON

Mr. HARRY F. BYRD, JR. Mr. President, the 1981 budget submitted by the President to Congress on January 28 provides fresh evidence—as if it were needed—that old programs never die.

The program in question is public service employment under the Comprehensive Employment and Training Act (CETA).

The seeds of this program were planted in 1972 with the authorization of a so-called emergency jobs program under which $660 million was spent in that year. During the 1974–75 recession, public service jobs were funded at $2.5 billion.

Despite recovery from the recession, the Carter administration recommended an enormous boost in public service jobs almost immediately upon taking office. Spending for 1977 and 1978 combined exceeded $7 billion, for an annual average $1 billion above the level at the depths of the recession.

This was sold to the American people as part of the totally unnecessary and highly inflationary "stimulus" program, the effects of which are still being felt in the budget and the economy.

As the CETA public service jobs program swelled, criticism of it multiplied. Investigations showed that most workers were in dead-end positions, many cities were using CETA as a subsidy for their payrolls and out-and-out corruption was uncovered in some instances.

The remedy for these problems was not to get rid of the program, even though its antirecession rationale had long since disappeared, but rather to shuffle the titles of the Comprehensive Employment and Training Act, expanding efforts to combat so-called structural unemployment.

The second concurrent budget resolution for 1980, passed last November, called for phasing down the countercyclical public service jobs program in the current year and eliminating it at the end of 1981.

But President Carter's budget proposes the maintaining of this program at the present level of 200,000 for all of 1980 and 1981. There is no mention of a phasing down. Moreover, he recommends an expansion of the other public service jobs program—the so-called structural part—from 200,000 to 250,000.

Thus, under the President's plan, public service jobs would rise from 400,000 this year to 450,000 next year. Spending would go from $4 billion to $4.4 billion.

So a program which was ineffective in the last recession at a level of $2.5 billion will be used to combat the next recession—which has not arrived—at a level of $4.4 billion.

CETA marches on.

Old programs never die.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS UNTIL 2 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 2 p.m. tomorrow afternoon.

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

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

ORDER FOR THE RECOGNITION OF SENATOR PERCY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. PERCY be recognized for not to exceed 15 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the one nomination that was not confirmed this morning, Calendar Order No. 35.

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

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of John H. Shenefield, of Virginia, to be Associate Attorney General, vice Michael J. Egan, resigned.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominee.

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

JOINT REFERRAL OF NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that when the nominations for Under Secretary of Commerce for International Trade and Assistant Secretary of Commerce for Trade Administration are received, they be referred jointly to the Committees on Banking, Housing, and Urban Affairs and Finance.

Mr. President, I further ask unanimous consent that each of the two committees be authorized to file individual reports on these nominations.

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object—the distinguished majority leader has discussed this with me, and I do not bespeak myself by saying that we are both a little concerned about the precedent of this. Nominations should go to one committee only, in my opinion. However, the Parliamentarian informed us that there is no alternative but to follow this procedure in this case.

I am hopeful that the administration will take a look at the titles of these people so that they might avoid the potential future possibility of one committee recommending confirmation and the other opposing confirmation. I think that could lead us into real difficulty in the future.

I shall not object at this time because of the conference we have had with the Parliamentarian.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR THE SENATE TO CONVENE ON MONDAY FEBRUARY 25, 1980, AT 2 P.M. FOLLOWING A RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, it convene following a recess and at 2 p.m.

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

ORDER FOR EXECUTIVE SESSION ON MONDAY, FEBRUARY 25, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday at 3:15 p.m., the Senate go into executive session and that there be 30 minutes to be equally divided between Mr. CHURCH and Mr. JAVITS for a discussion of the protocols and the convention that is being voted on at 3:45 p.m.

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

Mr. ROBERT C. BYRD. I make that request as in executive session.

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

APPOINTMENT OF CONFEREES—FEDERAL TRADE COMMISSION ACT OF 1979

Mr. FORD. Mr. President, pursuant to the previous order, I send to the desk names of conferees on H.R. 2313 and ask the Chair to make the appointments.

The PRESIDING OFFICER. Without objection, the request of the Senator to allow the Chair to name the conferees is agreed to and the clerk will call the names of the conferees.

The assistant legislative clerk read as follows:

Messrs. FORD, CANNON, MAGNUSON, HEFLIN, DANFORTH, PACKWOOD, and WARNER.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 2 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate, in accordance with the order previously entered, stand recessed until 2 o'clock tomorrow afternoon.

The motion was agreed to; and, at 5:37 p.m., the Senate recessed until Thursday, February 21, 1980, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate February 20, 1980:

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general under the provisions of title 10, U.S. Code, section 5769:

Donald J. Fulham
John I. Hudson
Joseph E. Hopkins
Anthony Lukeman
William H. J. Tiernan
Jacob W. Moore
Walter D. Fillmore

CONFIRMATIONS

Executive nominations confirmed by the Senate February 20, 1980:

DEPARTMENT OF JUSTICE

John H. Shenefield, of Virginia, to be Associate Attorney General.

Charles B. Renfrew, of California, to be Deputy Attorney General.

The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Harry T. Edwards, of Michigan, to be U.S. circuit judge for the District of Columbia Circuit.

Richard S. Arnold, of Arkansas, to be U.S. circuit judge for the eighth circuit.

Diana E. Murphy, of Minnesota, to be U.S. district judge for the district of Minnesota.

Robert G. Renner, of Minnesota, to be U.S. district judge for the district of Minnesota.

Gilberto Gierbolini-Ortiz, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

Helen Jackson Frye, of Oregon, to be U.S. district judge for the district of Oregon.

James Anthony Redden, Jr., of Oregon, to be U.S. district judge for the district of Oregon.

Owen M. Panner, of Oregon, to be U.S. district judge for the district of Oregon.

Barbara J. Rothstein, of Washington, to be U.S. district judge for the western district of Washington.

Henry Woods, of Arkansas, to be U.S. district judge for the eastern district of Arkansas.