SENATE—*Wednesday, July 15, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable MARK O. HATFIELD, a Senator from the State of Oregon.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Our Heavenly Father to whom all hearts are open, all desires known, Thou knowest our thoughts, our ambitions, our aspirations. We have no secrets from Thee. Thou knowest the burdens borne by the Members of the Senate. Thou knowest the responsibilities which lie heavily upon them. Thou knowest the pressures of special interests which will use any device to deceive and seduce men and women of honor and integrity.

Strengthen the resolve of these, Thy servants. Protect them against temptations without and within. Give them wisdom and courage to stand firm for that in which they believe.

When their convictions are contrary to those of their colleagues, help them to respect the opposition. Let this Chamber and their offices be filled with love and good will. And as they struggle for what they believe to be right, support them by Thy grace, and out of struggle bring truth and justice.

We ask this in the name of Him who was incarnate righteousness. 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. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 15, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK O. HATFIELD, a Senator from the State of Oregon, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE JOURNAL

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

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

SENATOR DOLE'S ROLE IN THE TAX BILL

Mr. STEVENS. Mr. President, today, the Senate will begin consideration of the tax bill. Under the strong, capable, and fair leadership of Senator DOLE, the chairman of the Senate Finance Committee, the Finance Committee has put together a package that I believe will help turn the economic conditions of this country around. The tax bill the Senate will consider today may very well be the cornerstone of a rejuvenated economic policy.

During my service in the Senate, I have gained great respect and admiration for Senator BOB DOLE. The products of his work have always been excellent, and his analysis of the problems that face the country has always been very clear.

In the case of writing the tax bill that the Senate will consider today, it is obvious that the product of the Finance Committee has the mark of Senator DOLE's leadership. Without his unflinching discipline and dedication, this important part of the overall economic package could not have been before the Senate in such a timely manner.

The Wall Street Journal today features an article about Senator DOLE and the critical role he has played as chairman of the Committee on Finance in formulating the legislation that we will act on in the next few days. Senator DOLE and his colleague, the former chairman of the committee, the Senator from Louisiana (Mr. LONG), together with the members of the Committee on Finance, deserve a tremendous amount of credit for the work that has been done on this tax bill.

I commend to the Senate the article on Senator DOLE and the tax bill, and I ask unanimous consent that the article be printed in the RECORD.

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

SENATOR ROBERT DOLE PLAYS MAJOR ROLE IN FUTURE OF REAGAN TAX BILL

(By Robert W. Merry)

WASHINGTON.—A few weeks ago, when his Senate Finance Committee was in the middle of writing a major tax bill, Chairman Robert Dole of Kansas spent a long day in bill-writing sessions and then flew up to Philadelphia to deliver a speech. After that, he caught a late-night flight to Washington.

The next morning he rose in time for a 7:15 breakfast with magazine editors, met with the nation's governors at 8:40 a.m. and resumed committee action at 9:30. Grabbing a candy bar for lunch, he headed down to the Senate floor for a budget debate that stretched to midnight. Dinner was a bowl of soup at 9 o'clock.

Despite such a frenetic pace—or perhaps because of it—the 57-year-old Sen. Dole is having fun in his new role as chairman of the tax-writing Finance Committee, where 11 votes can redirect multibillion-dollar flows of capital. Five years after he ran for Vice President and collected a reputation as a partisan Republican bruiser, a year after he ran for President and promptly fell to the back of the pack, the smooth-faced, sharp-tongued Sen. Dole is gaining a new reputation as a wily, effective legislator.

That fledgling reputation will be tested starting today when the tax bill Sen. Dole shepherded through his committee three weeks ago goes to the Senate floor for several days of debate—and innumerable efforts to reshape it. To preserve the bill, the chairman will have to demonstrate anew the legislative acumen he showed in committee. There he maneuvered members to approval—on a 19 to 1 vote—of a bill that is close to what President Reagan wanted and even closer to what Bob Dole wanted.

"It was as deft a piece of legislating as I've seen in a hell of a long time," says Sen. Malcolm Wallop of Wyoming, a Finance Committee Republican.

What's more, the new chairman managed to preserve the bipartisan atmosphere that had prevailed in the committee through the almost legendary chairmanship of Louisiana's Democratic Sen. Russell Long. Thus, Sen. Dole's performance should help dispel vestiges of his reputation as a partisan gunslinger.

"A VERY COMPASSIONATE MAN"

"Bob Dole's press image as a tough, caustic hardliner does him a great disservice," says Sen. Lloyd Bentsen of Texas, a powerful Finance Committee Democrat. "He's a very compassionate man with a great sense of fairness." Referring to the committee's tax bill, Sen. Wallop adds, "He was never arrogant or devious, and nobody felt outmaneuvered."

A Senate floor defeat this week on any major amendment could serve to unravel the chairman's control of the issue and lead to a transformation of the bill—and a serious setback for the President. Particularly troubling are efforts to expand tax breaks for charitable giving and to trim back a provision in the bill to end tax-avoidance schemes called commodity straddles. An unraveling of the Senate committee's bill would hearten House Democrats struggling to produce their own alternative because it would give them more bargaining room in a House-Senate conference committee.

But duplication of the chairman's Finance Committee performance would produce a nice victory for the President as well as for Sen. Dole, who is probably more responsible for the shape of the current bill than any other single individual. His stamp on the measure is a product of a series of deft, well-timed moves designed to steer

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

events toward the kind of compromise package his committee eventually produced.

In the early days of the Reagan administration, Sen. Dole's strategy was to remain noncommittal on the President's tax proposal in order to keep his options open and require that other players move toward him. "He could be very frustrating," says an administration official. "He sent out conflicting signals; we never knew for sure where he was coming from."

ADDING SOME FAT

The Senator's aim was to soften the President's insistence on a lean bill containing only individual tax cuts and faster depreciation write-offs for business. That wasn't feasible, he felt, because there were too many other tax ideas with too much congressional support.

"He definitely wanted to remind us," says a Treasury Department official, "that he was the chairman, and . . . we were going to have to make accommodations to him." At one point, Sen. Dole invited a group of Treasury officials to hear the views of Finance Committee Republicans, who accepted the three-year tax-cut concept but flatly rejected the lean-bill approach.

Later, in a series of interviews, the Senator said the President's 30 percent tax-cut proposal lacked enough votes to get through his committee. Still, he publicly advised the administration against compromise—at that time. "We interpreted that," says the Treasury official, "as saying it's time for us to start thinking compromise—but only with Dole. Those in the administration who wanted to hold out for the full 30 percent in the Senate were undermined."

The chairman's next move came in late May at a breakfast with reporters, when he unveiled a compromise plan calling for a 25 percent cut in individual tax rates, the accelerated-depreciation plan and a series of other tax revisions designed to spur savings and investment or redress certain perceived inequities.

That proposal, similar to proposals floated earlier by conservative Democrats in the House, eventually became the framework for the compromise bill embraced by the President in early June—and approved, with slight modification, by the Finance Committee three weeks later.

Sen. Dole quickly steered the panel to endorsement of the total size of the compromise package and the 25 percent cuts in personal taxes so dear to the President. But the chairman also supported a few fine-tuning suggestions from members as a way of keeping them happy and preserving the committee's bipartisan tenor. Again, that exasperated administration officials, who felt, as one expressed it, that Sen. Dole "was harder on us than on his members."

In fact, it isn't unusual for Sen. Dole to exasperate administration officials, some of whom think he's sometimes unreasonable in expecting recognition of his position as Senator. An example is the Senator's fight to get a former aide named to an Agriculture Department post that the White House would rather give to someone else. "He just won't let go" on the issue, complains a White House aide.

Some see a relationship between this tenacity on such matters and the Senator's appetite for publicity, which one former aide terms "insatiable." The former aide, a Dole admirer, quickly adds: "But he never wants publicity so much that he will resort to gimmicks. . . . He wants press, but only if it's linked to issues and actual performance."

This staffer echoes the expressed perceptions of many other Dole associates, who consider the Senator a complex man, full of apparent paradoxes. Always a rock-ribbed Republican, he nevertheless has championed a number of causes generally considered liberal, including help for the handicapped, food stamps (naturally a help to the Kansas farm economy) and a national health program to provide catastrophic-illness coverage for all families.

He is considered a kind man, and other Senators' aides say Sen. Dole treats them with a generosity of spirit that is rare on Capitol Hill. Yet turnover in his own office is high; one former top assistant, then new at his job, went to a meeting of senatorial administrative aides to find them organizing a pool on the question of how long he would stay on the job. "The shortest was six weeks; the longest was five months," he says. "I lasted seven months."

Then there's the well-known Dole wit. This hard-driving politician leavens his purposefulness with an ability to cast a detached eye at the often-ludicrous machinations of politics and capture them in a quip. Referring to Ronald Reagan's age during last year's Republican primaries, he said the former governor's opponents wouldn't dream of making an issue of it; quite the contrary, he said, they would like to sponsor a big birthday party for him on national television.

But some critics believe Sen. Dole too frequently falls back on quips. Says a Republican colleague in the Senate, "I think he relies too much on his wit and not enough on substance."

In any event, those who know Sen. Dole well suspect that the seeming paradoxes in his approach to politics and people may be related to his experiences during World War II, when he fought in Italy with the 10th Mountain Division and was nearly blown apart by mortar and machine-gun fire. He was left for dead on a Po Valley battlefield for 24 hours, then spent more than three years in hospitals recovering from his wounds. At one point he was paralyzed from the neck down, and even today he has no use of his right arm.

"I'm not a psychologist, but I should think that contributed to Bob's unusual strength and backbone," says his wife, Elizabeth, herself a power in Washington as President Reagan's public-liaison chief. "Things don't get him down; he puts things in perspective."

No doubt that sense of perspective contributes to his sense of whimsy. But others attribute other Bob Dole traits to those harsh wartime events of the past. One former aide lists his ever-present inclination to drive himself toward completion of tasks, as well as his "soft spot for social programs."

And some even link the battle experience and its aftermath with the high turnover on his personal staff, which they attribute to a deep reluctance to delegate responsibility. "What's the key to the kind of rehabilitation Dole faced after the war?" asks the former assistant who outlasted the pool predictions. His answer: "Self-reliance. Bob Dole is the most self-reliant person I know."

Mrs. Dole marvels at her husband's self-reliance. After the national campaigns of 1976 and 1980 ended in failure, she says, "I never heard him complain. . . . He just picked up and moved forward."

The Senator himself recalls feeling some sadness after the 1976 campaign, when he was assigned the role of playing campaign hardball and emerged with a reputation as something of a political hatchet man "who couldn't sell beer on a troopship," as some critics put it, resurrecting an old political adversary's line.

The most depressing time, the Senator recalls, "was the night after the 1976 election. I was exhausted, had caught a cold, and Barbara Walters had the temerity to ask me on national television if I thought I had cost Jerry Ford the election. I felt pretty bad about that for a while."

These days, the Senator is in a far brighter mood. He seems especially pleased about his success in guiding his committee to what he calls "a bipartisan bill." He says: "Everyone was satisfied with the process; nobody felt rushed."

But maintaining a bipartisan atmosphere on the committee wasn't easy. Because just about every member had a pet amendment to push, it was necessary for the chairman to forge a new opposition coalition on every vote, picking up allies who had opposed him on the last one.

But even when he lost he managed to salvage something. An example was an amendment by Sen. Max Baucus of Montana to provide tax breaks to trucking firms hurt by last year's trucking deregulation bill. The Montana Democrat carried the committee by a single vote.

Sen. Dole later picked up another vote and, brandishing it, he offered Sen. Baucus a choice: He could accept a compromise designed to lessen his amendment's budget impact or stick with his original measure and take the risk of having it overturned in a new committee vote. Sen. Baucus took the deal.

But a Treasury official watching the session closely says he wasn't sure the chairman could have carried a second vote. Trucking lobbyists were working the committee feverishly, he says, and the situation was prety fluid. "We were just as pleased that Baucus took the deal," he says.

As Wyoming's Sen. Wallop, an admirer of the chairman's legislative wiles, puts it, "I'd hate to play poker with Bob Dole."

POSTAL SERVICE

Mr. STEVENS. Mr. President, I recently commented in the RECORD concerning the operations of the U.S. Postal Service. One of the statements I made at that time referred to the fact that the Postal Service provides next day delivery for 95 percent of all first class mail deposited in a postal receptacle under the control of the Postal Service by 5 p.m. on any particular day.

On Monday, July 6, the Washington Star printed an article which I feel corroborates those figures. In case there was anyone in the Senate who might question the validity of the statements I made concerning the Postal Service record, I ask unanimous consent that this article entitled "Neither Rain, Snow Nor Bum Rap Slows Local Mail Delivery" be printed in the RECORD.

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

NEITHER RAIN, SNOW NOR BUM RAP SLOWS LOCAL MAIL DELIVERY

(By Bob Gettlin)

For the U.S. Postal Service, so often blamed for not getting the mail through on time, there is at least some good news to be delivered from the Washington area.

Just as the postal service claims, a recent survey by The Washington Star shows that about 95 percent of all letters mailed in sub-

urban Maryland, suburban Virginia and the District of Columbia are, in fact, delivered the next day to neighboring communities.

Hard to believe? Well, postal service officials say they aren't surprised by the findings, despite the unscientific nature of the survey. Michael A. Pardi, manager of the sales branch for the Eastern region said, "People pick on us because they think it's funny, but we know we are doing the job."

Last Monday, attempting to find out if mail service is really sluggish and inefficient, Star employees mailed 50 letters from five separate locations in Montgomery, Prince George's, Arlington and Fairfax counties and the District. Of those, 48 letters, or 96 percent, reached their destinations in the metropolitan area the following day.

One letter mailed from Potomac in Montgomery County arrived in Southeast Washington on Wednesday, one day behind schedule. And one letter mailed from West Hyattsville in Prince George's County was delivered to Alexandria on Wednesday.

Pardi, who said he is keenly aware of the postal service's reputation, added that "We aren't going to holler about your findings and make a big deal about it because we are just doing what we are supposed to do."

Pardi and other postal officials also know that the service is focusing much of its public relations effort on the new voluntary nine-digit zip code plan. The program, known as "Zip Plus Four," has been criticized as just another bureaucratic numbers game.

Not so, said Michael E. Kurtzman, manager of the program for the Eastern region. He defended the plan as an effort to cut labor costs and reduce handling at bulk mail centers and local post offices. He said the new system will target mail to the side of the street where it is destined.

Kurtzman said the postal service can't do better than next-day service, so the nine-digit plan won't speed up delivery. "The idea is to stabilize postal costs," he said. "We are an 85-percent labor-intensive operation. The United States already has the second-lowest postal rates in the world, behind Canada. We just want to do better."

Postal officials say, however, that the decision to change some zip codes in Montgomery and Prince George's County will mean slightly better service in the Washington area. Some areas of the two counties that once used Washington, D.C. zip codes now conform with other Maryland communities.

The District's main post office on Massachusetts Avenue has been handling about 6 million pieces of mail each day. Officials say the recent change in suburban Maryland will have a significant effect on that number.

They note that Bethesda, which used to have a District zip code and thus routed all mail through the main D.C. facility, generates about 400,000 pieces of mail each day.

In its survey, the Star mailed 10 letters from corner mail boxes in each of the following locations: Potomac, Montgomery County; West Hyattsville, Prince George's County; Springfield, Fairfax County; Clarendon, Arlington County; and 14th and Eye streets in the District.

From each of these five locations the letters were addressed to offices and homes in: Cabin John Mall, Montgomery; Landover Mall, Prince George's; Chain Bridge Road, Fairfax; North Courthouse Road, Arlington; K Street NW, the District; Virginia Avenue SE, the District; 75th Place, Montgomery; Renoir Port Lane, Fairfax; Battery Place NW, the District; Mount Eagle Place, Alexandria; and Windharp Way, Columbia.

THE TAX BILL

Mr. BAKER. Mr. President, it has been 120 years since Congress first enacted Federal income taxation for individuals during the presidency of Abraham Lincoln. I firmly believe that the comprehensive tax legislation which the Senate begins considering today, will be a similar watershed in fiscal legislation.

I would once again like to express my appreciation and admiration to my good friend and colleague, the chairman of the Finance Committee, Senator DOLE, for his exhaustive efforts in delivering the tax relief proposals. These proposals coincide with the President's guidelines, and will release the citizens of this Nation from the deleterious burden which the present tax structure imposes.

Senator DOLE and the most distinguished ranking member of the Finance Committee, Senator LONG, have guided their committee in a most expeditious and deliberate manner. The committee's bipartisan action is emblematic of the national perception that this tax bill is exactly what is needed in order to restore economic growth to the country.

It is imperative that we remember that without our swift action on this measure, taxes will worsen automatically. These are taxes that are higher than ever for most Americans; these are taxes that impede productivity and personal savings.

A cursory examination of the Economic Recovery Act of 1981 illustrates the prodigious scope of the historical economic measure. Individual tax relief will be accomplished through an across-the-board marginal tax reduction of 5 percent on October 1, 1981, and additional reductions of 10 percent on July 1, 1982, and 10 percent on July 1, 1983. Inclusively, this will amount to a 25-percent reduction for all individuals. The measure also provides for marriage tax penalty relief in the form of a 5-percent exclusion up to $1,500 in 1982 and a 10-percent exclusion up to $3,000 in 1983 and thereafter.

The Finance Committee has also provided for explicit incentives for savings, which are essential to economic recovery. Retirement accounts for all individuals will be increased from $1,500 to $2,000, thus permitting taxpayers to save for the future, while at the same time providing vital capital. Additionally, liberalized employee stock options and limited tax-exempt savings certificates will also abet savings.

Modification of the accelerated cost recovery system will provide a 15-year, 10-year, 5-year, and 3-year writeoff for classes of property with increasing depreciating schedules through 1984. This revised depreciation schedule is accompanied by expanded investment tax credit. These provisions combined will deliver a powerful stimulus to capital formation in all industries.

Other business tax provisions include tax credits for research and development to help fuel productivity, as well as measures to aid the all-important small business community.

It is my sincere hope that the floor action which commences today on the tax bill, will be conducted in a proficient and swift fashion. It is my intention not to condone counterproductive obstructions which could besiege these proceedings.

Furthermore, I trust that our friends in the House will also heed the public's expectations for action on this bill, and move forward on their tax legislation.

We are engaged in legislation which affects every American, and we have made a commitment to them. Now is the time to make a commitment to ourselves, and deliver an unprecedented economic triumph to a waiting nation.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, what is the order of procedure this morning?

The ACTING PRESIDENT pro tempore. Under the previous order the minority leader will be recognized and then the Senator from Vermont (Mr. LEAHY) is to be recognized not to exceed 15 minutes. Under the previous order, the Senator from Utah (Mr. HATCH) is to be recognized not to exceed 15 minutes. Under the previous order, the Senator from Virginia (Mr. WARNER) is recognized for not to exceed 15 minutes. Under the previous order, there will then be a period for the transaction of routine morning business not to extend beyond the hour of 10:40 a.m. Under the previous order, at the hour of 10:40 a.m. the Senate will then proceed to the consideration of House Joint Resolution 266, the Economic Recovery Tax Act of 1981.

Mr. STEVENS. I thank the Chair.

I reserve the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. ROBERT C. BYRD. I thank the Chair.

AFGHANISTAN—A SOVIET REBUFF AND A REBEL AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, last week, British Foreign Secretary Lord Carrington traveled to Moscow as spokesman for the 10 members of the European Community. The purpose of the trip was to discuss with the Soviets a European Community plan for a settlement in Afghanistan. Lord Carrington was rebuffed by Soviet Foreign Minister Andrei Gromyko who called the plan unrealistic. However, Gromyko declined to say whether or not it would be given further consideration in Moscow.

The European proposal was unique and offered the Soviets a face-saving way out of their quagmire in Afghanistan. However, as I noted in a speech before this body on July 9, the plan would test the Soviet credibility as to the reason for its brutal invasion and occupation of this Third World, Moslem State.

The July 12 edition of the Economist noted that the peace plan proposed by the Europeans had

> The explicit support of the American administration: and most of the third world is in sympathy with any attempt to end the war and enable the Afghans to get rid of

the Russian army and return to non-alignment. Thanks to careful preparation, the EEC initiative did not open up any rift in the non-Communist ranks that Russia might exploit to its advantage.

In addition, the July 12 Washington Post carried a news item noting that:

The six leading Afghan rebel groups based in Pakistan have pledged in a new agreement to merge their treasuries, weapons stores and military forces in the battle against Soviet occupation of their country.

While the massive opposition within Afghanistan to the Soviet occupation has taken a significant toll on Russian troops and materiel, a more effective resistance has been marred by factionalism among rebel groups.

However, this latest agreement, if it holds together, offers the rebels an opportunity to enhance significantly their capabilities in dealing with the Soviet occupation.

It is evident that world opinion remains solidly in opposition to the Soviet occupation of Afghanistan. Most nations of the world are not buying the Soviet propaganda line that they were invited into Afghanistan because outside forces were attempting to overthrow the government in power.

The European initiative offers the Soviets a way out of their dilemma. And if the Soviets think they can ride out world opinion and the issue of Afghanistan will fade from our consciousness. they are badly mistaken. The rebels will not allow them to forget their brutal occupation nor will they allow Afghanistan to become a Soviet satellite.

If the Soviets were prudent, they would give serious consideration to the EEC plan. If they do not, they will be facing greater losses, both human and material, from the populace of a country unflinching in their determination to recapture their sovereignty.

I ask unanimous consent that the articles from the Economist and the Washington Post be printed in the RECORD.

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

[From the Washington Post, July 12, 1981]

REBELS VOW TO UNIFY IN AFGHANISTAN

(By Stuart Auerbach)

NEW DELHI, July 1.—The six leading Afghan rebel groups based in Pakistan have pledged in a new agreement to merge their treasuries, weapons stores and military forces in the battle against Soviet occupation of their country, according to Afghan emigre sources here.

The prospect of the merger's surviving the quarrels within the Afghan rebel movement and having a lasting effect among insurgents actually inside the country was greeted with skepticism by some Western observers here and in Pakistan. As late as last month, for instance, widespread factional fighting persisted across a broad area north of Kabul.

[In Washington, State Department officials also greeted reports of a merger cautiously. "Anything of that nature would likely be cosmetic and not greatly valid," said one informed official, who noted that similar reports in the past had been "greatly exaggerated."]

While the rebel groups based in the Pakistan border city of Peshawar have garnered most of the publicity and in many cases serve as paymasters and weapon suppliers to the revolt, there is a growing feeling that most of the actual fighting is locally controlled, outside the influence of the refugee bands.

But there are some indications that this unity move has a greater chance of success than others in the 18 months since the Soviet Union dispatched thousands of troops into Afghanistan. For one thing, Afghan souces here said, the leaders and members of all six major rebel groups based in Peshawar, on the edge of the Khyber Pass, signed a document sanctifying the merger.

Furthermore, the sources here reported that the Peshawar-based rebels face increasing pressure from some of the fighting bands within Afghanistan—who themselves have begun cooperating more, according to reports here—to stop bickering and form a united anti-Soviet front.

In Afghanistan's second largest city of Kandahar, local rebels were reported to have told representatives of the Peshawar groups to either unify or get out of the area.

The local anti-Soviet forces in Kandahar picked their own leader, a former Afghan Army officer known only as Col. Esmatullah. They told fighters from the groups based in Peshawar that they had to take orders from him while operating in their area. With the local help that rebels depend on for food and shelter threatened, the fighters from Peshawar agreed to serve under his command, according to information received by Afghan refugees here.

Other signs of cooperation among fighting groups in Afghanistan have surfaced in diplomatic reports and information filtering here from a variety of Afghan sources over the past few weeks.

Two months ago, according to Afghans here, fighters from Hesbi Islami, a leading Peshawar-based group, and SAMA, a local group centered near the Afghan capital of Kabul, began working together on military operations and loaning each other specialized weapons such as rocket-propelled grenades for stopping Soviet tanks.

In late June rebel groups from two different parts of the country joined in a battle against the Soviets in Paghman, the old summer capital of Afghanistan just outside Kabul.

"Common sense has dictated that the Afghans help each other," said one former Afghan government official, now a refugee here.

The greatest impetus toward the merger came from an increased willingness of the Hesbi Islami group of Gulbuddin Hekmatyar—the largest and in many ways the most successful of the rival rebel camps—to throw its lot in with the rest on an equal basis, the emigre sources said.

The Afghan sources here, whose information is impossible to verify because Afghanistan generally remains off-limits to Western correspondents, said Hesbi Islami was becoming increasingly isolated, especially since it cut its ties to Saudi Arabia, and was relying completely on financial and military support from Iran.

But Gulbuddin was reported to have realized that the chaos in Iran was hurting his movement and decided to join the other groups, a reliable Afghan source here said. Gulbuddin, a former engineer described as "a cunning, scheming person," sabotaged earlier attempts made under pressure from the Saudis and other Arab states to unify the Afghan resistance. In January 1980, he joined a united front for four days and then quit because he said Hesbi Islami was more powerful than the rest and therefore should dominate any confederation.

This time, however, he appears resigned to going in on an equal footing. Copies of a document merging the six Peshawar groups into the Islamic Unity of Mujahiddin of Afghanistan call for monthly rotations of the new units' leadership among the heads of the six member groups.

Moreover, the six groups will have equal representation on the governing council of the united organization, close their individual Peshawar offices and end their separate activities, according to a copy of the manifesto, with three pages of signatures attached, that was received here.

The Peshawar organizations also agreed to put all their cash, military and nonmilitary equipment and property at the disposal of the unified organization.

[From the Economist, July 11, 1981]

BEARS BACK SLOWLY

Britain's foreign secretary Lord Carrington went to Moscow this week as spokesman for all the 10 European community member states. Their peace plan for Afghanistan, which he presented to the Soviet foreign minister, Mr. Andrei Gromyko, also had the explicit support of the American administration; and most of the third world is in sympathy with any attempt to end the war and enable the Afghans to get rid of the Russian army and return to non-alignment. Thanks to careful preparation, the EEC initiative did not open up any rift in the non-communist ranks that Russia might exploit to its advantage.

Of course, if it had caused a rift or looked like causing one, Lord Carrington would have been made more welcome in Moscow. Ever since the Russians invaded Afghanistan 20 months ago, they have been eagerly encouraging signs of disunity among the governments which lined up to condemn the invasion. They could not make anything much, for that purpose, out of the British foreign secretary's trip. They did what they could, depicting it as a bilateral contact between Russia and Britain, playing down Lord Carrington's role as current president of the EEC council of ministers, and carefully separating their press comment about the European initiative on Afghanistan from their announcements about the Carrington-Gromyko talks. But these tactics were defensive. The Soviet authorities did not want their subjects to take in the awkward fact that Lord Carrington had come to Moscow to propose a means of ending a war which is costing a lot of Russian lives as well as Afghan ones.

Now, through their official Tass agency, the Russians are putting out some rather agonised hair-splitting stuff about their foreign minister's reception of the peace plan—without, of course, giving the Soviet public a factual account of the plan itself. One Tass commentary leans heavily on the argument that the Soviet government, "not having accepted" the plan, has thereby rejected it. But Mr. Gromyko has taken care to avoid using such language. He called the plan unrealistic, but he would not say whether or not it would be given further consideration in Moscow; and he formally, if vaguely, declared an "intention to continue the dialogue".

BEAR AJAR

After 24 years as foreign minister, Mr. Gromyko is a recognized master of the art of leaving doors ajar, while arranging to have enough growls resounding from behind them to indicate an angry bear which might be

pacified if a new pot of honey were laid on the doorstep. Sooner or later, Russia will probably have to find a reasonably dignified way of getting out of its Afghan embroilment. Unless it has by then succeeded in changing the whole international balance, the way out will be backwards, and a respectable peace formula will be needed to cover the nakedness of the retreat. Simply to accept the new EEC proposals would amount to ditching the puppet regime that Russia has installed in Kabul at great cost in blood and treasure, and nobody expected an immediate da from Mr. Gromyko. But his mumbled nyet was meant to leave the door unslammed, in case the bear eventually needs it as an emergency exit.

Negotiation with the Russians is all the more likely to be a slow and arduous process when it involves getting their army to withdraw from occupied territory. After 1945 it took a decade to get their troops out of their zone in Austria and their bases on the coasts of Finland (Porkkala) and China (Lushun, better known as Port Arthur). Lack of quick results ought not to be taken as disheartening. Indeed, since it is a basic Soviet negotiating ploy to sit tight and wait for the other side to give way (the Russian negotiators themselves not being under pressure from a vocal public opinion at home, and not needing to worry about election years), there is all the more need for persistence with proposals which at first seem to be coming up against a brick wall. It took several years of such persistence, in the face of a rigidly negative Soviet attitude, to equip the 1975 Helsinki agreement with its provisions about human rights, which gave it a very different character from the one Mr. Brezhnev had in mind when he originally set out for Helsinki.

Although each of the EEC member states has had ample experience of these things, the community, as a fairly new diplomatic entity, may still have to guard against the temptation to take chances in the hope of chalking up some early achievements that would give it more prominence on the world stage. Its ideas about the Arab-Israeli dispute have, predictably, run into the discovery that that problem is a lot more complicated than it had thought. The Afghan project was better prepared. But it must be hoped that the Russians' refusal to give Lord Carrington any encouragement will not lead to any suggestion in the EEC's councils that the community's diplomatic laurels have become tarnished, and that "something must be done" quickly to remedy this—either by starting to revise the Afghan proposals so as to give the bear more honey, or by launching some other diplomatic project with more concern for speed than for thorough preparation.

It is understandable that the European diplomatic establishment should, at this stage in the community's evolution, wish to be seen to be doing something impressive. But if the choice of what to do is shaped almost entirely by that wish, the thing will surely end in tears.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE.

Mr. PROXMIRE. Mr. President, I thank my good friend the minority leader.

MEMORIAL BY HOLOCAUST SURVIVORS

Mr. PROXMIRE. Mr. President, the World Gathering of Jewish Holocaust Survivors opened its 4-day commemoration with a ceremony at Yad Vasham, the museum dedicated to the 6 million Jewish victims of Nazi concentration camps. The New York Times reported on June 16, that 5,000 holocaust survivors and their families assembled at the museum in Jerusalem. Each person carried a single rose to toss onto the floor of the Hall of Remembrance where the names of the concentration camps are engraved.

The survivors' remembrance of the horrible nightmare in their past is a symbol. This memorial symbol has no power of itself. It cannot bring back the lives of those who suffered and died in the past. It cannot even insure that others will not again suffer and die in the future.

Yet we cherish and esteem such symbolic acts. They unite all those who participate in them in a memorial to the past and a commitment to the future. The holocaust survivors who gather this week in Jerusalem share a common experience, a common dedication and a common symbol. They unite to send a message to the world: In memorializing the horrors of genocide in the past, they commit themselves to the hope that it will never happen again.

Mr. President, the Genocide Convention is also a symbol. It may or may not prevent the horrible crime from occurring in the future. It is a document which unites 86 nations in condemning the crime of genocide, and pledging that they will never support it in the future. Symbols speak a powerful message to the world, a message which bears in turn practical ramifications. I urge my colleagues to unite in conveying an important message to the world. I ask for ratification of the Genocide Convention.

Mr. President, I thank my friend the minority leader and yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield my remaining time to Mr. LEAHY if he should need it.

Mr. LEAHY. I thank the distinguished minority leader, my friend from West Virginia.

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes plus the time allocated to him by the minority leader.

FINANCIAL STATEMENT

Mr. LEAHY. Mr. President, the various news services carry the official disclosure forms made by all Senators, so such further annual exercises would be redundant. With this in mind, I shall show my present net worth and a recap of my first-term disclosure:

Equity in Vermont home (appraised value less outstanding mortgage balance)	$34,403.90
Equity in McLean, Virginia residence used by Leahy family during the Senate session (appraised value less outstanding mortgage balance)	63,116.47
Amount paid in, and on deposit with, Federal Retirement System	25,535.79
Total of all personal property	25,000.00
Total net worth	148,056.16
In addition, during the six years of my first term in the Senate, my wife and I paid taxes including Federal Income Tax, Vermont State Income Tax, Vermont property tax, etc., in the amount of	85,421.75
During the six years of my first term in the Senate, my wife and I made charitable contributions of	8,751.30

WORLD FOOD DAY

Mr. LEAHY. Mr. President, world hunger is an issue that concerns us, but it is abstract. We feel a vague alarm, yet it is a problem for the future, another time and another place. World hunger—it does not affect us.

For years, as America has fulfilled its promise of plenty, we have ignored the simmering crisis of malnutrition facing over 500 million of the world's people. Children are dying, young people's lives are shortened, health complications abound, when people go hungry.

How many Americans are aware of the world hunger challenge? How many know of the world crisis we face now and the deepening crisis by the year 2000? How many see world hunger as a threat to international stability and our own national security?

These are questions that concern me and that prompt my introduction of this resolution to designate October 16, 1981 as World Food Day. The purpose of this observation, which falls on the 35th anniversary of the founding of the United Nation's Food and Agriculture Organization (FAO), is to alert all Americans to the gravity of the current world food situation and the dangers in the years to come. Events are already being planned in schools, churches, civic organizations, homes, and communities to highlight these issues. For example,

World Hunger Sunday which is observed by the United Church of Christ and the Southern Baptist Churches is on October 11 and churches are being encouraged to use this day for World Food Day recognition.

The United Presbyterian Church has put World Food Day on its liturgical calendar, meaning that all Presbyterian churches in the United States will be encouraged to mark the day in some way.

The Association of Business and Professional Women will hold a special con-

ference at the United Nations in New York during World Food Day and will plan special seminars on food issues for the day. Other U.N. ceremonies are planned, including the awarding of essay prizes on World Food Day themes by Secretary General Waldheim.

Campus seminars in conjunction with World Food Day are now officially programmed at several colleges and universities and many more are considering seminars under the encouragement of the National Association of Land Grant Colleges and Universities.

Gardens for All, a voluntary organization which helps set up community vegetable gardens, will inaugurate a garden at Burlington, Vt., on October 16 and will encourage all community garden clubs across the country to hold observances.

I strongly support these efforts. Increasing public awareness about hunger and hunger-related issues was one of the key recommendations of the Presidential Commission on World Hunger, which I served on last year. As the final report of the commission stated, any effort to meet the world hunger challenge—

Must have the support of the American people, many of whom are not yet aware of the extent or the severity of the hunger problem in either the developing countries or the United States. Polls show that the American public is sympathetic to the suffering of the hungry and poor but uninformed about the kinds of measures needed.

World Food Day not only will stimulate this education process, but also mark the anniversary of FAO, which has played an active developmental role in agriculture, fisheries, forestry, and nutrition.

FAO, the largest U.N. specialized agency, has programs in 128 countries, with over 2,800 on-going projects. These projects include the development of natural resources, crop and livestock production, rural development, fisheries and forestry development.

World food aid is handled through the World Food Programme, sponsored by FAO and the United Nations. This program includes emergency food aid through the International Emergency Food Reserve. FAO is also active in the prevention of food losses due to insects and other forms of spoilage.

Mr. President, I support these activities and I endorse the designation of October 16, 1981, as World Food Day. I urge my colleagues to cosponsor this joint resolution and join with me in this observance of the world hunger challenge.

Mr. President, I ask unanimous consent that a joint resolution sponsored by myself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. CRANSTON, Mr. DANFORTH, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. HATFIELD, the distinguished Presiding Officer, Mr. HEINZ, Mr. HUDDLESTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. LUGAR, Mr. MELCHER, Mr. MITCHELL, Mr. PELL, Mr. PERCY, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. SPECTER, Mr. STAFFORD, Mr. TSONGAS, and Mr. INOUYE be printed in the RECORD and appropriately referred.

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

The text of the joint resolution reads as follows:

S.J. RES. 98

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas children are the ones suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas, although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notable among native Americans, migrant workers and the elderly remain vulnerable to malnutrition and related diseases;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the world hunger problem is critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem; and

Whereas the 147 member nations of the Food and Agriculture Organization of the United Nations designated October 16, 1981, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 16, 1981, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

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

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

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR HATCH

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

S. 1483—THE RADIATION EXPOSURE COMPENSATION ACT OF 1981

Mr. HATCH. Mr. President, I appreciate the opportunity to introduce the Radiation Exposure Compensation Act today along with my colleagues Senators KENNEDY, GARN, CANNON, DECONCINI, LAXALT, HAWKINS, RANDOLPH, PELL, METZENBAUM, MOYNIHAN, DENTON, MATSUNAGA, HATFIELD, INOUYE, and MATHIAS.

The provisions of this bill establish procedures for compensating victims and the families of victims of low-level ionizing radiation that resulted from atomic bomb testing in Nevada in the 1950's and 1960's. This bill is a revised version of S. 1865 introduced last Congress and cosponsored by several Senators. This bill continues the same premise that the Federal liability extends from the failure of test officials to take appropriate safety and health measures, and the grossly inadequate and deceptive warnings the Federal Government provided to the general public.

In this bill we deal with a national tragedy, but one which is particularly acute in its effect upon the citizens of Nevada, Arizona, and my State of Utah. The major purpose of this bill is to make the Federal Government accept responsibility for actions it took in conducting open-air testing of atomic weapons during the 1950's and 1960's. We also provide for the means of properly assessing the long-term effects of such radiation exposures and their treatment and prevention. A great wrong was committed by the Federal Government in exposing thousands of Americans to harmful radioactive fallout while simultaneously conducting a massive campaign to assure the public that no danger existed. There are now many innocent suffering victims of the mistakes made by Government officials over two decades ago. Further, we have not yet satisfactorily resolved what I personally find the most distressing problem I have witnessed in my career. We must make sure that it does not happen again and to make certain that those who have suffered, and those who will suffer, will receive just compensation.

Over 2 years, we have held several hearings—we will hold more—and we will continue to learn about the testing program and the role of the Government—but much of what we have already learned is tragic. When these atmospheric tests were conducted, there was no thought given to the long-term medical and health problems that could result from the testing. Hours of investigation and hearing testimony indicate that there was a great "coverup" of the true facts in addition to suppression of reports and other crucial material. This has changed all too slowly. Although there have been no open-air tests in many years, we have never aided those whose lives were irrevocably altered for the worse nor admitted that beneath the "coverup" was a great wrong.

This legislation will not bring back the Americans we have lost. It will not heal those who are scarred or psychologically maimed for the rest of their lives. It will provide some justice and some solace to those affected, and it will highlight that we have begun to learn from the

many witnesses who took time to appear before Senate committees to reveal events that occurred during and after the testing.

From their testimony we learned many things, some quite shocking. We learned that the Federal Government did not inform the citizens of the health risks involved in atomic testing. Their Government's chief concern appears to have been keeping the tests on schedule. We also learned that the Atomic Energy Commission withheld evidence linking radiation from the fallout to higher incidences of leukemia and thyroid cancer and deaths of sheep herds. We learned also that Americans were sent into mines in New Mexico and Colorado to mine uranium ore even when the Federal Government, the only purchaser of such ore, knew the mines were unhealthy. Minimal precautions could have substantially reduced the health risks that the miners faced. Further, a great public relations campaign was developed and pursued by the Atomic Energy Commission to cover up the known health risks associated with radiation exposure. In addition we know a lot more now than we did then about what radiation can do, and the hazards associated with it. For example, what the Federal Government used to consider the maximum acceptable dosage of radiation was four times what it is today.

In light of what we have learned from a representative range of witnesses, it can be said now, with even greater confidence, that the fallout tragedy our bill addresses is a distinctive problem. Never before have American citizens become the victims of the peacetime use of nuclear weapons; and victimized not by radiation exposure in an industrial workplace, or on an island in the Pacific, but victimized without their knowledge or consent within their own farms, homes, and communities. Because of the joint work of the Labor and Human Resources and Judiciary Committees within the Senate. we have now provided the evidence. We have new knowledge that these Americans have a valid case and must be heard.

Every witness, Government and scientific expert from whom we have heard testimony revealed evidence of Federal liability. The Radiation Exposure Compensation Act of 1981 establishes that liability while providing necessary protections against nonmeritorious claims. Coverage of the bill establishes compensation to people who live in the affected areas or worked at the test site during the period of nuclear testing and who died from or have been affected by a radiation-related cancer. Also included under compensation eligibility are those individuals who worked in uranium mines during the time the Federal Government was the sole purchaser of uranium, and who have died from, have or have had uranium-related disease. Ranchers who lost sheep due to radiation explosure are also eligible for compensation. The bill provides coverage for those most clearly affected, but allows additional radiation-related diseases and geographical areas to be included based on the judgment of a blue-ribbon advisory board established under this law.

When an individual meets these time, geographic, and disease criteria, there will be a legal presumption that the disease was caused by fallout radiation from Government testing or from uranium exposure. This presumption could be rebutted, but the burden of proof would be on the Government.

Second, the Secretary of Health and Human Services is authorized to conduct a 5-year study of the health effects resulting from the atomic weapons test program conducted at the Nevada test site since 1951. Giving proper regard to the procedures of the peer review process established within the National Institutes of Health, our bill authorizing the Secretary's long-term health research authority does not specifically cite an office or center where these functions can be maintained. This having been said, I believe that the Secretary would be wise to select that already established facilities at the University of Utah where these functions can be most efficiently, effectively, and competently handled. As noted by the several comments made by experts at hearings held last year, the University of Utah pioneered the early research in this area. Dr. Joseph Lyon of the University of Utah published in the New England Journal of Medicine his study of childhood leukemias associated with fallout from nuclear testing. He concluded that a significant excess of leukemia deaths occurred in children up to 14 years of age living in Utah between 1959 and 1967. This excess was concentrated in the cohort of children born between 1951 and 1958, and was most pronounced in those residing in counties receiving high fallout. The scientific and professional staff at the University of Utah live and work closest to the problem and regardless of who receives funding we will look to them for the many unanswered pending questions in the long-term health care and treatment of ionizing radiation.

I might also add that the University of Utah sits in the middle of a State genealogical program that is the best in the world. Genealogical programs are essential to be able to trace back the health and other contributing aspects pertaining to the problems that might exist as a result of the atmospheric tests in the 1950's and 1960's.

Finally, this legislation would transfer from the Department of Energy to the Department of Health and Human Services functions relating to research on health effects of radiation. Further, this bill would make the Secretary of Health and Human Services the coordinator of all Federal programs of research into the human health effects of radiation.

New provisions in this legislation include a limitation on amounts of awards with the exact amount to be set at markup; a rebuttable presumption that fallout caused cancer; attorney's fees limited to 10 percent of the first $100,000 of awards plus 5 percent of excess; and that the advisory panel may determine other radiation-related diseases and other affected areas than defined in the bill.

I suspect that many of my colleagues may harbor the notion that this bill can be relegated to a mere regional interest, that it has importance only for the citizens living in southwestern States. Their suspicions are mistaken. This bill affects all of us. Not only would a great national wrong be at least partially righted, but also the repercussions of what the Federal Government did or failed to do during the years of and since the tests may have touched many areas of our country, among them including Akron, Ohio, and the upper reaches of New York State, where clouds that had earlier overcast the atomic test sites may have rained radioactive particles on the land and people in these parts of our country. Upholding a standard of fairness as fundamental to our American way of life means that when it is the Federal Government which is negligent, the Government must be called to account. It must be made responsible to and for its actions, and the people of our country should know about it.

At a town meeting in St. George, Utah, Mrs. Pat Walter summed up the problem with the following story:

> The way I feel about the government and their responsibility is this, I was trying to think of an analogy and the only thing I could think of was when I was a little girl, I used to stand on the mantlepiece above the fireplace and I'd jump down in my daddy's arms. He always caught me. I kind of feel like the government let me fall. They just didn't catch me when I jumped and I jumped with a lot of faith.

For, despite all the publicity, southern Utahans and those in surrounding States have remained calm. They have raised their voices, but only just loudly enough to be heard. In an era when patriotism has become unfashionable, they still remember their country. In a society where importunity is institutionalized and rewarded, they have remained patient.

Since the full details of the fallout story first became available, a number of us have grappled with the matter, trying to come up with the most effective and equitable legislative solution to the problem and one which would not further violate the Federal balance or bankrupt the U.S. Treasury. I believe, Mr. President, that Senators KENNEDY, GARN, CANNON, LAXALT, DECONCINI, RANDOLPH, INOUYE, HAWKINS, METZENBAUM, PELL, HATFIELD, MATSUNAGA, MOYNIHAN, DENTON, and MATHIAS and I have developed the most practical, humane, and proper alternative available to us as lawmakers. The people of the southwest United States and of my home State of Utah in particular, have suffered unspeakable hardships in the last two decades because of ignorance and because of mistakes made by the Federal Government in the 1950's and 1960's. These mistakes were avoidable, even without what we now know. Certainly they must never, ever again, be repeated. The patriotism, strength, and moral virtue of the citizens who testified at our Utah hearings were obvious to every person in the room at the time. They are part of our country's greatest natural resources, and with this bill we can do something practical to conserve it by meeting the honest debts of this society to these brave people.

I introduce into the RECORD at this time and ask unanimous consent that a copy of the bill, a copy of a summary and some questions and answers about the Radiation Exposure Compensation Act of 1981, and the "Dear Colleague" letter which we have sent to all of our colleagues in the U.S. Senate be printed in the RECORD.

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

S. 1483

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 "Radiation Exposure Compensation Act of 1981".

SEC. 2. (a) Title 28 of the United States Code is amended by adding after section 2680 the following new section:

"§ 2681. Liability for certain nuclear tests

"(a) Notwithstanding section 2680(a) of this title, the United States shall be liable—

"(1) for damages in an amount not to exceed $----------, plus unreimbursed hospital, medical, and funeral costs per individual to an individual who resided, for a period of one year between January 1, 1951, and October 31, 1958, in an affected area during such time as such area was exposed to low level radiation as a result of nuclear detonation, or who resided, between June 30, 1962, and July 31, 1962, in an affected area during such time as such area was exposed to low level radiation as a result of nuclear detonation, and who after January 1, 1952, died from, has, or has had acute leukemias or chronic myelogenous leukemia, thyroid carcinoma, pulmonary carcinoma, osteogenic sarcoma, or any other cancer identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1981;

"(2) for damages in an amount not to exceed $----------, plus unreimbursed hospital, medical, and funeral costs per individual, to an individual who worked for a period totaling at least one year for a contractor or contractors hired by the United States and who was hired to set up and dismantle nuclear tests at the Nevada Test Site between January 1, 1951, and October 31, 1958, or between June 30, 1962, and July 31, 1962, and who after January 1, 1952, died from, has, or has had acute leukemias or chronic myelogenous leukemia, thyroid carcinoma, pulmonary carcinoma, osteogenic sarcoma, or any other cancer identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1981;

"(3) for damages in an amount not to exceed $----------, plus unreimbursed hospital, medical, and funeral costs per individual to an individual who worked in a uranium mine in Colorado, New Mexico, Arizona, or Utah for at least one year between January 1, 1947, and December 31, 1961, and who after January 1, 1948, died from, has, or has had lung cancer or significant pneumoconiosis, as determined by the standards set in the International Labor Organization's 1980 revised manual. The International Classification of Radiographs of Pneumoconiosis, or any other disease or illness identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1981; and

"(4) for damages to a qualified sheep herd.

"(b) In any action filed under subsection (a), the court shall admit and hear evidence upon the question of whether the plaintiff meets the requirements provided in paragraph (1), (2), (3), or (4) of that subsection. If the court determines that the plaintiff meets such requirements, there shall be a rebuttable presumption that the damages alleged by the plaintiff were caused by exposure to radiation as a result of a nuclear detonation or exposure to uranium as a result of employment in a uranium mine, as the case may be. The court, after a determination that the plaintiff meets such requirements, shall admit and hear evidence rebutting such presumption and upon the question of the amount of damages to which the plaintiff is entitled.

"(c) Notwithstanding section 2401(a) of this title, any action commenced for damages described in subsection (a) shall be barred unless—

"(1) with respect to an action for damages described in paragraph (1), (2), or (3) of subsection (a), the complaint is filed—

"(A) within two years after the date on which the report is filed by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium under section 4(f) of the Radiation Exposure Compensation Act of 1981; or

"(B) within two years after the date on which the incidence of cancer is discovered; whichever is later; or

"(2) with respect to an action for damages described in paragraph (4) of subsection (a), the complaint is filed within two years after the date of the enactment of this section.

"(d)(1) Notwithstanding section 2678 of this title, no attorney shall charge, demand, receive, or collect for services rendered pursuant to an action brought under subsection (a), fees in excess of 10 per centum of the first $100,000 of any judgment rendered under subsection (a) and 5 per centum of any excess or in excess of 10 per centum of the first $100,000 of any award, compromise, or settlement and 5 per centum of any excess made pursuant to section 2672 of this title for a cause of action under subsection (a).

"(2) Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this subsection, if recovery be had, shall be required to make restitution of any such excess and may be fined not more than $5,000, or imprisoned not more than one year, or both.

"(e) For the purposes of this section, the term—

"(1) 'affected area' means—

"(A) areas shown to have received a significant level of fallout as a result of the nuclear detonation at the Nevada test site between January 1, 1951, and October 31, 1958, or between June 30, 1962, and July 31, 1962, as shown by the best available fallout maps, as determined by the Secretary no later than 90 days after the date of enactment of the Radiation Exposure Compensation Act of 1981; and

"(B) any other area within the United States identified by the Advisory Panel on the Health Effect of Exposure to Radiation and Uranium under section 4 of the Radiation Exposure Compensation Act of 1981 to have received a significant level of fallout as a result of the nuclear detonations at the Nevada Test Site between January 1, 1951, and October 31, 1958, or between June 30, 1962, and July 31, 1962; and

"(2) 'qualified sheep herd' means any sheep herd which is the subject of an action, initially commenced at least 10 years prior to the date of the enactment of this section, for damages caused to the herd by the Nancy nuclear detonation on March 24, 1953, or the Harry nuclear detonation on May 19, 1953.

"(f) The right to bring a civil action under this section is in addition to, and not in lieu of, any other remedy provided by a Federal law or program which provides for compensation or reimbursement to such person for damages described in subsection (a). The filing of an action under this section does not affect the rights of any person under such Federal law or program.".

(b) The table of sections for chapter 171 of title 28, United States Code, is amended by adding at the end thereof the following:

"2681. Liability for certain nuclear tests.".

SEC. 3. Section 1346 of title 28, United States Code, is amended by adding at the end thereof the following:

"(g) The district court shall have exclusive original jurisdiction of any civil action under section 2681 of this title for damages recoverable under that section due to exposure to radiation or uranium.".

SEC. 4. (a)(1) There is established within the Department of Health and Human Services an Advisory Panel on the Health Effects of Exposure to Radiation and Uranium (hereinafter in this section referred to as the "Advisory Panel"), which shall consist of seven persons not otherwise employed by the United States, appointed by the Secretary of the Department of Health and Human Services without regard to the provisions of title 5, United States Code, relating to appointments in the competitive civil service. At least five members of the panel shall be appointed from among individuals who are distinguished in the subject of the health effects in human beings caused by exposure to radiation and uranium.

(2) The Advisory Panel shall be appointed, and shall convene, within three months of the date of enactment of this section. The Advisory Panel shall meet at the call of the Chairman, or at the call of a majority of the members. Five members shall constitute a quorum for the conduct of business.

(b)(1) The Advisory Panel shall identify, for the purposes of recovery under section 2681 of title 28, United States Code—

(A) those types of cancer, other than acute leukemias or chronic myelogenous leukemia, thyroid carcinoma, pulmonary carcinoma, and osteogenic sarcoma, that are more likely than other cancers to develop in human beings after exposure to low level radiation.

(B) those diseases and illnesses, other than lung cancer and significant pneumoconiosis, as determined by the standards set in the International Labor Organization's 1980 revised manual, The International Classification of Radiographs of Pneumoconiosis, that are more likely than other diseases and illnesses to develop in human beings who worked in uranium mines for at least one year between January 1, 1947, and December 31, 1961, and

(C) those areas which have received a significant level of fallout as a result of the nuclear detonations at the Nevada test site between January 1, 1951, and October 1, 1958, or between June 30, 1962, and July 31, 1962.

(2) The Advisory Panel may undertake an investigation or study of any appropriate matter which is necessary in order to carry out its functions under this subsection.

(3) The Advisory Panel may, for the purposes of carrying out its functions under this subsection, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Advisory Panel considers advisable.

(4) In order to avoid duplication of effort, the Advisory Panel may, in lieu of or as part of any necessary study or investigation required or otherwise conducted under this subsection, use a study or investigation conducted by another entity.

(c)(1) The Advisory Panel is authorized to obtain from any department, bureau, agency, board, commission, office, independent establishment or instrumentality of the executive branch of the Federal Government, records, reports, statistics, and any other information for the purposes of carrying out its functions under this section. Such records, reports, statistics, and any

other information shall be furnished to the extent permitted by law and within avaliable resources.

(2) The Advisory Panel shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its functions under this section.

(3) In any case in which the Advisory Panel obtains information under this subsection, the Advisory Panel shall not disclose any information exempt from disclosure under section 552(a) of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

(d)(1) The Secretary of the Department of Health and Human Services shall, at the request of the Advisory Panel, appoint such staff personnel as may be necessary to enable the Advisory Panel to carry out its functions under this section. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the Secretary of the Department of Health and Human Services, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Advisory Panel to assist it in carrying out its functions under this section.

(3) The Secretary of the Department of Health and Human Services may procure, on behalf of the Advisory Panel, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(4) The Administrator of General Services shall provide to the Advisory Panel on a reimbursable basis such administrative support services as the Advisory Panel may request.

(e) Each member of the Advisory Panel shall be entitled to the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day of service (including traveltime) during which they are engaged in the actual performance of duties vested in the Commission. While so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed by the Government intermittently.

(f)(1) No later than one year after the date the Advisory Panel convenes as required under paragraph (3) of subsection (a), the Advisory Panel shall file a report with the Congress setting forth its findings pursuant to paragraph (1).

(2) The Advisory Panel shall continue in existence until three months after the date the report is filed under paragraph (1) of this subsection.

(g) The Advisory Panel is not subject to the provisions of the Federal Advisory Committee Act.

(h) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 5. Section 301(b)(2) of the Public Health Service Act (42 U.S.C. 241(b)(2)) is amended by adding at the end thereof the following:

"(C) The Secretary shall conduct, and may support through grants and contracts, a comprehensive assessment of the adverse health effects resulting from the atomic weapons test program conducted at the Nevada Test Site since January 1, 1951. For the purposes of carrying out this subparagraph, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1983, and for each of the subsequent four fiscal years.".

SEC. 6. (a) There are transferred to the Department of Health and Human Services all functions of the Department of Energy relating to research regarding the health effects of radiation on human beings, including those functions described in sections 31 through 33 of the Atomic Energy Act of 1954 and sections 103 and 107 of the Energy Reorganization Act of 1974, which relate to research regarding the health effects of radiation on human beings.

(b) To the extent necessary or appropriate to perform functions and carry out programs transferred by this section, the Secretary of Health and Human Services may exercise, in relation to the functions so transferred, any authority available by law, including appropriation Acts, to the official or agency from which such functions were transferred.

(c) The Secretary of Health and Human Services shall coordinate all Federal programs of research into the health effects of radiation.

(d) The provisions of this section shall become effective 180 days after the date of enactment of this Act.

SOME QUESTIONS AND ANSWERS ABOUT THE RADIATION EXPOSURE COMPENSATION ACT OF 1981

Q: Who is sponsoring the bill?

A: The bill is sponsored by Sen. Orrin G. Hatch (R-Utah), Sen. Edward M. Kennedy (D-Mass.), Sen. Paul Laxalt (R-Nevada), Sen. Jake Garn (R-Utah), Sen. Howard W. Cannon (D-Nev.), Sen. Dennis DeConcini (D-Ariz.), Sen. Jennings Randolph (D-W. Va.), Sen. Howard M. Metzenbaum (D-Ohio), Sen. Mark O. Hatfield (R-Oreg.), Sen. Paula Hawkins (R-Fla.), Sen. Daniel K. Inouye (D-Hawaii), Sen. Spark M. Matsunaga (D-Hawaii), Sen. Daniel P. Moynihan (D-N.Y.), Sen. Claiborne Pell (D-RI), Sen. Jeremiah Denton (R-Ala.), and Sen. Charles McC. Mathias (R-Md.).

Q: Who is covered under this bill?

A: This bill covers everybody who lived in the shadow of fallout from open-air Atomic Bomb testing during the 1950s and 1960s. It provides procedures for compensating people who lived in the affected areas or worked as civilian employees and who died from or have been affected by specified radiation-related cancer. It also covers those persons who mined uranium in Colorado, New Mexico, Arizona and Utah from 1947 to 1961 when the U.S. government was the sole purchaser of uranium. Ranchers who lost sheep due to certain open air tests are also eligible for compensation.

Q: What does the bill do for the victims who are still living?

A: A clinic and research center would be established, with initial funding of $2 million. The center will provide medical care (free or at low cost to victims of fallout), and will serve as an information-gathering research center to investigate the causes, symptoms and treatment of radiation-related health problems.

Q: What are the differences between this bill and S. 1865 introduced during the last session of Congress?

A: There are six major changes in this revised legislation. First, there is a limitation on amount of awards, with the exact amount to be set at committee mark-up; second, a rebuttable presumption that fallout caused cancer; third, attorney's fees are limited to 10 percent of first $100,000 of award plus 5 percent of excess; fourth, areas covered in this bill are those shown to have received a significant level of fallout as a result of the open air nuclear testing as shown by the best available fallout maps, as determined by the Secretary no later than 90 days after the date of enactment of the Radiation Compensation Act of 1981; fifth, the Advisory Panel may determine other radiation-related diseases and other affected areas; and sixth, the Advisory Panel, consisting of 7 members is now under the Department of Health and Human Services.

Q: Does this bill only concern itself with a small portion of the country and population?

A: No. This bill affects all of us. Not only would a great national wrong be at least partially righted, but also the repercussions of what the Federal Government did or failed to do during the years of and since the tests may have touched many areas of our country. For example, fallout may have been carried by clouds as far as the East Coast.

Q: Do you anticipate holding further hearings on this bill?

A: Yes. We have held several hearings during the past two years and we are planning to hold more hearings in September or October on specific provisions of this bill.

Q: How much money will be paid to the victims?

A: The courts will determine the exact amount of compensation. The Advisory Panel will determine what types of radiation-related cancer will be considered sufficient grounds for compensation. This panel will operate under the auspices of the Department of Health and Human Services. A monetary ceiling amount will be set by the Labor and Human Resources and Judiciary Committees after hearings are held.

Q: Does this bill affect the testing that may be planned yet in Nevada?

A: No. Many of the factors that created problems in Southern Utah, Nevada, and Arizona have been changed. Testing is now done underground, greatly reducing the amount of radiation released. Radiation is released only in rare circumstances ("ventings") which have been significantly reduced. Sampling procedures are dramatically improved over those used between 1953 and 1963, so that even if there were a leak of radiation (and that is doubtful), proper warnings could be given and adequate tracking is possible.

Q: What specific cancers are covered in this bill?

A: From expert medical advice, it was determined that the following cancers have a correlation with radiation: acute leukemias, chronic myelogenous leukemia, thyroid carcinoma, pulmonary carcinoma, osteogenic sarcoma. Other types of cancer may be identified by the Advisory Panel on the Health Effects of Exposure to Radiation and Uranium. For uranium miners, correlated illnesses are lung cancer or significant pneumoconiosis. Again, other diseases may be identified by the Advisory Panel.

Q: Why are you introducing this bill?

A: When the United States government began atmospheric nuclear testing in the 1950s—testing which was necessary for national defense purposes—the fallout from the "mushroom clouds" drifted across the farms, homes and communities of residents of the southwest desert states and may also have carried over into other parts of the country. They were not warned that the radioactive dust might make them ill immediately, or worse, set them up for cancers to appear later, sometimes as much as 30 years later. They were not told even the simplest precautions they could take to prevent this exposure. And as a result, many of these Americans have died from diseases precipitated by the fallout; many others are ill. Many more will be expected to become ill, and some die.

At the time some sheepmen sued the Federal Government for killing their sheep, but the case was thrown out of court. The Gov-

ernment had repressed evidence that indicated the bomb fallout could have caused the damage. They are suing again.

But in the case of human afflictions, the government has argued that any statute of limitations has run out. Those who are sick, they say, have waited too long to be able to sue.

I think that is basically unfair. Our hearings have clearly shown the Government was at fault. This bill is intended to give these people the means to obtain some redress of their grievances.

RADIATION EXPOSURE COMPENSATION ACT OF 1981

SUMMARY

1. Makes the United States liable for damages, arising from certain nuclear tests conducted at the Nevada Test Site, to certain residents, participants, and qualified sheep herds.

2. Establishes within the Department of Health and Human Services an Advisory Panel on the Health Effects of Exposure to Radiation and Uranium.

3. Transfers to the Department of Health and Human Services all functions of the Department of Energy relating to research on the health effects of radiation on human beings.

DIGEST OF BILL

Makes the United States liable for (1) damages arising from open-air nuclear tests conducted at the Nevada Test Site to individuals who have certain radiation-related cancers and who resided in certain affected areas for a period of one year between January 1, 1951, and October 31, 1958, or between June 30, 1962, and July 31, 1962; or who, for a period of one year during such dates, was a civilian employee at the Nevada Test Site; (2) damages to individuals who have certain uranium mining-related illnesses and who worked in a uranium mine in Colorado, New Mexico, Arizona, or Utah, for at least one year between January 1, 1947 and December 31, 1961; and (3) damages to a qualified sheep herd.

Establishes in any action filed under this Act, upon a determination by the court that the plaintiff meets the requirements of the Act, a rebuttable presumption that the damages alleged were caused by exposure to radiation as a result of a nuclear detonation or exposure to uranium. Limits the amount of attorney fees which can be received with respect to such actions.

Defines "affected area" to mean areas of the United States which received a significant level of fallout as a result of the Nevada Test Site detonations based on the best available fallout maps as determined by the Secretary of Health and Human Services (HHS) within 90 days of enactment.

Establishes within HHS a seven-member Advisory Panel on Health Effects of Exposure to Radiation and Uranium to identify, for the purposes of recovery under this Act: types of cancer not already identified in the Act which develop after exposure to low level radiation; disease and illnesses not already identified in the Act which develop after uranium mine employment; and areas which received a significant level of fallout and which are not already identified in the Act. Directs the Advisory Panel to report its findings to Congress within one year of the date it convenes.

Amends title III of the Public Health Service Act (General Powers and Duties) to direct the Secretary to conduct a comprehensive assessment of the adverse health effects resulting from the Nevada Test Site atomic weapons test program since January 1, 1951.

Transfers to the Department of Health and Human Services all functions of the Department of Energy relating to research on the health effects of radiation on human beings.

COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C., July 8, 1981.

DEAR COLLEAGUE: We are planning to introduce legislation July 14 that will provide compensation to victims of radioactive fallout from atomic bomb testing in Nevada in the 1950s and 1960s. Senators Hatch, Kennedy, Garn, Cannon, DeConcini and Laxalt will be joining in the introduction of the Radiation Compensation Act of 1981.

These amendments establish procedures for compensating victims and the families of victims of low-level ionizing radiation that resulted from the Nevada testing. This bill is a revised version of S. 1865 introduced last Congress and co-sponsored by several Senators. This bill continues the same premise that the federal liability extends from the lack of safety and health measures taken by test officials and the grossly inadequate warnings provided to the general public.

Specifically, coverage of the bill extends to those who after January 1, 1951 died from or contracted the various diseases connected to fallout from the Nevada tests and to those who were uranium miners in Colorado, New Mexico, Arizona, and Utah between January 1, 1947, and December 31, 1961.

First, the bill would establish procedures to compensate people who lived in the affected areas or worked at the test site during the period of nuclear testing and who died from or have been affected by a radiation-related cancer. Also included under compensation eligibility are those individuals who worked in uranium mines during the time the government was the sole purchaser of uranium, and who have died from, have or have had uranium related disease. Ranchers who lost sheep due to radiation exposure are also eligible for compensation. The bill provides coverage for those most clearly affected, but allows additional areas or radiation-related diseases to be included based on guidance from the advisory board established under this law.

When an individual meets these criteria, there will be a legal presumption that the disease was caused by fallout radiation from government testing or from uranium exposure. This presumption could be rebutted, but the burden of proof would be on the government. The courts would then decide the amount of damages to which each victim would be entitled.

Second, the Secretary of Health and Human Services is authorized to conduct a five year study of the health effects resulting from the atomic weapons test program conducted at the Nevada test site since 1951. There are also provisions to support the maintenance and expansion of cancer-related research such as that conducted at the University of Utah.

Third, the legislation would transfer from the Department of Energy to the Department of HHS all functions relating to research on health effects of radiation. Further, this bill would make the Secretary of HHS the coordinator of all Federal programs of research into the human health effects of radiation.

New provisions in this revised legislation include: 1) limitation on amount of awards (the exact amount would be set at mark-up), 2) Rebuttable presumption that fallout caused cancer; 3) Attorney's fees limited to 10% of first $100,000 of award plus 5% of excess; 4) best available map of fallout pattern will be basis of setting geographic impact area; 5) the Advisory Panel may determine other radiation related diseases and other affected areas.

This comprehensive proposal comes after several years of investigation and discussion and many hours of public hearings. We plan to hold more hearings on specific features of the legislation. Let me reemphasize that should this legislation be enacted, it will not be the first time our Government paid for damages and diseases caused by atomic bomb testing. Compensation for similar injuries has already been extended to residents of the Marshall Islands and special provisions have recently been adopted for military personnel exposed to the same Nevada tests this legislation covers for civilians. All of the citizens with whom this legislation deals have suffered great losses.

We believe this is a good piece of legislation which will make strides toward rectifying a massive injustice, albeit more than 20 years after the fact.

This is why we urge you to join with us as a co-sponsor. Should you wish to do so, or if there are any additional questions you or your staff wish answered, please call either Steve Grossman (#4-3191) or David Sundwall, M.D. (#4-2563). Thank you.

Cordially,

ORRIN G. HATCH,
Chairman.
EDWARD M. KENNEDY.
PAUL LAXALT.
HOWARD W. CANNON.
JAKE GARN.
DENNIS DECONCINI.

● Mr. CANNON. Mr. President, the commitment of our Nation to remain strong militarily has been exemplified for three decades by nuclear testing at the Nevada test site. These tests have had the widespread support of the American public. Unfortunately, the other side of these important and positive activities has been the negative impacts visited upon test site workers and nearby residents who were unwittingly exposed to deadly radiation from the nuclear experiments in the fifties and sixties.

Partially due to negligence and partially due to ignorance, the effects of radiation exposure were downplayed by the Federal Government and the old Atomic Energy Commission. Local residents were encouraged to take to the surrounding hillsides to watch the spectacle of nuclear might. Test site workers were told to reenter the site following a test to clean up the debris and most of them spent their entire workday in a contaminated environment where they would eat lunch, use portable bathroom facilities, and come in contact with radioactive dust particles that covered the area following a test.

It was not until later that the horrible truth was revealed. Disproportionate numbers of cancer and leukemia victims were detected among the population groups that came into contact with the tests. The Government had deceptively minimized the health dangers of exposure and did not inform the public of the uncertainty that existed over the potential dangers of fallout and radiation contamination.

In light of these facts, many of which came out in important Senate hearings conducted in Nevada, Utah, and Arizona by Senators HATCH and KENNEDY during the last Congress, it is appropriate for the Federal Government to provide compensation for these victims, including uranium miners and ranchers whose sheep herds died from the exposure. The causal link between the testing and extraordinary disease rates in exposed areas has been sufficiently demonstrated to convince me that compensation should be afforded under Federal law.

This action is more than appropriate when you compare it with the fact that the Government may spend up to $2 billion to clear up radioactive waste scattered around atomic research sites in 13 States and the fact that residents within a 25-mile radius of the Three Mile Island nuclear powerplant will receive millions of dollars in a settlement of a class action suit brought following the well-publicized accident that occurred there in 1979.

Public Laws 88–485 and 95–134 have previously been enacted to provide compensation to inhabitants of the Marshall Islands exposed to fallout from nuclear testing at the Bikini Atoll in 1954. The individuals exposed under the Radiation Exposure Compensation Act of 1981 are no less deserving of some compensation for the tragedy, illness, and death caused in large measure by the cavalier attitude of the Atomic Energy Commission.

There is an important addition in this bill that was not a part of S. 1865, the compensation legislation introduced in the 96th Congress. Test site workers have now been wisely included in the compensable class of radiation exposure victims. The test site workers were not Federal employees and could not be compensated under the Federal employees compensation program. Because of the same question of casuality that is being settled by this bill, the Nevada State workman's compensation law has not yielded a single recovery because the employer denies any connection between the nuclear testing and cancer cases among test site workers. No such claims have been accepted by workman's compensation in Nevada.

I am gratified that the inclusion of the test site workers under the Radiation Exposure Compensation Act of 1981 will cover more than 80 percent of the test site workers. The version of the bill being introduced today covers the period of atmospheric testing only. During hearings on this measure, I will encourage the Committee on Labor and Human Resources to include under the compensation scheme workers who were exposed to radiation during underground testing as well. The merits of adding these additional workers are the same as for including the workers under the proposed bill. Nevada test site workers were routinely exposed to fallout from surface tests as well as from the 30 or so "vents" of underground tests which occurred between September 1961 and June 30, 1967. Venting means that the shots were not contained underground. Consequently, radioactive debris was scattered over large areas of the test site and the workers were exposed to it, as well as being required to reenter the firing tunnels to drill more tunnels for further tests.

On the merits, all Nevada test site workers who were so blithely exposed to radiation deserve compensation for any radiation-related disease which resulted. On the basis of physical proximity alone, their cause is at least as great as other beneficiaries of the compensation act.

The Radiation Exposure Compensation Act of 1981 is of vital concern to hundreds of my constituents whose lives have been disrupted and whose families have lost a loved one due to the nuclear testing. This compensation plan will never pay for the lost lives and the human misery, but it will go a long way to closing a sad chapter in the important development of atomic energy.●

Mr. KENNEDY. Mr. President, I am pleased to join with Senators HATCH, GARN, CANNON, LAXALT, DECONCINI, RANDOLPH, INOUYE, HAWKINS, METZENBAUM, PELL, MOYNIHAN, DENTON, MATSUNAGA, HATFIELD, and MATHIAS in introducing the Radiation Exposure Compensation Act of 1981. The major purpose of this legislation continues to be for the Federal Government to accept responsibility for actions that it took during the 1950's and 1960's that resulted in irreparable harm to American citizens.

During that period of time, because of the compelling needs of national security, the U.S. Government conducted an extensive series of atmospheric nuclear tests at a test site in southeastern Nevada. This testing program, considered an integral part of our national security, enjoyed the wide support of the American people.

At hearings held in Washington, Utah, and Nevada in 1979 and 1980, much was revealed about the atmospheric testing program, its health effects and the nature of Government deliberations at that time. Unfortunately, much of what we learned was tragic.

We learned that the Federal Government deliberately and consistently minimized the health effects of fallout from the atmospheric tests. We learned that the American people were not informed of the evidence that was gathered about the uncertainty of the health effects.

We learned that the Atomic Energy Commission withheld evidence linking radiation from the fallout to higher incidences of leukemia and thyroid cancer and deaths of sheep herds. We learned of the open hostility within the Atomic Energy Commission to medical staff raising health issues.

We learned that Americans were sent down into uranium mines to mine the ore to keep the testing program going despite the fact that it was known that the conditions of the mines were unhealthy and the precautions that could have been taken to minimize the health risks were not taken.

And, we learned that in the face of all these known factors and uncertainties, an all-out public relations campaign was mounted by the Atomic Energy Commission to assure those affected that there was no danger.

Mr. President, we are just now beginning to fully understand the results of the Government's failure to fully protect the health of the citizens who lived near the test site and who mined the uranium. In February of 1979, Dr. Joseph Lyon of the University of Utah published in the New England Journal of Medicine his study of childhood leukemias associated with fallout from nuclear testing. He concluded that a significant excess of leukemia deaths occurred in children up to 14 years of age living in Utah between 1959 and 1967. This excess was concentrated in the cohort of children born between 1951 and 1958, and was most pronounced in those residing in counties receiving high fallout.

Dr. Harold Knapp, a scientific analyst for the Atomic Energy Commission from 1960 to 1963, testified previously that in the downwind areas during the years of heavy testing, the dose of radiation to the thyroid of infants and young children who drank fresh milk could have been in the range of hundreds of rads. On the basis of his investigation, he found "a direct relation between the increase in thyroid cancers and fallout."

Dr. Donald Frederickson, recent Director of the National Institutes of Health, when asked to explain the reasons for the increase in sheep deaths in areas near the test site, said that it would be "probably impossible to conclude that radiation was not at least a contributary cause to the death of the sheep." An analysis of 3,500 underground uranium miners by the Public Health Service showed that working in those mines significantly increased the incidence of lung cancer.

Mr. President, in order to give you an idea of the magnitude of the injustice, let me cite a comparison to the recent crisis at Three Mile Island. During that incident the Governor of Pennsylvania, after consultation with health and nuclear experts, advised evacuation of pregnant women and children living within a 5-mile radius of the reactor where the radition doses were 2 to 25 milirems. And yet, no one warned citizens of Utah, Nevada, and Arizona who lived near the Nevada test site and who received radiation doses 40 to 500 times higher than that which triggered the evacuation near Three Mile Island.

At our hearing in Salt Lake City, Ms. Elizabeth Catalan who had grown up in St. George, Utah, and whose father had died of leukemia, expressed quite poignantly the feelings of many of those who lived in the affected areas:

> I don't feel bitter . . . but I feel used. I feel like we did what we were asked to do by the government, and the community went all out. And in return, we were used, we were conned. They knew. They knew, and they did not tell us. And I feel that had they told us . . . people would have cooperated, but I feel that we had a right to know.

Mr. President, no legislation can completely rectify the wrongs that have been committed against this group of American citizens. However, the legislation introduced today attempts to do all that can be done 20 years after the fact and tries to guarantee that it can never happen again.

Senator HATCH in his statement has outlined the various provisions of the Radiation Exposure Compensation Act. Basically, coverage of the bill extends to those who after January 1, 1951, died from or contracted the various malignancies connected to fallout from the Nevada tests and to those who were uranium miners in Colorado, New Mexico, Arizona, and Utah between January 1, 1947, and December 31, 1961. Ranchers who lost sheep due to radiation exposure are also eligible for compensation.

When an individual satisfies the various criteria established by the bill,

there will be a legal rebuttable presumption that the disease was caused by fallout radiation from Government testing or from uranium exposure. If the Government cannot meet its burden of proof, the courts would then decide the amount of damages to which each victim would be entitled within a yet to be determined ceiling.

Mr. President, I believe it is important to point out the precedent for this legislation. On March 1, 1954, the inhabitants of the Marshall Islands were exposed to radiation fallout from a U.S. thermonuclear detonation at Bikini Atoll. In 1964, Public Law 88–485 was enacted to compensate these people. Subsequently, the inhabitants began to suffer from thyroid cancer and other diseases, and in 1977 Congress enacted Public Law 95–135, which provided additional compensation for the people of the islands. I believe that we should show that same sense of responsibility and compassion for our own citizens.

RECOGNITION OF SENATOR WARNER

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

S. 1484—NATIONAL OIL SHALE LEASING ACT OF 1981

Mr. WARNER. Mr. President, I rise today in order to introduce the National Oil Shale Leasing Act of 1981. I do so on behalf of myself, Mr. MCCLURE, chairman of the Energy Committee, and Mr. WALLOP.

Hearings that have been held in both the Armed Services Committee and the Energy and Natural Resources Committee have emphatically driven home the point that a nation which has adequate energy resources and assured access to these resources, insures its own national security.

Moreover, a nation which has abundant energy resources is able to assume a strong leadership position in the world and exert enormous influence in the movement toward worldwide peace.

America must break away from a ruinous dependence on foreign oil. We must break away from foreign domination in our energy decisionmaking.

To do so, America must develop all of its own energy resources to the greatest extent possible.

One such resource is oil shale.

The United States has some of the richest oil shale reserves in the world.

Oil shale deposits cover about 20 percent of the United States and are located in two major geologic environments:

First, the Devonian-Mississippian oil shale complex located between Texas and New York covers an area of 250,000 square miles; and

Second, the Green River formation oil shale complex covering an area of 17,000 square miles over the States of Colorado, Utah, and Wyoming is the world's largest known hydrocarbon resource.

It is estimated that the Green River formation contains 1.8 trillion barrels of shale oil, of which 600 billion barrels is recoverable by known technology.

Think of it. America's shale oil reserves are greater than the conventional oil reserves of the Middle East and Africa combined.

The estimated 600 billion barrels of oil now recoverable from shale equals about 90 percent of the known world reserves of conventional oil.

At the current U.S. consumption rate of approximately 6 billion barrels of oil per year, the recoverable shale oil reserves would meet America's needs for nearly 100 years.

Faced with these facts, it appears obvious that development of America's oil shale resources, compatible with protection of the environment, would go a long way toward reducing America's dependence on foreign oil sources.

However, in hearings before the Energy Committee, it has been pointed out that changes in the current Federal oil shale program are needed to foster oil shale commercialization—once the Federal prototype program demonstrates that such development can be accomplished in an economically, technologically, and environmentally sound fashion.

To facilitate the implementation of the Federal oil shale program, my bill would:

Expand the number of leases that can be held by a person from one to two per State and from two to four leases nationwide;

Allow an additional lease to be obtained in a State if both leases have produced in commercial quantities and one lease is within 10 years of being mined out;

Allow the Secretary of the Interior to issue additional leases at any time for off-tract uses necessary for the recovery of oil shale;

Provide for leases for the extraction of other minerals associated with oil shale;

Provide that additional leases issued under this act for bypass leases of small acreages of Federal land would not count toward State or national lease limits;

Transfer those functions relating to the fostering of competition of Federal leases, the implementation of alternative bidding systems authorized for the award of Federal leases, the establishment of diligence requirements for operations conducted on Federal leases, the setting of rates for production of Federal leases, and the specifying of the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests, taken in kind, which under the Department of Energy Organization Act, Public Law 95–91, 91 Stat. 565, had been placed in the Department of Energy, back into the Department of the Interior; and

Expedite judicial review of a decision of the Secretary to issue an oil shale lease under the act.

Mr. President, these provisions of the "National Oil Shale Leasing Act of 1981," taken together, will remove present roadblocks and open the way to an eventual dramatic increase in American production of American oil from American shale.

I am delighted that the distinguished chairman of the Energy and Natural Resources Committee, my friend Senator MCCLURE, has agreed to join with me in sponsoring this measure, as has my friend, the distinguished chairman of the Public Lands and Reserved Water Subcommittee, Senator WALLOP.

I commend this bill to the attention of our colleagues and invite further cosponsorships. Together, we have an opportunity to speed our Nation on its course toward true energy independence.

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

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

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This Act may be cited as the "National Oil Shale Leasing Act of 1981".

SEC. 2. Section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 241), is further amended as follows:

(1) In subsection (a)—

(A) delete "section" wherever it appears and substitute therefor "subsection"; and

(B) delete from the first sentence "so much of" and "or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals,"; and

(C) delete from the second sentence "to" the first place it appears and substitute therefor "except when the Secretary determines that a larger area may be required to permit long-term commercial operations. Such lands shall ", and delete "to" the second place it appears and substitute therefor "such lands shall"; and

(D) delete from the eighth sentence "one lease" and substitute therefor "two leases in any one State and more than four leases nationwide", and delete from the eighth sentence "except that" and substitute therefor: "*Provided,* That a lessee may acquire one additional lease in any State where it has achieved production in commercial quantities from both existing leases in that State and it is within ten years of exhausting the commercially recoverable reserve on one of the existing leases: *Provided further,* That the limitation on ownership of oil shale leases shall not apply with respect to leases issued to avoid bypass of small acreages of Federal oil shale resources which could not otherwise be mined economically. However,".

(2) In subsection (c)—

(A) redesignate the existing subsection (c) as paragraph (c)(1); and

(B) add thereafter the following new paragraph:

"(2) The Secretary is authorized to issue leases pursuant to subsection (a) allowing the mining, extraction and disposal of other mineral deposits, in addition to oil shale deposits, that are contained in the lands covered by the lease, subject to such terms, conditions, and restrictions as may be imposed by the Secretary consistent with subsection (a), notwithstanding other provisions of this Act with respect to the leasing of such mineral deposits ".

(3) At the end thereof add the following new subsections:

"(d) The Secretary may lease such additional lands as may be required in support of operations necessary for the recovery of oil shale. Such operations may include the disposal of oil shale waste and the materials re-

moved from mined lands, and the building of plants, reduction works, and other facilities connected with oil shale operations, but shall exclude the removal of any mineral deposits contained in such additional lands. The Secretary may issue such leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby. Any lease issued under this subsection for any lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe. A lease issued under this subsection shall be for such periods of time and shall include such lands as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values. Any lease issued under this subsection shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as may be needed from time to time to continue to reflect the fair market value. Lands leased under this subsection shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the lease issued under this subsection.

(e) Any action seeking judicial review of a decision of the Secretary to issue a lease pursuant to this section may only be brought within sixty days following the date the decision of the Secretary is announced and made public by publication in newspapers of general circulation in the areas affected. Any claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in the appropriate United States district court. Notwithstanding the amount in controversy, such court shall have jurisdiction to determine such proceedings and to provide appropriate relief. Any such proceeding shall be assigned for hearing at the earliest possible date, and shall be expedited in every way by such court. No court shall have jurisdiction to grant any injunctive relief against the issuance of any lease pursuant to this section except as a part of a final judgment entered in a case involving a complaint filed pursuant to this section.".

(4) Subsection (b) of section 21 of such Act is amended by striking out "this section" and inserting in lieu thereof "subsection (a)".

SEC. 3. Section 27(e) of the Mineral Leasing Act of 1920 (41 Stat. 448; 30 U.S.C. 184(e)) is amended as follows:

(1) In paragraph (1) insert after the words "under this Act" the words "or, with respect to oil shale, exceeds in the aggregate the maximum number of leases allowed to any one person, association, or corporation under this Act,".

(2) In paragraph (2)—

(A) insert after the words "against the total acreage" in the first sentence the words "or the total number of oil shale leases";

(B) insert after the words "total acreage" in the second sentence the words "or number of oil shale leases"; and

(C) insert after the words "under this Act" in the second sentence the words, "or, in the case of oil shale, the maximum number of leases allowed to any one person, association, or corporation under this Act.".

SEC. 4. (a) There are hereby transferred to and vested in the Secretary of the Interior all functions vested in the Secretary of Energy by section 302 (b) and (c) (91 Stat. 578; 42 U.S.C. 7152) of the Department of Energy Organization Act.

(b) Section 210 (91 Stat. 577; 42 U.S.C. 7140) and sections 303 (91 Stat. 579; 41 U.S.C. 7153) of the Department of Energy Organization Act are hereby repealed.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 10:40 a.m.

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

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

The bill clerk proceeded to call the roll.

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

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

VISITS TO WASHINGTON, D.C., BY 4–H GROUPS

Mr. BOSCHWITZ. Mr. President, during the course of the summer, many people from across the Nation in the 4–H groups are coming to visit the Capital of our country. They are coming here to get some understanding of our Government and how our Government works. But it is well to talk also about where they are coming from and what they represent. They represent the great heartland of our country. They represent the agricultural base of the United States.

So, as they come this summer, I welcome them, as do my colleagues here in the Senate.

Mr. President, we have indeed an extraordinary country in many ways. Perhaps one of the most extraordinary and unusual features is the great Corn Belt, the Middle West, the fertile heart of our country.

The great center of our country, Mr. President, is absolutely unmatched in the world. The idea of having that fertile area, an area that has the proper climate, that has the proper amount of moisture, that has the fertility to grow food, is unmatched anywhere else in the world.

There is, of course, the Ukraine, where the great wheatlands of Russia are, but they are so far north that they cannot grow soybeans or corn in that part of the country. It is very similar to Canada, as a matter of fact. There are also the pampas of Argentina, which are of approximately the same climatic and soil conditions but they shrink and pale in comparison to the great heartland of our country in size, fertility, productiveness, and ability to feed its own people.

Right through the center of that great heartland, Mr. President, we have an unusual river, an unusual river system, indeed, that allows the products of our fields to be taken to the marketplace. That, too, is an extraordinary thing. The Good Lord has indeed blessed this country. No more basic blessing exists than the ability to produce food, the ability to feed ourselves.

My State, Mr. President, is one of the large farm States of the country. It is also an unusual farm State, because we go so far north and also come down into the midst of the Corn Belt, as we border along Iowa. In the northern part of our State, Mr. President, we are unable to grow corn. In the southern part of our State, we are very heavy on corn, soybeans, and the other products that enrich this country. In the northern part, we grow potatoes, sugar beets, sunflowers, and crops that are not found in many other parts of our great Nation.

The other aspect of our agricultural system that is worth noting is the fact that it is based upon free enterprise, upon the private ownership of lands. There, the contrast must be made to Russia, because, in Russia, which is approximately two-and-a-half times our size, not 4 or 5 percent of the people live on farms, as they do in this country, but almost half of the people actually live on farms. Yet, despite that great number, the Russians are not able to produce enough food to feed themselves and, each year, they have various almost excuses, Mr. President, as to why the crop that year has not come up to expectations.

In Russia, each family is allotted approximately 2 acres to themselves. That is, if you live on a collective farm, you have a small plot of your own. On that plot, that family can grow what it wishes, they can consume what they grow, they can take what they grow to the marketplace. They can do with it what they want. From those 2-acre plots come proof of the free enterprise system, because those 2-acre plots, taken all together, constitute approximately 1 percent of the land that is planted, the land that is sown in Russia.

From that 1 percent of the land, where people are allowed to grow and consume and keep what they grow, approximately 30 percent of the agricultural output of Russia comes. So there is no question that when people are allowed to keep a reasonable share of what they produce, they produce more. That is the very basis of our free enterprise system. That is the very basis of our agricultural system that works so well and that has made us such a large exporter of agricultural products.

Mr. President, I am on the Committee on Agriculture. As a matter of fact, I am chairman of the Foreign Agricultural Policy Subcommittee of the Committee on Agriculture. The exports from our farms are among the most important parts of our economic picture. Last year we had exports of approximately $41.5 billion. We had imports of approximately $17 billion, so that we had a surplus—a surplus, Mr. President—of approximately $24 billion. That contributed mightily to the economic health and success of our Nation. That surplus, indeed, is growing.

If we look back, Mr. President, to 1970, we find that farm exports were somewhat less than $7 billion. Ten years later, farm exports have risen to $41.5 billion, a six-times growth. And it was not all made up of higher prices at all. As a matter of fact, prices are one of the principal problems of the farm. The fact is that they have not risen with inflation, despite the fact that farmers and what they buy in fertilizers, energy products, and so

forth, have indeed felt the blistering heat of inflation.

These remarks, Mr. President, about the vast, fertile heartland of our country, about the agricultural abilities of our country are made this morning because I wish to welcome the groups from our heartland, the young farmers of America, the 4–H groups that are coming, all through the summer, that are gracing our great Capital city. As they come, they also bring a certain grace and a reminder of what this country is all about.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

HIGH-INTEREST RATES

Mr. BOREN. Mr. President, I rise again today, as I have each day for the past several weeks, to call the attention of my colleagues to the ever-increasing problems being created by continued high-interest rates across the country.

There can be no better illustration of the difficulties high-interest rates are causing than two articles that have appeared in the press in the last 24 hours.

Last night in the Washington Star, William A. Niskanen, a member of the Presidents Council of Economic Advisers, acknowledged what I have been saying for months—that interest rates are not coming down. Niskanen held a breakfast meeting of reporters yesterday morning and said that real interest rates—that is, the interest rate minus the rate of inflation—are now at an alltime high, and that he does not expect long-term-interest rates to drop more than 1 percent a year in the near future.

In the same article, Treasury Secretary Donald Regan, now acknowledges that the prime interest rate may possibly fall to 13 percent by the end of the year. I call your attention, Mr. President, to the fact that just 2 weeks ago, the Administration was stoutly contending that the prime rate could reach 10 percent by the year's end.

The implication of just a 3-percent error in interest rate calculations are staggering. To mention just one, a 3-percent differential on a $1-trillion national debt will make it utterly impossible to balance the budget in 1984 as the administration contends they will do.

Incredibly, Mr. President, despite these admissions, the administration says they will not make any changes in their economic policy or in the Federal Reserve Board's restriction on the growth of the Nation's money supply. They even say that they will stick to these policies even if it results in several quarters of no growth or even a decline in the economy.

It is hard for me to accept the apparent feeling of this administration that the only way to resolve this Nation's economic problems is to drive small businesses into bankruptcy and cripple large businesses such as the housing industry.

As further proof of the volatility of high-interest rates, I bring to the attention of the Senate an article in this morning's Washington Post in which the Chairman of the Federal Home Loan Bank Board, Richard Pratt, acknowledges that one-third of this Nation's savings and loans institutions are "not viable under today's conditions" of high, volatile-interest rates.

Mr. President, that means that 4,700 savings and loans with assets of $200 billion are in trouble. Pratt said that if nothing happens to help the industry, and interest rates continue at near-record levels, one savings institution every day will be reduced to a zero net worth. He added that the failure of these savings and loans could produce a $60 billion loss.

Mr. President, all of this grim information in the past 24 hours is, unfortunately, not new. Since I began this vigil on the Senate floor, and even before, you could find similar signs of economic deterioration in nearly any 24-hour period by reading the financial journals of this country.

I say again that something must be done now—not tomorrow or the day after, but now, I ask unanimous consent that the text of the articles to which I have referred be printed at this point in the RECORD.

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

INTEREST RATE PUZZLES TOP ECONOMIST

(By Jonathan Fuerbringer)

One of the Reagan administration's top economists acknowledged today that he can not explain why interest rates have not begun to drop despite a decline in the rate of inflation.

William A. Niskanen, a member of the president's Council of Economic Advisers, said that real interest rates—the interest rate minus the rate of inflation—probably are now at an all time high.

"The reason why they are staying so high is not obvious to me," Niskanen told reporters at a breakfast meeting. He said the continued high rates are the "most puzzling aspect" of the present economic situation. "We should acknowledge that we are puzzled by this," Niskanen said.

While declining to make any interest rate predictions, Niskanen said he does not expect long-term interest rates to drop more than one percentage point a year in the near future.

And he acknowledged that the overall decline in interest rates may not be substantial until the financial markets are more convinced of the success of the president's economic program. This may not occur, Niskanen said, until the administration unveils the additional $40 billion to $50 billion in spending cuts it must make in order to fulfill its promise of a balanced budget in 1984.

However, Niskanen said he would not make any changes in the administration's economic policies or in the Federal Reserve Board's sharp restrictions on the growth of the nation's money supply, even if it results in several quarters of no growth or even a decline in the economy.

In other comments, Niskanen said the bidding war in the House and the Senate over the tax bill has produced two proposals very similar in their economic impact. Referring to the bill being put together by Democrats in the House, Niskanen said "the opposing tax bill is so close to his (the president's) that it is difficult to get exercised about the differences any more."

And Niskanen acknowledged that while he "prefers" the administration tax bill, the proposed Democratic alternative "would represent a major gain relative to the present situation."

Other members of the administration, including Treasury Secretary Donald T. Regan, have recently acknowledged that their forecasts earlier this year of a decline in interest rates have proven wrong.

Regan now acknowledges that the prime lending rate, now between 20 percent and 20.5 percent, may possibly fall to 13 percent by the end of the year. The administration had initially talked of the possibility of reaching 10 percent.

He said a switch in economic policy now could be more detrimental than the impact of a longer than anticipated high interest rates.

The failure of interest rates to decline has been a problem for the administration all year and has led to billions of dollars of upward revisions in the projected deficit because of the high cost of borrowing to cover the federal deficit.

BANK BOARD CHIEF SAYS—SERIOUS LOSS OF FINANCIAL RESERVES CITED

(By Nancy L. Ross)

In the grimmest assessment to date of the troubled savings and loan industry by a government official, Federal Home Loan Bank Board Chairman Richard Pratt acknowledged yesterday that one-third of the nation's 4,700 S&Ls—with assets of $200 billion—are "not viable under today's conditions" of high, volatile interest rates.

In Capitol Hill testimony, Pratt confirmed reluctantly that he gave these figures to a closed housing policy meeting last week. The figures he cited then and confirmed yesterday point to deeper industry trouble than federal financial regulators have hitherto acknowledged.

If nothing happens to help the industry and interest rates continue at the near-record levels of the last eight months, Pratt predicted to the commission that one savings institution every day will be reduced to a zero net worth, the point at which all financial reserves set aside to cover losses are used up.

He said that under a "downside but not wildly, radically pessimistic estimate," the failure of these S&Ls could produce a $60 billion loss. The sale of assets and federal insurance would offset that figure by $15 billion, leaving a net loss of $45 billion, Pratt said.

Pratt previously had used more conservative figures in public, as he did again yesterday in prepared testimony to the House Banking Committee. He said that 263 federally insured S&Ls are on the regulatory agency's list of most troubled institutions and that the $6 billion available in federal insurance would be adequate to take care of any losses caused by the failures or forced mergers of such associations.

When committee Chairman Fernand St Germain (D-R.I.) asked Pratt to confirm a more pessimistic analysis made last week to a meeting of the President's Commission on Housing, Pratt said an account in Washington Financial Reports, a Washington-based newsletter, was accurate. But he did not discuss it further.

A spokesman for Pratt said yesterday the bank board chief was painting a worst-case scenario to impress the housing commission of the seriousness of the situation, but that mergers and other rescue actions could prevent such a $60 billion loss from ever actually occurring. He denied that Pratt was depicting a worse situation in private than he admitted in public.

Although Pratt did not give a time reference in his talk to the commission, one economist who asked not to be identified said yesterday that he thought Pratt meant that if interest rates do not abate and savings and loans are not given any help, the potential loss within a year could be 10 times worse than the potential losses acknowledged at the moment.

Pratt also told the commission that at the end of April, the bottom 10 percent of the industry (395 associations) had a net-worth-to-assets ratio of 1.68 percent, whereas the industry average was 5 percent. Those S&Ls are losing some $3.50 on every $100 of assets.

Overall, the savings and loan industry still has $31 billion of net worth at this time. Moreover, deposits of up to $100,000 apiece are covered by insurance at federally insured institutions.

Pratt, accompanied by two other federal regulators, testified yesterday on ways to alleviate the situation. They pressed for passage of the so-called regulators' bill that was nixed a few weeks ago by the Reagan administration as being too costly. The current version calls for interstate and interindustry mergers as a way of assisting failing financial institutions. The bill also would permit cash infusions to troubled institutions as an alternative to liquidating them or merging them out of existence.

SENATOR KASSEBAUM ON THE REPUBLICAN VIEW OF APARTHEID

Mr. PERCY. Mr. President, an important statement by Senator NANCY KASSEBAUM, the distinguished chairman of the Senate Subcommittee on African Affairs, appeared in the Washington Star of June 10.

The article speaks to the concerns of many people about the direction of the new administration's Africa policy, and takes issue with the "false, but widespread, belief among political commentators that the election signaled an American acquiescence to South Africa's institutionalized system of racial oppression, apartheid."

Quite the contrary is true, says Senator KASSEBAUM, who asserts that "We voted in November for principles that are, in fact, in direct contradiction to apartheid."

Mr. President, I commend Senator KASSEBAUM's article to all my colleagues and ask unanimous consent that it be printed in the RECORD.

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

PRETORIA OFFENDS EVERYTHING REPUBLICANS STAND FOR

(By NANCY L. KASSEBAUM)

The euphoria in Pretoria and the despair in black African capitals about the conservative turn in American government originates in a false, but widespread, belief among political commentators that the election signalled an American acquiescence to South Africa's institutionalized system of racial oppression, apartheid.

The commentators focus on people on the vocal fringe of conservatism and overlook the mainstream Republican philosophy, and how that philosophy views the content and practices of apartheid.

We voted in November for principles that are, in fact, in direct contradiction to apartheid. We voted for maximum individual liberty and freedom of choice; for policies that are formulated with the family in mind; for widespread distribution of private property as a cornerstone of liberty; for the right of law-abiding individuals to pursue happiness without undue governmental intervention; and for a party that declared war on governmental over-regulation.

Apartheid is a system that, by law, prevents millions of South African families from living together as a family. Laws separate mothers, fathers, and children. There are even inspectors who roam the country looking for families who violate these unconscionable laws. Last year a woman and her employer were arrested when government inspectors barged into the house she was cleaning and discovered that the woman's two-year-old child was with her as she worked. The employer, the wife of an opposition politician, described the situation well when she told the judge in court, "It sounds as if we are in the days of Herod, marching from door to door looking for 'illegal' children."

It is simply inconceivable that anyone can really believe that the pro-family Republicans are in sympathy with such policies.

Apartheid is also a system that prohibits real home ownership by blacks (some 73 per cent of the population) in the major cities, offering instead perhaps the most pervasive system of government housing outside the Communist states. It is a system that says blacks can be the customers in downtown shops, but never the owners (or even managers) of the shops. It is a system that says that they can work on commercial farms, but never own the farm. Although South Africa is frequently described as "a bastion of free enterprise in Africa," the overwhelming majority of South Africans have never known free enterprise or the benefits in terms of human liberty that it can provide. Such a system holds little enhancement for a party dedicated to free enterprise.

PERMITS, PERMITS, PERMITS

And a party that has declared war on government interference and overregulation can only be appalled by apartheid. Apartheid is a system of 2,000 laws and regulations that prescribe almost every aspect of daily life. If you are white, you need a government permit to drive a friend home after work, if that friend is black. You need another permit to invite him to dance. And he needs a permit, which is never granted, to actually dance in a hotel or discotheque. There are even regulations on glasses and linens used by blacks in hotels. There is nothing in such a system that can appeal to any American, regardless of party.

The persistence of the belief that Republicans sympathize with apartheid comes from a journalistic lethargy that accepts labels at face value. The term "conservative" is used to describe the Republican Party in the U.S. and the defenders of apartheid in South Africa. Few have bothered to probe beneath the labels to seek what is being conserved.

It is ironic that those in South Africa who sound the most like Republicans by demanding the right to private property, the right to be considered for jobs without regard to race, and freedom from government regulation and interference at home, in the schools, and at work are described as "radical left" and even Marxists. It is also ironic that there is more harmony between the 1980 Republican platform and the decision of the "Marxist" government in Zimbabwe to dismantle a comprehensive system of public housing for blacks and to substitute a system of widespread home ownership (on the basis that the public housing system was "racist") than there is with the South Africa system.

Labels are always misleading, and they are especially misleading in Southern Africa.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ECONOMIC RECOVERY TAX ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the hour of 10:40 a.m. having arrived, the Senate will now proceed to the consideration of House Joint Resolution 266, which will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 266) to provide for a temporary increase in the public debt limit.

Mr. DOLE. Mr. President, in accordance with the order, at 10:40 a.m., which has some significance to taxpayers, we will now proceed to the consideration of House Joint Resolution 266, as amended by the Finance Committee. I think it is significant that we are embarking upon landmark legislation.

The distinguished Senator from Louisiana (Mr. LONG) is not yet in the Chamber, and while we are awaiting his arrival, 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. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is House Joint Resolution 266.

Mr. DOLE. It is my understanding that this became the business at the hour of 10:40.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, as I indicated at that time that is of significance to taxpayers, not the hour but the form, so at 10:40 we did begin consideration of House Joint Resolution 266, as amended by the Committee on Finance.

Let me state at the outset it is my hope that we can move quickly on this legislation. This is my first effort in trying to accomplish something of major significance in the U.S. Senate, and I will ask the indulgence of my colleagues if we make any errors in the process. But I hope we can complete action on this bill—maybe I am an optimist, being new on the job—Friday or Saturday of this week. But, if not, sometime early next week we can complete action.

I have heard some rumors that maybe it will take 7 to 10 days. I do not see how it could—on the other hand, I do see how it could, having been around here for a while, and knowing that most anything can take 10 days in the U.S. Senate. But, hopefully, we can move very quickly on amendments. If there are those in their offices who may be listening, it is my hope we can start on amendments as soon as those who want to make opening statements have made them.

I do not really see a great deal of need for extended debate. We have a fantastic piece of legislation, not because it came from the Committee on Finance and not because the Senator from Kan-

sas is on that committee, but because the President of the United States presented to us for our consideration what I deem to be the most far-reaching tax proposal in the history of the United States. We will be explaining that proposal throughout the day and throughout tomorrow.

We have a number of tables, everything from a comparison of the tax rates to the high cost of dying under the estate tax. We will have the high cost of dying until the end. Then we will proceed to set out the reasons why we believe we should stick with the President, and support the committee bill. The vote in committee was 19 to 1. Eight of the nine Democrats and every Republican voted for this bipartisan package. I suggest that, while I know there are a lot of people just burning with desire to rush over and offer some great amendment they worked on for a long time, the President made it rather clear yesterday to Republicans that he would prefer that we hasten action on this bill, not clutter it up with amendments.

There is going to be a second tax bill, and we may adopt some technical amendments, maybe one or two amendments, that will be accepted or at least voted upon. We may lose an amendment or two—I say "we," and I speak for the President—but I hope that for the most part we will be able to move very quickly.

The bill reported by the Finance Committee already does contain a number of provisions that the committee deemed important to the development of a fair and stable tax policy.

I am somewhat amused that on the other side of the Capitol, an interesting trend has developed. The press has been rather less than alert on this matter, but we have had a lot of discussion about how the Democrats are concerned about low-income Americans. So I was very pleased that they were able to address the problems of futures traders—one of those low-income groups—and provide an exemption for traders. They say there are some 2,500 traders and the House exemption amounted to $415 million. Now, that is a rather significant advance for those in this particular low-income group.

I would hope that before the House Ways and Means Committee completes consideration of their proposal they will adopt the Senate Finance Committee version of that provision which, I might say, was pioneered by the distinguished Senator from New York, Senator MOYNIHAN. It was adopted in the Senate Finance Committee not because we have any quarrel with the futures traders but because we have examples. One that had been called to my attention was that in 1978 a trader made $530.000 in long-term capital gains and paid no taxes. In 1979, the same trader made $2.3 million in long-term capital gains and paid no taxes.

If we are talking about tax reductions and tax equity, it would seem to me—and the traders are all nice people, some of them are friends of mine—that we are going to have to make certain that a loophole like this is closed. And on a vote of 18 to 2 in the Senate Finance Committee this loophole was closed.

I was somewhat surprised, very honestly, by the vote in the House of 25 to 8 where they, in effect, exempted one group. There is still time, of course, to rectify what I consider to be a mistake.

I ask unanimous consent to insert in the RECORD the July 15, 1981, editorials from the Washington Post and the New York Times.

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

[From the Washington Post, July 15, 1981]

BACK IN THE STRADDLE AGAIN

The tax debate this year has been remarkably unencumbered by the sort of good government attempts to close loopholes and otherwise simplify the tax code that normally go by the name of tax reform. There is, however, one important move in that direction in the tax bill coming to the Senate floor. This is a provision ending a $1.3 billion tax dodge known as the "commodity tax straddle." Wait till you hear who's on which side of this one: despite strong backing from the Reagan administration and bipartisan support in the Senate Finance Committee led by Chairman Robert Dole, the reform may now be jeopardized by a contrary Democratic majority vote in the House Ways and Means Committee. This, it is feared, could fuel opposition on the Senate floor.

The commodity tax straddle is a complicated transaction in which investors contract simultaneously to buy and sell some commodity—Treasury bills are the current favorite, silver used to be—at future dates at a specified price. Depending on whether the price of the commodity goes up or down, one contract will show a loss and the other an offsetting gain. The trick is to space out contracts so that losses can be offset against high taxed income or short-term gains in the current year, while gains are deferred until they qualify for the much lower capital gains tax. Staying in the game from year to year can even allow people with millions in income to avoid taxation indefinitely.

The commodity tax straddle is a tax avoidance gimmick pure and simple. IRS studies show that if simple profit were the motive, a roulette wheel would offer better odds. In the dismal history of tax reform, however, standard practice requires that, while tax abuse be widely abhorred, any change be attacked as unacceptably disruptive. In this case the commodity traders are shrieking that closing the loophole will destroy the commodities market by robbing them of needed capital.

The specifics of the Finance Committee's reform, however, cast considerable doubt on the likelihood of a massive loss of liquidity in the commodity markets. The bill would require a once-a-year accounting of trading gains and losses (a simple matter in commodity markets since gains and losses on current positions are tallied daily) and a maximum tax on net gains, no matter how short term, of about 32 percent. Guaranteeing a low tax rate to all investors—not just those who can cope with the intricacies of straddles—will, the committee argued, attract as least as much capital as the loss of the specialized preference will discourage.

Having failed to make their case in the Finance Committee, the commodity traders pulled out all the stops in the House. With the help of yacht parties, big-time lobbyists and letters from NCPAC, they cajoled the Ways and Means Committee into a lopsided vote preserving the tax straddle for professional commodity trades but nobody else.

Now that the parties are over and the boys from the Chicago exchange have gone home, it is time for a little sober reconsideration in the House and continuing sobriety in the Senate. Commodity trades are, no doubt, important facilitators of the mysterious workings of the market. Some provision may well be needed to ease the shock to traders who would face big one-time tax bills on their large accumulated profits. But we know of no special claim to moral precedence that would entitle the traders, alone among society's many useful citizens, to a continuing free ride at the taxpayers' expense.

[From the New York Times, July 15, 1981]

ENOUGH OF STRADDLES

In recent years, well-heeled investors have latched onto a dandy gimmick for reducing taxes and even deferring them indefinitely. It's called the "commodity tax straddle," and is almost as hard to explain as it was to discover. But luckily for most ordinary taxpayers, Congress has finally caught up with this $1.3 billion loophole. Committees of both the House and Senate have recommended changes in the law that would at least close it somewhat.

The question now is whether Congress will find the courage to eliminate the gimmick altogether, by denying the dodge to those who use it most successfully, the professional commodity traders.

A straddle is a pair of contracts—one to buy and one to sell the same commodity for delivery on different dates. One can, for example, buy 100,000 ounces of silver for delivery next January and sell the same amount for delivery in February. The value of these individual buy and sell contracts fluctuates enormously from day to day. But a straddle limits the risk; any decline in the value of one such contract is largely offset by gain on the other.

Say the price of silver goes down after the investor has made the commitments to buy and sell. He can then close out the contract to purchase at the higher price, and write off the loss against other taxable income. But his contract to sell silver at a higher price has now gained in value by an almost equal amount, so the loss exists only on paper. Moreover, the tax owed on the gain is deferred until it is actually realized. And better still, that tax can be deferred again and again by sheltering every realized gain with another such straddle.

At the prodding of Senator Moynihan—and with the support of the Reagan Administration—the Senate Finance Committee has now proposed measures to counter this evasive strategy. Its bill would require investors to pay taxes on net gains in commodities contracts at the end of the year, whether or not the gains have been realized.

The House Ways and Means Committee took a similar approach, but with one big difference; it would exempt some 2,500 professional commodities dealers, at a cost to the Treasury of more than $400 million a year.

When not distributing campaign contributions in Congress, the dealers have offered the legislators a rationale for their exemption. Commodities transactions would be shifted to London, they warned, if they lost the tax break. Treasury Secretary Regan scoffs at the threat, arguing that the advantages of dealing in the United States far outweigh the potential cost. As the former head of one of America's largest commodities dealers, Mr. Regan ought to know.

The fact is that the commodity tax straddle serves no public purpose. The dirty secret is out. Congress should ignore the dealers' threats as well as their contributions.

Mr. LONG. Will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, let me say to the distinguished Senator that I believe that those of us on the Finance Committee have pretty well agreed for years now that any person who makes a large amount of money, no matter how he makes it, ought to pay some Federal income tax; that they should not just have a complete free ride, even if they are engaged in doing something that is very much in the national interest.

No one has more sympathy for oil and gas producers, I suppose, than I do, because I think that Louisiana produces more oil per acre than any State in the Union. I am a producer myself, a royalty owner, and a great number of my friends and a great number of my campaign contributors are producers and royalty owners.

But I, myself, have insisted that we draw those laws so that anybody in that business is going to pay some taxes. I am not trying to put a back-breaking tax on anyone who is trying to produce energy for the country or doing something in the Nation's interest. I just insist that everybody ought to pay something.

It costs money to defend this great country. It costs money to protect the property rights of citizens, if that were the only activity of the Government.

But those who have a lot of money certainly need to pay somebody to protect it for them. We have to have an Army, a Navy, an Air Force, a police force, an FBI, and a Justice Department, among other things, in order to protect people's property rights, just to mention one activity of Government that should be strongly supported by people who have substantial wealth and by people who make a lot of money.

Those people ought to be willing to pay something for the many goods they enjoy about America. The idea of letting those people get by without paying a penny does not appeal to this Senator at all.

Some of the people contributed to my campaign, just as I am sure they contributed to the campaign of the Senator from Kansas and perhaps everybody in the Senate.

Mr. DOLE. On both sides, right.

Mr. LONG. And I am grateful. But, at the same time, when some of these people came by to see the Senator from Louisiana, the first point I made was people ought to pay some tax. They said, "We want to fix it up so the rock stars cannot get by without paying any taxes." I reacted, "How about you fellows? You are making lots of money. Don't you think you ought to pay something?" Frankly, I could not find anybody in the room who could offer a good explanation of why they should not pay something.

I do not think that any of us on the Finance Committee, or any Senator, should be willing to go along, knowingly, with the situation where somebody makes a million dollars or $5 million or $10 million and gets by without paying 1 red copper cent of taxes.

I think the Finance Committee took that attitude. I am not wedded to precisely the details about how we do it. I just think we ought to see to it that everybody who makes a lot of money, certainly everybody who makes a million dollars, ought to be willing to pay something for this Government to protect him and all those property rights and the right to make that kind of money.

God knows where the world would be if it was not for the United States trying to save democracy for the world and save freedom for people. But it is a burden we should all share.

Is it fair to say the chairman of the committee, speaking for the Republican side of the aisle, feels that everybody who makes a lot of money should pay something just like the Democrats over here have voted everybody should pay something?

Mr. DOLE. I certainly share that view. I must say it was a bipartisan exemption on the House side. Members of both parties voted to exempt the traders from the tax.

But I think the amendment we have in our bill is a very fair amendment. It says the rate is going to be 32 percent. That is a lot better deal than many taxpayers have. It would seem to me it was a compromise, in a sense. Some thought the rate ought to be 40 percent.

The Senator from Ohio is on the floor. I think he has been very interested in this matter.

But I would hope the House Ways and Means Committee would reconsider this action. Some day we will want to go to conference. I assume we will have a conference.

But, in any event, I certainly agree with the Senator from Louisiana. As he has indicated, these are nice fellows and they are great contributors. They have not missed a fundraiser. If you do not pay any taxes, you can afford to go to all the fundraisers.

The thing that I think frustrates some of us from farm States is that there has been a charge made that we have gone too far. I think even the Secretary of Agriculture, maybe not understanding the problems, suggested as much.

I have asked the Secretary this morning to take a look at—he cannot look at their returns—but take a look at the questions the Senate Finance Committee has discussed before he makes a judgment on that. He is concerned about the futures market for farmers. We provided an exemption, a hedging exemption, to take care of that problem. I hope we are not doing a disservice to any class of Americans.

The President himself mentioned yesterday that while the Democrats in the House talked about the poor, they have passed this little $415 million tax break for some 2,500 futures traders. I do think it makes it rather difficult for TIP O'NEILL or DANNY ROSTENKOWSKI to stand up with a straight face and say, "We are helping the poor." Maybe they can do it. I guess, with practice, you could do it, but it would be difficult.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I am happy to yield to the Senator.

Mr. METZENBAUM. Mr. President, this is an issue on which I have had a good deal of concern. As a matter of fact, when the budget matter was before the Senate, I offered an amendment, during the budget debate, in anticipation of the Finance Committee's action, attempting to convince my colleagues that there would be $1.3 billion available if we would close this loophole.

I rise to commend the chairman of the Finance Committee, the ranking minority member, and the distinguished Senator from New York for their leadership in doing something about one of the major loopholes that exists in our laws today. When the matter was brought to the attention of the Senator from Kansas, he proceeded with dispatch. He inquired into the subject, he looked at the facts, and has acted aggressively to pick up those dollars to which the Treasury is rightfully entitled.

I do not rise to address myself to the question of whether the rate ought to be 30, 32, or 36. That seems to me to be a detail and I have no problem with the result that the Finance Committee came up with. But I agree with the Senator from Louisiana that everyone should be required to share a part of the tax burden.

I have not hesitated in the past to complain about tax loopholes and special tax privileges. In this instance I rise not to complain but to commend.

I think the Senate Finance Committee has acted with propriety, with good judgment, and with good leadership. I hope the House reconsiders its point of view because if it is, indeed, speaking to the question of being fair in a tax bill and not having a tax bill for the rich, then it can hardly justify a total exemption for the traders in connection with commodity straddles.

There has been good leadership shown on the side of the Senate Finance Committee. I rise to support and commend. I am proud if I have had some little impact upon moving them in that direction. Whether I did or did not is really of little consequence. I am just delighted to see that this matter has been taken care of.

Mr. DOLE. I thank the Senator.

We are not talking about people getting special treatment. We are talking about a $1.3 billion pickup in revenues in 1982. We are not certain what it will be in fiscal years following 1982. It could be substantially more. So this is not just some little $10 million loophole that has been closed.

We believe when the House Ways and Means Committee subtracts from that $1.3 billion the $415 million to $425 million lost by exempting the traders, in effect, they will find they have done a disservice to everyone else we are talking about in this tax package. The House Ways and Means Committee still has time to correct the error.

It was a tentative decision. I am not casting aspersions. I know the chairman on the House side was not involved in that at all. But I wish they would take a look at some of the sanitized tax returns that we took a look at. It would not be hard to make a judgment.

Aside from that, there are other very important issues in this legislation, but

I do believe this issue is one that will come to haunt some on the other side unless there is a change made.

I believe there has been some question about whether the Senate should proceed until the House has acted. I do not see that as a problem. There are certainly precedents which I will discuss later on.

We have also had a legal memorandum prepared laying out the precedents. But let us review the reasons why the Senate is proceeding on tax legislation at this time.

CULMINATION OF AN EXTENDED PROCESS

Senate consideration of this legislation is a major step in a process of revising our tax policy that began well over a year ago. To understand the significance of this legislation before us, I believe it would be helpful to review briefly the history of this process. When Congress passed the Tax Reduction Act of 1978, it believed that it had provided significant tax relief for the American people. It did not. The unprecedented double-digit inflation of the last few years more than wiped out the 1978 tax cut. It has aggravated existing distortions in the taxation of corporate income, savings income, and investment income that had resulted from previous incident.

By the time Congress began to consider the so-called windfall profit tax in 1979, it was clear that the 1978 tax cut had failed to restrain the growing tax burden. Despite that fact, Congress legislated a major tax increase by approving the windfall profit tax.

Mr. President, in early 1980 the impact of this growing tax burden on the American economy became all too clear. In the first quarter of 1980, the gross national product dropped at a 9-percent annual rate, while unemployment neared 8 percent. Despite this economic decline, the inflation rate remained around 13 percent in 1980.

In June of 1980, candidate Reagan proposed immediate congressional action of a 10-percent individual tax cut and the 10–5–3 system of accelerated depreciation for business plant and equipment. The Reagan proposal was made in recognition of the urgency of our economic ills and the key role of tax policy.

In response to the Reagan initiative, in August the Finance Committee, under the chairmanship of Senator LONG, reported H.R. 5829, the Tax Reduction Act of 1980. That bill would have provided tax rate reductions in every income bracket, an accelerated and simplified capital cost recovery system for tax purposes, and other provisions to increase productivity, investment, and the rate of savings. Many of these provisions are incorporated, in some cases with modifications, in the legislation we now have before us.

Mr. President, H.R. 5829 was never enacted because of opposition from the Carter administration and the then-Senate leadership. Now President Reagan has asked us to continue the process begun with H.R. 5829 and help him fulfill his campaign promise of across-the-board rate reductions for all individuals and accelerated cost recovery for business plant and equipment. The bill before us provides for both. It also includes an offset to the marriage tax penalty, incentives for retirement savings, and a number of other provisions that will help restore equity to the tax system and get our economy moving again.

A NEW DIRECTION FOR TAX POLICY

We need a tax policy that favors work, savings, productivity, and investment. That is what Secretary of the Treasury Regan has stressed to the members of the Finance Committee; that is what the President believes; and that is what the members of the Finance Committee have attempted to provide by reporting this bill by a vote of 19 to 1. We believe this legislation will remove disincentives to rational economic decisionmaking that have been induced by inflation and by a past tendency to think short-term when it comes to tax policy.

The Economic Recovery Tax Act of 1981 will bring stability to tax policy with its multiyear approach. The bill will encourage long-term economic growth by freeing the private sector from excessive taxation and the distortions of inflation. Overall, this bill is designed to reduce tax considerations as a factor in economic decisions, not to use the Tax Code as a tool for structuring those decisions. That is a major shift in tax policy, and a much-needed shift.

Mr. President, in a very real sense this bill continues the change in direction for tax policy that was begun with the capital gains tax reduction in 1978. We have learned that higher tax rates can often mean lower revenues, and that there is a point at which high tax rates do more harm to the economy than the Government can remedy by spending the revenues generated by the tax system.

The key to understanding this legislation is the fact that the American people are convinced that we have passed the point where higher taxes are productive, either for individuals or for the Nation. For that reason this bill stabilizes the tax burden and begins to reduce the trend toward higher rates of tax on all forms of income. We should not forget that this is the largest tax bill in history because of the automatic tax increases that we have allowed to become built into our tax laws.

As the administration has reminded us, a 22-percent tax reduction is needed over the next 3 years just to keep taxpayers even with the effects of inflation on tax rates. Those who prefer a smaller tax cut, or one limited to 1 or 2 years, ought to be prepared to justify their preference in light of the tax increases that Americans will face if the commitment to 3 years of rate reductions is not met.

Mr. President, I indicated earlier I would hope that we can keep this bill fairly clean, but I understand from past experience and from discussions with the Senator from Louisiana that is not always possible. We are going to do the best we can.

Let me touch very briefly on the question of how far the Senate should go before the House acts.

AMENDMENT TO HOUSE-PASSED BILL

The House of Representatives is entrusted by the Constitution with the responsibility of originating revenue bills. For that reason, the committee has reported this legislation as an amendment in the form of a substitute to a House-passed debt limit bill. The House has consistently treated debt limit bills as revenue bills, and the Senate has often attached different revenue provisions to House-passed revenue bills.

We all hope and expect that the House will complete action on the tax bill in time for final action before the recess but, given the time pressures involved, there is no reason for the Senate to wait on the House before acting on the tax bill. We have no desire to usurp the prerogative of the House, but there is certainly no harm in reminding the House leadership of the urgency with which the American people view the need for tax reduction.

I might say as an aside, I have been in constant touch with the chairman of the Ways and Means Committee—in fact, less than 35 minutes ago. There is no problem between Chairman ROSTENKOWSKI and the chairman of the Finance Committee. We understand that we are racing the calendar, not each other, trying to make certain that there will be tax reductions for the American people this year. That is the view he has and that is the view that I have.

INDIVIDUAL INCOME TAX REDUCTIONS

The centerpiece of the bill is a multistage, across-the-board cut in individual income tax rates. This implements, with a few minor changes, President Reagan's "5–10–10" tax cut proposal.

I might say as an aside that the pioneer in this effort is not present on the floor, the distinguished Senator from Delaware (Mr. ROTH). As I recall it, about 4 years ago, he started this across-the-board effort. We are now seeing it about to come to fruition, at least as far as the Senate is concerned.

These tax cuts will encourage people to work more and save more. That is what we are told. Most of us want to see that, and we believe it can happen. These cuts will help redirect individual efforts toward productive activity and away from tax avoidance.

By allowing people to keep a larger percentage of their earnings, individual income tax cuts are an essential element in any program to reduce the role of the Federal Government in the economy.

Specifically, the bill reduces taxes by approximately 1 percent in 1981, 10 percent in 1982, 19 percent in 1983, and 23 percent in 1984. These reductions in tax liability will be matched by reductions in taxes withheld from workers' paychecks of 5 percent on October 1, 1981, a further 10 percent on July 1, 1982, and a final 10 percent on July 1, 1983.

From the standpoint of supply-side economics, the most important tax rates are the highest ones because it is the top tax brackets which create the most distortions of economic decisions. An entire tax shelter industry has developed to assist high-income people avoid the ex-

isting 70-percent tax bracket, and it has been doing a booming business as inflation has pushed more and more taxpayers into higher brackets.

In order to achieve the supply-side benefits of the bill as quickly as possible, the bill drops the highest tax bracket from 70 percent to 50 percent in 1982. This will establish a maximum rate of 20 percent on long-term capital gains, which will encourage more people to make more investments in a broader range of areas. It will also allow people to sell appreciated property rather than to hold it to defer or avoid tax. The bill sets a 20-percent top rate on long-term gains for sales after June 10, 1981, so as not to encourage people to delay transactions until next year.

The third major individual tax cut in the bill is a new tax deduction for two-earner married couples designed to reduce the so-called "marriage penalty." One of the least justifiable aspects of the present tax system is that two people often pay more tax after they get married than they would have paid if they had remained single and simply lived together.

I remember hearing the distinguished Senator from Louisiana say that we changed this provision to help all those single people years ago. Now those same people are married and they are in here getting the bill changed back to where it was when they were single. But it is hard to understand why the tax system should discourage marriage. We had witnesses who had been divorced three times. They get divorced in December, remarried in January to save a small bundle.

It is hard for people to understand why the tax system should discourage marriage. Marriage tax penalties discredit the tax system as an equitable way to raise revenues.

The bill, therefore, phases in a reduction for two-earner married couples of 10 percent of the first $30,000 of earnings of whichever spouse has the lesser amount of earnings. This new deduction, along with the across-the-board rate cuts, will reduce the marriage tax penalty by at least 50 percent for most taxpayers subject to marriage tax penalties.

DEPRECIATION REFORM

The bill completely restructures the present system of depreciation. Current law is unnecessarily complex and does not provide adequate cost recovery in a period of inflation. Additional investment by businesses in new plant and equipment is essential if the economy is to grow rapidly, and we can no longer afford a tax system that discourages such investment.

The committee bill replaces the existing system with the accelerated cost recovery system, ACRS for short. ACRS was recommended by President Reagan and has widespread support among both small and large businesses. I am confident it will be a major stimulus to business investment in the year ahead. I should add that this is a change that has been forcefully advocated by Senator HEINZ and others on our committee.

Under ACRS, equipment and other tangible property will be written off over either 3, 5, 10, or 15 years. Most property will be in the 5-year class. Between 1981 and 1984, taxpayers will use an accelerated method based on the 150-percent declining balance method for equipment and other personal property. In 1985 and 1986, there will be further accelerations, and starting in 1986 the accelerated method will be based on the 200-percent declining balance method. The investment credit will be 6 percent for the 3-year class and 10 percent for all other eligible property. Businesses will also be allowed to expense—that is write off immediately—up to $10,000 of investment.

Structures will be written off over 15 years. Taxpayers may use an accelerated method based on the 200-percent declining balance method or may elect the straight-line method. For commercial and industrial property, when a taxpayer who has used the accelerated method sells his property, his gain will be treated as ordinary income to the extent of all depreciation previously allowable.

However, to provide an incentive to build more rental housing, the bill allows capital gains treatment on the sale of residential real estate to the extent that capital recovery does not exceed the deduction allowable under the straight-line method. For nonresidential property, there will also be capital gains treatment for any taxpayer who elects the straight-line method.

The bill gives taxpayers a number of elections to use less accelerated depreciation in order to give them more flexibility. These options answer the legitimate concerns which taxpayers have expressed on this issue. The bill also considerably liberalized the rules under which leases are recognized as such for tax purposes.

OTHER BUSINESS INCENTIVES

The committee bill includes two other significant tax incentives for business—a 25-percent tax credit for incremental research and development wage expenditures and a graduated credit for rehabilitation of structures. The rehabilitation credit is particularly important for older industrial areas. The R. & D. credit will be a major incentive for less capital intensive firms in high-technology industries in which the United States has traditionally held a dominant position. Its inclusion in the bill is largely due to the efforts of Senator DANFORTH on this issue. That is a matter of considerable interest to those who live in the Northeast and had, again, strong bipartisan support from a number of Senators on our committee.

The bill also provides a major tax reduction for Americans working abroad. This is intended to remove a major impediment to U.S. exports.

The proposal was made by Senator CHAFEE, Senator BENTSEN, and was supported by Senator BRADLEY, Senator HEINZ, and others. Under the bill, there will be an exclusion for the first $50,000 of income earned abroad plus half of the second $50,000 plus excess housing costs.

ESTATE AND GIFT TAXES

I think one area that has probably the broadest support would be the estate and gift tax provisions. This was not in the Senate bill last year. It is the tax the President indicated, when he was a candidate, he would like to abolish altogether. We have made significant changes in the estate and gift tax provisions, largely patterned after the bill produced by the Senator from Wyoming (Mr. WALLOP), but with the help of Senators HARRY F. BYRD, JR., SYMMS, GRASSLEY, DURENBERGER, BOREN, GARN, BENTSEN, LONG, and others, we were able to make substantial changes in the estate and gift tax provisions.

The committee bill provides major relief from the estate and gift taxes. With the rapid growth in land and house prices in recent years, the existing exemption from the estate and gift taxes has become obsolete. These taxes have a very severe impact on farmers and small businessmen, an impact that is unrelated to the original purpose of these taxes, which was to tax large concentrations of wealth.

To relieve this burden, the bill raises the level at which the estate and gift taxes begin from $175,000 to $600,000 over a 5-year period. It eliminates transfer tax entirely on gifts and bequests between spouses. Also, it raises the exemption from the gift tax for gifts to any individual in any year from $3,000 to $10,000. The bill also makes some technical amendments to the provisions for current use valuation for farms and small businesses.

Finally, the bill eliminates the transfer tax entirely on transfers between spouses, which is a major change.

I think all of us in the Senate, when we go back to our homes and visit farmers and small business people, find the thing they are concerned most about is working all their lives, working extra time and saving their money, then finding out at the death of the husband, who is the primary wage earner in most cases, that a great portion of the estate that they have worked and slaved for over the years ends up in the hands of the Federal Government. We believe this is a change that is long overdue, one that has been given total support. We have a graph that shows how we pay even more in so-called death taxes than nearly any other country in the world.

SAVINGS INCENTIVES

For the economic recovery program to work, it is necessary for people to save more of their income. Greater saving is needed to finance the additional investment that will result from depreciation reform. Furthermore, to the extent that people are able to provide for their own needs, there is less pressure for Government programs to satisfy those needs. The marginal income tax rate cuts will be a significant stimulant to saving, but we also need tax measures specifically targeted toward encouraging saving. Senator PACKWOOD and others on the committee have urged a reduction of taxes on saving.

We have what we call the all-savers provision. We are not certain who that is going to save at this point, but it is what we adopted. I shall discuss that a bit later.

The bill increases the limit on deductible contributions to individual retire-

ment accounts—popularly known as IRA's—from $1,500 to $2,000, a matter that Senator CHAFEE, Senator GRASSLEY, and others were particularly interested in.

When a nonearning spouse is a beneficiary, the limit goes from $1,750 to $2,250. The annual limit on deductible contributions that a self-employed person may make to his retirement plan—popularly known as a Keogh or H.R. 10 plan—is raised from $7,500 to $15,000. That is another very substantial increase, another way to encourage savings, and we think it has a great deal of merit.

In addition, the bill extends eligibility for IRA's to people who are active participants in an employer-sponsored pension plan. Currently, even $1 of participation in an employer-sponsored plan disqualifies a taxpayer from eligibility for IRA's, and the bill corrects this inequity. The limit for these active participants will be $1,500 for a regular IRA and $1,625 when a nonearning spouse is a beneficiary.

The bill restructures and makes permanent the tax credit for employee stock ownership plans—or ESOP's. The current extra investment credit for ESOP contributions will be replaced by a credit equal to 1 percent of wages. This payroll-based credit will be a much fairer way of structuring the tax credit for ESOP's.

Finally, the committee bill replaces the $200 interest and dividend exclusion for 1982 with a $1,000 exclusion for interest on certain kinds of saving certificates issued by financial institutions. The committee's proposal has come under criticism recently from editorial writers and some groups who feel they would be hurt by it. Some of these criticisms are justified, but few of the critics, so far, have offered a feasible program to save the savings and loan associations, who are in desperate trouble as a result of high interest rates.

I might add that some think that is not a very good provision. It was substituted for what was probably not very good provision, and discussions are going on at this moment with a number of Senators who have a direct interest in trying to modify that proposal. They are trying to make it more attractive and more equitable. Senator DANFORTH, Senator BENTSEN, Senator SCHMITT, and Senator GARN are trying to figure out some way to make certain that we do the best we can on that measure.

WINDFALL PROFIT TAX

As to the windfall profit tax, which was passed in 1979, about 2 million royalty owners came to learn that it affected them. We have addressed royalty owners. There was early misinformation I read in a newspaper, that we were helping out big oil companies. It does not go to big oil companies. This is a $2,500 tax credit that goes only to royalty owners. This means, for all practical purposes, that they could have about $7,500 in royalty income before they start paying the so-called windfall profit tax.

There are literally thousands of royalty owners, many of whom are retired landowners and many of whom have invested in royalties, and they have found that they are paying about 35 percent of that income in windfall profit tax. We believe that this tax credit will take care of about 80 percent of the small royalty owners, and the others will get the credit, and that is all. Small royalty owners should not have to bear the burden of a tax aimed at the wealthy.

Also, the bill phases in a reduction of the tax rate on newly discovered oil from 30 percent to 15 percent. This is a major step in a redirection of our energy policies toward encouraging more production. Most observers believe that a tax cut on new oil is the fairest and most economically beneficial way to cut the windfall profit tax. It was largely the efforts of Senator BOREN that brought this matter to the attention of the committee.

There is another thing we should address with respect to the so-called windfall profit tax. We understand that there may be a bidding war going on in the House—we hope not—on who can offer the most for the oil industry. I come from an oil-producing State, and I am very sensitive to the needs of the industry. We believe that in the Senate Finance Committee bill we have addressed some of the concerns they have.

In the Senate, there will be a proposal for a thousand-barrel exemption. The price tag for that, just for openers, is about $4 billion. We do not have $4 billion.

I failed to mention that in 1982 we have about $1 billion, according to our numbers. In 1983, it is about $300 million; in 1984, $100 million. If you want to, you can call that a surplus between the Senate Finance Committee bill and the President's revenue figures, which we will try to adhere to when we come out of conference.

It seems to me that when the windfall profit tax bill was passed by the Senate in 1979, there were a number of Senators on both sides of the aisle who did not believe we should have a windfall profit tax on new oil. How can you have a windfall profit tax on something that has not been discovered? In the final analysis, we ended up with a 30-percent windfall profit tax on newly discovered oil and heavy oil produced in the State of California and so-called tertiary recovery in Texas and other States. We believe this is in line with the supply-side theory. There will be a production response if you can lower that 30 percent tax rate on new oil for a lesser rate.

So, rather than adopt the 1,000-barrel exemption, what we have done is to phase in a reduction of the tax on newly discovered oil from 30 percent to 15 percent. It is not effective until 1983. Some would like to change it to 1982. That is another discussion. Some would like to have it lower or have it more or have it all taken out. All those things are under active discussion at this time.

SMALL BUSINESS

The most dynamic sector of the economy is small business, which provides a large share of the new jobs and new ideas. The committee bill will provide major benefits to small businessmen through its depreciation reform, individual rate cuts and estate and gift tax relief. But the committee felt that some targeted measures were also needed, and the bill contains a number of such provisions. These include tax incentives for stock options—a proposal by Senators PACKWOOD and BENTSEN—removal of the $100,000 cap on the investment credit for used property, which originated with Senator MITCHELL; an increase in the $150,000 cap on the credit against the accumulated earnings tax, and an increase in the maximum number of shareholders in a subchapter S corporation. These are all small, sometimes technical, changes, but they are all of substantial benefit to small businessmen. That was a bipartisan amendment by Senator CHAFEE and Senator MITCHELL, and had strong support from Senator BAUCUS, Senator MATSUNAGA, and others.

I am mentioning Senators as I go through my statement, to indicate what is a fact—that many Democrats and many Republicans are involved in the final form of this bill. At the appropriate time, when we get to final passage on this bill, I am willing to predict that a great majority of Members on both sides of the aisle will vote for final passage.

COMMODITY TAX STRADDLES

Finally, the committee bill sharply curtails the use of commodity straddles to defer taxes and to convert ordinary income and short-term capital gains into long-term capital gains. Use of these devices has grown rapidly in recent years; they are tax loopholes by any reasonable standard. One of the principal purposes of this bill is to divert investment away from tax shelters toward productive activities, and that requires legislation on commodity straddles.

Any legislation to cut back tax abuses must balance the desire to eliminate these real abuses against the desire to make sure that legitimate businessmen and investors are not hampered by unfair rules. The committee bill achieves this balance. A number of special rules—available to no other taxpayers—are provided to help legitimate businessmen who deal in commodities and commodity futures contracts. Obviously, they would prefer to pay little or no tax on substantial incomes, but that is unacceptable. The committee bill protects the legitimate concerns of the people in the industry, while eliminating the tax abuses of straddles.

INDEXING AMENDMENT

I would also note that the Finance Committee will offer an amendment agreed to in committee that would keep individual tax rates stable despite the effects of inflation on the progressive rate structure. This tax indexing amendment will enable us to preserve the positive effects of the proposed rate reductions by insuring that inflation will not continue to push people into higher brackets. We all hope and expect that the economic recovery program will have a dramatic impact on inflation; but curing inflation takes time. Even under the administration's economic projections, inflation would continue to have a significant impact on tax rates in this decade. The committee amendment would help make sure that the tax burden is con-

trolled by Congress, not by the inflation rate. This is a concept that the President has often endorsed.

I understand that there may be an indexing amendment on the other side. Rather than make it a part of the bill, which the administration did not want to do, the Senator from Colorado agreed to propose a committee amendment on indexing, and it will be offered by the Senator from Colorado (Mr. ARMSTRONG). I believe it is an outstanding proposal. We will debate it today, and I hope we will vote on it sometime tomorrow.

OVERALL REVENUE IMPACT

The committee bill involves very large tax cuts. That follows from our decision to implement a multiyear program that will establish a stable economic environment for the rest of the decade. Specifically, the tax cuts will be $37 billion in fiscal year 1982, $93 billion in 1983, and $150 billion in 1984. These are large numbers.

Mr. President, we have discussed the kind of tax cut we are talking about. It is the largest tax cut in history. If you take the Senate Finance Committee numbers, it is $37 billion in fiscal 1982, $93 billion in 1983, and $150 billion in fiscal 1984. These are large numbers, and we will be talking about them in the next few weeks.

I want to end on a vote of realism.

We must keep in mind that inflation has raised income taxes by substantial amounts in recent years, and that a large payroll tax increase took effect in January. Together, these tax increases will amount to $41 billion in fiscal year 1982, $64 billion in 1983, and $95 billion in 1984. Thus, much of the tax cut will merely offset inflation and social security tax increases. Furthermore, the spending cuts in the reconciliation bill, and the additional spending cuts to be enacted next year, will finance a sizable part of the tax cut.

For these reasons, I do not believe the bill is too large. Some will argue that it is too large. Some may have second thoughts. I recall the admonition of Senator DOMENICI and Senator HOLLINGS of the Budget Committee. I believe that the President, at the first blush, wanted about $54 billion in 1982. That has been reduced to $37 billion. We believe we have reduced the size of the package by $35 billion to $50 billion, depending on whose figures one uses.

So we are cognizant of the concerns of the Budget Committee and the financial community—and even the concerns of the administration—in making some changes in our bill. It is not effective in January. It will become effective in October, so far as individuals are concerned.

Last, the tax cuts will expand the tax base by encouraging more work, saving, investment, and productivity, a factor not taken into account in these revenue estimates.

For these reasons, I do not believe that this tax bill is too large. It is a responsible approach to the Nation's economic problems. What would be irresponsible would be to continue along the old path of ever higher taxes, ever slower growth, ever more inflation.

Mr. President, I hope we will now proceed to act swiftly to enact this legislation, which has already been to long delayed. It is time to conclude debate on the economic recovery program and put that program into operation.

It is my hope, having said that, that we can proceed as quickly as possible, knowing some of the realities in the Senate, to consider this bill.

Again before we take up one amendment I extend my appreciation to all members of the Finance Committee and to every staff member.

Last Friday we had a staff briefing for all Senators and there were 150-some staff members who showed up for that briefing so that every Member in the Senate would have some information about the tax bill, though I must say as I walked out I met one young lady who said she has been in the Senate just for 2 days and she did not really understand all the tax bill but she did go to the briefing. I am not certain who she reported to.

But in any event there has been an effort made to clearly explain the provisions of this bill. We thought it might speed up the date of final passage.

I had four pages of amendments that had come to my attention. I am certain that is only the preliminary count. There will be others.

We expect to defeat every amendment we can and that may not be saying a great deal, but we think with the President coming up yesterday and sort of taking us to the woodshed on the Republican side, that may have had an impact. He really believes that we have amended this bill fairly extensively. I think he figured up the add-ons that we provided, and they are good add-ons that will cost about $30 billion between now and 1984. So it is not that the President has been stingy with what he has agreed to through the Treasury. On the other hand, I must say very candidly I think without some of these amendments we would not be moving along as rapidly as we are. There would not have been a 19-to-1 vote in the Finance Committee. So it has been a give-and-take proposal.

Mr. President, I thank my colleague from Louisiana for his indulgence and patience during the consideration not only of this bill but the others.

I am reminded, as I have indicated before, that when Senator BAKER called me last November and said, "We are going to take over the Senate, and you are going to be chairman of the Finance Committee," my first question was "who is going to tell RUSSELL LONG" because Senator LONG had been the illustrious chairman of that committee for a long time, I think, as Senator LONG will tell you, and it is a true story, on the first vote in our committee the Republicans learned that we vote first.

We had never been in the majority, and they had to tell us. So we had our first confirmation to vote on, and the chairman votes last. So PACKWOOD voted aye, DANFORTH voted aye, and we went down the Republicans. Everyone voted aye. Then we started the Democratic side. This was to confirm Donald Regan as Treasury Secretary. Senator LONG voted aye. And then when the clerk said, "Mr. Chairman," Senator LONG voted aye again.

So it takes some readjustment on both sides, but we had a good working relationship prior to this year, and we are going to continue that.

But that does not mean that we agree on every portion of this bill, and I am certain that Senator LONG will have differences as we consider some of the amendments.

But for the most part, and I say this hoping that some of my House colleagues may be tuned in on the Senate channel, I believe we have demonstrated on the Senate side that we can put together a tax package that deserves bipartisan support. The eight Democrats who voted for this Senate bill in the Finance Committee are all outstanding Members of the other party, and they have a lot of practice in tax politics and tax policies. I think even the one Democrat who voted against the package indicated to me if it were not for the third year, he would be happy to vote for the bill. So we put him down really as undecided, not as a negative vote.

So, it would seem to me that if 20 Republicans and Democrats can sit down in the Finance Committee and come up with a 95-percent agreement, 19 to 1, that 35 Republicans and Democrats in the House Ways and Means Committee might do the same, and there is still time to do that.

I know that the chairman and the ranking Republican Member are working on it, and if we could work out those little problems we could finish this bill long before the deadline, and hopefully we will.

I yield the floor.

Mr. LONG. Mr. President, I am pleased to support the Finance Committee's version of the Economic Recovery Tax Act of 1981. For too long, we have delayed giving the American taxpayer the tax reduction that he deserves and that the economy requires. The Finance Committee bill balances the competing demands of, on the one hand, keeping budget deficits under control and, on the other hand, providing the tax cuts that are needed to revitalize the Nation's economy.

In many respects, the present tax system is counterproductive. High tax rates cause individuals and businessmen to adjust their behavior in ways that cause the economy to be less prosperious and that shrink the tax base. Often, high tax rates cost the Government revenue—they encourage tax shelters; they deter investors from selling property that has risen in value; they discourage saving; they discourage work; they discourage risk taking.

This bill represents a healthy redirection of tax policy. It will make the tax system more responsive to the needs of the economy, rather than vice-versa.

The chairman of the committee, the Senator from Kansas (Mr. DOLE) has ably summarized the principal provisions of the bill. Let me just comment on a few of the provisions which are of par-

ticular importance to improving productivity and stimulating economic growth.

The reduction in the top individual income tax rate from 70 percent to 50 percent is one of the most significant provisions in the bill, and I might add that that is one of the provisions that was added in the committee. It was not in the original recommendation. The 70-percent tax rate is the most counterproductive part of the tax system. It has spawned an enormous effort by high-income people to find ways to avoid tax, and effort that usually is much more successful than have been our efforts to control or limit tax shelters.

Their success is not surprising. Keep in mind that this tax code is thousands of pages long. It is infinitely complicated. It is also backed up by the more than 10,000 pages of regulations. There are more than 20,000 lawyers in the tax section of the American Bar Association alone trying to find ways to help the people paying taxes in the 70-percent tax bracket save money on taxes. By contrast the Government had about 200 lawyers working trying to find where the tax shelters are and how to close them.

Just the sheer numbers and brainpower alone is enough to create all sorts of tax avoidance devices, when one is confronted with a 70-percent tax rate.

There are so many more people trying to open loopholes or find them than there are trying to close them, that it is almost a hopeless task to prevent finding measures of tax avoidance when one is confronted with a 70-percent tax rate which is near confiscatory.

A better strategy is to give people a positive incentive to invest their money in productive activities, and this bill does that.

In this context, the provisions in the bill on commodity tax straddles are very important as well.

May I point out, Mr. President, that the principal sponsor of this measure was the Senator from New York (Mr. MOYNIHAN), a man who represents financial markets, but who is concerned that all taxpayers should make a fair contribution.

These devices enable taxpayers to avoid paying taxes on very large incomes, often by investing only nominal amounts of their own money and taking very little, if any, risk. Indeed, tax sheltering through tax straddles is so easy that we cannot simply expect people to stop doing it just because we have reduced the top tax rate to 50 percent. The committee bill is a carefully structured response to this problem. It meets the legitimate needs of the people in the relevant industries while curtailing tax abuses.

The targeted savings incentives in the bill are an important part of a program designed to move the tax system away from encouraging consumption toward encouraging saving.

In particular, the employee stock ownership, or ESOP, provisions will not only encourage saving by workers but will also encourage them to work smarter and be more concerned with the prosperity and the success of their company.

By making permanent and restructuring the ESOP tax credit, the bill will greatly encourage the use of more ESOP's by businesses.

The bill also gives much-needed relief from the windfall-profit tax to small royalty owners, who were not really the targets of the tax. In addition, the tax reduction on newly discovered oil will be a major stimulus for additional drilling by both major and independent oil producers.

The deduction for two-earner couples, along with the tax rate cuts, will reduce the marriage tax penalty roughly in half. My goal is to eliminate marriage penalties from the entire tax system, but that is difficult to do because it either requires large tax cuts for married couples or large tax increases for single persons. The new deduction in this bill, which is part of the Finance Committee's tax cut bill this year, as it was last year, is a good first step.

The depreciation reform will lead to a major increase in the investment in plant and equipment and in rental housing. Additional capital formation and productivity will help fight inflation and will lead to faster economic growth.

I am concerned, however, that, after 1984, the bill will provide depreciation deductions and investment credits which, taken together, are more generous than simply expensing the cost of the asset in the year it is placed in service. I think that there is a lot to be said for an expensing approach, which has worked well in the oil and gas industry, where it has promoted drilling and development. I hope this problem can be worked out to move business more in the direction of expensing when an investment is made rather than writing it off over a long period of time.

Finally, let me turn to the across-the-board individual tax rate cuts. The revenue from the social security tax increase this January and from bracket creep, along with the funds made available from the spending cuts in the reconciliation bill, make it possible for us to afford large individual tax cuts. I support the committee's decision to cut taxes through across-the-board rate cuts. That is the best way to insure that the tax cut is spread uniformly throughout the economy.

I also support the provisions that have been added to the bill and discussed by the chairman of the committee.

Mr. President, this is a very important bill. It contains many, many different provisions, some of which are very intricate. I am sure no one is satisfied with every line of it, but it represents a reasonable compromise between President Reagan's original program and the concerns that many of us have expressed.

Therefore, I am proud to support the bill and to urge its adoption.

Let me say further that this is a bipartisan bill. Speaking as the ranking Democrat on the Committee on Finance, I am proud to report that every Democrat on that committee was offered an opportunity to make suggestions, and every Democrat in fact did make a significant contribution to the legislation that is before us, as I believe every Republican did also.

I very much hope the bipartisan spirit, which has put the Nation's interests first, will prevail here in the Senate. I know if I have my way, Mr. President, that is how it is going to be.

Let me say in closing, Mr. President, that no one could be any more fair to or any more considerate of all Members of the committee, particularly those of us in the minority, than has the distinguished chairman of the committee (Mr. DOLE). As he indicated, it is a new experience for the Senator from Louisiana to be in a minority on the Committee on Finance. I was here on the last day of the 80th Congress, and I was also here in the Senate during the first 2 years of the Eisenhower administration when we had a Republican chairman, Mr. Milliken, who was a very able chairman, and I though did a very fine job for the Nation and for the Congress as well as for his party.

But, Mr. President, I predict that these laurels will be exceeded by the very able chairman, Mr. DOLE, and I am positive he will continue in the same bipartisan spirit to put the Nation's interest first, as he has up to this point. I predict he will be one of the great chairmen of all times of the committee.

It has been a pleasure to work with him as one of the minority, and let me thank him for the consideration he has accorded every Member of the committee, both those who were supporting his position as well as those who were not.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Kansas.

Mr. DOLE. Mr. President, I certainly want to thank the distinguished Senator from Louisiana. I think we have indicated more by what we have done than what we have said that we mean what we say as far as a bipartisan approach to this problem is concerned. Without the active support of the Senator from Louisiana we probably would not be on the floor today. So we appreciate that very much. I think that is the same working relationship we had in the past, and we are going to continue that working relationship.

I think there must be a certain amount of independence. I do not work for the White House, the Senator from Kansas does not work for the White House. I want to help my President. But I have sometimes different views than some of those appointed people in the White House. In fact, I know one of them very well. [Laughter.]

So where we can agree we agree, and where we cannot agree we agree to disagree, I guess. and then we get written up in Evans and Novak.

I would be happy to yield to the distinguished Senator from Idaho, who is a new member of the committee, and who has been a very effective member of the committee.

Does the Senator have an opening statement?

Mr. SYMMS. Mr. President, I thank the chairman for yielding to me.

I would like to add to the comments of

the distinguished chairman of the committee, the Senator from Kansas, and to the comments of the Senator from Louisiana mentioned. I have, as a new member of the committee, certainly enjoyed the opportunity to work with both the Senator from Louisiana and the Senator from Kansas.

Let me say I will have an opening statement to make on the bill a little later, but I did want to make one point at this time. Even though I certainly support this bill with enthusiasm, and I think it is a good tax bill, there are some things in the bill with which I do not agree.

The chairman knows very well that I am one of the members of the committee who, if I had the opportunity, would have $50 billion worth of amendments I would like to offer to encourage economic activity in this country, but I have restrained myself in order to pass this much of an enthusiastic reward to the producers, the savers, and investors in the country to help get the economic recovery of President Reagan's in place.

One area which I disagree with the committee is the mark-to-market tax straddle proposal.

I have no opposition to the chairman trying to close the tax-straddle loophole, in order to prevent tax-evasion schemes. If we allow people not to pay any taxes at all, people who have earned substantial incomes, that causes other taxpayers to wonder why they are missing out on a good deal.

However, I think the House language, as reported by the Ways and Means Committee, in closing the loophole on commodity tax straddles, is much more favorable than the concept of taxing unrealized gains that is incorporated in our Senate version. With few minor exceptions there never has been a tax policy in this country which taxes unrealized gains.

I think from the standpoint of sound tax policy there will be innumerable reasons for rejecting it. If unrealized gains in the futures industry are to be taxed, why not do the same in the securities industry or the housing industry or on appreciation in any other investment? Any of these would provide a windfall for the Federal Treasury, but with tremendous consequences to the functioning of the American economy.

My concern is the agricultural markets and the metal markets. I hope that my fears are exaggerated. But there have not been any economic studies of what the impact of the Senate language is going to do to the operation of the price discovery and the liquidity and the numbers of people trading in commodities.

Closing the loophole and being sure that everybody pays taxes is fine as long as we continue doing nothing that will remove that liquidity.

I can say for my State that we have grain farmers who rely very heavily on prices discovery which comes from the future markets, and if anything happens in this process that drives many of those traders out of the business, the speculators, the people who provide the liquidity, it is going to be very detrimental to agricultural prices.

Likewise, my State produces nearly half of the silver in the United States. What happens at Comex and the Chicago Board of Trade on the floor is very, very important to their being able to realize the best price for the production of silver at those mines.

If we have a tax policy which, by taxing unrealized gains, drives some of the speculators in this industry out, speculators who are important to make it a liquid market, then they will not be able to be as sure of the price they are going to get. So the risk here is to distort the futures markets.

Futures markets now constitute the major risk management mechanism available to U.S. farmers, businessmen, financial institutions, and mining companies. They help spread that risk around so it stabilizes the market. This is a matter of great concern to me.

The distortion will occur because of the concept itself, which calls for the establishment of a Federal tax based on one's open positions in the futures market as of December 31 of each year. That means that tax considerations are likely to overwhelm basic supply-demand fundamentals in the final weeks and days of each calendar year. The same will occur at the beginning of the following year as taxpayers are saddled with the enormous risk of having open positions on which their tax liability has already been determined. This will cause many of them to liquidate those positions because of inordinate risks involved in the cash flow problems that result from having to pay taxes on a still unrealized gain.

These factors will severely impact these markets over a period of several weeks, making them much less effective as a hedging—risk management—vehicle.

It would create incongruities in the tax treatment of futures contracts and other investment vehicles. We live in a complex business and financial world today. One simply cannot establish the tax treatment of a particular financial instrument or agricultural contract without simultaneously considering the treatment accorded similar instruments of trade or investment.

For example, the tax treatment of futures contracts in mortgage instruments (GNMAs) must be carefully related not only to how the underlying cash instruments are traded, but also to forward cash markets in such mortgages.

If a mark-to-market approach is used in one of these markets, it should also be used in the others. Otherwise, all of them are likely to be distorted, and chaos will result in each of them. Regrettably, there is just no way that all these instruments can be marked to the market.

The same analogy can be made with agricultural contracts: therefore, we can expect incongruous adjustments in many sectors of our economy if the mark-to-market approach is adopted to solve a much narrower tax-straddle problem. In other words, the cure has ramifications far beyond the disease.

Mr. President, this has been a noble and correct effort on the part of the Members of the committee to close what we view as an inequity in our tax system. However, it likens to the old man who was walking down the trail and he jumped because he saw a snake. Very quickly he reached for a stick to kill the snake. But when he grabbed the stick he found that the stick that he grabbed was actually a snake and the snake that he thought he saw was only a stick. That is somewhat like what we are doing.

We have one other problem. We have the potential here of actually causing an increase in interest rates in the handling of the national debt which could increase the cost of managing our debt. It could cost the Treasury as much as we hope to return.

It could have an adverse impact on financing the national debt. Futures markets today perform an extremely valuable function in marketing Federal debt instruments. Turnover in Treasury bill futures alone now amounts to more than $40 billion per day. Should mark to market legislation adversely affect those markets—as we believe it would—the cost could far exceed the benefits. Only a very slight widening of bid-ask spreads will add millions of dollars to Treasury's costs in a new debt issue. We close a $1.3-million-straddle loophole—Treasury's estimate—and in the process increase the cost of Treasury financing by many times that amount.

CONCLUSION

The Congress should not adopt a mark to market solution to the tax-straddle problem until and unless these shortcomings can be dealt with.

Reservations have been expressed about the "basket" approach as well. There is still concern within the committee as to whether it fully responds to the issue of taxpayers "rolling over" income for many years through the use of straddles. The futures industry believes that language submitted recently does respond to that issue.

If, however, doubts still remain, it would be better to continue to work on that question rather than enact a mark to market proposal with all its ills and policy risks.

Having said that, I would like to say to the chairman of the committee that I think that the Senator from Kansas has certainly exerted enormously good leadership in the operation of this committee markup. I have to say that I never had the privilege in my years in the other body of being in the majority. I might have thought that it would be nicer to have had that experience in the other body.

I do believe that generally we have a tax bill that gives the tax benefits back to the people who are working, who are saving, who are investing, and it will have a positive impact on the economy of the United States.

Mr. President, I have other technical amendments that I am working on with the chairman which deal with the area of sections 6166 and 6166A. I think there are some problems with the woodlands area. We hope we can work out technical amendments on those matters, and also the generation skipping tax deferral.

Mr. President, I will reserve comments until a later time, and yield back to the chairman.

Mr. DOLE. Mr. President, I thank the distinguished Senator. We are looking at some of the technical amendments the Senator has brought to our attention. They are, for the most part, technical. Those that are not technical, we are not considering at this moment.

Mr. President, for the benefit of those who may read the RECORD, and some may, let me explain the charts at the rear of the room.

Mr. President, I ask unanimous consent that the explanation and the charts in an appropriate order be printed in the RECORD.

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

U.S. DECLINING SHARE OF WORLD OUTPUT (PERCENT OF WORLD GNP)

Mr. DOLE. Mr. President, the first chart is the "U.S. Declining Share of World Output."

This chart illustrates the declining competitive position of the United States and the need for tax reductions that will increase real economic growth in the United States and boost productivity to increase our competitive edge.

In 1953 the U.S. contributed 31.4 percent of world GNP—all goods and services produced that year. By 1980 the U.S. share of world GNP had dropped to 22.8 percent. In the same period the contribution of Japan to world GNP rose dramatically, and the contribution of less developed countries edged up. If this trend is allowed to continue, the United States will be less of a factor in world markets—and declining economic power generally will mean declining political influence as well. That is why the economic recovery program, including the present incentive-oriented tax bill, is so important to America as a whole, not just to the average taxpayer. So it has worldwide implications.

The chart referred to follows:

U.S. DECLINING SHARE OF WORLD OUTPUT

[Percent of world GNP]

	1953	1960	1970	1980	1980 as multiple of 1953
	(1)	(2)	(3)	(4)	(5)
(1) Japan	3.9	5.1	8.8	10.1	2.6
(2) LDC's	20.7	18.7	18.2	21.9	1.1
(3) France	5.2	5.5	5.6	5.5	1.1
(4) West Germany	7.0	8.7	8.2	7.3	1.0
(5) EEC	25.2	26.9	25.4	22.9	.9
(6) United States	31.4	28.0	24.6	22.8	.7
(7) United Kingdom	6.3	5.8	4.6	3.7	.6

WHERE DOES A FAMILY'S MONEY GO? FAMILY OF FOUR WITH 1979 INCOME OF $16,000

Mr. DOLE. Mr. President, I think most taxpayers are interested in, "What is it going to do for me?" They may not be so concerned as to what it is going to do for the world. We have a chart entitled "Where Does a Family's Money Go?" This refers to a family of four.

This chart illustrates the dramatic increase in the percentage of family income that goes to pay taxes. In 1971 the typical family of four had to pay 19.1 percent of their income in taxes on that income. By 1980 that percentage had risen to 27.7 percent of income: a 45 percent increase over the 1971 level. By contrast despite the dramatic rise in housing prices, housing costs as a percentage of family income actually declined over the same period, from 25 percent to 22.5 percent. The less disposable income our citizens have after taxes, the less economic discretion they have: and the more the Government has to make up the difference in deciding how a family's income is spent. Only sustained tax reductions for individuals can reverse the trend toward taxes consuming an ever-higher percentage of family income—and restore to families the freedom to make decisions in the marketplace that keep our economy thriving.

I think that is an indication of why the President feels so strongly about sustaining the effort to reduce the marginal tax rates as opposed to the House side, which is more or less a redistribution of income approach, and not a very good one at that. It is 15 percent on the House side compared to 25 percent offered by the President and the Senate Finance Committee.

The chart referred to follows:

WHERE DOES A FAMILY'S MONEY GO?

[Family of 4 with 1971 income of $16,000]

	Percent of total spending			
	1971	1975	1980	Percent income December 1980 versus 1971
	(1)	(2)	(3)	(4)
(1) Taxes on income	19.1	22.3	27.7	[1] 45.0
(2) Food	20.1	21.6	20.4	1.5
(3) Transportation	7.9	7.4	8.0	1.3
(4) Medical Care	4.0	3.8	4.0	
(5) Housing	25.0	24.0	22.5	(10.0)
(6) Personal care	2.3	2.1	1.9	(17.4)
(7) Other	13.0	11.5	10.0	(23.1)
(8) Clothing	8.6	7.3	5.5	(36.0)
(9) Total	100.0	100.0	100.0	

[1] To the Government.

WHERE DID THE PERSONAL INCOME TAX MONEY COME FROM IN 1980?

Mr. President, there has been a lot of discussion on the House side about how they are going to help the average American, the low-income taxpayers. No one quarrels with that. There are ways that can be done. But what effect does an across-the-board tax cut have?

A chart that might shed some light on that is entitled "Where Did the Personal Income Tax Money Come From in 1980?"

The chart illustrates how different income classes contributed to the Federal tax take in 1980. It shows that taxpayers in the income range $15,000 to $49,999 represented 44.4 percent of all taxpayers in 1980, accounted for 62.5 percent of all taxable income in the country, and paid 60 percent of the taxes. Of the 1980 Federal budget, these taxpayers through their income taxes contributed 25.3 percent of the financing for that budget.

By contrast, taxpayers with incomes between $0 and $14,999 were 50.9 percent of all taxpayers, accounting for 21.9 percent of taxable income, but paid only 10.7 percent of all taxes. Taxpayers with incomes over $100,000 were only .9 percent of all taxpayers, but represented 6.8 percent of all taxable income and paid 16 percent of all taxes.

The chart shows why across-the-board reductions in tax rates are important: they reward taxpayers in direct proportion to their present tax burden. Any other approach to tax reduction means disincentives for the taxpayers who are less favored: not a good way to reward work, savings, and additional effort.

The chart also indicates the significance of the underground economy, which is encouraged to grow by high marginal tax rates that reduce the real return on legitimate taxable activities.

Mr. President, I might say that is an area which the Senate Finance Committee will be digging into sometime this fall, the underground economy and some of the abuses, the fraud, and why the rest of the American people pay more taxes because some pay no taxes. We hope to be able to address that problem.

I know that Senator NUNN will be here with an amendment later which he will discuss, but hopefully withhold until a later time.

The chart referred to follows:

WHERE DID THE PERSONAL INCOME TAX MONEY COME FROM IN 1980?

[In percent]

Expanded income level	Percent of total taxpayers	Percent of total taxable income	Percent of total taxes paid	Ratio of percent taxes to percent income	Taxes paid as percent of $579.6 billion budget
	(1)	(2)	(3)	(4)	(5)
(1) $0 to $14,999	50.9	21.9	10.7	0.5×	4.5
(2) $100,000 plus	.9	6.8	16.0	2.4	6.7
(3) Subtotal	51.8	28.7	26.7	.9	11.2
(4) $50,000 to $99,999	3.8	8.8	13.3	1.5	5.6
(5) Subtotal	55.6	37.5	40.0	1.1	16.8
(6) $15,000 to 49,999	44.4	62.5	60.0	1.0	25.3
(7) Total	100.0	100.0	100.0	1.0	42.1
Social security tax					27.7
Business taxes					11.2
Other revenue					8.7
Deficit					10.3
Total					100.0

Underground economy—$250 billion; lost taxes—$30 billion; equal to 5 percent of the Federal budget, 77 percent of taxes paid by the $100,000 plus income brackets (0.9 percent of all taxpayers). 115 percent of taxes paid by the under $15,000 income brackets (50.9 percent of all taxpayers).

COMPARISON OF TAX RATES UNDER CURRENT LAW AND UNDER REAGAN PLAN AT 1984 AVERAGE TAX RATES

Mr. President, another chart shows the current law tax rates compared with the rates under the Reagan program.

The chart shows what current law tax rates would be for taxpayers in 1984 if no change is made in policy, and compares those rates with the tax rates that would apply in 1984 under the Reagan 5–10–10 plan. The chart assumes that the taxpayer's income keeps pace with inflation.

The difference is dramatic: By 1984 the taxpayer's tax rate would be between 13.5 percent and 23.2 percent lower under the Reagan plan than if present law were continued. The chart also highlights an important fact: In terms of percentage reduction in tax rates, the Reagan program is most meaningful for lower income taxpayers. The taxpayer with $10,000 1980 taxable income will get a 69 percent greater reduction in the tax rate than a taxpayer with a $100,000 income in 1980. This reflects the simple fact that bracket creep has a swifter and more dramatic effect on low-income taxpayers than on upper-income taxpayers, in terms of percentage tax liability.

The chart referred to follows:

COMPARISON OF TAX RATES UNDER CURRENT LAW AND UNDER REAGAN PLAN AT 1984 AVERAGE TAX RATES

			In percent		
	1980 taxable income	Same income 1984 dollars [1]	Under present law	Under Reagan plan	Reagan law under present law
	(1)	(2)	(3)	(4)	(5)
(1)	$10,000	$13,500	18.4	14.2	22.8
(2)	20,000	27,000	23.7	18.2	23.2
(3)	30,000	40,500	29.4	22.6	23.1
(4)	50,000	67,500	37.2	29.2	21.5
(5)	100,000	135,000	43.6	37.7	13.5

[1] Assuming 35 percent inflation between 1980 and 1984—7.8 percent average annual.

TEN PERCENT INFLATION TAX BRACKET CREEP WITH NO INCREASE IN PURCHASING POWER (WAGE AND SALARY INCOME)

Mr. President, we shall discuss this at length when we get into the first committee amendment.

This chart illustrates how the interaction of inflation with the progressive income tax threatens to destroy the progressivity of the tax system. The chart assumes a rough average of 10-percent annual inflation since 1972, for illustrative purposes, and projects the effects through 1993. The chart is indeed dramatic, because it shows that by 1993 every taxpayer would be in the top, 50-percent marginal rate bracket. Even in 1980, relatively moderate incomes in 1972 dollars hit the top marginal rate.

The point is that sustained tax rate reductions are needed just to maintain the progressivity of the individual income tax. The exceptionally high marginal rates that inflation pushes taxpayers toward will surely bog down the economy in stagnation unless changes are made now and sustained in the years ahead.

This will be addressed at greater length in the committee amendment to be offered to the committee bill. I shall be offering the amendment and it will be debated by many in this body. Primarily the lead sponsor is Senator ARMSTRONG, of Colorado.

The chart referred to follows:

10 PERCENT INFLATION TAX BRACKET CREEP WITH NO INCREASE IN PURCHASING POWER (WAGE AND SALARY INCOME)

[In percent]

1972 taxable income	Marginal tax rates			
	1972	1980	1986	1993
	(1)	(2)	(3)	(4)	(5)
(1) $10,000	19	24	32	50
(2) $15,000	22	28	43	50
(3) $20,000	25	37	50	50
(4) $25,000	28	43	50	50
(5) $30,000	32	49	50	50
(6) $40,000	36	50	50	50
(7) $50,000	42	50	50	50
(8) $100,000	50	50	50	50

THE HIGH COST OF DYING

Mr. President, we shall discuss the last chart, the high cost of dying chart, at a later time when we get into some modifications, in the event there are modifications, of the estate tax provisions. It very clearly shows that the United States, compared to many other countries, has the highest percentage gross domestic product in gift and estate taxes. We shall be discussing that further later in the day.

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

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

Mr. DURENBERGER. Mr. President, America's wage earners and the business enterprises that employ them have been restrained for decades by an unfair, overcomplicated and poorly targeted tax system. We have paid for that system through a stagnant economy, a huge underground economy, and the growth of unproductive tax shelters. The scope of the bill now before us is testimony to the overwhelming need for fundamental tax reform.

The legislation we are about to consider represents a dramatic turnaround in those policies. Obviously, it does not make every change that needs to be made in the Tax Code. No single bill can repair:

The damage done to small business people by a system biased against capital formation;

The damage done to family farms and businesses by a policy of taxing death; and

The damage done to poor and to middle-income taxpayers by decades of exposure to an unindexed tax system.

In addition, the scope of this bill is limited by the fact that even with the budget cuts approved last month, we still face a deficit approaching $55 billion in fiscal year 1981.

But the fact that there are additional needs cannot detract from the landmark reform achieved in S. 266. They are a clear indication that the economic power in this country is being returned to the people instead of being centralized in the Federal Government. Many, in fact most of the highest priorities in tax reform have been included in this bill. It allows individuals to keep more of what they earn, and encourages them to save more. It does away with the disproportionately heavy load placed on small business persons and family farms. It begins to erase the unfair vestiges of sex discrimination in State and retirement laws.

The reduction in individual rates that we have proposed is the fairest, simplest form of tax reform. It is a permanent commitment to allowing people to keep more of what they earn instead of Congress offsetting inflation with a so-called "tax cut" every election year. Individuals and couples are granted relief in direct proportion to how much they pay which means the most to the middle-income American who has no tax shelters and who is getting socked with higher taxes every year.

Millions of small business people who file noncorporate business tax reforms would gain from these rate reductions as well. This means more money left in the communities where it was earned and where it will be turned into new jobs by people who own and operate their own businesses.

This is the kind of change Minnesota small business people want—just let us keep more of what we earn; I want to put it back into my business to make it grow, is what I have heard over and over again. They do not want special programs or complicated tax incentives. They just want to be able to keep more of what they have worked so hard to get and this bill gives them that.

An even more fundamental reform is what this bill proposes in the area of estate taxes. Nowhere have the ravages of inflation done more damage then to the family farm and family businesses. As one Minnesota farmer so graphically put it, "sons and daughters are being forced to buy back their parents' farm that took years and years to build, from the Federal Government for 35 to 40 per cent of its value—not what their parents paid for but the unreal value—not what their parents paid for it but the unreal value created by the Government-induced inflation of recent years.

Another Minnesotan was told to stop trying to improve his farming operation by his lawyers and accounts because it would only increase his estate tax problems. He is only in his midforties. What a waste. This bill begins to remove horrible burden of the unjust, unfair death tax that now stifles the most productive people in our economy. The small business person and the family farmer.

The creation of spousal and voluntary individual retirement accounts (IRA's) and the expansion of the current IRA system may be one of the least noticed

yet philosophically important aspects of this legislation. Once again there is a reason to save for retirement. Inflation and our tax system are no longer major obstacles to Americans providing for themselves as they have done in the past. In addition, these accounts will provide a stable, long-term source of capital so desperately needed by our economy to build more homes, create more jobs, and finance new businesses big and small.

For the first time ever, a nonworking spouse can have his or her own IRA. We have acted to reduce the antifamily burden imposed on working couples. Substantially easing the marriage penalty that is currently a part of our tax code is a matter of simple justice and economic equality for many middle-class Americans.

Much will be said about the business-oriented tax cuts in this bill and rightly so. This legislation is an affirmation in the productive capability of American industry and the American workers. I am glad to be part of this bipartisan effort to put modern tools and equipment in the hands of business and labor.

The accelerated and simplified depreciation schedules in this bill remove major obstacles to investment and job creation that have been plaguing our economy for years. We have regained our commonsense when it comes to our economy. We cannot expect the American workers and the American businessman to compete with the Japanese or West Germans with one hand tied behind their back. These tax changes free the American economy to once again operate at full speed.

Accelerated depreciation, ITC reforms, and the other so-called business tax cuts are designed to promote capital formation and put Americans back to work. But because they are tax incentives, they can only impact on industries that are already yielding profits.

Unfortunately, the industries facing the greatest need for retooling—because they have the oldest physical plant—are also among the economy's least profitable. Steel, automobiles, rail, airlines, and mining are good examples. These basic industries have three troublesome factors in common:

First, each is a true basic industry, employing large numbers of people and producing a product essential to the Nation's economy;

Second, each is facing immense capital investment needs as it seeks to modernize aging plants and equipment; and

Third, in the face of these growing investment needs, each of these basic industries is facing inadequate earnings on an industrywide basis.

No one would deny that modernization of these basic industries is essential to any reindustrialization plan. But it is equally true that most of the tax reforms contained in this bill will have little or no impact on these industries because of their lack of taxable earnings.

Both the administration and the Finance Committee recognized this problem. They responded to request by Senator HEINZ, myself and others by adopting language that liberalizes current leasing regulations so that through the mechanism of leveraged leasing, basic industries like rail and steel can share in the benefits of ITC and ACRS. This is the first time Congress has taken such sweeping action to insure that the benefits of tax reform will actually reach the industries that need those reforms the most. There is not a provision in this bill that will have a greater impact on employment, or on the future of the Nation's transportation system.

Indexing the Tax Code which I expect to see adopted as a committee amendment to this bill is a major step toward assuring these and the other reforms in this bill. With indexing, Government will no longer reap a windfall profit on the inflation that its own spendthrift policies create. Indexing protects the taxpayer from automatic, unvoted tax increases caused by bracket creep.

Mr. President, 100 Senators would probably construct this package in 100 different ways. But there can be only one bill, and the size of that bill is limited by a $55 billion deficit. S. 266 is a carefully crafted compromise. Many of my own priorities, even some of my highest priorities, are not included in the legislation. What the bill does contain is the Senate's consensus on the foundation of reforms necessary to put this country back on a path toward prosperity and economic growth.

During the next few days, I expect to vote against a number of amendments that I support in substance, and would probably vote for under any other circumstances. But to open up this compromise for amendments seeking additional tax relief for any group, sector, or interest, will destroy the compromise and prevent the enaction of any tax reform in the foreseeable future. As difficult as it is to turn away—even temporarily—from tax proposals with which we each have become identified, reopening this compromise is not in the national interest.

The Finance Committee will begin hearings on the second tax package in early September. That is the proper time and place in which to raise these additional issues. For the present, we need to recognize the need to move quickly on this legislation, and send a relatively clean bill to the President's desk by the start of the August recess.

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

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

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, certain Members are in caucus, others are in conference with other Senators and other Members of Congress. It is not possible to proceed with the next amendment and have those Senators who are most directly involved available. I believe the best purposes of the Senate would be served by recessing at this point.

Mr. President, I ask unanimous consent that the Senate stand in recess from this moment until 2 p.m.

There being no objection, the Senate, at 1:06 p.m., recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. PERCY).

Mr. HEFLIN. Mr. President, a few days ago I received a letter from an old and dear friend of mine, a fellow member of the Alabama Bar, Mr. J. Gilmer Blackburn of Decatur, Ala. Gilmer and I have been friends for many, many years and I know that he is one of the most respected members of the tax bar in the State of Alabama.

The occasion for Gilmer's letter was to share with me his thoughts concerning the tax package now pending before the Senate. While I do not necessarily agree with everything Gilmer said, I find his letter to be one of the most thoughtful analyses of the bill I have seen to date. The point that Gilmer makes over and over again is that we must bring simplicity and clarity back to our tax laws. Any provision which adds complexity or makes it more difficult for the average American citizen to understand his tax responsibilities is unacceptable. I do not see how anyone in this body could find fault with that and I think that it is something we need to keep in mind not only while working on this measure, but when examining other areas of the code for reform in the future. I ask unanimous consent that the letter of J. Gilmer Blackburn to me dated July 2, 1981, be inserted at this point in the RECORD so that my colleagues here in the Senate may have the advantage of seeing Gilmer's ideas on the pending tax bill.

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

BLACKBURN AND MALONEY,
Decatur, Ala., July 2, 1981.

Re: Reagan Tax Cut Plans.
Senator HOWELL HEFLIN,
U.S. Senate,
Washington, D.C.

DEAR HOWELL: I am very pleased to give you my comments as to the proposed Reagan Tax Cut Plan. This comment is based on my experience as a tax attorney and not on any opinion as to whether the bill is good for the economy, etc.

In regard to federal tax laws, I would like to offer the following general comments:

1. Keep it simple. The federal income tax law has become too complex to be effectively interpreted or administered. This complexity has been created by a desire to satisfy the diverse individual and corporate interest groups by amendments to the Internal Revenue Code. This complexity, however, has in many instances been a cause of the inequity the amendments were intended to eliminate. The Pension Reform Act of 1974, for example, provides extreme complexities to solve a relatively small problem.

2. The income tax law should exist to produce revenue. It has become fashionable to cure various social and other problems by tax incentives or benefits which have no relationship to tax revenue. The basic purpose of any tax law is to equitably allocate the cost of government to its citizens. The use of the federal tax law for purposes other than revenue decreases the effectiveness of the tax law.

3. The federal tax law must be restructed.

The ability to raise the necessary federal revenues by income and payroll taxes to service all the traditional services provided by the federal government, including social security and medicare, is becoming an impossibility. The tax burden is going to have to be readjusted, with the principal funds for social security and medicare being raised by a national sales tax, value added tax, or other type of users fee. The income and/or payroll taxes cannot provide the necessary revenue and still provide incentive for capital growth.

With the above in mind I would like to give you my brief comments on the Economic Recovery Tax Bill of 1981.

1. Individual rate cuts. The present maximum rate of 70 percent is inequitable in relation to inflation, and the reduction of the overall rate to 50 percent should be beneficial. The gradual reduction in the overall rates is also a simple method to reduce the impact of inflation. The law should not be complicated by trying to readjust or modify the amount of the refund to the various parts of the economy. This would require a restructuring of the entire tax schedule.

2. Marriage penalty relief. This provision provides for additional complexity which would benefit only a small number of persons. The overall reduction in rates will help reduce this problem which should not be significant thereafter.

3. Individual retirement accounts. The individual retirement accounts for all taxpayers provides a special benefit for a limited type of investment. The reduction of the overall effective rates will help minimize the need for these type of benefits. Any additional provisions in the Internal Revenue Code should be discouraged. This type of benefit, however, is very popular with the taxpayers.

4. Keogh plans. The allowable deduction for contributions to retirement plans by individual proprietor and partnerships should be equal to that allowed for corporate plans. A number of business people are going to the otherwise unnecessary additional cost of incorporating their business because of the difference in the deduction.

5. Capital cost recovery system. A more efficient cost recovery system must be used to replace the outmoded standard depreciation. Under standard depreciation, cost of the equipment is amortized over the proposed useful life of the equipment. This method is now unrealistic because of the high cost of replacing the item. A fast charge off is a solution. I believe the best method, however, is to allow a deduction based on the current cost of replacement.

6. $400 interest and/or dividend exclusion. This adjustment should be considered in order to adjust the present exclusion for inflation.

7. Tax credit for research. This type of tax legislation creates, I believe, greater complexity and reduces effective tax revenue. Research expense is presently deducted, and an additional tax credit should not be provided.

8. Foreign earned income. This provision should be adopted. Foreign income in most instances is also taxed to the foreign country and should be exempted in this country.

9. Windfall profit tax credit. This provision should be adopted if it will eliminate filing a tax return for small owners of royalty interests. The amount of the benefit, however, should be considered in relationship to the cost of administering, filing, etc.

10. Investment credit for buildings. The need for this provision will be reduced if the new accelerated cost recovery system is adopted. Additional tax credits should not be encouraged.

As to the federal gift and estate tax provisions, I am pleased to recommend the following:

1. Increased credit. Under present law individual estates over $175,000 are subject to estate taxes. The estate and gift tax laws should be applicable only to persons with estates in excess of $600,000. The complexity of the estate and gift tax laws should be eliminated for all estates below this level.

2. Unlimited marital deduction. This would have the possibility of creating an unequal tax on the estate of the surviving spouse by overfunding the marital share, I would therefore not recommend that this provision be adopted. The present law provides adequate relief, especially if the allowable credit is increased.

3. Increase annual gift tax exclusion. This should be adopted to eliminate the filing of returns for small gifts.

It is my recommendation that the major provisions of the Reagan tax plan be adopted. I would not encourage any complicated alternatives. I would also discourage any additional tax benefits or incentive credits because of the complexity of these provisions. If I can provide any additional comments, please give me a call.

Sincerely,

J. GILMER BLACKBURN.

Mr. KENNEDY. Mr. President, the tax bill now before the Senate is, in a sense, the mirror image of the administration's harsh budget cuts that are now part of the reconciliation bill. This tax bill is a bloated bonanza for the wealthiest individuals and richest sectors of our society. These huge tax cuts threaten the fight against inflation. These unjustified tax giveaways are unprecedented in economic policy since the days of Treasury Secretary Andrew Mellon and President Calvin Coolidge, who presided over the policies that lead to the Great Depression.

For the first time in the recent history of major Senate tax bills, the report of the Finance Committee fails to include the customary tables showing the effect of the bill in reducing the tax burden on individuals in various income categories. It is easy to understand the embarrassment that led to the omission—because the tables irrefutably demonstrate the fundamental unfairness of the proposed Kemp-Roth tax cuts to middle-class families, and the executive benefits conferred on the highest income groups. This is a bill that gives the most relief to those who need it least, and gives the least to those who need relief the most.

As calculated by the Joint Tax Committee, the bill proposes the following tax cuts for a family of four:

	Tax cut		
	1982	1983	1984
Earned income:			
$5,000	0	0	0
$10,000	52	78	83
$15,000	151	226	281
$20,000	228	371	464
$30,000	405	744	914
$40,000	639	1,188	1,438
$50,000	947	1,754	2,158
$60,000	1,255	2,370	2,928
$100,000	2,137	4,648	5,822
Unearned income:			
$100,000	2,793	5,304	6,478
$200,000	11,555	15,002	17,514
$500,000	56,155	59,602	62,204

Supporters of the committee bill protest that its provisions are different from the original Kemp-Roth measure. They say that if we only understood the new supply-side economics, we would realize that the measure is helpful to the Nation's economic recovery.

But in its manifestation in this bill, the highly touted supply-side theory is only a 1980's disguise for the thoroughly discredited trickle-down economics of the past. The bill is a clone of Kemp-Roth, with cosmetic additions to purchase support from special interest groups with votes to deliver.

The bill preserves the two most objectionable features of the original Kemp-Roth legislation: First, the massive and highly inflationary tax reductions that roll on for years into the future and that may well cripple any hope for a balanced budget and a national economic recovery; and second, the "let them eat cake" mentality of dispensing tax relief, which proposes a plum of nearly $20,000 in tax cuts for those making $200,000 a year, but a pittance of only $200 for the average taxpayer making $20,000.

In fact, the bill is false to its promise of a tax cut for every taxpayer, as tables prepared by the Joint Tax Committee indicate, for most working men and women and average families, the tax cuts are not even sufficient to offset the impact of the tax increases due to inflation and rising social security taxes. These citizens—millions of middle-class Americans—are truly the forgotten taxpayers of the administration plan. For them, there is no tax cut, only the prospect of higher taxes.

In the past, I have supported responsible measures for tax relief to protect individuals against the rising burden of OPEC oil prices, inflation and social security tax increases, and the marriage penalty. And I have also sought effective business tax relief to reform the archaic system of depreciation, to stimulate saving, investment, and productivity, and to provide needed assistance to small business.

But this administration bill, as it is now written, fails the test of tax justice and of responsible economic policy.

The chief challenge we face in this debate is to remove the inflationary bias of the bill and to make the tax cuts fair for individuals and for businesses. In seeking these goals, I intend to join with my Democratic colleagues in amendments to shorten the 3-year period of the Kemp-Roth tax cut, to make the tax relief fairer for average taxpayers, and to improve the bill in other important ways.

We are now debating a bill that will dispense the incredible sum of $784 billion in tax relief over the next 5 years—by far the largest tax reduction in the Nation's history. Each of us, in both parties, has an obligation to all the people of this Nation to enact a bill that meets the test of fairness and the test of economic responsibility.

Mr. President, I ask unanimous consent that the table prepared by the Joint Tax Committee. to which I referred, may be printed in the RECORD.

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

SENATE FINANCE COMMITTEE TAX BILL—INDIVIDUAL INCOME TAX CUTS COMPARED TO INFLATION AND SOCIAL SECURITY TAX INCREASES

[Dollar amounts in millions (1981 income levels)]

Expanded income class (thousands):	Inflation and social security increases [1] (1)	Senate Finance Committee bill [2] (2)		Net tax reduction (col. (2) minus col. (1))	
1982					
Below $5	$371	$48	(*)	−$323	(*)
$5 to $10	1,621	813	(12.7%)	−808	(−17.0%)
$10 to $15	1,899	1,740	(10.7)	−159	(−1.1)
$15 to $20	2,228	2,452	(10.7)	224	(1.1)
$20 to $30	5,150	6,208	(10.6)	1,058	(2.0)
$30 to $50	7,098	9,412	(11.0)	2,314	(2.9)
$50 to $100	3,316	5,549	(10.7)	2,233	(4.6)
$100 to $200	863	2,568	(10.6)	1,705	(7.3)
$200 plus	276	3,567	(16.9)	3,291	(15.8)
Total	22,820	32,356	(11.3)	9,536	(3.6)
1983					
Below $5	567	109	(*)	−458	(*)
$5 to $10	3,178	1,479	(23.2%)	−1,708	(−53.5%)
$10 to $15	3,812	3,287	(20.1)	−525	(−4.2)
$15 to $20	4,264	4,675	(20.4)	411	(2.2)
$20 to $30	9,854	12,349	(21.1)	2,495	(5.1)
$30 to $50	13,644	18,923	(22.1)	5,279	(7.3)
$50 to $100	6,832	11,002	(21.3)	4,170	(9.3)
$100 to $200	1,844	4,437	(18.4)	2,593	(11.6)
$200 plus	598	4,080	(19.3)	3,482	(17.0)
Total	44,601	60,341	(21.0)	15,740	(6.5)
1984					
Below $5	664	114	(*)	−550	(*)
$5 to $10	4,330	1,731	(27.1%)	−2,599	(−126.7%)
$10 to $15	5,338	3,900	(23.9)	−1,438	(−13.1)
$15 to $20	5,732	5,625	(24.5)	−107	(−0.6)
$20 to $30	13,164	14,893	(25.4)	1,729	(3.8)
$30 to $50	18,101	22,520	(26.3)	4,419	(6.5)
$50 to $100	9,448	13,255	(25.7)	3,807	(9.0)
$100 to $200	2,640	5,396	(22.4)	2,756	(12.8)
$200 plus	873	4,413	(20.9)	3,540	(17.5)
Total	60,289	71,847	(25.1)	11,558	(5.2)

[1] Increased tax revenues resulting from inflation and social security tax increases (assumes 9 percent inflation in 1982, 10 percent in 1983, and 9 percent in 1984).

[2] Includes rate reductions, marriage penalty deduction, and changes in interest exclusion.

* Tax liability is negative for this income class, because of refundable earned income tax credit.

Source: Joint Tax Committee.

Mr. KENNEDY. Mr. President, it is time to dispose of the new right's old myth that their tax reduction is simply a supply-side version for the 1980's of the famous—and famously successful—J. F. K. tax cut of the 1960's.

The new right argument is breathtaking in its simplistic superficiality. Like the administration proposal, the J. F. K. plan did reduce taxes for individuals and business. But there the similarity ends, and the obvious and fundamental differences begin.

J. F. K.'s tax cut was fair to average taxpayers. Hard-pressed low- and middle-income citizens received the greatest benefits. The tax reduction was nearly 40 percent for those with lesser incomes, 20 percent for middle-class taxpayers, and 10 percent for the very wealthy. The Reagan-Kemp-Roth tax cut stands that distribution on its head, by giving the most relief to those who need it least.

J. F. K. understood the critical role of small firms in investment and innovation, and his tax cut was sensitive to the small business sector of the economy. In addition to general tax incentives for all businesses, his proposal contained a special 27-percent cut in the tax rate on the first $25,000 of corporate income. The Reagan plan contains no provision targeted to small business.

In addition to rate and bracket changes, the J. F. K. plan included 10—count them, 10—far-reaching proposals for tax reform to "remove unwarranted special privileges, correct defects in the tax law, and provide more equal treatment of taxpayers."

Thus, the $13.6 billion in tax cuts he proposed for individuals and corporations was partially offset by $4.9 billion in revenue gains from tax reform, thereby allowing larger tax relief with smaller budget deficits.

The Reagan plan contains no such offsets. The administration refused to bite the bullet of tax expenditures, which are special tax breaks that cost Federal revenues as surely as any other program. Federal spending through tax subsidies will roar along at the rate of $229 billion this year.

At the very least, the administration should cut back on the $5 billion a year in tax subsidies pouring into the treasuries of the major oil and gas companies, and cut out the $1.3 billion commodity straddle that has become a favored loophole of wealthy speculators.

And, of course, there are equally basic differences between the 1960's and the 1980's with respect to the size and timing of the tax cuts and the contrasting economic climates of the times.

J. F. K.'s tax cut came in an economy with inflation at rock-bottom levels of 1 to 1.2 percent a year. Now we suffer that much inflation in a single month in these days of double-digit disaster.

Incentives for investment, savings, and productivity have broad bipartisan support. But with inflation our top domestic priority in 1981, it makes no sense to throw caution to the winds and plunge ahead with three consecutive years of the inequitable and potentially hyperinflationary tax cuts of this administration.

In fact, J. F. K. proceeded so circumspectly that he cut taxes in two stages.

First came the supply-side incentives proposed in 1961 and enacted in 1962 to encourage capital formation through liberalized depreciation writeoffs and the landmark investment tax credit for purchases of equipment and machinery.

Only later, when the results were in and continuing low inflation and modest Federal deficits permitted more, did the Kennedy administration proceed with the second stage—the large tax cuts for individuals and corporations proposed in 1963 and approved by Congress in 1964.

Mr. President, when the economy is wrong, nothing else is right. When times are bad, the hard-pressed taxpayers of Massachusetts are entitled to demand relief from the burden of their property taxes; and the hard-pressed taxpayers of America are equally entitled to demand relief from the burden of excessive Federal spending. The challenge we face together is to make these budget cuts in ways that are fair to our people and that preserve essential services for our communities.

I have pledged my support for a fair policy of budget restraint and regulatory reform. I have sought budget reductions in the past. I have fought for deregulation every year since 1973. I take some pride in the fact that two of the most significant landmarks of deregulation in the past decade have been the laws I sponsored to eliminate needless Government control over the airline industry and the trucking industry.

There is a growing consensus in the Congress and the country about the broad goals of economic policy. But there are basic questions that must be asked about the President's program.

Where should budget cuts be made? Whose taxes should be cut? What incentives for investment and productivity will prove most efficient? How tight should money be, and how high should interest rates be permitted to rise?

In answering such questions, we can and must consider alternative possibilities to reach our common goals. As the loyal opposition, Democrats in Congress will do all we responsibly can to cooperate with President Reagan. In this endeavor, we shall not be obstructionists. But neither shall we be rubber stamps.

In recent weeks, for example, I have suggested other approaches to the administration's budget cuts. I believe that all of us are prepared to bear a fair share of the burden to bring the Federal budget into balance over time.

But if sacrifice is fair that takes low-income fuel assistance from families struggling to heat their homes; if sacrifice is fair that takes student loans from middle-income families struggling to give their children a college education; if sacrifice is fair that takes urban development action grants from mayors struggling to revitalize their cities; then I say that fair sacrifice must also take from the oil companies, whose only struggle is to count their enormous profits.

I have similar concerns over the other key elements of the administration's program. On regulatory reform, I believe we must continue to reduce the burden of Government and promote more competition in our free enterprise system—but in ways that do not jeopardize the

quality of our environment or the health and safety of workers on the job.

On monetary policy, I believe we can restrain the growth of the money supply, without generating endless credit crunches that will keep interest rates high or send them even higher than they are today. One area of competition our economy does not need is competition promoted by the administration and the Federal Reserve Board to see which bank can charge the highest interest rate.

In the coming weeks, I will continue to speak out on these basic issues of economic policy, and seek responsible alternatives that can truly meet our Nation's needs.

In addition, certain basic principles must guide us in shaping tax policy for the 1980's:

First, when broad-based tax cuts are made for individuals, middle- and low-income citizens must receive the top priority within the revenues available. High-income taxpayers must not be ignored. But tax cuts for the rich must rightly take second place to tax relief for their fellow citizens of lesser wealth, who suffer most from the crisis in our economy.

Second, in giving general tax cuts to business, particular care must be taken to insure that small business receives its fair share of the tax reduction.

Third, we must retain a healthy caution about the ability of tax cuts to meet economic and social challenges. Just as we cannot solve all our problems by throwing money at them, so we cannot solve them by throwing tax cuts at them. And certainly, we cannot afford a policy that provides enormous tax relief for wealthy individuals and corporations, but offers only an economic theory for all the rest of us.

Fourth, where it is appropriate to use tax incentives to encourage specific business activities, the measures must be carefully targeted to the problem, so that the Nation secures the maximum economic benefit for the Federal subsidy involved.

Fifth, amid all our pressing public problems, we cannot lose sight of one central truth—no tax system will work, unless it is fair and seen to be fair by the average taxpayers of this country. Any tax cut and any tax incentive we fashion in the weeks ahead must meet this basic test of fairness.

In applying the principles to our current condition, we must recognize the heavy burdens that individual taxpayers and businesses have suffered in recent years.

There is the burden of ever-increasing energy costs, which in large part are taxes imposed by the OPEC countries on the people of America. These OPEC taxes siphon tens of billions of dollars each year from individuals and corporations.

There is the sharp rise in social security taxes, whose burden falls most heavily on middle- and low-income workers. The social security tax increase in 1981 alone will cost over $13 billion.

There is the tax imposed by runaway inflation, which pushes citizens into higher and higher brackets, without any increase at all in their purchasing power. This "inflation tax" will cost over $16 billion in 1981.

Finally, rising costs are compelling more and more husbands and wives to enter the labor force together. But when they do, they find a tax system that discriminates against working couples. This "marriage tax" will cost more than $10 billion in 1981.

The OPEC tax, the social security tax, the inflation tax, and the marriage tax are four very real problems confronting average working families trying to make ends meet. Yet 30 percent of the Reagan tax cut goes to the 4 percent of Americans making over $50,000 a year. Less than 20 percent of the tax cut would go to the 60 percent of taxpayers who make less than $20,000.

Next year, an individual with income of $200,000 will receive a tax cut under the Reagan plan of $11,555. But a worker earning $20,000 a year will get a cut of only $228.

A plan like that is a flawed plan. It fails the fairness test. It provides the least help to those who need it most, and the most help to those who need it least—and it should not be enacted in its present form.

With respect to business taxpayers, there is an additional set of problems that our policy must address. The present depreciation rules were written for an inflation-free period in our economic history. In today's era of high inflation, no business can hope to recover its capital investment through depreciation, because tax deductions for depreciation are based on inflation-ridden dollars that decline in value by 10 percent or more a year.

Other factors burden business. For at least a decade, there has been an alarming and unacceptable decline in productivity. Capital investment has not increased to the levels necessary to provide jobs for an expanding work-force. Competition from foreign industry is increasingly intense—but not always completely fair. And national policy has too often favored big business, even though small business is at the cutting edge of gains in technology and productivity.

No tax policy can fully solve these business and investment problems, which go to the very heart of our current economic challenge. But I am concerned that the plan the administration has proposed falls short of giving business the most effective incentives for the revenues available.

The administration's 10–5–3 depreciation plan does not solve the crisis over depreciation in a fair or effective manner. It will not offset the effects of inflation for any company in any rational way. Even worse, it will insure the proliferation of tax shelter schemes that are severely eroding the self-assessment mechanism that has always been the cornerstone of our Federal tax system.

Nor is the Reagan plan cost effective. It provides little benefit to the two sectors of our economy that can do the most to solve our problems of productivity and innovation—the high technology industry and small business.

Many high-technology firms will actually be worse off under the plan than under present depreciation rules. And small business will get too small a share of the business tax deduction.

I believe that Congress could have designed a more appropriate tax policy for both individuals and business, a policy that meets the tests of fairness and efficiency.

For individuals, I have favored an alternative approach that concentrates the bulk of tax relief on middle- and low-income families:

We should raise the current $1,000 personal exemption to $1,500;

We should increase the so-called standard deduction to target more tax cuts on middle-income taxpayers and insure that poverty-level families do not incur tax liability;

We should cut tax rates by a uniform amount, such as 2 percentage points in each bracket, instead of the Reagan-Kemp-Roth plan that cuts the lowest bracket by only 4 percent, but cuts the highest bracket by 20 percent;

We should provide a tax credit to eliminate the marriage tax on working couples; and

We should give a tax credit for home heating costs, to ease the burden of the OPEC tax and the administration's policy of oil price decontrol.

For business, I favor an alternative approach that is carefully targeted and efficiently designed to meet the pressing need for the challenges of investment in machinery, equipment, and certain plant facilities. For example, instead of the 10–5–3 plan, which spreads the depreciation deduction over several years, we might adopt a 90–80–60 plan, where the figures represent the percentage of an investment that can be instantly deducted in the year of purchase.

He should insure that under such a plan, high-technology companies are in the category that receives the highest incentives to expand and innovate.

We should also target incentives to encourage investment in cities and regions that need help the most, and in basic industries that must play a central role in any serious effort to reindustrialize America.

We should allocate a specific share of business tax reductions exclusively to small business, such as by lowering the current tax rates on the first $200,000 of corporate income.

We should make the existing investment tax credit refundable, so that new firms, and businesses hurt by recession or soaring energy costs, can participate fully in this basic tax incentive.

We should target a special tax credit for energy conservation to encourage investment in proven energy-saving processes and equipment and help reduce our excessive dependence on foreign oil.

In the coming debate, I hope that Congress and the administration can work in partnership to consider these and other alternatives. Within the revenues available, and by wisely phasing in the steps that are too costly to be taken all at once, I believe we can write the best possible plan to help us reach our economic goals.

To succeed, we will need the support and encouragement of every sector of society—public and private; Federal, State, and local. Above all else, we must mobilize the power of the vast majority of Americans who endure the greatest hardship from our present economic problems. With their power and their help, we can give American business and average American families the kind of tax policy they need and deserve. We can bring new hope to our communities and make America once again a land of new prosperity for all our people.

Mr. GRASSLEY. Mr. President, I rise in support of the important measure the Senate is starting to consider. The Economic Recovery Act of 1981 is an essential part of President Reagan's pledge to get this Nation moving again.

Individual rate reductions should provide all wage earners with some protection from the devastating effects of inflation. If the Federal Government stops demanding a larger and larger percentage of each individual's paycheck, more Americans can save and invest in the future of our Nation.

While these rate cuts will encourage this type of capital formation, their most important effect will be to convince Americans that there is a future to save for. Passage of this bill will show all Americans that we are committed to stopping inflation and we are committed to limiting the role of the Federal Government in each person's life.

The Accelerated Cost Recovery System is a critical component of the Economic Recovery Act. It will enable American industry to reinvest in new plants and equipment to put more Americans back to work, shore up lagging productivity and enable us to meet the challenge of competing effectively in the international arena in the 1980's. There is no need to chronicle the age of our industry versus our international trading partners. We need to move quickly to convince American industry, as well as American individuals, that America is worth investing in.

Other important components of this bill are the correction of the marriage penalty, estate tax reform, savings and retirement incentives, tax relief for research and development, improved tax treatment of Americans working abroad, and a variety of measures designed to help small business.

All of these reforms are necessary if we are to embark upon a new beginning. I commend the Committee on Finance, especially Chairman DOLE for his fine leadership, and I am proud to be part of this economic revitalization effort.

UP AMENDMENT NO. 220—SUBSEQUENTLY NUMBERED AMENDMENT NO. 488

(Purpose: Indexing certain provisions of the Internal Revenue Code of 1954)

Mr. DOLE. Mr. President, I am going to send an amendment to the desk, a committee amendment, for consideration by the Senate. I will make a statement in support of that amendment. The debate on that amendment will be led by the distinguished Senator from Colorado (Mr. ARMSTRONG).

This was an amendment that we adopted in the committee, not a part of the bill, but as a committee amendment, and it is my hope that the Senate will adopt this amendment. I will explain that in detail in just a moment.

I send to the desk a committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 220.

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

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

The amendment is as follows:

On page 29, after line 20, insert the following:

SEC. 104. ADJUSTMENT TO INSURE THAT INFLATION WILL NOT RESULT IN TAX INCREASES.

(a) ADJUSTMENTS TO INDIVIDUAL INCOME TAX RATES.—Section 1 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments in Tax Tables So That Inflation Will Not Result in Tax Increases.—

"(1) IN GENERAL.—Not later than December 15 of 1984 and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts fo reach rate bracket for which a tax is imposed under such table,

by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1983.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.".

(b) DEFINITION OF ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining (zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT.—For purposes of this subtitle, the term, 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case.".

(c) PERSONAL EXEMPTIONS.—

(1) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(2) EXEMPTION AMOUNT.—Section 151 is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the next highest multiple of $10).".

(d) RETURN REQUIREMENTS.—

(1) AMENDMENTS TO SECTION 6012.—

(A) Clause (i) of section 6012(a)(1)(A) is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(3) Clause (ii) of section 6012(a)(1)(A) is amended by striking out "$4,400" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(C) Clause (iii) of section 6012(a)(1)(A) is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(D) Paragraph (1) of section 6012(a) is amended by striking out $1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(E) Paragraph (1) of section 6012(a) is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151(f).".

(2) Amendments to section 6013.—Subparagraph (A) of section 6013(b)(3) is amended—

(A) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(B) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(C) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Mr. DOLE. This is the committee amendment. There will be considerable discussion of this amendment.

Mr. President, on the final day of

its deliberations on this tax cut bill the Finance Committee voted to offer a separate amendment dealing with an equitable matter.

That amendment has now been proposed, that committee amendment. I believe it is an outstanding amendment, and it has strong bipartisan support. I hope it will be adopted.

In a way this amendment is historic. It represents the first time that a committee of Congress has acknowledged the need to keep individual tax rates stable in a period of inflation, and recommended action to deal with the problem. This is a major step forward as Congress reasserts its control over tax and fiscal policy. For too long we have allowed inflation to dictate tax rates and bloat Federal spending. The result has been not only fiscal mismanagement at the Federal level, but a prescription for economic disaster. Now, thanks to the leadership of President Reagan and the cooperation of the Congress, we have a chance to make a break with the past.

The President is directing us to a program of sustained fiscal restraint and tax reduction that will restore stability to our economy. The tax indexing provision agreed to by the Finance Committee will reinforce this program by guaranteeing the stability of tax rates once they are reduced.

Mr. President, this is a straightforward matter. The committee amendment is based on S. 1, legislation introduced this year by the Senator from Kansas and cosponsored by Senator ARMSTRONG, Senator DURENBERGER, Senator COHEN, Senator DECONCINI, and others. The amendment provides for tax equalization: that is, it insures that the progressive rate structure of the personal income tax remains constant until and unless Congress decides to make adjustments.

Under present law, inflation moves taxpayers into higher rate brackets as their incomes keep pace with the rising cost of living. The result is an automatic increase in the tax burden and in marginal tax rates. Our amendment would prevent that simply by providing that the individual rate brackets, personal exemption, and standard deduction (or zero bracket amount) would be adjusted upward each year in line with the inflation rate. Tax rates would then remain stable relative to real income and the progressive rate structure would be preserved.

Then, if Congress undertook any tax reduction after we adopt this amendment in 1985, you would have a real tax reduction, not just some tax reduction to keep you even with inflation.

Under the committee amendment, the adjustments in the tax tables would first take effect on January 1, 1985, after the individual rate reductions proposed by President Reagan and incorporated in this tax bill have been fully phased in.

The issue of tax indexing has been with us for some time now, and in this body it has on occasion been the focus of partisan debate. That is no longer so, I am glad to report. This provision received bipartisan support in the finance committee. Tax indexing is an issue that the other Senator from Colorado, the distinguished Senator GARY HART, who is now on the floor, has long worked for. In the House of Representatives, the comparable bill sponsored by BILL GRADISON has 218 cosponsors, a rare display of agreement among Members from both sides of the aisle and all regions of the country. The President of the United States has long supported tax indexing, and he continues to believe that automatic tax increases induced by inflation must be stopped.

Mr. President, this is as much an issue of accountability and equity as it is a question of tax policy. Failure to stabilize tax rates in periods of inflation particularly penalize low-income taxpayers, because tax brackets jump much more frequently at the lower incomes, with a more dramatic percentage change in tax liability likely to occur.

An unindexed individual income tax also means a political imbalance in Congress: With an inflation bonus in tax revenues, Congress need not vote the tax increases appropriate to higher levels of spending. That is one reason why spending has gotten out of control, and there is every reason to believe that redressing this imbalance by stabilizing tax rates will aid the cause of spending restraint and balancing the budget. A recent survey of the nine States that have indexed income taxes, prepared by researchers at the University of Virginia, indicates that indexing at the State level has slowed expenditure growth and created no significant administrative problems.

This Senator would like to lay to rest one of the most frequently heard objections to tax indexing: That it would amount to an accommodation to inflation, and reduce the incentive to fight inflation. Such a fear can only arise from a confusion of indexing spending programs, or wages, or prices, as a means of living with inflation, with the principle of keeping tax rates stable through inflation adjustments. They are not the same thing at all, and the difference can not be stressed too often. To cushion people from the impact of inflation is one thing, and there is a good case to be made for the proposition that we have provided too much such cushioning in our economy. But the significance of an unindexed tax code is that it cushions the Government—including Members of this Congress—from the effects of inflation by automatically providing extra revenues to reinforce an irresponsible fiscal policy. The Finance Committee has concluded that it is time to abandon that cushion and get on with the job of responsible and anti-inflationary fiscal management. Here is the opportunity for the Senate to ratify that conclusion.

Mr. President, we all hope and expect that the economic recovery program pending before us will bring the rate of inflation down dramatically and permanently. But halting inflation is a tedious process, and there is no reason to leave the American people at risk to the prospect of future inflation increasing their tax liabilities. Such a result would be entirely contrary to the goals the President has set in reversing the policies of the past to bring about long-term, stable, economic growth. It is time to foreclose the option of future automatic tax increases and distortions of the progressive rate structure that could be induced by inflation.

This is the time to act, while we are trying to set a course for economic stability in the years ahead. The need for stable tax rates is clear, and it has wider support than at any time in the past. The New York Times endorsed tax indexing last November 25. The National Education Association, the American Institute of Certified Public Accountants, the National Cattlemen's Association, the Advisory Committee on Intergovernmental Relations, all have given strong endorsements to tax indexing. These are not radical groups, but they do represent citizens concerned that we in Congress ought to reassert control over tax policy by stabilizing tax rates. In conclusion, I would just like to acknowledge the contribution of the distinguished Senator from Colorado, BILL ARMSTRONG, in moving this amendment in the Finance Committee and working for its approval by the full Senate. I urge the Members to grant that approval by voting to adopt the Finance Committee amendment.

Mr. DURENBERGER. Mr. President, none of the tax reform measures we have considered this week are as desperately needed, or as long overdue, as tax indexing. Passage of the Finance Committee amendment is the single most important step we can take to provide permanent relief to inflation- and tax-burdened Americans.

Tax indexing is nothing more than a windfall profits tax on Government. It proceeds from the philosophy that any windfall income created by inflation should remain with the income earner and taxpayer as a buffer against rising prices, rather than passing to the Federal Government. And this is a sound philosophy.

Under the pressure of consistently high inflation, the present tax system has demonstrated built-in inequities and an inherent tendency to fuel the inflationary cycle. Individuals receiving cost-of-living wage increases are penalized by a tax system that simply thrusts them into higher brackets.

As a result, these individuals often suffer actual loss of income through the losses in real dollar purchasing power. They end up falling behind the rise in living costs, forcing them to rob their savings and investments to feed, clothe, and shelter their families. This fuels the desire for even higher wage increases in the next round of bargaining, but the results remain the same. Without indexing, the present tax system guarantees progressive erosion of real income at the same time it spurs inflationary psychology.

In the absence of indexing, that system inevitably makes Government, one of the primary causes of inflation, also the main beneficiary of inflation. For each 1 percent rise in the Consumer Price Index, Federal tax receipts rise by approximately 1.4 percent. This process cuts deeply into savings and investment, disrupting the balance of the economic system as a whole. It also permits Government to profit from annual

tax increases without the necessity of congressional actions—a paradox in this era of increasing demand for Government accountability. It is, in effect, a 1981 version of taxation without representation. Tax increases should neither be hidden nor automatic. Unless Congress chooses otherwise, the inflation dividend should remain in private hands where it can be saved, invested, or used to mitigate the human hardship of inflation.

Frankly, Mr. President, I find it difficult to understand the argument that tax indexing is somehow a concession to inflation. On the contrary, tax indexing does nothing more than redistribute the tax implications of inflation, so that consumers no longer bear all of the burden, while Government reaps all of the benefits. In fact, there is empirical evidence that tax indexing has a positive fiscal effect in slowing down the increase in Government spending.

In Canada, where tax indexing became national policy in 1974, real-dollar spending by the Canadian Parliament had been increasing at an annual rate of 15.9 percent prior to enactment of the indexing law. In the year following its enactment, that growth rate decreased to 10.2 percent, and it fell progressively over the next 3 years to a rate of 2.1 percent. In my own home State of Minnesota, during the years 1971–81, State spending grew at an average rate of 23.8 percent per biennium. Since we indexed our tax system, State spending has been increasing at the rate of only 14 percent. In terms of dollars, indexing will save Minnesota taxpayers over $4 billion during the next two bienniums.

What has happened, Mr. President, is what should be happening all over this country. This legislative session, the legislators came to the State capitol in Minnesota and they reduced recommended spending by almost $1 billion. They got it right down to the hardcore of what they absolutely had to do to meet the needs of the people of Minnesota.

Then they went over and looked into the anticipated tax pot for the coming biennium and they found they were $503 million short.

They ended up having to increase State taxes to accomplish it.

The next time, I suspect they will find a way to reduce that spending even more by finding better ways to deliver public service.

So, clearly, in my opinion, the empirical evidence in at least one State and the figures I have cited show that by forcing revenue projections to be scaled down, tax indexing actually induces fiscal responsibility by placing a restraining effect on budgetary decisionmaking.

After a thorough examination of the nine States that have indexed their tax systems since 1978, the Advisory Commission on Intergovernmental Relations concluded that "we can draw one inference with a fairly high degree of confidence—indexation has forced State policymakers to take a somewhat harder look at their expenditure priorities than would have been the case under a nonindexed system."

That is what indexing is all about.

But, Mr. President, the best way to gage the impact of an unindexed tax system is to measure its impact on individual taxpayers. For example, take the case of a family of four in Minnesota where one parent contributes 70 percent of the family's income while the other contributes 30 percent.

If the combined income of that family was $25,000 in 1979, and if the income kept pace with inflation through cost-of-living allowances, the family by 1981 would have lost $206 in purchasing power if the State tax system were not indexed. More important, with the effects of Federal taxes taken into account, the purchasing power of that family would be reduced by over $500 in just 2 years. In other words, inflation and "bracket creep" have left them with substantially less purchasing power despite cost-of-living wage increases. However, at the same time, the Government—which must share a major part of the blame for causing inflation—now has a lot more of this family's money to spend as it wishes.

Nationally, an employee receiving a 10-percent pay increase to offset a 10-percent inflation rate will be required to pay 16 percent more in Federal and State taxes. Thus, the Government benefits from a 6-percent increase in the employee's tax liability, while the employee loses purchasing power—the power to buy food, the power to buy shelter, the power to buy clothing, the power to buy an education for his family.

Mr. President, the indexing concept has been endorsed by such diverse sources as the American Enterprise Institute, the Christian Science Monitor, and the New York Times. In one form or another, it has become national policy in Brazil, Canada, Israel, the Netherlands, Argentina, Denmark, France, and Luxembourg. In this country, the States of Minnesota, Arizona, California, Colorado, Iowa, Montana, Oregon, South Carolina, and Wisconsin have indexed their tax systems to some degree.

Adopting tax indexing on a national level will minimize the short-term effects of inflation while we treat its causes with long-term remedies. And minimizing inflationary impact on human needs is, by any standard, the principal goal behind our anti-inflation policy.

The American people are demanding indexing, and after 2 years of double-digit inflation, they need its relief as quickly as we can possibly provide it. So I speak as strongly as I can in favor of this amendment.

Mr. HART. Mr. President, it is in the context of the last remark of the Senator from Minnesota that I rise, because I also support this amendment.

The Senator from Minnesota and the chairman of the Finance Committee, the Senator from Kansas, have made eloquent arguments for the principle of indexation. I do not quarrel with a word either of them has said. I endorse all those arguments; they are very sound.

Frankly, however, the arguments made by both my colleagues, and particularly the last statement made by the Senator from Minnesota, remind me a little of the whisky salesman advertising his wares to teenagers. He goes on and on about how good a thing this whisky is, but he ends up by saying, "You can't have it until you are 21."

The question I raise to my colleagues who say that indexing is such an important and equitable principle is this: Why do we have to wait until 1985? The Senator from Minnesota rightly says that this is something that must be done, that it should be done, and that we must do it as soon as we can. The question I raise with regard to this amendment that is pending is, Why do we have to wait until 1985?

At an appropriate time—I understand that, in a parliamentary sense, this is not that time—I intend to offer an amendment to the bill in the nature of a substitute to the individual tax cuts for 1982, 1983, and 1984 indexation.

That is to say, in addition to the amendment that indexes the tax code for 1985, the Senator from Colorado will offer an amendment later, at an appropriate time, to move that up 3 years, to fiscal 1982. It is because of all the arguments that the Senator from Minnesota just made—and the Senator from Kansas before him—with which I agree, and particularly the last statement of the Senator from Minnesota that we must do this as soon as we can, that I intend to offer that amendment.

In the meantime, I will support this amendment, because I believe in it. I believe in all the arguments that have been offered. But the fact is that we do not have to wait until 1985.

It is because of a partisan political judgment that the majority party, the Senate, and the President would go with the so-called Kemp-Roth supply-side economics, that those who support indexing are going to have to wait 3 years.

Why should we have to wait 3 years? So we can experiment with Kemp-Roth and supply-side economics. Let us not wait.

We have a principle of tax justice and tax equity which says we should do it tomorrow, next year, for the next fiscal year, and that is the amendment the Senator from Colorado will offer.

We do not need to experiment with supply-side economics or anything else to give the people of this country tax equity and tax justice. We can do it today. We can vote that on this bill.

If the majority party in the Senate, the President, and the White House support that, as they say they do, then we can move forward with the equitable principle of tax indexation for the individuals of this country for the next fiscal year.

So, Mr. President, I warmly adopt and cordially support this amendment and the principles behind it, and I associate myself with all the arguments that have been made. I just believe we should do it 3 years sooner, and I intend to offer that opportunity for the supporters of indexing, so that those who believe in this principle will have a chance to vote not just for indexing in 1985 but also in 1984, 1983, and 1982.

Mr. DURENBERGER. Mr. President, I have attempted to withhold a response to the Senator from Colorado until he presents his amendment. So that he

might be forewarned as to the response he is likely to get, at least from this Senator, I believe that the purpose of his amendment is to make indexing national policy as of the time of the adoption of this tax legislation.

In fact, the purpose of the committee's indexing amendment is to provide even greater relief from the burdens of inflation's impact on the tax system and on the taxpayers of this country starting on October 1, 1981.

I believe the facts will show that the 5–10–10 rate reduction proposal in House Joint Resolution 266, combined with indexing starting in fiscal 1985, will provide the taxpayers of this country, the income earners of this country, with even greater relief in fiscal years than would be provided only from the indexing proposal.

I thank the Senator from Colorado for his consistent support in the concept of tax indexing and the elimination of bracket creep. I suggest that he might do even more for the people of this country, about whom we are all concerned, by supporting this amendment rather than the substitute.

Mr. LONG. Mr. President, I hope the Senate will not agree to the indexing amendment.

Let us just take an example. If we had had indexing in 1976, we would not be voting for a tax cut now. All the provisions we have in this law that encourage productivity, that get rid of the confiscatory tax rates, and measures to encourage individual sayings—we would not have those. We could not afford it, because the indexing would have reduced Government revenues to the point that we could not afford the tax cut. So we would not be able to structure the tax cut as we are doing now.

We tried to look at where the tax cut is needed most and put it where it will do the most good. But if we had indexed the tax law in 1976, Government revenues would be reduced to the point that, responsibly, you could not have a big tax cut, and we could not do any of the fine things in this bill that are better than just straight indexing, just adjusting for inflation.

If it had had indexing in 1976, we could not have had the 1978 tax cut, because the revenues would have been used up by indexing.

I recall when somebody came up with the idea of indexing social security. At that time, I was opposed to it, and I predicted that if we indexed social security, so that the cost would go up, it was going to give us all sorts of problems in continuing to finance the social security trust funds.

Prior to that time, the social security funds had money on hand. We were in good shape. We were solvent. About every 2 years, we could have another social security benefit increase and make everybody happy, and usually we could do it without a tax increase. But we indexed social security benefits in 1972, against my objection; and, just as I predicted, the social security program has been headed for bankruptcy ever since that time. It is projected to be bankrupt now, according to most estimates. It was projected to be bankrupt a couple of years ago. We passed a big tax increase. I led the charge to keep the social security funds solvent.

During the campaign, when I ran for office, I had an opponent who said—and I am sure many others had such an opponent—that I had voted for the biggest tax increase in history. My opponent reached that conclusion by projecting what that social security tax increase would bring in for the next 50 years. Whether that is right or wrong is beside the point. It was a tax increase, and it would increase later in history to keep the social security fund solvent.

In previous years, we looked at social security the program, both at the taxes needed to pay for it and to increase the benefits, many times increasing benefits without increasing the taxes, looking at the cost-of-living increases and all the factors, and we then found ourselves facing bankruptcy. So we voted for a big social security tax increase that was called by our opposition the biggest tax increase in history, and then we came back here and found that they were projecting bankruptcy of the social security program all over again.

We would not have been in that trap if we had never indexed social security, in the first place. We would have taken a look every year or every 2 years, to see how much the cost of living had gone up; give the dear old people and the widows and the little children an increase based on their need, based on the cost of living—or whatever you wanted to base it on, any just and equitable factor one wanted to take into consideration—and vote in the new higher benefit and pay for it. If we had continued to do business that way, we would not be projecting bankruptcy. However, we have been projecting bankruptcy for that fund ever since we voted for indexing.

Here we have social security benefits indexed to go up; Government retirement indexed to go up; all sort of programs, many of which I cannot recall at the moment, indexed to go up.

Now we have an amendment to index Government taxes to go down. I do not say the amendment cuts the taxes. But it prevents the revenues from going up the way they would go up with inflation.

Mr. President, we had not been able to have a balanced budget for lo these many years. We have not had a balanced budget since Hector was a pup anyway.

Now we want to guarantee we will not have a balanced budget, index expenses to go up and index revenues not to go up.

The result would be, Mr. President, that some future President would at some point be required to come in here and ask for a tremendous tax increase.

If Congress refused to pass an income tax bill, and it might be very well refuse to do so, then the President would have no choice at some future point but to come in here and ask for a major increase in taxes that impact on the consumers. I do not care whether it be a tax on energy, whether it be a value-added tax, whether it be a national sales tax or whatever, any fiscally responsible President watching the cost of Government go up and seeing the needs of people grow greater, looking at the problems of Government, would be compelled to come in here and ask for a tax on consumers. If he cannot get a tax on income, he has to take it however he can get it.

Why do we want to create these problems for Government?

Mr. President, if I were sure that we were going to have a Republican President in 1986, I might be content just to go ahead and let our Republican friends create that problem for their President. But for all I know, Mr. President, we might have a Democratic President in 1986. We might be creating a problem for someone who had nothing to do with creating it, a man who did not advise it, was not consulted, had nothing to do with it and finds this Government in an impossible fiscal situation.

I do not think we should create those kinds of problems for this Government.

That being the case, Mr. President, I believe we would be wise to look at Government revenues, look at Government expenses, look at what the deficit is or surplus if we ever have a surplus might be and proceed to vote whatever tax cut we could afford, help those who need the help the worst and do the least for those who need it the least or for those who have the least justification in asking for a tax cut.

What is wrong with cutting taxes with your eyes wide open, where you know who you are helping and know who you are hurting? You want to try to help those that need it the most and tax those who need it the least. That just makes sense. And it has the wisdom of two centuries of experience to back it up.

As I say, if you want to go for indexing, if you think that is right, why do you not offer an amendment to index starting in 1976 as a substitute for this bill? If you think that would be a better way to do it, just knock out everything that has happened since 1976 and substitute that for this bill. I assume that would be just about where we stand.

As a matter of fact, Alan Greenspan testified with regard to this bill and he said that what the bill did in general terms would be just about what you would do by indexing anyway. It is just about where you would be if you were to index your Tax Code.

I think it does more for justice because no one on the committee to this point has suggested that we substitute this bill for the other bill. But if the argument for indexing is correct, then I would submit that the amendment by the Senator from Colorado would make better sense than this bill makes.

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

Mr. LONG. I yield.

Mr. HART. The Senator from Louisiana is absolutely correct. Even though I support this amendment because I support the principle, if all the arguments the Senator from Kansas made and the Senator from Minnesota made are to be believed, then we ought to start indexation next year instead of experimenting

with supply-side economics. We cannot do both.

That is why apparently the majority party has decided that we will try 3 years of supply-side economics and then we will move to a separate principle totally different called indexation and then they give all the arguments for tax justice, tax equity, and fairness, but then they turn around and tell the taxpayers of the country we have to wait 3 years. There is another way to do that and the Senator from Louisiana has just stated it and that is called indexation, fairness, justice, and equity, 1982.

Mr. LONG. Of course, if the logic of this amendment for indexing is correct, then in my judgment it makes all the sense on Earth that you would adopt the Hart amendment, to say that if this is what makes sense, let us do it now, why wait? Why wait if to do it by indexing it makes better sense then look at how everyone is situated and try to vote the tax cut the way you think it will do the most justice, the most equity, and the most to serve the national interest. If that is the best way to do it why not do it now? Why not start January of this year, January 1? Say starting January 1 we index the Tax Code so that we will not need the bill.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am opposed to indexing but I would like to ask a question.

Mr. LONG. So am I.

Mr. KENNEDY. I understand that.

I do not think there is anyone in here who has any doubt as to the position of the Senator from Louisiana on anything.

Let me just ask a question as to the effect of indexing. Is it true, that under indexing, all taxpayers get the same proportional tax cut? If the inflation rate is 10 percent, the taxpayer with income of $20,000 gets a tax cut based on 10-percent inflation, and a taxpayer with $200,000 income gets exactly the same percentage tax cut. Does not this effectively skew the tax reduction as a result of indexing into the highest income groups?

Mr. LONG. The Senator is entirely correct. As a matter of fact, I gain the impression that all this great furor about indexing started when what happened with some of these tax reform laws we passed in earlier years including back in the time when the Senator's brother, John F. Kennedy, was President of the United States. We passed a tax cut bill but, in reducing taxes, we would have some tax reform on there. We would say: "Well, now, here is some fellow who did not pay us anything to begin with. Let us tighten up a few loopholes and he will pay something."

I attended some meeting of the National Chamber or the National Association of Manufacturers, and was prepared to go there and brag to all these wealthy people how I voted to cut their taxes. The fellow sitting beside me would be angry. He would say that was a gimmick, that was a trick, the bill was unfair, unjust. What happened is he was not paying anything to begin with. He was mad because by the time they got through cutting everyone's taxes and presumably his, too, we tightened up on a few loopholes so that people who had been getting by without paying their fair share would pay a little something.

Mr. KENNEDY. The minimum tax.

Mr. LONG. That is right, that type of thing. We closed some of the loopholes.

So I learned in short order that it was a mistake to assume that just because we cut the rates substantially it meant some of these rich people were getting a tax cut because we had a few provisions in there for folks who were not paying their fair share to begin with or paying either nothing or very little.

So, those kinds of people have benefited very much from the indexing. No-one would have taken a look to see they were not paying any tax to speak of, that they were paying maybe 5 percent. Let us take someone making $1 million a year and paying us 5 percent of income in taxes. He would have had a cut on the 5 percent. No one in good conscience and justice should argue that person should not pay more taxes, and the bill did make him pay more taxes.

Under indexing he would get an automatic cut along with everyone else when he was not paying his fair share to begin with. The indexing would continue that kind of injustice.

Frankly, for years I thought it was these very wealthy people who were angry because the tax reform bills were reducing taxes for others and not for them because they were not paying their fair share to begin with. I thought that that is where the system was coming from to move this indexing thing through because those people were obviously making out a lot better if you cut their taxes sight unseen than they would make out if you take a look at this situation.

But since we have tightened up on those loopholes we have indicated that we have proved in 1978, for example, that we could and we did pass a bill that treated those kind of people very well indeed. If they were already paying a fair amount of taxes, we were willing to give them a tax cut.

As the Senator well knows, those people in this bill if they are paying their fair share already and they are high income earners they are treated very, very well indeed in this bill. I do not think anyone need go back and apologize to them that we were not adequately thoughtful of their problem, both with regard to capital gains and with regard to the rate they pay. They are getting their rate cut from 70 percent down to 50. The indexing does set the stage for people not paying their fair share now to get a future tax cut even thought it is not justified.

Mr. KENNEDY. Does the Senator not agree with me, if you are troubled by Kemp-Roth you should also be troubled by indexing? Is not indexing just Kemp-Roth by another name?

Mr. LONG. Of course.

Mr. KENNEDY. The concept is the same. If the rate of inflation is 10 percent, what you are talking about under indexing is proportional tax reductions, rather than a progressive system of tax reductions, which is what our tax system is built upon. Is not that objection the very same objection we are making to the Kemp-Roth tax cut?

Mr. LONG. Of course.

Mr. KENNEDY. May I ask just one further question?

Mr. LONG. I yield to the Senator.

Mr. KENNEDY. As I understand the indexing concept, it means that the tax reduction will come in the second year, after you make the calculations of inflation in the preceding year. If that is true, then indexing may lead to much larger tax cuts than the economy can stand. Suppose there is a reduction on the rate of inflation, from 10 or 11 percent in 1 year to 7 percent in the following year. Yet the tax rates would be indexed to the 10-percent rate, and spending by American taxpayers would create excess demand which could heat up the fire of inflation. Is not that the real economic issue involved in this discussion?

Mr. LONG. I think there is.

Let us understand from my point of view and I suspect from the point of view of the Senator from Massachusetts what is wrong about indexing. If we do not index and inflation continues as it has in recent years, Congress will indeed be passing tax cut bills from year to year just as we are doing now. In at least every Congress there will be a bill to cut taxes and Congress will look at the whole tax picture.

When we do that in some cases we will be very good to high bracket taxpayers as we are in this bill. That depends upon how the voters vote at the polls. But we will in many cases be very good to high bracket taxpayers as we are now.

But the one thing that Congress has done rather consistently the past 20 years and which it should continue to do is for those people who are making a lot of money and who managed to get by without paying their fair share they will repeatedly find there is something in that bill to make them pay a little something in terms of tax justice and tax equity. I would think those people would find that very revolting to say the least.

They would not like it, to say that here we are with a bill to cut taxes and they are going to pay more because in fact there should be a big revenue bill every Congress and every Congress we ought to take a look and see who are these people getting by without paying anything even though they are making many millions of dollars and there should be something in the law to make them pay their share, pay something within reason just as there is on this bill.

There is an amendment sponsored by the Senator who represents the financial headquarters of the United States, the Senator from New York. He is sponsoring an amendment to say that people trading in commodities who are paying no taxes should pay us a reasonable

amount. That process should go on repeatedly.

If you want to see it does not happen, I guess one way to do it is say let it all happen automatically and that way Congress will not be here passing judgment on who should get a tax cut and who does not deserve it.

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

Mr. LONG. I yield.

Mr. HART. I shall pursue some of the colloquy that went on here between the Senator from Louisiana and the Senator from Massachusetts.

I think the Senator from Massachusetts makes the fundamental mistake when he tries to equate the principle of indexing with the Kemp-Roth tax cut. The support in logic behind the concept of indexing is not the question of whether you should tilt a tax cut or favor one economic group or another. It has nothing to do with economic stimulation. It has to do with a subject that is dear and near to the heart of the Senator from Massachusetts and rightly so given his record and that is all fairness, justice, and equity.

Congress, the Government of the United States, is taxing people without legislation today. It has been so long as the rate of inflation has been going up. We are taking money out of people's pockets unconstitutionally in my judgment, and that is automatically bringing revenues into the Federal Treasury for one reason and one reason only and that is high rates of inflation.

The point of eliminating that inequity is not whether it should be entitled to one bracket or another or to fill in one loophole or another. It is to have a fair and just tax law.

In response to the argument of the Senator from Louisiana, there are other options to solve the problems of reduced revenues. We might in fact find 51 Senators with some political courage to vote a tax increase. I know that is unheard of and it is certainly a lot less popular than cutting people's taxes every 2 years and going home and saying, "Boy, weren't we terrific politicians? We just cut your taxes." No, you did not. You did not cut anybody's taxes; you just gave them a break to try to keep even with the rate of inflation. There is not a tax cut. Neither is Kemp-Roth. It is not a tax cut. It is just a 3-year effort to keep people even with the rate of inflation and it itself is going to contribute to inflation. Indexing is not an economic concept. It is a concept of tax reform and tax justice.

I think to say is it better to have a Kemp-Roth tax cut or indexing is to miss the whole point. It is apples and oranges.

Mr. KENNEDY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. KENNEDY. Under the administration's program, President Reagan started out with 10–10–10 rate cuts over 3 years. Then he compromised slightly and accepted a 5–10–10 program. Under it, 4.8 percent of the taxpayers get 36 percent of the tax benefits. That is because the 5–10–10 tax cuts are proportional—the same percentage for each income group. When you index taxes to the inflation rate, you get that same kind of distortion, because indexing means the tax cuts under it are proportional. That is one of the principal objections to indexing—the distribution of tax cuts under it is not fair.

Either we believe in a progressive tax system or we do not. If we do, then we should not adopt indexing.

I wonder whether the Senator from Louisiana agrees with me.

Mr. LONG. Mr. President, I tend to agree with the Senator. It seems to me that when inflation hits this country, it does all kinds of things to all kinds of people. That requires the Congress to act, and based on that we can take a look at what the situation is and we can pass whatever revenue bills and whatever other relief bills are needed.

I have yet to see it demonstrated to this Senator that you can pass a law which off in the future takes a look at all the problems and makes everything adjust automatically to your problem as well as you can do when you look at the problem and then you adjust to it.

Let us just take one thing which happens which indexing would not have taken care of. Let us take one item I know is of concern to the Senator from Massachusetts. If we had had indexing in 1976 or if we had had indexing in 1978 it would not have taken into account the social security tax increase.

Some Senators feel that in view of the fact that the social security tax had been increased, we ought to give an additional break to those low-income and middle-income people who are being hit by the social security tax increase.

You can do whatever you want to do about it, but it is a lot easier to give those people a break when you are passing a law that looks at what has happened since 1978, including inflation and including the social security tax increase and including the windfall profit tax, and including everything else that might have happened in this great country of ours. It is a lot easier to do uniform justice and fairness to everybody if you can take everything into account than it is to do it automatically in advance.

Let us assume you had had indexing in 1978, and then you passed the windfall profit tax bill. Well, it happens that in passing that bill we did not take into account that there are a lot of little people, small landowners, a lot of farmers who are old and no longer able to work, a lot of widows that I know—I helped to lead the charge for the windfall profit tax—there are a lot of little people hit by that windfall profit tax we did not have in mind hitting with that windfall profit tax.

When we pass another bill, as we do now, we can take those things into account. But if we have used up all your revenue automatically, in many cases for people who have no particular need of it, then some things happen that you would not like.

Mr. President, I have yet to have a single low-bracket taxpayer ask me to vote for indexing. I have yet to have a single middle-bracket taxpayer ask me to vote for indexing. The only people who are interested in indexing are high-bracket taxpayers, and I can understand that. Those people have seen us pass tax reform bills where we have given tax cuts to a lot of little people, a lot of middle-income people, and even a lot of upper-bracket people who deserved it, and raised the taxes of those people who were not paying their fair share all at the same time, and that tends to be the pattern for a big revenue bill just as it is the pattern for this revenue bill.

We are cutting taxes for practically everybody, but we look out and see these commodity traders who are getting away with what appears to be the No. 1 loophole in America today, where one can make a lot of money and pay no income tax at all to the Federal Government, so we tighten up on them. That has been the pattern of these revenue bills.

If you just want to go for those kinds of things, sweep it all under the rug, and give everybody a tax cut whether he deserves it or not, indexing would be the way to do it.

It just seems to me we would do better to take a look at it, see what appears to be fair, and I submit that the 1978 bill as well as this bill demonstrate that.

High-bracket taxpayers do not necessarily lose out because we do not index. Sometimes they are making out better than the average, as they are doing on this bill. So to contend that the only way to go is to index the tax bill, just does not prove out.

History and experience in 1978 and this bill right here prove that if those people have a good case, Congress has the courage to look after them even though they be the highest income earners in America, and, frankly, if they are not going to pay their fair share they are going to be asked to pay something just as in this bill. I think that pretty well makes the case. You can do better justice with your eyes wide open, when you are looking, when passing bills. I am not talking about being in the Supreme Court, I am not going to argue about that matter over here. I am talking about here.

If you go into the Supreme Court they have that statue over there of a lady blindfolded. She is not supposed to know who has these commodities on the left-hand side and who has these commodities on the right-hand side. She is supposed to be holding that scale there, being impartial, not knowing who is going to benefit with that scale, and theoretically she is supposed to treat everybody the same no matter who they are.

That is not how you are supposed to do business up here. We legislators are supposed to know whom we are helping, and we are supposed to know whom we are hurting, and we are supposed to do it deliberately and intentionally because we think it is good for the country or for whatever reason.

We have a different function than they do, and I submit in this case, Mr.

President, to act knowing what we are doing makes better sense than to act not knowing what we are doing.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

Mr. President, I want it made very clear right off the bat, just in case there is any misunderstanding, that I rise in support of indexing, and specifically this amendment.

I voted for it in committee and I have long been a supporter of this concept. This is not a recent commitment because of my membership on the Committee on Finance. I supported this when I was a Member of the other body.

I want to say that I am intrigued by the comment of the distinguished Senator from Louisiana who has just asked what is wrong with decreasing taxes with our eyes open? I guess I would like to ask back what is wrong with increasing taxes with our eyes open?

He is committed to this principle, and I know he is sincere in his belief that we ought to know exactly what we are doing when we decrease taxes.

Nevertheless, I think we ought to apply that same principle to the other side of the coin. When we are increasing taxes we ought to do it with our eyes open.

But the fact of the matter is we do not increase taxes today with our eyes open because of the impact of inflation upon the tax tables. Taxes go up automatically, and people's take-home pay goes down so that their purchasing power diminishes as inflation increases.

Perhaps we should ask if we had indexing how could we have tax bills like we have today before this body and like we had in 1978? Well, the obvious answer to that is that if we had indexing we would not need tax bills like we have right now, because if we had indexing we would not be suffering from the detrimental impact of inflation on our economy; we would not have a decline in savings; and we would not have the decline in investment that we have today. If we had decided to index our system in 1978, productivity would not be down to a minus level as it was last year and our true revenue would not be as low.

Increased expenditures by the Federal Government are a symptom of a deteriorating economy. If the economy was not deteriorating, we would not have increased expenditures we have today due to the escalating costs of the Government's entitlement programs.

So I would say to the distinguished Senator from Louisiana that in fact we would be applying the same principle to tax increases as we would be to tax cuts just as he would have asked us to do. I would add that if we had indexed the tax system over the last several years and the next few years, we would not be considering this tax bill.

From a personal perspective as a member of the Senate Finance Committee, if we had indexed the system in 1978, I would not have the opportunity to give something to my constituents as I can now when I am voting for this tax bill. Yet I believe they would rather be spared our serious economic plight, than have me look good now.

Mr. SYMMS. Will the Senator yield?

Mr. GRASSLEY. I yield to the Senator.

TAX EQUITY ENCOURAGES FISCAL DISCIPLINE

Mr. SYMMS. Mr. President, we have had an opportunity to demonstrate the strength of our commitment to fiscal discipline. Through all the rhetoric about budget balancing, it is sometimes difficult to separate the sheep from the wolves. Hardly a politician alive can be found who will oppose restraint on Government spending. While there is a consensus on this issue in terms of the direction we must follow, it becomes more difficult to sort out the true believers. An important indicator is the means of achieving fiscal discipline that one advocates.

There are many ways to balance the budget, including various accounting maneuvers that may reduce the deficit on paper but do nothing more than evade the issue. But there are obviously two fundamental approaches to take: raise taxes or reduce spending (or do some of each). Traditionally, Congress has not been overly eager to cut spending, despite the welcome signs that this is changing. Nor is Congress terribly enthusiastic about raising taxes, at least not when they have to go on record as supporting such a move.

The true advocate of responsible fiscal policy takes into account the extent of the Government's role in the economy. A bloated Federal budget that is balanced by exorbitant tax rates is not a stirring exercise in self-discipline by the Government. But as long as current trends are allowed to continue, this is the direction in which we are headed. There is no way that Congress can cut spending without various interest groups feeling the pinch. But there is a way for Government to increase taxes without having to account to anyone. We do it every year.

The method is taxflation. If ever there was a more deceptive and inequitable way of reducing the deficit, it has not come to my attention. Each year as inflation erodes the nominal income that is overstated in dollar terms, the Government hauls in additional revenues. This is because people pay more tax at the higher marginal rates within brackets, or they are pushed into a new and higher bracket. The average tax rate climbs. Yet at the same time real income stays the same or may even decline as a result of inflation.

Congress need do nothing for the Government to receive these extra revenues. They are unearned and undeserved, and they bias our system toward greater spending and a larger role in the economy for the Federal Government. This causes a drain on the productive capabilities of the private sector and reduces the incentive for Congress to hold the line against inflation.

By eliminating the inflation tax bonus to the Government, Congress would be forced to look to reducing the overall size of Government as the proper road to fiscal responsibility. This incentive to disciplined spending would require that waste be cut wherever it is found. A motion that accomplishes this and at the same time restores equity for the taxpayer should be dimcult to resist. As taxflation persists, the public demand for indexing taxes for inflation will become irresistible. The proponents of fiscal responsibility should move now to support indexing.

I would just like to say to my good friend, the distinguished Senator from Louisiana, minority leader of the Finance Committee, that when he posed a question a minute ago concerning the necessity of having a tax cut each year, there is an argument, I suppose because it is more fun to have a tax cut. But we have one here. We are going to reduce the rates 25 percent.

The distinguished Senator from Massachusetts, expressed concern because we are going to reduce the rates by 25 percent for all Americans and then index the rates. What the distinguished Senator fails to mention is that every year taxes go up without even a vote in Congress. In 1986, if we have to have a tax increase, we should vote for it.

It is just as the Senator says. Every year they go up automatically. They print money down here at 14th and Independence Avenue and that causes inflation. Inflation causes the general increase in the price levels of goods and services.

So people have to get a pay raise to live the way they did last year. Then they get a 10-percent pay raise and they get a 16-percent tax increase. We do not even have to have a vote here. Then the big spenders in Congress can come up with another program and say, "We will spend the money over here. We will take the money from this group of people, give it to that group of people, and we can make the group we are taking the money from think we are protecting them from the group we are giving the money to and get the votes from both groups."

That is the old game. We are trying to stop that. Indexing will put the system back into a proper balance, and it will remove the profit from inflation for government. There will be no advantage to government to have an inflationary policy once indexing is in place. So that is why I think it is important.

I am glad the Senator from Colorado has the amendment, and I support it, even though it is not effective this year. It is going to be effective at the end of a 25-percent rate reduction. Then we will not have to vote to keep the tax rates from increasing.

I would say, in answer to the questions from the Senator from Colorado and the Senator from Massachusetts, that I think the progressive income tax is not as popular in this country as it used to be. When I visit the union hall, the one question I am often asked is: "Is there a possibility for a flat income tax?" That is what people want. They want a simplified income tax that people can understand.

What we do is keep passing these complicated tax laws. All rates are too high. That is what is wrong with the tax code. That is why the underground economy is growing so much. Rates are too high. People who try to do business, and who

try to stay within the system, look for tax shelters.

So indexing is a step in the right direction. I would rather lower the rates by 50 percent and then have indexing, but we are going to lower it by 25 percent and then index the rates.

Probably the most significant thing about this tax bill, when people look back at it 10 years from now, will be the indexing provision. It will take the profit out of inflation.

I yield back to my friend. I thank him for yielding.

Mr. GRASSLEY. Mr. President, I say to Members of this body that I think there is a certain right that we want to reserve to ourselves to give the people a tax decrease every so often. This is similar to our attitude about expenditure programs, we like to give the people something.

Mr. SYMMS. Would the Senator agree that we are now spending 25 percent of the productivity of America by the Federal Government?

Mr. GRASSLEY. Exactly 23 percent.

Mr. SYMMS. Twenty-three to twenty-five percent. I would like to see that reduced to 15 to 18 percent. Then there would be more economic activity.

Mr. GRASSLEY. Then, over a period of time, this will do it. Of course, I think that really what is involved with this principle of indexing, is that if there is going to be an increase in revenue to the Federal Treasury, it ought to come in two legitimate ways, not what I consider an illegitimate way of getting revenues through inflation so that we are rewarded, through the inflation, because we do not make the necessary policy changes that need to be made to bring inflation under control. There ought to be only two ways that the income to the Federal Treasury can be increased.

One, if we vote higher taxes. I think the extent to which we would have to vote higher taxes to pay as you go for some of these programs we vote for, we would not be so apt to spend the money. I do not think we would have the same willingness to spend the taxpayers' money if, each time we wanted to increase revenue, we had to vote yes or no on the bill. It is easy to spend the money when it comes into the Federal coffers through inflation.

But, more importantly, and to answer the point raised by the Senator from Louisiana, if we spend more money it ought to be the result of real economic growth to the Federal Treasury. Real growth. If there is real growth, it is legitimate that we would have more money to spend, present tax rates excepted. We should then spend that money to take care of the needs of the people.

I think that the bottom line, quite frankly, is whether or not we are willing to relate our increased expenditures to real growth or relate them to our willingness to vote higher taxes. But real growth is what the Reagan economic program is all about.

You see, we have had a negative increase in the GNP for a long period of time. Everybody here wonders how we are going to get more money to finance the program. Well, we have been collecting more money, but it has been because of inflation, not because of real growth.

What the Reagan economic program is all about is bringing real growth to our economy and, hence, real money to be spent by Senators and Members of the other body, not funny money that we are spending right now.

I think, lastly, I would like to raise the point that to a considerable degree it has been argued that indexing is all right for the expenditures of public funds but somehow, when you want to apply that same principle to the income side of the ledger, that it is wrong. In my judgment, if it is right in the case of expenditures, it is more right and more legitimate in the case of income. Maybe, if we would applied it to the income side, we might come to the conclusion shortly that it is wrong. If it is wrong in one instance, it is wrong in the other.

Unless there is some pressure upon the legislative branch of government to work with it on the income side and see how it works, we will never know if we should get rid of it on the expenditure side.

Indexing, in my judgment, is the most beneficial aspect of any tax bill. I am a supporter of the accelerated depreciation. I am a supporter of the 5–10–10, as I was in the original Roth-Kemp proposal. The reason I support a 3-year tax bill is because we have been experimenting with 1-year tax bills ever since 1969. This is the first time since 1964 and only the third time this century that we have worked with multiyear tax cuts. We are doing that because we want to signal to the workers of America and to the investors of America our Nation's long-term tax policy. Roth-Kemp or 5–10–10 moves in that direction but, in my judgment, not far enough.

Indexing is the only long-term tax policy that will provide this signal to the investors and the workers of America. This will give them encouragement to save, encouragement to invest, and encouragement to produce more for the benefit of all American society and for the betterment of the economy and for the betterment of the Federal Treasury.

Mr. President, I urge the Senate to pass the Finance Committee amendment to index individual rate schedules to inflation. As a Member of the Senate and the other body of Congress, I have long been an advocate of indexing. Inflation keeps paying the Federal Treasury bonuses by collecting a greater and greater percentage of each individual's pay raise. How can we stop the Federal Government from profiting from inflation?

The answer is simple, although the solution is not. We have not made the necessary choices between this Government spending priority and that. Rather, we have allowed Government to expand in virtually all sectors of our society, although we have not raised sufficient taxes to finance that expansion. As a result, inflation eats away at the value of the dollar, and our foreign trading partners fear the prospect of being caught holding too many devalued dollars. In an attempt to restore confidence, we rely on the makers of monetary policy to take the lead in clamping down on inflation and bolstering the dollar. We can only hope that the actions of the Federal Reserve will be backed up by fiscal discipline at all levels of government, so that we may have a chance of easing ourselves out of the inflationary spiral.

Why have we allowed spending to get out of hand? There are a number of reasons, the fundamental one being the ever-growing reliance on Government by groups in our society seeking solutions to problems that concern them. We have not had the political will to resist the cumulative pressures exerted by various interest groups.

There is another, more subtle political reason by spending gets out of hand. Deficit spending tends to build up momentum in a roller-coaster effect, because whenever inflation afflicts the country the Government receives a windfall in tax revenues that encourages it to spend even more. This is a tremendous incentive to allow deficit spending to perpetuate itself.

This revenue windfall comes from the impact of inflation on the progressive income tax. The income tax brackets are designed to increase the rate of tax as income rises, but they define income levels in fixed dollar amounts. The system does not take into account the effect inflation can have on incomes, reducing the purchasing power of a given income level. As a result, when personal income rises to match inflation, the tax system treats that increase as a rise in real income, although it clearly is not. People move into higher tax brackets and pay a higher rate of tax. The Treasury is more than happy to accept the revenues thus generated.

Because of this increase in Federal revenues, inflation gives Congress the ability to create new programs or expand old ones. Those who want more and larger Government programs see inflation as desirable because it reduces the need for new taxes or tax increases. But those of us who want to restrain the role of Government would like to end this inflation-induced fiscal dividend in order to tighten fiscal discipline and promote a more careful review of real increases in Government spending.

We can do that right now. The Senator from Colorado introduced this amendment to correct the income tax brackets, zero bracket amount, and personal exemption for inflation. The guide would be the Consumer Price Index for the previous fiscal year. The amendment would index the income tax for inflation, and thereby require Congress to act if it wants to raise taxes to increase spending. The immediate effect would be welcome relief for the taxpayer. The long-term effect would be to encourage fiscal responsibility and take some of the burden off monetary policy for controlling inflation. There could be no better time for passing this amendment providing for indexing of individual income tax rates.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, were I not forbidden to do so by the customs and rules of the Senate, I would like to lead Senators and the gallery in a round of applause for the speech we have just heard. In my opinion, the Senator from Iowa has presented a message of such importance and significance that I only regret that every Senator is not on the floor to have heard it, because the points he has made and the manner and forthrightness with which he has spoken deserves that kind of attention.

I might note that I not only enjoyed his prepared remarks but I especially enjoyed the exchange between him and the Senator from Idaho, not only because they are two of my closest friends, but also because it seems to me, in a very real sense, that the message that they presented about indexing the tax system and their very presence in the example of their political lives is illustrative of the kind of change that has occurred in this country. It is a change which I applaud and I congratulate them for their leadership and for their statements.

Mr. President, I also want to make a brief observation about the bill which is now before us before I address myself to the pending amendment on tax indexing.

I have had the privilege of serving as a member of the Senate Finance Committee and observing the skill with which the chairman, Senator DOLE, has shepherded this piece of legislation through the committee and to the floor. It is my own opinion that this is truly a historic piece of legislation, a most accurate usage of that overused term. It is historic because it marks a turning point in the direction of taxation in this country.

What the President sent up to us was a good bill, in my opinion. What Chairman DOLE has brought forth from the Finance Committee is an even better bill. It seems to me that under his leadership the Finance Committee has walked the delicate line between putting in too many amendments, too many things that would be a burden to final passage of the bill, even in some cases forebearing for the time being to add to the bill provisions which some of us would like to add, but at the same time incorporating important changes in the Tax Code which have been referred to earlier not only in individual rates but in the taxation of business through depreciation, the estate tax, and other changes. I just believe in sum total it is a historic bill, a bill that restores equity to our tax system to a very large degree, which will be the cutting edge of reform to revitalize the Nation's economy.

Mr. President, the prime reason why I wanted to address the Senate at this time, however, does not go to the bill itself, because frankly I think there is little doubt that the bill more or less in the form recommended by the Finance Committee will be adopted by the Senate and ultimately by the House, but because I wanted to speak on tax indexing.

I share the view that others have expressed, that this is the most important single provision in this piece of legislation, and will be so perceived by future generations of American taxpayers.

The amendment is simple in concept, but once enacted it will, in my judgment, do more to achieve permanent tax fairness than any other single provision in the bill or, for that matter, in the current tax law.

The underlying issue is taxflation, the insidious rise in taxes resulting from the interaction of inflation and the graduated income tax.

This amendment, at long last, offers the cure.

The committee amendment is not a new idea. In fact, I think we all know that the concept of indexing the tax system has been proposed in this Chamber before. In fact, the distinguished chairman of the Senate Finance Committee is really the champion of this idea because long before it was popular, long before a majority of Senators were prepared to support this idea, early in the game he began to come forward and explain the fundamental justice of indexing tax brackets and deductions and exemptions for inflation so that people would not be automatically inflated into higher tax brackets.

In fact, Senators will recall that during the last biennium the distinguished chairman of the Finance Committee argued many, many times, in fact, I believe, more than 60 consecutive days he took the floor of this Chamber, to explain the need to index the tax system.

I was privileged to join with him on one occasion 2 years ago to present an amendment which very nearly passed at that time, which I believe in substance will be adopted by the Senate this week.

The issue of taxflation is one which is not of concern to any particular group of taxpayers, but, indeed, to every taxpayer.

Taxflation equals inflation plus higher taxes caused by the graduated income tax. The distinguished economist Milton Friedman summed up the issue so well. He said:

Taxflation is a hidden tax that at first appears painless, even pleasant, and above all, it is a tax that can be imposed without the benefit of any specific legislation.

I would call the attention of Senators to a chart which I have asked to be prepared and posted in the rear of the Chamber which illustrates this problem.

In 1972, the median after tax income for a family of four was $10,036, and their tax rate was 8.5 percent. A decade later, in 1981, the median income in current dollars had risen to $23,593 and the tax rate on this same median income family had risen to 10.8 percent of income. But the real purchasing power of that median income family never increased during the decade, leaving the typical family of four with less, not more, after tax, after inflation income, than they had a decade earlier.

To be exact, $636 less in real purchasing power than in 1971.

Just think about that for a moment. After a decade of hard work, today's typical family, the median income family, is worse off economically than 10 years ago.

As a result of taxflation, most Americans are paying taxes at rates which were originally intended to apply only to the very rich. Nearly 44 percent of the typical American budget today goes to pay taxes. This is more than the cost for most families of food, clothing, shelter, or transportation. Indeed, it is more than the total of all of these items combined. For the average American family, the cost of taxes is not only the largest item in their family budget; it is precisely that part of their budget which is growing most rapidly.

What is the outlook for the future? Obviously, the situation is very bleak indeed, unless we adopt some kind of an amendment along the lines which are suggested by the Finance Committee.

Incredible though it may seem, the median income tax family will be in the 50 percent tax bracket within 10 years unless we make some effort to adjust or index tax rates, and assuming a moderate degree of inflation in the years ahead. In fact, according to the Joint Taxation Committee, if current rates of taxation remain the same, taxflation will cost the American people $172.6 billion in tax increases during the next 5 years. These would be tax increases never voted upon by Congress.

This is taxation by failure of representation.

This predictable increase will be more than two-and-a-half times the entire combined profits of the 10 largest oil companies since 1973, nearly four times larger than the combined assets of the five largest oil companies.

This astronomical sum is staggering to the total economy, but it is in its effect on the individual working taxpayers and families that its most severe effects can be perceived.

Taxflation hurts everyone, but its blow falls hardest on workers with the lowest wages. I emphasize this point because it has been charged here in the Senate today that tax indexing is primarily an agenda item or a priority of the wealthy. In my judgment, nothing could be further from the truth. The one amendment which is pending today in the Senate, the one provision of this bill which is aimed most directly at providing relief for low-income families and workers, is the tax indexing amendment.

Let me explain why.

Under current tax rate schedules and minus indexing, and with inflation continuing at its present rate, those earning less than $10,000 a year will see their taxes rise 185 percent between 1979 and 1984, strictly due to inflation. The tax liability increase for those same years for wage earners in the $50,000 plus per year category is only 76 percent, according to a study by the Advisory Commission on Intergovernmental Relations.

In a moment I shall ask permission to insert in the RECORD the observations of a number of representative groups of taxpayers around the country. I think it will be evident to every Senator that far from being a special preference for the rich, for the wealthy, for the high income families, tax indexing is first and foremost for low- and middle-income

taxpayers, and, in my judgment, this is a bill which properly takes into account the excessive tax burden of middle- and upper-income families. But I think it is important that we do something that is specifically aimed to protect the interests of the middle- and lower-income families, and tax indexing is it.

Just think of it. We have created a tax system that penalizes the neediest wage earning taxpaying members of our society. It is hard for me to believe that such a tax code could be thought to be progressive because when you consider the effect of inflation upon taxpayers nothing could be further from the truth.

There is, of course, a cure for this inflate-and-be-taxed-more syndrome. It is called indexing. The cure for taxflation is the issue contained in this pending amendment.

Here is how the amendment will work, specifically: Each time inflation goes up by a certain percent, say, by x percent, then the tax brackets, credits, and deductions will be automatically adjusted by the same percentage. Thus, workers will not be pushed into higher brackets if they only receive pay hikes commensurate with inflation. This is exactly what the Finance Committee approved amendment does. It indexes the personal exemptions, the standard deductions, and the zero bracket amount by the rate of inflation, as measured by the previous year's Consumer Price Index.

Indexing works. It will stop taxflation. That is not just my opinion. It is the opinion of a number of the Nation's leading economists, the American Bar Association, the American Institute of Certified Public Accountants, the American Farm Bureau, the National Education Association, the National Cattlemen's Association, the NFIB, the National Taxpayers Union and the Advisory Commission on Intergovernmental Relations.

My colleagues have on their desks copies of letters which I have received on tax indexing from these and other groups.

A summary of these letters is as follows:

The American Farm Bureau "supports the indexing of income tax brackets as an important part of tax policy."

The National Education Association believes that indexing is the way to stop unlegislated increases in the individual income tax.

The National Cattlemen's Association will seek indexing so that the Federal share of the citizens' income and wealth can be increased only by overt congressional action.

The National Federation of Independent Business says, "(Tax indexing) would allow for a greater retention of capital by business owners. In short, it would redirect capital to individuals and small business for growth and away from government . . . where it is going now. (NFIB) polled the issue of indexing the income tax . . . (and of their numbers) 62 percent favored the idea, 32 percent opposed it and 5 percent were undecided."

The National Taxpayer's Union says, "An indexed income tax is more honest."

The American Institute of Certified Public Accountants says, "Under an indexed tax code, the validity of a progressive tax structure would be maintained."

The American Bar Association says, "It is recommended that annual cost-of-living adjustments be made to the fixed dollar brackets in the income tax rates tables and to personal exemption."

Mr. President, these statements are not the observations of the rich or the representatives of high-income taxpayers. On the contrary, these and other groups who have endorsed this concept represent middle America, what someone has called Main Street America, people who are just working men and women. By no means, as has been charged during the course of this debate, is this an amendment which is aimed primarily at high-income taxpayers. On the contrary, it is primarily to the advantage and benefit of low- and middle-income taxpayers.

Nor are these recommendations based on untried or half-baked economic theories. Experience proves indexing works. My own State of Colorado indexed State income taxes as of 1978, and an impartial study has shown Coloradans saving more than $80 million over 2 years. The greatest savings were enjoyed by low-income families, for whom tax indexing protection is critical.

Other States—California, Arizona, Iowa, Minnesota, and Wisconsin—index their State taxes, and have enjoyed similar success.

Canada began indexing in 1974, and as a result, its annual increase in Government spending has dropped from 15.4 percent to less than 2 percent. Other countries with some form of indexing are France, Luxembourg, Denmark, Israel, the Netherlands, and Australia.

Unlike our present Tax Code, tax indexing is honest. Here is what the National Journal says about our present Tax Code:

The defects of the tax system are now becoming clear. More importantly, it is becoming to be known for what it is—dishonest. The tax code confuses the average citizen, and the average member of Congress. It puts the nation's highest officials, starting with the President, in a foolish and ultimately self-defeating position of pushing half truths on the public. They promise tax reductions, but in the main, all they are doing is repealing automatic tax increases.

With tax indexing, Congress will have to choose between cutting spending or explicitly increasing taxes, or borrowing from the public to finance spending. None of these are attractive to politicians. But with indexing, when Congress claims it has to cut taxes, they will be real tax cuts. And future tax increases will have to be voted on by Congress.

Mr. President, I also make the point that those who have contended that the choice is between indexing or periodic tax cuts ignore the reality of what has happened in the last decade. We have had periodic tax cuts in the last decade. We have had biennial tax reduction measures. Yet, the total effect of these tax cuts has been insufficient to hold harmless even the median income taxpayers as shown by the chart in the rear of the Chamber. I remind Senators that the median income taxpayer is worse off today, after a decade of hard work, then he was 10 years ago.

Three other points need to be made about why tax indexing should be enacted. First, tax indexing is a true tax reform, not just a tax cut. It is a substantive, systematic reform. While indexing will reduce taxes, it also reforms the basic tax system. In fact, tax indexing will be the most true and permanent tax reform ever enacted by Congress.

Second, tax indexing will have a positive effect on inflation—in two ways. First—and this is a point which has been emphasized by economists—the Federal Government will no longer profit from the inflation it creates. Second, indexing will enable workers to moderate their wage demands, because they will not need raises in the cost of living just to keep up with taxes.

Third, tax indexing enjoys popular support. Obviously, to some extent, Senators are properly guided by the national consensus on policy issues. In that respect, I point out that two recent public opinion polls show that more than 60 percent of Americans favor tax indexing.

In Montana less than 6 months ago, a tax indexing referendum was approved by nearly 80 percent of the voters.

Indexing is an idea whose time has come.

Let me summarize this way. Taxflation increases taxes, destabilizes the economy, only benefits the Federal Treasury, increases tax uncertainty, discourages savings, penalizes particularly low-income wage earners, and wipes out periodic tax cuts.

Indexing is the cure for these economic ills. Indexing permanently reduces tax rates, prevents the Federal Government from profiting from the inflation it creates, is honest, is a true tax reform, creates tax certainty, and stops taxflation cold.

Here is a program that is fair, that makes sense in macroeconomic terms, which responds directly to the most keenly felt need of working and taxpaying peoples who must have relief from inflation and taxes.

Mr. President, I ask unanimous consent to have printed in the RECORD correspondence from some typical taxpayers, three or four people who have expressed. I believe, the view and the opinions of millions. I put this correspondence in the RECORD to share with my colleagues and others who may have occasion to study the RECORD of this proceeding.

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

AMERICAN ENTERPRISE INSTITUTE,
Washington, D.C., July 9, 1981.

Hon. ROBERT J. DOLE,
Chairman, Senate Finance Committee,
U.S. Senate

DEAR SENATOR DOLE: I am pleased to see that the Senate Finance Committee will offer an indexing amendment to the tax bill when it comes to the floor.

Indexing is an essential component of honesty in tax policy. Without it, inflation inexorably pushes people into higher tax brackets and raises real tax burdens, so that people whose before-tax income keeps up with inflation find that they are worse off on an after-tax basis. The real value of tax receipts rises without Congress lifting a finger and there is, of course, a strong tendency to spend those receipts.

With indexing, the Congress will have to raise tax rates explicitly when they wish to command a higher proportion of national income, and it will no longer be possible to

take credit for tax cuts that are not really tax cuts.

Two arguments are frequently made against indexing. Keynesian economists would argue that it is appropriate to raise taxes when inflation is accelerating and in a non-indexed system that happens automatically. Keynesian economics is being questioned more and more every day, but even if it is completely accepted, it should be noted that indexing is implemented with a time lag. It is this year's inflation that will determine next year's tax adjustment. The business cycle is short enough that the automatic adjustment to the tax rate structure could come either when it is desirable or undesirable for Keynesian stabilization purposes.

It is also argued that indexing makes inflation less painful to the voters and therefore, makes inflation more likely. Aside from the sadism implicit in this argument, it misses an important point. A non-indexed tax system makes inflation profitable for the Congress. Indexing therefore makes inflation more painful to the Congress and to the government as a whole. Since government must bear the ultimate responsibility for squeezing inflation out of the economy, I believe that the indexing of the tax system—unlike the indexing of wage and other private contracts—makes inflation less likely.

Yours sincerely,

R. G. PENNER.

INDEXING THE TAX SYSTEM FOR HONESTY'S SAKE

(By Robert J. Samuelson)

Nothing better illustrates the brawling tendencies of politicians than the current tax fight. It's an avoidable fight, but one that neither the White House nor Congress chose to avoid. They revel in the combat; the haggling over details, the testing of political skills. The game is being played for the game's sake.

As spectacle, it's engrossing—a summer at the ball park. The players spit tobacco. The managers yell, cuss and kick dirt. There's plenty of catcalling and strategy. Buy your popcorn now. Enjoy it as sport, but don't be deceived into thinking it has much to do with the shape of the tax bill.

This tax bill will benefit businesses and high-income taxpayers primarily. Both Democrats and Republicans have assured that result by endorsing measures that achieve it; a generous liberalization of depreciation for business investment, a reduction in the top personal tax rate from 70 percent to 50 percent and modification of the so-called marriage penalty.

The political brawling and realities of the tax system obscure most of this. Attention focuses on the vast middle class. True, they will receive most of the dollar benefits of any tax package simply because they pay most of the taxes. But their tax rates won't decline to levels of the late 1970s.

Inflation has been kicking people into higher tax brackets for the past two years. Even the original three-year, 30 percent tax cut proposed by President Reagan wouldn't have reduced the tax burden below 1977 levels (themselves relatively high by historic standards). The latest proposals, involving smaller tax "cuts," would leave burdens still higher.

All this may strike you as somewhat devious, and it is. Congress and the White House could have avoided this deception years ago by indexing the tax system.

Aside from pushing people into higher brackets, inflation-induced increases in wages and personal incomes erode the worth of final deductions and credits. Indexing would automatically adjust tax rates, brackets, credits and deductions to compensate for inflation's effect. Actual tax rates would remain the same.

That Congress hasn't done this tells you a lot about the nature of Washington politics.

Congress and presidents have welcomed the additional revenues generated by inflation, plus the frequent opportunities to "cut" taxes. Since 1969, Congress has enacted five major tax bills—about one every two years. It's a giant game of musical chairs. Overall tax rates generally don't decline, but Congress shifts the burden among groups.

In the early 1970s, for instance, federal income taxes averaged 10.1 percent of personal income. By 1980 they had climbed to 11.4 percent, and now they are edging toward 12 percent—nearly a one-fifth increase. Adding Social Security taxes, federal taxes now claim about one-seventh of personal income, up from about one-eighth in the early 1970s.

But Congress has attempted to shift the burden.

In the early 1970s, it substantially reduced income taxes for lower-income taxpayers. A recent study by economists Attiat F. Ott and Ludwig O. Dittrich shows that between 1967 and 1976 the lowest 30 percent of taxpayers received substantial cuts in income tax rates. Higher Social Security taxes may have offset these, but the income tax cuts accurately reflected prevailing social concerns and Democratic congressional majorities.

Now the pendulum is swinging in the other direction.

Even as recently modified, the administration's depreciation proposal would substantially reduce corporate tax rates. In 1980 corporate taxes provided about 12 percent of government receipts; by 1984 they would provide slightly less than 10 percent, according to administration projections. Individual income tax revenues would increase almost twice as fast as corporate tax revenues. Ultimately, the lower corporate taxes would benefit the owners of stock.

Likewise, the cut in the top personal tax rate from 70 percent to 50 percent would represent a real reduction. (The cut applies only to unearned income on dividends and interest; the top rate on wages and salaries is already 50 percent.) Many high-income, two-earner families also would benefit from relief of the marriage penalty. All these provisions reflect the changed political climate and growing concern that high tax rates discourage initiative and investment.

The point here is not the virtues of cutting taxes for low-income taxpayers in the early 1970s versus the virtues of just the opposite now. The arguments on either side can be made on grounds of economic efficiency or fairness. Rather, the point is that these changes get obscured because the tax system isn't indexed.

The case for the status quo rests on pragmatism. As a practical matter, you can argue that the automatic tax increase of the unindexed system came just when an inflation-prone economy needed it. You also can argue that forcing Congress to write new tax legislation every few years is healthy, that Congress ought to open up the tax code to give vent to particular frustrations or fashions of the moment.

But the arguments on the other side are strong and (to this reporter) more compelling. In part, our inflation results from our failure to index. With inflation always increasing tax rates, future budget projections always showed surpluses. This subtly encouraged spending, though the surpluses never materialized (the last was 1969) because Congress always cut taxes first.

The basic argument, though, is honesty. Indexing doesn't allow the White House or Congress the luxury of asserting that they're doing something they're not—cutting taxes. It doesn't allow them to shift tax burdens quietly under the guise of an overall tax "cut." Tax rates stay the same unless they're changed explicitly; those who favor change must make their case openly and forcefully. Advocates of higher spending face the same burden.

Reagan might have embraced the clarity of indexing rather than the confusion of his multiyear "cuts." Even those have offended the jealous guardians of Washington's traditional powers and prerogatives, which include fussing with the tax code and fighting over the fuss. What's being contested in this year's fight are mostly details—and political reputations.

DEAR SENATOR DOLE: Many thanks for trying to get a bill passed to index the taxes. As you know, the American taxpayer is tired, tired, tired of the whole system. We who work cannot support the programs we have—there are jobs for the unemployed but they just don't want to do those jobs. Consequently, we taxpayers have little left to save or invest.

Please continue your efforts because you have more support from the people than you realize.

Sincerely,

Mrs. JANE THURMOND GREGORY,
San Antonio, Tex.

STUDIO CITY, CALIF.

Senate Finance Committee,
Capitol One D.C.

We urgently support tax indexing.

ELIZABETH AND ANDREW WHITE,
DREW W. WHITE,
JOE AND LISA WILLIAMS.

SHAWNEE, KANS., *July 9, 1981.*

Senator BOB DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: I am aware that you will be voting soon on the Finance Committee Amendment for tax indexing. I sincerely hope you are supporting the effort to adopt tax indexing. I am convinced that indexing will reduce inflationary government deficit spending, and at the same time help me catch up with the buying power I have lost due to inflation in recent years.

I think that tax increases should be the result of congressional legislation where I can be represented by your vote and not an automatic tax increase as a result of inflation.

I urge you to work for successful adoption of personal income tax indexing and would like to know your views on the matter.

Sincerely yours,

MIKE MILLIORN.

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., July 9, 1981.

Hon. WILLIAM L. ARMSTRONG,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR ARMSTRONG: The National Education Association welcomes your initiatives in addressing one of the principal issues facing the American taxpayer: income tax "bracket creep." As inflation increases, a taxpayer's income must also increase to enable the family to buy the same amount of goods and services. But, as nominal income rises, the taxpayer is pushed into higher and higher brackets—thus paying a larger tax bill, despite the fact that no gain in purchasing power has been realized.

We are pleased that the Senate Finance Committee has adopted, as part of its 1981 tax bill, your amendment to protect people from bracket creep by automatically adjusting, or "indexing," tax liabilities each year to reflect increases in the cost of living.

NEA believes that indexing is the way to stop unlegislated increases in the individual income tax. It will do much to help teachers and other taxpayers realize a substantially higher proportion of any gains they make in wages and salaries. We applaud your

efforts and will work with you to help secure passage of the amendment.

Sincerely,

JAMES W. GREEN,
Assistant Director for Legislation.

NATIONAL CATTLEMEN'S ASSOCIATION,
Denver, Colo., June 30, 1981.

Hon. WILLIAM L. ARMSTRONG,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ARMSTRONG: This will confirm the support of the National Cattlemen's Association for the tax indexing amendment which you have sponsored and which the Senate Committee on Finance has now acted upon favorably.

The members of the NCA appreciate your interest in this issue and the effective work you have done to advance the concept of indexing the tax system. Following is the current policy position adopted by the membership body:

"Depreciation in value of the currency of the United States has many destructive effects. One of the most harmful of these is the way it feeds the appetite of big government for an ever-increasing share of the Nation's wealth. By reducing the relative value of tax exemptions and deductions and increasing the total number of dollars subject to higher rates of the graduated income tax, inflation enables the government to effectively increase its taxes on both capital and income without suffering the public debate and discussion occasioned by an open and honest increase in federal taxes.

"Therefore, be it resolved, That the National Cattlemen's Association will seek the indexing of federal tax exemptions, deductions, and rates to a reliable measure of the value of the dollar so that the federal share of the citizen's income and wealth can be increased only by overt congressional action."

The Association pledges its assistance in encouraging members of the Senate to vote in favor of the indexing amendment when it comes to the floor of the Senate.

Sincerely,

B. H. (BILL) JONES,
Vice President.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., July 1, 1981.

Hon. WILLIAM ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ARMSTRONG: Tax policy has a significant effect upon the economic well-being of farm and ranch families. The American Farm Bureau Federation, representing over three million member families and ranking as the nation's largest general farm organization, believes that tax policy should be designed to encourage private initiative, help stabilize the dollar, promote employment and economic growth, and distribute the tax burden equitably.

As an important part of tax policy, Farm Bureau supports the indexing of income tax brackets. At the 62nd annual meeting of the American Farm Bureau Federation voting delegates of the member State Farm Bureau's adopted the following resolution:

"Continued inflation results in higher taxes because we use a system of graduated income tax rates. We recommend the indexing of income tax brackets, both state and federal, in order to make them inflation proof."

Based upon Farm Bureau policy, we support your efforts to incorporate the concept of tax indexing in major tax legislation, S. 683, that will soon be considered by the Senate. We appreciate your interest in this issue and offer our support to you.

Sincerely,

VERNIE R. GLASSON,
Director, National Affairs Division.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
July 13, 1981.

Hon. WILLIAM ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR BILL: The National Federation of Independent Business (NFIB) and its membership in excess of 500,000 small firms, applauds your effort to index parts of the tax code against the effects of inflation.

Millions of small businesses in this country are organized as sole proprietorships or as partnerships. The income from such firms is taxed at the individual rates of the owners. Your amendment would allow for a greater retention of capital by these business owners. In short, it would redirect to individuals and small business for growth and away from government—where it is going now.

As you know, NFIB takes its position on issues affecting small businesses by direct polling of its membership. We polled the issue of indexing the income tax in October 1978, with the results that 62 percent favored the idea, 33 percent opposed it, and 5 percent were undecided. Small business people across America thank you for bringing the issue to a vote and will be urging your colleagues and the President to help enact it.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director of Federal Legislation.

AMERICAN BAR ASSOCIATION,
Washington, D.C., July 10, 1981.

Re Economic Recovery Tax Act of 1981.

Hon. WILLIAM L. ARMSTRONG,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR: The American Bar Association has adopted several resolutions regarding the indexing of various provisions of the Internal Revenue Code as proposed by the Section of Taxation. Summaries of those recommendations are enclosed.

This is to advise you, on behalf of the American Bar Association and its Section of Taxation, of their support of the Senate Finance Committee sponsored floor amendment to H.J. Res. 266 which provides for indexing individual income tax rates and personal exemptions.

Sincerely,

HARVIE BRANSCOMB, Jr.,
Chairman, Section of Taxation.

RECOMMENDATION NO. 1978–16

Section 401. The Code should provide for automatic cost-of-living adjustments to qualified plan limitations applicable to self-employed persons, shareholder-employee, and individual retirement accounts.

31 Tax L. 1511, 79–1 ABA Repts. 107, EMPL Benefits.

The real value of fixed dollar limitations, exemptions, and exclusions declines during periods of inflation. To further the equality of treatment of taxpayers similarly situated, inflation adjustments which now apply to contributions and benefits under corporate plans should be extended to plans covering self-employed persons and shareholder-employees, and to individual retirement accounts.

It is recommended that annual cost-of-living adjustments which apply to contributions and benefits under corporate-qualified pension and profit-sharing plans be extended to limitations upon qualified plans covering self-employed persons and shareholder-employees of subchapter S corporations, and to individual retirement accounts.

RECOMMENDATION NO. 1978–17

Section 1. The Code should provide for automatic cost-of-living adjustments to income tax rates and personal exemptions.

31 Tax L. 1515, 79–1 ABA Repts. 107, GEN INC TP.

During periods of inflation the effect of progressive tax rates is to increase the proportion of the tax burden without regard to whether the taxpayer's real income has increased or decreased. Similarly, the real value of fixed dollar limitations, exemptions, and exclusion declines. The resulting increase in the proportion of gross tax revenues to the aggregate of gross taxable income, and the corresponding redistribution of tax burdens, are effected annually without congressional action.

It is recommended that annual cost-of-living adjustments be made to the fixed dollar brackets in the income tax rate tables and to personal exemptions.

RECOMMENDATION NO. 1978–18

Section 167. For purposes of computing deductions for depreciation, amortization, and cost depletion of property held for more than 24 months, the basis of such property should be redetermined to reflect changes in general price levels between the end of the calendar year in which the holding period of such property commenced (or the end of 1913, if later) and the end of the last calendar year preceding the close of the taxable year in question.

31 Tax L. 1520, 79–1 ABA Repts. 107, DEPREC/INV CR.

Current tax law generally fails to recognize the declining purchasing power of the dollar. The matching of unadjusted costs measured in earlier more valuable dollars against receipts measured in current dollars causes overstatement of income in economic terms. The American Bar Association has therefore recommended indexing of such costs for purposes of more accurately measuring gains on final disposition of assets. See Recommendation No. 1975–4, summarized infra under section 1023. Similar distortion of economic income occurs where costs of wasting assets are recovered through depreciation, cost depletion, or amortization allowances.

It is recommended that the tax basis of wasting assets held for more than 24 months be redetermined for purposes of computing depreciation, amortization, and cost depletion by making annual adjustments to reflect general price level changes during the holding period.

NATIONAL TAXPAYERS UNION,
Washington, D.C., June 30, 1981.

Hon. BILL ARMSTRONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ARMSTRONG: The National Taxpayers Union strongly supports the Senate Finance Committee amendment to the tax reduction bill to index the personal income tax rates to inflation beginning on January 1, 1985.

We agree that the multi-year tax rate reductions contained in the bill are sound. If approved, the Committee tax indexing amendment would greatly improve the incentive effects of the tax rate reduction. The outlook for work, savings and investment would be improved because an indexed income tax would reduce expectations of higher marginal tax rates in the future.

Indexing also has several other salutary benefits. It would help slow the growth of government spending. An unindexed tax system is biased toward ever greater government spending. By removing government's ability to raise taxes without an explicit vote by Congress, indexing would make it easier to control spending.

An indexed income tax is more honest. Taxes are now raised automatically each year with no legislative action or public debate. Tax indexing would permanently stop this form of taxation without representation.

The time has come for indexing the personal income tax. It is simple to do and enjoys widespread support. We feel that it is essential that the tax reduction bill include the Finance Committee amendment for tax indexing.

Sincerely,

DAVID KEATING,
Director of Legislative Policy.

Mr. ARMSTRONG. Mr. President, I should also like to share with Senators material I have just received from the Department of the Treasury which underscores the seriousness of what many have characterized as bracket creep.

In 1965, those earning the median income had an average tax rate of 7.1 percent. In 1980, their tax rate was 11.7 percent; and without indexing or rate reductions, their average tax will increase to 14.7 percent.

For those earning half the median income, the impact of an unindexed tax code is even more striking. In 1965, their average tax rate—and I am referring to people whose income is half of the median—was 2.2 percent of income. In 1980, after all the periodic tax cuts we have had, after we have come back and looked at it and taken a careful evaluation every couple of years, these people were paying 6.5 percent; and without indexing or further tax reductions, their average tax rate is anticipated to rise to 9.4 percent. Even with the rate reduction, their average tax rate will climb to 7.2 percent.

So it is fair to ask in retrospect, it seems to me, what would their position have been had we had indexing, say, as long ago as 1965? The answer is that, instead of having an average tax rate of 6.5 percent, their present rate would be only 4 percent.

Mr. President, I stress that these are people whose income is half the median. So the idea or the charge or the allegation that, in some way, indexing is for the rich or for high-income families is simply not borne out to any degree, not even one iota, by the facts.

I ask unanimous consent to have printed in the RECORD the material I have received from the Department of the Treasury.

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

COMPARISON OF AVERAGE TAX RATES AND MARGINAL TAX RATES FOR A 4-PERSON FAMILY WITH INCOME AT THE MEDIAN INCOME FOR ALL 4-PERSON FAMILIES UNDER SELECTED TAX LAW, 1965–85

[In percent]

Year	Tax rates under 1965 law		Tax rates under 1965 law indexed for inflation		Tax rates under tax law actually in effect: 1980 law extended through 1985		Tax rates under tax law actually in effect: proposed law in 1985 [1]	
	Average	Marginal	Average	Marginal	Average	Marginal	Average	Marginal
1965	7.1	17.0	7.1	17.0	7.1	17.0	7.1	17.0
1970	9.3	19.0	8.1	19.0	9.3	19.5	9.3	19.5
1975	11.2	22.0	8.2	19.0	9.6	22.0	9.6	22.0
1980	14.1	28.0	8.5	19.0	11.7	24.0	11.7	24.0
1985	17.0	36.0	8.7	19.0	14.7	32.0	11.4	24.0

[1] Proposed law for 1-earner families.

Note: Calculations assume all wage income and itemized deductions equal to 23 percent of gross income.

COMPARISON OF AVERAGE TAX RATES AND MARGINAL TAX RATES FOR A 4-PERSON FAMILY WITH INCOME AT ½ THE MEDIAN INCOME FOR ALL 4-PERSON FAMILIES UNDER SELECTED TAX LAW, 1965–85

[In percent]

Year	Tax rates under 1965 law		Tax rates under 1965 law indexed for inflation		Tax rates under tax law actually in effect: 1980 law extended through 1985		Tax rates under tax law actually in effect: proposed law in 1985 [1]	
	Average	Marginal	Average	Marginal	Average	Marginal	Average	Marginal
1965	2.2	14.0	2.2	14.0	2.2	14.0	2.2	14.0
1970	4.9	15.0	3.4	15.0	4.7	15.0	4.7	15.0
1975	7.2	17.0	3.6	15.0	4.1	[2] 27.0	4.1	[2] 27.0
1980	10.0	19.0	4.0	15.0	6.5	18.0	6.5	18.0
1985	11.9	22.0	4.2	15.0	9.4	21.0	7.2	16.0

[1] Proposed law for 1-earner families.
[2] Reflects the earned income credit which phased out at a 10 percent rate for incomes between $4,000 and $8,000.

Note: Calculations assume all wage income and itemized deductions equal to 23 percent of gross income.

COMPARISON OF AVERAGE TAX RATES AND MARGINAL TAX RATES FOR A 4-PERSON FAMILY WITH INCOME AT TWICE THE MEDIAN INCOME FOR ALL 4-PERSON FAMILIES UNDER SELECTED TAX LAW, 1965–85

[In percent]

Year	Tax rates under 1965 law		Tax rates under 1965 law indexed for inflation		Tax rates under tax law actually in effect: 1980 law extended through 1985		Tax rates under tax law actually in effect: proposed law in 1985 [1]	
	Average	Marginal	Average	Marginal	Average	Marginal	Average	Marginal
1965	11.1	22.0	11.1	22.0	11.1	22.0	11.1	22.0
1970	13.2	25.0	11.9	22.0	13.5	25.6	13.5	25.6
1975	15.8	32.0	12.0	22.0	14.9	32.0	14.9	32.0
1980	21.0	45.0	12.4	25.0	18.9	43.0	18.9	43.0
1985	25.8	53.0	12.6	25.0	23.8	49.0	18.3	38.0

[1] Proposed law for 1-earner families.

Note: Calculations assume all wage income and itemized deductions equal to 23 percent of gross income.

Mr. ARMSTRONG. Mr. President, I thank those who have furnished me with this information. I particularly am grateful to those public-spirited organizations I have mentioned, which are not the representatives of corporate America, which are not the representatives of the rich, idle or otherwise, but those who represent—as do the National Education Association and the NFIB—small-town America, low-income America, middle-income America, for their leadership and for being willing to stand up and be counted on this important issue.

The PRESIDING OFFICER. What is the pleasure of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. 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. BRADLEY. Mr. President, today the midsession review of the 1982 budget was released by the Office of Management and Budget and the Office of the President.

There are some things from the March estimate. The estimated outlays for fiscal year 1982 have increased from $695 billion to $704 billion. And the estimates for the 1982 receipts have increased from $650 billion to $662 billion.

Mr. President, included in that increase in receipts is a provision that amounts to $15.7 billion and the entry says, "Substitution of bipartisan tax package for the individual and business tax reductions proposed in March." In March the President's tax program was to cost $51.9 billion in fiscal 1982, and the package that we are now considering costs $36.8 billion. So we have there in the neighborhood of $15.7 billion in increased revenues that result from the difference between the President's tax cut and the tax cut that was reported out of the Finance Committee.

Mr. President, there are a number of Members who have many amendments that they wish to propose to the bill that is now before the Senate. Those amendments are in many cases meritorious. They deal with tuition tax credits. They deal with any number of very important amendments for which there is bipartisan support.

Mr. President, it occurs to me that if this figure of $15.7 billion is included in the receipts for budget purposes then where will the revenue come for this second tax bill? Where will we get the revenue in order to do these things that we are being asked to refrain from proposing on this tax bill?

It occurs to me that if indeed there is no provision made for some source of additional revenue the only result is to increase the size of the deficit, on the one hand. I have asked the distinguished chairman of the Finance Committee if he could state for the record where the revenues will come from for a second tax bill that the administration has promised, that we have talked about in the committee a number of times, and that many Senators are counting on before refraining from offering various meritorious amendments to this tax bill?

I pose that question directly to the chairman of the committee because I know that he does not want a bigger budget deficit in fiscal 1982 than the administration has projected here and that there evidently has been some thought given as to where the money would come from to finance the second tax bill.

Mr. DOLE. I appreciate the Senator from New Jersey raising that question.

First of all, there will be a second tax bill. In fact, this Senator has written a letter to all Senators asking those who had amendments for a second bill to contact the staff. Some of those amendments have been referred to the Finance Committee staff.

I hope that on the basis of that, there will be some restraint on offering amendments to this bill. As to where the money will come from, it is my estimate at this time that there will be some tax expenditure reforms. Treasury is now looking at a number of areas. They have not specified to this Senator what those are. But I discussed that question as recently as this morning with the Secretary of the Treasury, Don Regan, because if we are going to have any credibility here we have to follow through. If we tell someone there is going to be a second proposal we cannot tell them after we pass this bill that we did not mean it.

So it is our intention to have another bill and our intention to find the revenue. I am not certain we can accommodate every conceivable amendment. But certainly a number of Members, and I include the Senator from New Jersey, have meritorious amendments they wish to have proposed to a second measure.

Mr. BRADLEY. I say to the Senator that throughout the debate on the tax bill and particularly after the Finance Committee reported out a bill there was $15.7 billion less, I thought that the revenues would come from that figure, $15.7 billion.

But then when I find that it is included in the receipts for budget purposes, I assume that it is not coming out of there so I was curious. Could the Senator tell me what would be the rough size of the tax expenditures that the Treasury Department would be prepared to recommend?

Mr. DOLE. Again I do not have it. I could give a ball park figure that I think we would need. It would be several billion dollars, $5 or $6 billion.

Mr. MOYNIHAN. I will take it.

Mr. DOLE. You take it. It is gone.

But again that is only an estimate. But I know of a number of amendments that would cost a substantial amount of money in the initial year and a substantial amount more in the outyears.

I know this is a bookkeeping transaction. I had not seen this until the Senator called my attention to it. But I can only repeat what I have been told by the Treasury Secretary, which is that they now have under review a number of items that should produce some revenue.

Mr. BRADLEY. I thank the chairman and I shall anxiously wait to see which tax expenditures are selected because, as the Senator knows, that means according to the rate we will be raising taxes.

Mr. DOLE. If we find some more like the straddles people, they will be paying taxes, but there are not too many of those left that we know of.

Mr. BRADLEY. I thank the Senator for clarifying it.

IN SUPPORT OF TAX INDEXING AMENDMENT

Mr. ROTH. Mr. President, I rise in support of the committee amendment to index the Federal Tax Code for inflation. This amendment would avoid future tax increases by reducing personal income taxes by the rate of inflation. Under this provision, the income tax brackets, personal exemptions and zero bracket would be adjusted, or indexed, to reflect the increase in the rate of inflation, as measured by the Consumer Price Index.

This provision is identical to the measure I introduced 4 years ago with JACK KEMP. And, I must say, if anyone had said to me at the time that the Senate would pass this amendment I would have thought he had been standing out in the Sun too long. However, today the Senate is on the verge of passing the most monumental tax cut in the history of our Nation, a tax cut that will for the first time provide true tax relief for the working men and women of America.

This tax cut which embodies the essential elements of my original legislation is the first step in eliminating the massive tax burden now confronting the American people.

However, once tax rates are reduced, tax indexing is needed to insure that taxpayers will no longer be forced to pay higher taxes simply because inflation pushes them into higher tax brackets.

Under our progressive tax system, an individual whose wage increases merely keep up with inflation will actually lose purchasing power. This is because the wage increase will push the worker into a higher tax bracket.

For example, a family of four now earning $20,000 pays $2,013 in Federal income taxes. If inflation increases 10 percent this year, the family will receive a cost-of-living raise to $22,000. Yet even though the family's wages have just kept pace with inflation, the wage increase will push the family into a higher tax bracket and increase its tax bill to $2,346. So even though this family had no increase in real earnings, the hidden tax of inflation reduces the family purchasing power by $333.

This hidden tax of inflation increases the tax burden of all taxpayers. And the main beneficiary of these nonlegislated tax increases is the Federal Government.

For years, the Federal Government has relied on inflation to supply the Government with a continually growing supply of tax revenues.

The hidden inflation tax has allowed the Government to create more and more spending programs, and enabled Congress to enact politically popular tax cuts every election year.

But these tax cut charades, such as the one enacted in 1978, do not provide real relief to the working taxpayers of this country. It is the pickpocket theory of taxation. The Government proposes tax cuts with one hand while the other hand reaches into the taxpayers' pockets and removes their wallets.

Tax indexing will put an end to this taxation without representation. Its opponents say the budget cannot afford it. I say the American people can no longer afford bracket creep.

Mr. President, I intend to vote for this amendment and I urge my colleagues on both sides of the aisle to join in supporting it.

● Mr. HUMPHREY. Mr. President, we are all familiar with the ever-growing effect of tax bracket creep. The debate over the past several months regarding the President's proposal for a 3-year reduction in personal income taxes has focused public attention upon the unintended, but massive, increases in tax revenues due to the interaction of inflation with the tax rates. Our progressive tax system becomes oppressive as inflation pushes hardworking American families into higher and higher tax brackets with little or no compensating increase in real wages.

Since 1972, the average American family's income rose from $10,036 to $23,593 in current dollars. However, real purchasing power did not keep up. The typical family of four had less aftertax income in 1981 than they had in 1972.

These increases in Federal taxes have

occurred without any action by Congress. Unfortunately, as all taxpayers know, unintended taxes are no less burdensome than those explicitly enacted by Congress. Even with no congressional action, Federal taxes will jump over $20 billion this year alone.

The automatic growth in taxes has encouraged the extravagant and wasteful practices of Congress over past decades. Reducing the growth in Federal revenue will help to control the growth of Federal programs and decrease the intervention of Washington in our daily lives.

New Hampshire families know how to live within a budget. They make ends meet by reducing expenses, not by going further into debt year after year. It is time that the Federal Government learned the basics of frugality and fiscal restraint. By reducing the funds available to the National Government, we can encourage more responsible and economically sensible Federal programs.

The impact of inflation induced tax increases upon New Hampshire alone has been staggering. Last year, citizens of the Granite State paid an additional $67,390,000 in Federal taxes because of the upward thrust of inflation on individual tax rates. This year, it is projected that the taxpayer of New Hampshire will be out nearly $90 million because of tax bracket creep. In times of economic strength, such increases would hardly be acceptable; in these times of economic distress, such increases are intolerable.

What has been the effect of this continued increase in taxes? The accelerating tax burden has reduced incentives to work, save, and invest. It has led to increased Federal spending and prolonged the stagnation of our national economy.

I feel that it is only fitting that this provision to index taxes to inflation be a part of the largest tax reduction act in history. While the President's tax cut just barely keeps up with the increase in taxes due to inflation, indexation will provide permanent tax relief for the American taxpayer. The President's economic recovery tax proposal is aimed at rejuvenating the economy; this indexing provision is based upon the same principles of economic renewal through controlling the tax burden. Indexing the tax rates for inflation will make permanent provision for the principles embodied in the President's tax reduction plan.●

● Mr. HEFLIN. Mr. President, I rise in support of the amendment offered by the Senator from Kansas, Mr. DOLE.

As I understand, Mr. President, this amendment will require that the individual rate brackets, personal exemption, and zero bracket amount be adjusted for inflation beginning January 1, 1985. The indexing factor used for these adjustments will be equal to the percentage increase in the Consumer Price Index in the most recently completed fiscal year divided by the Consumer Price Index in the preceding fiscal year. Consequently, the initial adjustment to be made on January 1, 1985, will be based on the CPI from the fiscal year 1984 which will end on September 30. Each year, withholding tables reflecting cost-of-living adjustments will be instituted before the beginning of the year for which the adjustments will take effect. Also, the minimum gross income level above which a tax return is required will be altered to reflect the cost-of-living increase.

It is regrettable that, because of budget considerations, we cannot bring this indexing measure into effect before 1985. I feel that the indexing of our income tax structure should come sooner. Nevertheless, this amendment is a step in the proper direction.

Mr. President, during the last months, we have been studying the administration's program for economic recovery, both from the standpoint of the budget cuts the administration is proposing, as well as the administration's tax program.

I applaud President Reagan's valiant attempt to deal with these problems, and for the sake of the country I hope and pray that he and his advisers are correct and that their policies will prove successful in the struggle to control the most pressing problem which is facing this country today—inflation. I feel, however, that his goal of balancing the budget by 1984 is perhaps not ambitious enough. We all know that an unbalanced Federal budget is one of the prime causes of the inflationary spiral that has gripped this country for the past several years and that inflation is the cruelest of all taxes. I was disappointed, therefore, when I examined the President's tax package to find that he has deferred his proposal to index the tax tables to take inflation into account.

I am not sure that we help the average American taxpayer by cutting his tax bill in 1981 if inflation moves him into a higher tax bracket so that he might wind up paying the same or even higher taxes even though he is no better off in real terms.

In an editorial appearing in a recent edition of the Washington Post, the following analysis of the Reagan tax plan is found:

> To follow the implications of the Reagan tax plan, it is essential to remember that the cuts would take effect over four years of continuing inflation. The administration assumes that prices will rise 35 percent over those four years. If a family of four had an income of $20,000 in 1980 and took full deductions, it would be in the 21 percent income tax bracket. If inflation follows the administration's expectation and this family's income stays exactly even with the prices, its income in 1984 will be $27,000—the same real income, putting it, once again, in the 21 percent bracket. While the Reagan plan was cutting taxes for each bracket, inflation would have pushed this family up two brackets.
>
> The same would be true for a similar family with $35,000 last year, paying taxes in the 32 percent bracket. By 1984, staying even with the assumed rate of inflation, it would have income of $47,250, which, with the same deductions and exemptions, would leave it right back in the 32 percent bracket. In both cases, because of the changing rate structure, those families would be paying a slightly lower portion of their total income in Federal income taxes. But in both cases most of that reduction would have been recaptured by increases in the social security payroll taxes.

If, as the administration proposes, the budget is balanced by 1984, it is very likely that the problem of inflation will have been licked so that indexing the Tax Code at that time might be superfluous. On the other hand, in the shortrun we know that the budget will not be balanced, that inflation will continue, and that despite nominal tax cuts, bracket creep will continue so that the average taxpayers will be pushed into higher and higher brackets even as the bracket cuts are made.

The measure I am supporting today is similar to a measure I introduced in 1979. And I congratulate my distinguished colleague, Mr. DOLE, for his leadership today on this effort.

Mr. President, one of the insidious aspects of the overall problem of inflation is the hidden tax which impacts on the taxpayers of this country.

The basic problem inflation poses for the individual taxpayer is that the progressive tax system treats changes in nominal income as if these were changes in real income. The result is that adjustments in wages and prices which merely compensate for inflation and represent no real change in income lead to higher taxes. These changes in the tax base would be a problem even if the income tax were proportional. But Federal income tax rates are progressive. As an individual's income increases, additional income is taxed at a higher rate. In a period of inflation, most individuals will experience some increases in their nominal income.

As measured in dollars, incomes will be rising and consequently the fraction of income devoted to taxes will be rising. At the same time, real incomes measured in constant dollars are rising less rapidly, if at all. The result is that many taxpayers will find their real income after taxes actually declining.

For example, consider an individual whose income rises from $10,000 to $11,000 in a period when the price level due to inflation is increasing by 10 percent. The individual's real income before taxes is constant since his gain in income merely keeps him even with the inflation rate. But suppose this person pays an income tax of 20 percent of the first $10,000 of income and 40 percent on the next $1,000. The person's real income after taxes is initially $8,000, and on the income of $11,000 the after tax income is $8,600. But in real terms, the $8,600 is worth only $7,818.

Thus, in effect, the person actually experiences a decline in income as a result of the tax increase caused by inflation. Inflation has the same effect as a general increase in tax rates. This problem affects all taxpayers, and it is likely to be severe for individuals whose incomes would have been low enough not to pay income taxes before the inflation occurred.

Inflation is a serious problem, not only for wage earners, but also for persons who experience capital gains as well. When inflation has occurred, a portion of every capital gain is merely an adjustment for the changing price level. If this portion of the gain is taxed at the same rate as the remainder of the gain, then the real tax rate on capital gains will rise with inflation.

Again, for an example, suppose a person purchased unimproved real estate in

1950 for $20,000 and sold it in 1974 for $50,000. Under present law, the taxable gain is $30,000. However, the total inflation between 1950 and 1974 was 217 percent. Therefore, the real gain is measured by adjusting the cost of $20,000 by 217 percent which reflects an adjusted cost basis of $43,400.

This is the amount necessary in 1974 to restore the taxpayer the purchasing power equivalent to the original cost of the real estate which was purchased in 1950 for $20,000. Therefore, the sale in 1974 for $50,000 reflects a real income gain of only $6,000, rather than $30,000. The tax on the $30,000 is really not a tax on the gain, but a tax on the capital itself, which our present tax law purports not to tax.

Even taking into consideration the special treatment of capital gains and the exclusion of a portion of capital gains from taxation, it is readily apparent that in many cases the amount of tax to be paid will actually be more than the real gain so that, in effect, a portion of the capital is being turned over to the Treasury in the guise of a tax on income.

In 1978 the staff of the Joint Committee on Taxation prepared for the use of the Finance Committee a description of a measure similar to the amendment being considered today. In the discussion of the income tax laws, the committee report contained the following language:

The net result of the way income is defined under current law is that inflation acts as a personal wealth tax rate in which each person's wealth tax rate equals his effective marginal income tax rate multiplied by the rate of inflation. (A direct wealth tax would be unconstitutional because the Constitution prohibits direct federal taxes except for an income tax, unless the tax revenues derived from each state are proportional to that state's population.)

Mr. President, it seems to me that in situations where inflation causes the tax rate structure to eat up not only a person's real gain but a portion of his capital, then certainly we have an unconstitutional direct tax on capital which cannot be tolerated. In my judgment, the Congress has a constitutional obligation to prevent both active and passive direct taxes on wealth and property which are not apportioned according to the constitutional mandate.

Mr. President, the amendment that I am supporting today would alleviate many, if not most of the problems that are caused by the impact of inflation on the tax burden of the American taxpayers.

Mr. President, this amendment would adjust the personal exemptions upward each year as inflation debases the value of the dollar so that proportionally the personal exemption would be in line with the inflation rate. It would adjust the basis of property held by taxpayers to take into account the inflation rate to prevent the kind of situation I described previously where a person could sell property and actually have a portion of the property taken as an inflation tax.

Mr. President, in addition to making certain other technical conforming amendments in the code, my bill also makes revisions concerning the income levels at which a person would be required to file a return—eliminating many of the low-income earners from having to undergo the burdens of filing a return on an annual basis.

Mr. President, I think it is generally acknowledged that the current high rates of inflation have increased the effective tax rates for most Americans and that no short-term end to this situation is in sight. In the past, Congress has enacted periodic tax cuts in an effort to ease the burden of inflation on the Tax Code. These tax cuts are merely nothing other than inflation adjustments. In my judgment, such an ad hoc method of adjusting the Tax Code is inappropriate.

The tax cuts are often not shared equitably; often, a disproportioned share goes to one segment of our society at the expense of another. Moreover, it is possible that in addition to indexing the Tax Code, other adjustments also need to be made from time to time to relieve American taxpayers from the burgeoning tax burden.

Mr. President, what we are wielding is a two-edged sword. We must strive on one hand to move forward expeditiously with efforts to bring Federal spending under control. We must eliminate the wasteful Federal programs, and we must eliminate spending that is not absolutely necessary. In short, we must balance the Federal budget and at the same time we need to reverse the trend of piling more and more taxes upon the American taxpayers.

A carefully designed system of indexing can be an important structural improvement in the Federal tax system. In my judgment, the most significant reason for indexing the tax system would be to restore the equity of the system. Americans do not mind paying their fair share of taxes; what Americans are opposed to are paying a disproportionate share of taxes because of inflation and other factors, and then seeing this money wasted.

Mr. President, although some might argue that indexing adds complexity to the code, I would disagree with this argument. Indexing does not have to be complex, and the results of the indexing certainly could be handled on a fairly simple basis. Other countries around the world—including our neighbor to the north. Canada—have indexed their tax codes and are functioning smoothly under an index system. We should certainly look to these countries for guidance and ideas, and I think that if we do, we will see that indexing is a practical and workable system which should be adopted.

Mr. President, once again I want to impress upon my colleagues the necessity for quick action. Only by indexing the Tax Code can the bite be taken out of inflation when it rages at high levels. I hope every member of this body will carefully consider this measure and help move it forward into law.●

● Mr. RIEGLE. Mr. President, the AFL–CIO has sent a letter dated July 15 to all Senators, expressing their view on the indexing issue. I ask unanimous consent that this letter from them be printed in the RECORD.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, D.C., July 15, 1981.

DEAR SENATOR: The AFL–CIO has examined closely the Senate Finance Committee Tax bill now before the Senate and believes it to be a regressive package of tax cuts and giveaways that, if adopted, will tilt the tax code in favor of the large corporations and the wealthy. Unfortunately, most Americans will receive an unfair portion of the cuts and will shoulder the tax responsibilities of the rich. Bad as the tax bill is, it is made even more grievous by the Senate Finance Committee amendment now pending which would index for inflation individual rate brackets, the personal exemption, and the zero bracket amount (formerly the standard deduction) beginning January 1, 1985. It has been estimated that this amendment could cost the Treasury $20.3 billion in FY '85 and $54.0 billion in FY '86.

It is our view that this amendment represents a built-in automatic and continuing erosion of the tax base heavily weighted in favor of higher-income individuals. Enactment of such a measure would take the three year across-the-board twenty five percent individual tax cuts (already weighted substantially in favor of upper-income individuals) and perpetuate that inequity forever.

Enactment of this amendment would severely limit the Federal government's powers to use fiscal measures as a means to stabilize the economy, promote balanced growth and reverse the unemployment spiral. In our view, such a measure would seriously undermine any future efforts to achieve tax justice.

Although indexing of the zero bracket amount would help low- and middle-income people, the benefits derived by that group would be far overshadowed by the absolute and relative reductions in the taxes owed by higher-income individuals and the huge and continuing losses to the Treasury.

Indexing presumes that the current system is fair—and it is not. Indexation would undermine efforts to enact changes in the future to promote tax justice.

The AFL–CIO urges that you vote against the Finance Committee amendment that would piggyback indexing to the individual tax cut already contained in the bill.

Sincerely,

RAY DENISON,
Director, Department of Legislation.●

UP AMENDMENT NO. 221

(Purpose: Relating to borrowing of funds by the OASI Trust Fund from the Disability Insurance Trust Fund or the Hospital Insurance Trust Fund)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration. This is an amendment in the second degree.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself, Mr. CHILES and Mr. KENNEDY, proposes an unprinted amendment numbered 221 to amendment numbered 220.

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

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

The amendment is as follows:

At the end of the amendment, add the following new title:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. Borrowing by Old Age and Survivors Insurance Trust Fund from the Disability Insurance Trust Fund or Hospital Insurance Trust Fund.

Section 201 of the Social Act is amended by adding at the end thereof the following new subsection:

"(1) (1) If in any month the assets of the Federal Old-Age and Survivors Insurance Trust Fund are insufficient to provide that such Trust Fund shall have assets equal to or greater than 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Managing Trustee may borrow (without interest) from the Federal Disability Insurance Trust Fund or the Federal Hospital Insurance Trust Fund, for deposit in the Federal Old-Age and Survivors Insurance Trust Fund, an amount not to exceed the difference between the assets of the Federal Old-Age and Survivors Insurance Trust Fund 15 percent of the amount so disbursed from such Trust Fund.

"(2) If the assets of the Federal Old-Age in any month equal or exceed 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the above-mentioned Trust Fund from which the Federal Old-Age and Survivors Insurance Trust Fund has borrowed sums pursuant to paragraph (1), except so much as shall be required to maintain the assets of the Federal Old-Age and Survivors Insurance Trust Fund at 25 percent of the amount so disbursed, until the loan (or loans) under this subsection are repaid.".

Mr. MOYNIHAN. Mr. President, this is one of the most important matters that will be discussed on the floor and decided on the floor of the Senate in the course of the debate of the tax bill.

I think we all understand the concern of the distinguished chairman of the Committee on Finance that not many changes be made to the substance of this bill. And we know from his ability in these matters that that is likely.

This, however, is not a change to the tax bill as such. It has no fiscal consequences of any kind.

But it does give us an opportunity to reassure the American people about a subject of the greatest concern to them at this point, which is the security of the social security system.

It happens, Mr. President, that one of our country's major newspapers will report tomorrow on a nationwide poll it conducted concerning the confidence of Americans in the stability of the social security system. The report is alarming. We find in it very much an age-skewed pattern but nonetheless an overall pattern in which more than half the American people at this point do not believe they are going to collect their social security. They do not think the money is going to be there.

This anxiety is least among those who are now collecting it but it is present among those now collecting it. They do not know that they will continue to be beneficiaries of the system that has been in place for 46 years, a half century, more than the lifetimes of more than half the American people.

Without wishing to reintroduce a partisan discussion, a discussion made partisan not through any intention of the Members on this side, it is simply the fact that pronouncements by members of the administration during the past several weeks have grievously added to this palpable and permeating anxiety.

(Mr. DANFORTH assumed the chair.)

Mr. MOYNIHAN. It is astonishing when more than half the people of the country do not think that the most basic compact the American Government has with the people will not be kept. There is no need for this, Mr. President. It began with a sequence when after the most solemn promises made in the campaign by both parties and by both candidates, and made by the administration, that no reductions were to be made, that on May 12 the Secretary of Health and Human Services sent to this body a proposal to cut social security benefits across the board by 10 percent and to reduce payments of persons entering the system at age 62 by 40 percent. This would take place on January 1, 8 months' notice.

Most people who retire do so at age 62. Why do they do so? Because most of them are ill. The evidence is not final, we only have a 1977 HEW survey, but the evidence certainly suggests that those people do not leave a job and retire. They have no job and suddenly wish to become eligible for benefits, they are ill, some are out of work, others are at a point where they would as soon retire because of the nature of the work they do.

They do not retire in order to spend more of the year in Hobe Sound. They retire because this is the only income available to them and it has been promised to them and they have paid for it.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. MOYNIHAN. I am happy to yield.

Mr. LONG. Does it not seem to the Senator that for Members of Congress, that is not necessarily the case? One can work in this air-conditioned building here, with a doctor at hand to look after our needs and take care of our health, and live to a ripe old age and still continue to serve? It has been done many times.

But people out there working, doing back-breaking work in the hot sun, tend to wear out a lot sooner than those privileged to do intellectual work.

Mr. MOYNIHAN. At age 62 there are some jobs that you cannot do anymore and should not. There are some jobs that should not be done, and this is the condition of a great many people. That is why we created this system and that is why we should preserve it.

It is the one thing that gives peace of mind and a sense of reasonable and dignified old age, an age in which you have an income for which you have saved, which is part of a large system of social insurance to which you are entitled. They are entitled to this.

Now, these people have come to feel they are not going to get it. Why? Because this year the trustees of the Social Security Administration sent up a report, not basically different from the one last year, but publicized to the hilt. These reports have 75-year time perspectives, three-quarters of a century.

Nothing has changed in 12 months to change three-quarters of a century. Whereas last year's measure basically said that the system was sound, that the system will have difficulties, probably in the second quarter of the next century, this year's report took the same facts and created panic. A two-page press release had "Crisis, Crisis, Bankrupt, Crisis, Crisis." Four "crises" and one "bankrupt" in two pages, describing a system that is nothing of the kind.

Mr. President, I wish to set forth a basic proposition with what I think is now a sufficient sense of the demography of our country and the actuarial bases of these funds. It is an important proposition for Americans to know, because I am sorry to have to tell the Senate there is some good news. This will be alarming to many, a source of despair to some, and profound suspicion to most, but the fact is this country and its economy are in very good shape. We have absorbed that great explosion of population that took place after the Second World War.

We have brought it through the schools, through the colleges, in an unprecedented degree. We ended up with a situation where for the first time in the history of any nation in the world more females go to college than do males.

We have gone through that turbulent entry into the labor force, that post-war experience, which is behind us. Those people are settling down. To an alarming degree they appear to be turning Republican. [Laughter.] We have learned this. But there is nothing the matter with Republicans. They are said to pay taxes with the same quiet desperation that we associate with the backbone of our society.

They have a small cohort coming behind them. There are two facts: First, for the next 25 years when the persons retiring in this country are those born before the end of the Second World War, we will have a very thin cohort of retirees and a large cohort paying into the system for the next quarter century. This system will then be in surplus. There is an abundance and surplus of funds.

In the following quarter century that surplus runs down. In the middle third of the 21st century, there are actuarial difficulties to which we will have to address ourselves, and we will address ourselves to this while maintaining a pay-as-you-go system.

The founders of this system, wishing to give an aura of permanency to it, set the 75-year parameters. But this is almost presumptuous. Mr. President, we know very little about our economy in the year 2055. We know something. We know there still will be plenty of coal, we know the Senator from Louisiana will look out for the interests of hydrocarbons in fluid form that arrive in his happy estuary; there will be more older persons in relation to the population as a whole. That will be about 18 percent, which is that of Switzerland today. Great Britain is 16 percent. We are still a young country, only 11 percent of our population is 65 or over.

Mr. President, in the meantime not only is there a surplus coming forward in this fund for a quarter century, but the

dependency ratio in our society goes down for the next 40 years. What is the dependency ratio? It is a calculation demographers make. They take the total number of persons aged 60 to 64, these persons in the work force, and compare those to the portion of persons under 20 and over 64. People under 20 and over 64 typically are dependent and are supported by the group in between. That ratio goes down, down, not up. We are not turning into a society in which there is no one to look after its dependent population.

In demographic terms, we are stronger now than we have ever been. We have never been so strong. If this country had nothing greater to worry about than the demographic profiles and the prospects for the social security trust fund in the next 40 years, we would be a happy Republic indeed.

Not only is this going down, but the third point, Mr. President, is that as a proportion of gross national product social security benefits are going to decline between now and the year 2020.

The curve goes down—by the year 2015 it perks up a bit—and not until the year 2020 do social security benefits exceed their percentage of GNP in 1980.

Now hear this: The number of people retiring is a very small cohort. The number of people who have entered the work force is large. The trust funds will be in surplus for the next quarter century, and that surplus will not be used up until the second and succeeding quarter century, point one.

Point two, the dependency ratio goes down not up. There are more people in the work force and working, that great cohort, and something astonishing happens: more people work. For centuries—Mr. President, I exaggerate, for decades—this is a tendency that can come upon speakers in this Chamber—for decades since we began to measure the labor force participation rate that rate was so stable it came to be known as one of the great ratios in economics. It was 59 percent plus or minus some decimal point.

In 1910, as I recall this date, when families worked on farms, women rarely were engaged in occupation for which wages were paid. Children, on the other hand, entered coal mines and 59 percent of the population was in the work force.

In 1920, when women began to enter the labor force, children left the coal mines, people left the farms, the labor force participation rate was 59 percent.

In 1950, after the great experience of World War II and Rosie the Riveter, while children started going to school for 30 years—they never get out; doctors do not start practicing until they are 40—59 percent of the population was in the work force. Today, the ratio is 63.8 percent. There are more people working than ever in our history, and they are paying into the social security fund. That is point two.

Point three, as a proportion of benefits, proportion of gross national product, benefits go down.

If the President would bear with me, we have the exact percentages of GNP that are social security benefits. These are in the report of the social security trustees. Why they did not include data on labor preparticipation, I do not know.

Let me just read from the rate for II–A, which is the projection based on the President's budget assumptions.

In 1981, in the estimated cost of the OASDI system as percent of GNP is 4.97.

I have to admit that my statement has to be modified only to the degree that in 1982 it goes up by one-hundredth of 1 percent to 4.98. In 1983, 4.91, down; in 1984, 4.84, down; in 1985, 4.77, down; in 1986, 4.69, down; in 1987, 4.63, down; in 1988, 4.61, down; in 1989, 4.59, down; in 1990, 4.56, down, down, down, down, down to the year 2005, when it reaches 4.20. Then it begins to rise slowly.

By the year 2020, the portion of the GNP represented by benefits will be 5.33. That will be 0.37, one-third of 1 percent, above today.

That is, in the next 35 years, it goes down, down, down, down.

Now, what is the crisis about? Where is the bankruptcy? What more do we need to know about the basic solidity of the system?

Mr. LONG. Mr. President, if the Senator would yield, I believe we could understand the Senator a little better if he would place that chart in the RECORD so we could all review it in tomorrow morning's RECORD. Would the Senator be so kind as to have it printed in the RECORD?

Mr. MOYNIHAN. I am happy to do that. I ask unanimous consent to have it printed in the RECORD and record that it is on page 64 of the 1981 annual report of the Board of Trustees of the Federal Old Age and Survivors Insurance and Disability Insurance Trust Fund.

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

ESTIMATED COST OF THE OASDI SYSTEM AS PERCENT OF GNP UNDER ALTERNATIVES I, II-A, II-B, AND III, CALENDAR YEARS 1981–2055

	I	II-A	II-B	III
Calendar year:				
1981	4.94	4.97	4.97	4.93
1982	4.90	4.98	4.98	5.03
1983	4.80	4.91	4.95	5.12
1984	4.74	4.84	4.97	5.08
1985	4.67	4.77	4.98	5.10
1986	4.60	4.69	4.99	5.13
1987	4.47	4.63	5.00	5.15
1988	4.41	4.61	5.01	5.16
1989	4.35	4.59	5.01	5.17
1990	4.30	4.56	4.98	5.19
1991	4.30	4.54	4.95	5.22
1992	4.26	4.52	4.92	5.24
1993	4.21	4.49	4.88	5.25
1994	4.16	4.47	4.84	5.24
1995	4.12	4.45	4.81	5.27
1996	4.06	4.41	4.76	5.25
1997	4.01	4.37	4.69	5.21
1998	3.96	4.34	4.63	5.17
1999	3.91	4.30	4.56	5.12
2000	3.85	4.25	4.51	5.10
2001	3.81	4.23	4.48	5.11
2002	3.79	4.22	4.45	5.10
2003	3.76	4.21	4.42	5.10
2004	3.74	4.21	4.40	5.10
2005	3.73	4.20	4.38	5.11
2010	3.82	4.38	4.50	5.36
2015	4.16	4.81	4.90	5.94
2020	4.55	5.33	5.39	6.70
2025	4.85	5.80	5.83	7.48
2030	4.91	6.02	6.03	8.03
2035	4.76	6.01	6.00	8.35
2040	3.48	5.84	5.82	8.43
2045	4.25	5.70	5.66	8.64
2050	4.12	5.63	5.57	8.83
2055	4.04	5.58	5.50	8.96
25-yr averages:				
1981–2005	4.23	4.51	4.78	5.15
2006–2030	4.37	5.13	5.20	6.47
2031–2055	4.40	5.78	5.75	8.58
75-yr average: 1981–2055	4.33	5.14	5.24	6.73

Mr. LONG. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator from Louisiana.

Mr. President, what is the purpose of this amendment? It is the fact that of the three social security trust funds, one of them will run short of funds sometime a year-and-a-half from now. This is the old age and survivors insurance. It will do so because the calculations made 4 years ago proved wrong in that, for the first time in American history, there was a 4-year period where real wages declined or, at best, stayed stable while prices went up quite strikingly in double digits.

In the past, every time you have had inflation, you have had wages going up, or every time you have had wages going down, you have had prices going down. We had that unprecedented shearing effect of wages going down, prices going up, and we are short in the old age and survivors insurance fund.

Now, how short are we? The first thing to say is we are not short in the other funds at all.

The Congressional Budget Office put out a very careful statement done just a few days ago. In testimony on June 16 before the Senate Committee on the Aging, they put out two estimates of the condition of these combined funds between now and 1986. Nobody has suggested that after 1986 there is any problem at all with the fund for the next half a century.

Under these economic assumptions of the first budget resolution, the balance of the combined funds at the start of the year was 28 percent this year, 25 percent next year, 22 percent the year after that, 19 percent in 1984, 19 percent in 1985, 21 percent in 1986, and going up thereafter.

Mr. President, the congressional budget projections show, under the economic assumptions of the first resolution, which were more pessimistic than those of the administration's, that there is no difficulty in the next 6 years at all, it being a rule of thumb of the administrators that you must have at least 9 percent of your payment on hand at the outset of the year to keep the checks moving slowly. You are going down and skidding the bottom, but you could do it.

Under an alternative set of assumptions now prepared by the Congressional Budget Office and presented June 16 by Dr. Rivlin to the Special Committee on Aging, a more pessimistic set, there would be 1 year in the next 6 in which the combined trust funds would drop below a 9-percent balance at the beginning of the year, 1 year. That is in 1986 when they would drop to 7.1 percent. That is too low.

But, Mr. President, we are going through a reconciliation process in which great, important, and, to my mind in many cases, thoroughly unnecessary changes are being made in the social security system—cut, cut, cut. The minimum benefit cut; the burial allowance out: the student allowance, gone.

Well, these have passed both Houses and are likely to take place.

Now, Mr. President, the Congressional Budget Office estimates that, without considering savings realized through the reconciliation process, between now and

1986 there will be a $12.9 billion deficit in the social security system.

Mr. President, these are large sums, but let us understand the context. Between now and 1986 the outlays are likely to be something like $1.2 trillion, 1 percent of which would be $12 billion. As a matter of fact, it looks to be like in the next 6 years we have a 1 percent shortfall. But legislation which has passed this body and the other body will have a cumulative saving between now and 1986 of $26 billion.

On top of that $26 billion there will be interest savings that have been estimated by no less an authority than Mr. Robert Ball, former Commissioner of Social Security, to be as high as $11 billion. If we round it off, at that rate we would have about $36 billion more than anticipated to cover a deficit of $12.9 billion.

The funds are in surplus. They are. I am sorry to have to report that fact to the Chamber. It will dismay some Members. It seems Panglossian. It seems blind to the inexorable forces of evil, ruin, desolation, the Ayatollah, Colonel Qadhafi.

Certain things are going to get worse and they no doubt will. Murphy's law declares they must. But the social security trust fund is not insolvent. The shortages in the next 6 years are approximately 1 percent, and we have already taken up savings of 3 percent. Where is the crisis? What firm would not wish to be in such a situation.

Mr. LONG. Will the Senator yield at that point?

Mr. MOYNIHAN. I am happy to.

Mr. LONG. Is it the Senator's position to report to the Senate and to the Nation that contrary to what we have heard, the social security fund is not broke after all?

Mr. MOYNIHAN. The social security fund is not broke. It has a half-century of thriving existence to look forward to. It has difficulties in the middle third of the 21st century which we should anticipate and within the limited degrees of power we have over the year 2045 should prepare for. But, no, it is not broke.

Mr. LONG. Can those able, enterprising people in the gallery representing the media report the good news to the people of the Nation that the social security fund will go on and that the old people, the disabled people, and the little children receiving social security will continue to get their benefits as long as any of us in this Chamber have any prospect of being alive on this Earth?

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Louisiana, if he has ever seen a newspaper filled with good news, he has been in a totalitarian nation, I fear.

No, Mr. President, it could happen. Mistakes have been known to happen. V–J Day was widely reported. That, I think, was the last I remember, but I was young and impressionable.

I once made the observation about the press that if you are moving around the world and you would like to know what kind of country you are in when you get to the airport, if you are not sure or do not want to take the word of the local consul, pick up the newspaper. If the newspapers are filled with good news, you know you are in a dictatorship. If they are filled with bad news, you are in a democracy, all right.

There is no point in panicking all the older people in America.

May I say to the Senator from Louisiana who, for 40 years, has looked after this social security system, that there are 5 million children in this system, too, who are survivors, who need this.

Mr. LONG. Will the Senator yield further?

Mr. MOYNIHAN. I am happy to.

Mr. LONG. The Senator from Louisiana is 62 years old. I do not expect to live past 100. Assuming I die between now and the time I reach 100, which would be 38 years from now, can the Senator from Louisiana feel assured that based on reasonable estimates we can anticipate that there will be enough money in the fund to take care of the old people, the little children, the disabled people and the widow women—they will be provided for the next 38 years if I should live to be 100?

Mr. MOYNIHAN. The Senator has trained us in candor in the Finance Committee. I am required to tell the Senator that, as I reported earlier, in the year 2015, the social security payments as a proportion of GNP will for the first time be higher than they are today. If the Senator wants to stay in the system until 2019, those last 4 years will require a greater effort in the Nation than we are making today. I think we will do it.

Does the Senator mean to draw benefits in the year 2009? Up to the last 4 years, the Senator's benefit payments will be part of a total that is lower than the year before.

Mr. LONG. That would sound like 39 years.

Mr. MOYNIHAN. Yes.

Mr. LONG. Thirty-nine years would put me on the safe side. The country could still carry on for another 7 years after my reaching 100, if I can rely on the estimate of the Senator.

Mr. MOYNIHAN. If it does not look that way, at the time the Senator is scheduled to depart, I know he will delay his departure because he is committed to the system. And so are we. Not to bring party into the matter, but the Democratic Party brought this system to this country and we will not see it wrecked by people who have another purpose in mind, which is to build up the cut in benefits so that surpluses can on paper offset deficits.

This is a compact we made, an agreement we reached, and it should be kept. Mr. President, it can be kept. We have done the things that are required. This amendment, in which Senator CHILES and Senator KENNEDY asked to join me as original sponsors, and on which Senator CHILES will be speaking tomorrow, would have the simple provision that if at any month, the assets of the Federal Old Age and Survivors Trust Fund are equal to or less than 25 percent of the outlays of the trust fund for the year, it shall be able to borrow money sufficient to bring it to the 25 percent level from the Disability Insurance Trust Fund or the Federal Hospital Insurance Trust Fund. To borrow an amount not to exceed the differences between the assets of the OASI and the 25 percent so disbursed.

If the assets of the OASI, to use the shorthand, in any month equals or exceeds 35 percent of the amount disbursed in the previous 12 months, all amounts that will otherwise thereafter be paid into the trust fund shall instead be paid into the other funds such that you gradually repay the amounts that had been borrowed.

It is not going to be hard to do and it should be done. It should be done now, Mr. President, because now, at this moment, it is needed. We need to reassure Americans that their funds are alright. Life is full of difficulties in this vale of tears, all manner of misfortunes will come, but the Social Security Trust Fund is alright.

Mr. President, in asking that we take this step now, because we know that this floor is going to be clogged with other matters in the months ahead, and we also know this tax bill is going to pass, I should like to make clear that we propose a measure that has the support of the administration. On July 7, testifying before the Subcommittee on Social Security of the Committee on Finance, Secretary Schweiker, our friend and former colleague, said:

> Under these very pessimistic assumptions, the OASI Trust Fund will have insufficient funds to pay monthly benefits by the latter part of next year.

Under most assumptions the OASI fund will be exhausted. We have proposed that the OASI Trust Fund could borrow from the DI or HI trust funds. It is a wide, sensible, prudent measure. Remember, Mr. President, it is all social security money. I cannot imagine anybody but insurance executives, actuaries, and accountants who work in payroll departments are even aware that when the 6.65 percent tax is paid by the employee and the employer, it goes into three checking accounts when it reaches Washington. It is a detail, an unimportant detail. The money is all social security money and the borrowing between these funds is a bookkeeping transaction. But maintaining the integrity of the system is more. It is a responsibility of this Congress and our Government. And it is wrong to threaten the aged people of this country with welfare, to strip them of a sense of an entitled income, to break their dignity, just take that and tear it up, say, I am sorry, you are living beyond your means, you are not going to get the stuff you have been waiting for for 40 years sorry.

Someone in our body, in our committee, has had the misfortune and the poor judgment. I have to say, to refer to the social security system as a chain letter, as a gambling device for getting rich without having to do anything, one with the probabilities of losing everything in there.

Mr. President, it is not a gamble at all. It is insurance. And I would hope that we would let the people of the country know by this simple amendment at this time that it is not a gamble. It is insurance, and it is safe.

Mr. DOLE. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished chairman of the Finance Committee.

Mr. DOLE. In other words, the Senator is proposing that we take indexing and this amendment in a package?

Mr. MOYNIHAN. Is that an offer that I hear from the Senator?

Mr. DOLE. No, it is a question.

Mr. MOYNIHAN. No, sir, I think that this matter should be voted on separately. We may be wise to withdraw the amendment until the Senate is ready to act on it. I know that the Senator from Massachusetts (Mr. KENNEDY) wants to speak on this matter and the Senator from Florida will want to speak on the matter.

No, sir, I reluctantly do not feel that this would be an appropriate pairing.

Mr. DOLE. Just in the event that the Senator from Kansas would accept the amendment, the Senator would object to that?

Mr. MOYNIHAN. My consent in that matter would only represent a very small fraction of the Members on this side and perhaps even less of the influential Members on this side. I want to consult with the ranking Member on that. Our affairs are open and we can discuss them.

Mr. DOLE. It is a hypothetical question.

Mr. LONG. Will the Senator yield on that?

Mr. DOLE. Yes, Mr. President.

Mr. LONG. Mr. President, may I say to the Senator, I believe we should have a vote on both amendments. As far as the Senator from Louisiana is concerned, I find a great deal of appeal to the amendment offered by the Senator from New York. I am tempted to vote for it. I had thought about it for many years.

Frankly, I have taken a position on the indexing proposal, and even if I am wrong, I am not in doubt. I am positive that I want to vote against the indexing part of it. I hope the chairman of the committee does not put me in the difficult position that I have to vote on both those things at the same time. I would like to stake out my position first on one and next, on the other one. I do not want to be regarded as one who is ducking an issue. I want to face up four square to both these amendments and be counted on them.

I hope the chairman of the committee does not put us in a position where I have to vote on something where I am for one point and against the other. I want to make my position clear.

Mr. MOYNIHAN. Mr. President, in the circumstances, I should like to state that I would intend, in that case, to withdraw my amendment at this point and offer it as an amendment to the bill at a later point.

Mr. DOLE. Would the Senator give us a chance to hear him again, then, later?

Mr. MOYNIHAN. I should be happy to repeat. Perhaps the Senator was called away.

Mr. DOLE. No, I heard every word. It is something I would like to hear again.

Mr. MOYNIHAN. Mr. President, there is little I would not do to accommodate the chairman of the Committee on Finance in a bipartisan approach taken to this matter.

He shall hear it, sir.

Mr. DOLE. This would not be known as a straddle?

Mr. MOYNIHAN. Charts? We have to have a joint committee on charts. There is a distinct imbalance of charts in this matter.

Mr. DOLE. There are plenty up there.

Mr. MOYNIHAN. That I am aware of. We shall have charts tomorrow or whenever it is convenient for the Senator. In that sense and in a sense of comity which he has always shown us, I am happy to reciprocate.

Mr. KENNEDY. Mr. President, will the Senator yield to me briefly?

Mr. MOYNIHAN. I am happy to see the Senator from Massachusetts on the floor. Perhaps he would like to speak on this matter.

Mr. KENNEDY. I thank the distinguished Senator from New York.

I am pleased to cosponsor this amendment. It is extremely important in my judgment that we make it clear to the senior citizens of this country—at a time when there is a great deal of misrepresentation on this issue—that there is no immediate crisis with the social security system that requires the drastic reduction in benefits which the administration has proposed.

The administration is conducting a campaign of fear concerning the financial status of the social security system.

That campaign is designed to stampede us—the Members of the Senate—into adopting massive cuts in the basic social security program.

In May, the administration presented an ill-conceived proposal that would have reduced overall benefits by 23 percent, would reduce benefits by one-third for the disabled, and by over 40 percent for those who are forced to apply for social security at age 62.

At that time, I said, and I continue to believe, that the Reagan administration's proposals constitute a breach of faith to the Nation's 36 million social security beneficiaries and a breach of faith to the 110 million workers who are contributing today toward their own retirement.

The reaction to those proposals was an overwhelming, rejection. As a result the administration indicated that it would reconsider. But 2 weeks ago, they were back again with the same old story.

The release of the social security trustee's report for 1981, it was accompanied by stories that the fund was in worse shape than we had assumed previously. The fact is that very little in the 1981 social security trustee's report added any new facts to what was already known about the state of the system.

Following that report, Secretary Schweiker came before the Finance Committee to argue that the basic social security program was simply not going to be able to meet its basic commitment to millions of Americans unless legislative action is taken almost immediately.

Mr. President, nobody disagrees that there is a short-term cash flow problem that requires attention and solution. But there is absolutely no need to reduce any benefits and absolutely no excuse whatsoever for deep slashes in the basic social security protections that are so essential to both beneficiaries and future retirees.

We all know that the old-age and survivors insurance fund will require additional income at least during the next few years. This is the real basis of the administration's repeated cries of crisis.

The solution to this problem is to permit borrowing between the three trust funds. This would allow reserves in the disability insurance and hospital insurance funds to supplement the OASI fund. That is what this amendment does.

If adopted, even under the rather pessimistic CBO economic assumptions there are sufficients funds at least through 1985. And when we include the $26 billion in cuts approved in the reconciliation bill there is absolutely no difficulty through the end of 1986.

No one denies that we may have a problem even with interfund borrowing in long term.

But by adopting this amendment we can consider those potential funding problems in a calm deliberate manner rather than in a crisis atmosphere.

Considering the three social security funds together, there is simply no justification to talk of bankruptcy on November 3, 1982, as Mr. Stockman did recently before the House Ways and Means Committee. Nor is there any reason to argue that the only reasonable alternative to such "bankruptcy" is a long-range reduction in social security protection of some 23 percent.

By approving this amendment, the Senate can dispel the confusion and misconceptions caused by the administration's plan. We can restore the confidence of the country in the integrity of the social security system.

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

Mr. MOYNIHAN. I yield.

Mr. LONG. Mr. President, the Senator from Louisiana has suggested in his argument that the indexing amendment might place this Government in a very difficult position to finance its essential expenditures.

I hope the indexing amendment is not being offered on the assumption that social security is going to go broke and that we can use these revenues for some other purpose. The revenues from the social security tax should be kept for the social security fund.

Frankly, I say to the Senator, I hope we will not have to use general revenues to pay for any social security benefits. If the situation ever got so desperate that we could not pay for all these things and we had to start cutting back, I believe we should consider using some general revenues to see that the people did not die without medical care or that the poor did not starve or that the old people in the nursing homes were not thrown out without care. I believe we should consider using some of that revenue for those purposes before we vote for a lot

of automatic tax cuts which indexing might entail.

Even when we think about indexing, I hope we will think about all the other Government revenues. Can we afford this? After all, the costs of Government are going to go up, and we have other costs of Government than just social security. We have all the Government retirement programs. We even have the cost of procurement to buy things for the Government, to buy office space, to buy equipment, to provide for the national defense. The costs go up with inflation.

I hope we can be assured that when measures are adopted that mean that in the future the Government will have less revenue, in no instance should that prejudice these dear old people on social security. In other words, implicit in indexing is a sort of automatic tax cut for those whose taxes have been increased by virtue of inflation. The question as to whether we can afford it should be asked about that, as it was with all other things we considered.

One must bear in mind that indexing will not be needed nearly as much for those who are well to do in the future, as would be the case otherwise, because under this bill they are in a 50-percent bracket. So if their income goes up, it would not exceed the 50-percent bracket. That is where they were already. Therefore, they would not be prejudiced to the extent they had been in the past, when they could be moved up to a bracket as high as 70 percent in prior years, and even more than that.

So it may be that this amendment should be offered to the indexing amendment. But I certainly hope that if it is offered in that fashion, we will have an opportunity to record ourselves as to how we feel about the Senator's amendment and how we feel with regard to the amendment of the Senator from Colorado.

I say to the Senator that, so far as the Senator from Louisiana is concerned, if this Senator's vote makes a difference, those dear old people will not do without their social security checks. They can be sure of that. I welcome every Senator to stand up and be counted on that issue.

Mr. DOLE. Count me in.

Mr. LONG. The distinguished chairman of the committee is willing to join forces, and I salute him. I deeply appreciate his courageous stand.

If we can get 100 Senators and 435 Representatives to stand up and be counted, that, so far as they are concerned, these dear old people will not go without their social security benefits on which they count, perhaps the terror I have noticed on the faces of many of the dear old people in this country since this matter came up will be dispensed with, and perhaps it will exist no more.

I have seen the fear that has gone through America with regard to the cutback in the benefits and the announcement that the fund is going to go broke. I believe it is time Congress should do something to assure these dear old people and those widow women and those little children and the disabled that they are not going to be cast aside by a bankrupt program.

I did not think it was going to happen, to begin with; but, to me, it is irresponsible to give people the impression that they will not get their benefits or that they might be terminated sometime soon, when I know and the Senator from New York knows that there are many of us here who would not permit that to happen.

Mr. MOYNIHAN. And it would not be necessary.

I say to the Senator from Louisiana that he knows—and we all know— that there is a measure of hyperbole to be heard on this floor; that as part of the fine spirit of the Senate, sometimes very strong matters are addressed in indirect terms.

There is not a Member of this body—certainly not the chairman of the Committee on Finance or the chairman of the subcommittee—who would want anybody frightened. They care, as we all do, on both sides of the aisle.

What do many old people hear through all the complexities of this matter? All they hear is that their security is in danger, and it is not. It need not be so termed. It is not. With that spirit, I hope we can take this step in the course of this bill.

Mr. President, I send to the desk the amendment, with certain technical corrections, and ask that it be substituted for the original, so that when it is printed, it will be in the final form.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The modified amendment subsequently numbered amendment No. 489 is as follows:

At the end of the amendment, add the following new title:

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. BORROWING BY OLD AGE AND SURVIVORS INSURANCE TRUST FUND FROM THE DISABILITY INSURANCE TRUST FUND OR HOSPITAL INSURANCE TRUST FUND

Section 201 of the Social Act is amended by adding at the end thereof the following new subsection:

"(1)(1) If in any month prior to January 1988 the assets of the Federal Old-Age and Survivors Insurance Trust Fund are insufficient to provide that such Trust Fund shall have assets equal to or greater than 25 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, the Managing Trustee may borrow (without interest) from the Federal Disability Insurance Trust Fund or the Federal Hospital Insurance Trust Fund, for deposit in the Federal Old-Age and Survivors Insurance Trust Fund, an amount not to exceed the difference between the assets of the Federal Old-Age and Survivors Insurance Trust Fund and 25 percent of the amount so disbursed from such Trust Fund.

"(2) If the assets of the Federal Old-Age and Survivors Insurance Trust Fund in any month equal or exceed 30 percent of the amount disbursed from that Trust Fund during the twelve immediately preceding months, all amounts that would otherwise thereafter be paid into that Trust Fund shall instead be paid into the above-mentioned Trust Fund from which the Federal Old-Age and Survivors Insurance Trust Fund has borrowed sums pursuant to paragraph (1), except so much as shall be required to maintain the assets of the Federal Old-Age and Survivors Insurance Trust Fund at 25 percent of the amount so disbursed, until the loan (or loans) under this subsection are repaid.".

Mr. DOLE. Mr. President, it is my understanding that the Senator would rather not——

Mr. MOYNIHAN. I would rather not at this point; and if it is agreeable to the chairman's schedule, I will withdraw the amendment.

Mr. DOLE. The Senator from Colorado, who is chairman of the subcommittee, might want to say a word, and then perhaps the Senator from New York can withdraw the amendment.

I believe there is no quarrel with many of the things expressed by the Senator from New York. I can offer some assurance to those who are recipients of social security—and I hope I have offered some assurance to those who are or will be early retirees, and others in the system—that it is not the intent of this Senator, nor the Senator from Colorado, nor others, to terminate abruptly or reduce benefits. We hope that has been made clear.

Mr. MOYNIHAN. It has been made abundantly clear to this Senator, and I should like to confirm that.

Mr. DOLE. Having said that, I believe there is a long-term solution. Perhaps we have some disagreement on that. We have just completed hearings. There have been pessimistic assumptions, and maybe there is no need for pessimistic assumptions; but if those assumptions are made, then, according to some, in addition to the interfund borrowing, we are talking about $60 billion to $80 billion that will be needed to maintain the system.

In addition, we have just completed hearings in the Senate Finance Subcommittee on Social Security. The majority leader, Senator BAKER, who is not present in the Chamber—the Senator from New York will recall that we met in his office—has asked us to address this matter on a bipartisan basis. The Senator from New York, the Senator from Colorado, the Senator from Louisiana, and the Senator from Kansas are on that subcommittee. We believe that we can address both the long-term and short-term problems on a bipartisan basis; because without a bipartisan effort, it seems to me, not much will happen that is really constructive.

So I hope that if this proposal is offered later on this bill, we will keep those things in mind. I appreciate the chance to discuss this matter.

I hope that what the Senator from New York, the Senator from Louisiana, and others have said will confirm to every American that we are not about to destroy this system. The only objective we have is to preserve the integrity of the system. We may have differing views on how that may be done.

This Senator is not willing to raise taxes. We did that in the Social Security Act of 1977. We provided for six tax increases. There are four more tax increases coming before 1990 to the employee and to the employer.

I do not believe the American tax-

payer will stand for further tax increases. We can take money from general revenues. That is, of course, what some have suggested. That is not what this Senator suggests. We can have interfund borrowing and I think we must do that. In addition, we may do some other things.

I think probably we should not overlook the work being done on the House side by a very diligent Member of Congress, Congressman PICKLE.

Mr. MOYNIHAN. Exactly so.

Mr. DOLE. I am pleased we had this discussion. It appears we cannot work out a package deal with indexing. If the amendment is withdrawn, perhaps we can discuss it later, hopefully not on this bill, but on another occasion.

I thank the Senator from Colorado for letting me proceed, as the chairman in that instance, just to make that point.

Mr. ARMSTRONG. Mr. President, the Senator from Colorado was not in doubt about the direct priority of the speakers but I must respectfully disagree with the chairman of the Finance Committee in one respect. I am not pleased we had this discussion this afternoon, I say to the Senator. I think it is inappropriate. I must admit I am quite perplexed by the course of this conversation. I certainly had no intention of discussing the social security system this afternoon, but I fear I am now constrained to do so because if I do not someone who might read the record of this proceeding might think that in some way I agree with what has been said.

I think it really unfortunate that the Senator from New York has chosen to raise the social security issue in exactly this way, and I think he has done a great disservice to precisely the people whom I know he seeks to reassure.

First of all, Mr. President, let me point out that merely to reassure people that there is no problem, as the Senator from New York is suggesting or the Senator from Louisiana has suggested, I do not think represents a thoughtful appraisal of the situation, nor do I think we do them any favor.

It may be to simply reassure the people who the Senator from New York says have been polled in a survey of some kind that will be released in the news media tomorrow. If in fact such a poll shows that people are concerned about the condition of the social security system, I will say to the Senator from New York that I do not think that is an irrational attitude on the part of the people of America who may have been surveyed. I have not seen the survey. I do not know what he is referring to exactly.

I have seen some other poll data that suggests that there is a level of concern and I think it is a proper level of concern.

The Senator from New York has stated repeatedly here today that he is upset that someone has characterized this as a crisis and he made that same point over and over again in committee last week and I am going to undertake once again to explain to him what a crisis is, and I refer to Webster's New Collegiate Dictionary and, Mr. President, a crisis is, and I quote, "the decisive moment, the turning point, a crucial time."

I suggest that when the Commissioner for Social Security, Mr. Svahn, used that expression describing the condition of the social security system it was not an inaccurate description. We are, in fact, in a moment of decision, at a time when the important questions must be answered about the future safety of the system.

Mr. President, in a preliminary sort of way, let me say first that I think it is a disservice to the social security recipients and others in this country to simply assure them without any substantiation, that there is not a problem, because there is indeed a problem.

Second, I am really sorry, in fact, I must say to my friend from New York I was offended last week during the committee hearings and I am offended today by the implication that the people in the administration, the trustees, the Secretary of the HHS, and the others who have brought forward this problem in a thoughtful and responsible manner, in a manner which is consistent with their legal and moral obligations, to report on the condition of the trust fund, that in some way by doing so that they are hurting those dear old people as the Senator from Louisiana has correctly referred to them. I do not think it is a fair characterization of the attitude of any person who has spoken, at least in my presence, on this subject to say that we are trying to scare them to death, that we are trying to hurt them, or as someone has implied here this afternoon, that anyone is trying to destroy the system. Far from it.

It is my belief that the trustees of the social security system by raising the issues that they have raised and as they are required by law to raise have done a greater service to the social security recipients, the taxpayers, and the others in doing so.

Mr. President, it was my intention later today to insert in the RECORD for the benefit of Senators a summary of the discussions which took place last week in the Social Security and Income Maintenance Subcommittee of the Senate Finance Committee about the hearings which were held on the issue of social security. Rather than waiting to do so until the end of the day's proceedings, since the Senator from New York has seen fit to raise the issue at this time, I wish to share some of the facts with Senators so that they can consider the overall condition of the social security system in the context of the Senator's proposed amendment.

At the very outset, however, I will point out that while the Senator from New York may think there is little or no problem or that it is a problem of very short duration, a problem that can be solved by a simple amendment and without further action, that is not the opinion of the trustees of the social security system who have the obligation to oversee its soundness. It is not the opinion of the Secretary of the Department of Health and Human Services. It is not the opinion which was expressed over and over again by most of the witnesses who appeared, not all I stress, but most of the witnesses who appeared at the hearings last week before the subcommittee. It is not the opinion of most of the economists and demographers who have looked seriously at this problem. It is not the opinion of representatives of small business, nor as the Senator has pointed out himself is it the opinion of the American people as reflected in earlier polling data which I have seen although I have not seen the poll which he has mentioned here this afternoon. Nor may I point out is it the opinion of many Senators who have been in touch either officially or unofficially with representatives of the Finance Committee and it sure as thunder is not the opinion of our colleagues in the House of Representatives who have been moving forward in a thoughtful, measured, moderate, responsible way to address not only the short-term crisis, and I use the word because we do face a crisis, a crisis which will have serious ramifications if we fail to address it in a responsible way, not only the short-term crisis but also the longer term problem.

Mr. President, social security is woven so deeply into the Nation's economic and social fabric that it is hard to grasp the reality of its daily impact on 150 million Americans. A typical American will work for 45 years and with each paycheck he and his employer will contribute to social security throughout his working life.

In retirement an average worker and his spouse will receive a social security check of $568, adjusted annually for inflation, each month for an average of 15 years.

For this couple and millions of others this check is vital; for some of them it is the only source of retirement income. This monthly check, however, does not as many people suppose come from the taxes paid by the retired person during his working years. The check is paid by those who are now working and paying up to $3,500 annually in social security taxes. In turn, these workers trust that the next generation will finance their retirement on a pay-as-you-go basis.

The commitments which we have made to 36 million retirees and others who are in the system hoping to retire in the future is now on the line, because gradually in slow motion the social security system is going broke. Unless decisive action is taken, the trust funds will soon be unable to make ends meet.

Social security has been operating in the red for 6 straight years and is now losing at the rate of $10,000 every minute.

Today the system has enough money on hand to pay benefits for only 2 months. By approximately November, 1982, the social security pension reserve will be exhausted and the funds will not even be able to pay a full month of pension benefits, according to the report of the social security trustees.

Long term the problem is even worse. Social security faces a $1.5 trillion shortfall over the next 75 years, according to the trustees of the system.

I doubt if anyone can comprehend the disastrous consequences of a bankrupt social security. Social security is the fi-

nancial life blood for its 36 million recipients and yet I stress slowly, incrementally, gradually, imperceptively, day by day, week by week, month by month, the social security system is going deeper and deeper into a hole.

Consider the facts: First, social security is operating in the red and has been for the last 6 years. By the end of next year it will not be able to pay full benefits. For all practical purposes, the social security system will then be insolvent.

How did we get in this mess? The answer is very simple. In 30 years benefits have been adjusted upward 699 percent One trillion dollars have been paid out. The average monthly benefits per person in 1935 were $22. Today the average exceeds $370. We are now to the point where in 1985 alone total pension and disability benefit payments will exceed $220 billion. We are paying benefits in 1 year that equal one-fifth of the total benefits paid in the last 30 years.

In other words, Congress has hugely increased the benefits payable to retirees now and in the future and has done so without providing adequate resources to meet those promises.

Those benefits are financed on a pay-as-you-go basis. In other words, today's benefits are paid by today's social security payroll taxes, not from an accumulation of past savings or investments.

Radical changes have reshaped the American workplace and now jeopardize social security's long-term future. Here is why.

In 1950 there were 16 workers paying for each person receiving social security benefits. Today only three workers pay taxes for each beneficiary, and according to the projection of demographers within a few years, in slightly more than one generation, there will only be two workers supporting each person drawing benefits. Obviously, fewer people carrying the burden will mean—has already meant—skyrocketing social security taxes.

In 1940 the maximum combined employer-employee social security tax was a mere $60 annually. Today that tax exceeds $3,000, and will rise to $9,000 by 1990.

Incredibly even with these higher taxes social security will have an accumulated deficit of $111 billion by 1985.

Since 1950 real wages in the United States have increased 490 percent, while Federal taxes have increased 594 percent, and social security taxes have increased by 2011 percent. It appears obvious to me that further increases in the social security payroll tax will not and should not occur.

(Mr. LAXALT assumed the chair.)

Mr. ARMSTRONG. Some people believe the cure for social security problems is to dip into the general fund of revenues. I believe this would be a mistake. Social security funds have always been kept apart from the general Federal Treasury.

Earlier I pointed out that social security is losing $10,000 a minute, and for those who suggest that we should dip into the general fund, the funds of the overall Treasury, that is losing at a rate of $173,000 a minute.

Our national debt has increased 27 times faster than our population. We now have a general fund debt of more or less $1 trillion.

To me the thought of asking the general fund to bail out social security is sort of like asking Amtrak to bail out Chrysler. So that is the overall picture.

Social security, despite the reassurances of the Senator from New York and others, is deeply in debt. The situation is not hopeless, it is not beyond retrieval, but it is a serious and real problem. The system now lacks the financial wherewithal to pay promised benefits, and incredibly this condition has developed and continues to develop at a time when benefit payments are soaring.

In my opinion, social security can be lifted out of this financial quagmire. But permanent solvency, which I stress, is the main goal, in my opinion, which is to permanently provide for the financial security of the Social Security Trust Fund to the end that no person who has been promised a benefit will fail to receive that benefit. That is the goal. But we cannot do so unless we are willing to approach it in a thoughtful and realistic manner.

I would suggest several guidelines: First of all, I would suggest that if there is any issue pending before the Congress of the United States which ought not to become a political hand grenade to be tossed back and forth between the two parties or the two Houses of Congress it is social security.

By its very nature it is ill-suited to that kind of partisan approach which, on more than one occasion, including today, the Senator from New York has resorted to, and I regret it. I wish—and I have asked him this publicly and privately, and I appeal to him again today—that he not treat this in this kind of a way and not to try to create the wrong impression that somebody in the administration or the White House or the Senate or the House or any place else is trying to foster panic or trying in some way to take benefits away from people.

On the contrary, what the administration is trying to do and what the chairman of the Committee on Finance is trying to do, and what I am trying to do as chairman of the subcommittee, and what JAKE PICKLE is trying to do, as chairman of the counterpart subcommittee over in the other body, is trying to save the system and protect legitimate interests of recipients.

Second, I believe Congress must learn from its past mistakes in shaping social security policy and resolve not to—we have overpromised benefits without providing the necessary long-term financing.

Third, I think we need to be absolutely frank with the people of this country. I think we need to level with them, and that includes talking frankly, not in alarmist tones, but in terms of realism about the true condition of the social security trust funds.

That is why I say the statement of the Senator from New York is wide of the mark when he stands up and merely seeks to reassure people that everything is fine, that no Congress will let the social security trust fund go under, that everything will be all right if we just adopt a simple amendment. I do not think that is an accurate or a responsible message to transmit to the people of this country.

I recall just 4 years ago that Congress enacted a sweeping social security reform bill that resulted in the largest peacetime tax increase in the history of this Nation. At that time we were told that the social security fund would be in good shape from 1980 to at least the year 2030. Experience has now already, just 4 years later, shown that prediction to be wrong.

In 1978, the same year we passed that massive tax increase, the trustees of the social security system said it would remain solvent forever. The announcement a few days ago by the trustees flatly contradicts that earlier optimistic report.

We may not today but this year or during this session of Congress have our last best chance to straighten out the problems in the social security system, and to do so without undue hardship for any taxpayers or any recipients. But I think we have to level with the public and with each other.

Finally, I think we should acknowledge that social security has the potential for fracturing American society by creating a new kind of generation gap. People who are now receiving social security believe their juniors are obligated to pay the taxes necessary to permit them to receive their benefits. Yet it is my observation that younger Americans are increasingly bitter about the heavy burden of social security taxes.

I do not think it does any good to try to sweep this conflict under the rug. People who testified last week before the Social Security Subcommittee spoke of it in very frank terms. One of our colleagues addressed the subcommittee and referred to it as the intergenerational time bomb. A businessman from Pennsylvania talked about it in terms of the bitter attitude that was being fostered among employees.

I think we need to face that and provide for it and establish the kind of ground rules which will not only be fair to everybody concerned but which will be perceived as fair because this system affects all of us in such a personal and intimate way all of our lives that if it is not perceived as fair it is not going to work.

Finally, I think the Senate should operate from the premise that all Americans deserve a financially sound, compassionate social security system, and one that offers reasonable value for the social security taxes they pay over the years.

Unfortunately, pessimism on this issue is very high. While I have not seen the poll referred to by the Senator from New York, I have seen a recent ABC-Washington Post poll which shows that 75 percent of the public believes they will never collect a penny of minimum benefits in their lifetimes. The skepticism about social security is very great indeed.

Mr. President, in brief the Senator from New York has said if we adopt his amendment everything will be more or less OK; that in the long run things will work out fine, and he makes about four specific points in support of that contention: first of all, that benefits are projected to decline as a percentage of the gross national product.

I would suggest to the Senator that the measure of the burden on the economy of social security payments is not what percentage they are of the gross national product but what percentage they are of the payroll tax because social security benefits are not financed out of the gross national product. They are financed out of the, directly out of the, payroll taxes.

We were told that social security taxes would never be more than 3 percent of the first $3,000 of the payroll. Today they are many times that amount. The only remaining question about where they are going in the future is how much higher they must go to finance benefits which have already been promised.

Second, we are told we do not really need to worry too much about this problem because Congress just will not permit a default. That is a point eloquently made by prior speakers, that we were not going to let anything go wrong.

I certainly share that sentiment, but it does not surprise me very much that the people out in the country do not believe Senators when they say that.

There is a growing perception by people all over the country that people in public life on tough issues will say and do just about anything it takes to get themselves elected and reelected to Congress or the Senate or to other offices; that we will, in fact, cut corners with the truth; that we will make any kind of promises, particularly those kinds of promises that are not subject to being verified until after the next election.

I do not entirely share the public's attitude in that respect. I have a kinder view toward my colleagues than to say that I think most Senators or most officeholders or most candidates would treat so casually the facts and the truth. But I must admit that there is more than a grain of substance in this popular idea.

Indeed, if one would go back through the annals of Congress and think about the things that Congressmen and Senators promised would never happen and then examine the result, there is every reason for the people of this country to discount the promises that future generations of Congress will never permit the social security fund to get in serious trouble.

I remember when Senators promised that they would never let occur precisely the economic conditions which are haunting this country today. I remember when economists promised and Senators vouched for the fact that we would never see rising inflation and rising unemployment in this country at the same time; in fact, we were told that that was technically impossible and could never happen.

Well, I am not predicting disaster—in fact, I do not expect disaster—because I believe that we are going to cope with the social security crisis, and I use the word advisedly. I believe we will cope with the social security crisis in a thoughtful, responsible, bicameral and bipartisan way.

I do not think to just gloss the problem over accomplishes that purpose. The social security system is subject to many factors, some of which are not within the control of the Congress of the United States. But, before Senators take too seriously the idea that nothing can go wrong and no serious disaster can befall the system, I just remind you that the stock market did crash in 1929 and the Titanic did sink and there have been a lot of other things, including economic difficulties, that Congress thought it could control which have occurred.

Third, we are told that we do not have to worry too much about this problem because, after all, we can always borrow from general revenue. I think that is a proposition which needs little discussion by me. I think it is preposterous on its face, but I will save that discussion for another day.

Finally, and this is in a sense the thing that troubles me as much or more than any of the points raised today by the Senator from New York, we are told that we do not have to worry too much about this because, after all, the real problem is way out in the future, perhaps as much as 20 years or more.

I would appeal to the Senator to think very carefully about that, because, while it is true that the worst of the problem, not all of it but the worst of it, is some distance out into the future, that should not imply, and I trust he did not mean to imply, that we can postpone until that day coping with the problem. Because if we wait until we get to the point where there are only two workers working for every one who is receiving payments under the social security fund, if we wait until really the financial problem is of such enormous proportions, then the only way to solve it will be by some drastic or severe or abrupt measures.

The one point that seems to be universally agreed to by people who have looked at this social security fund in a careful way is that changes should never be made abruptly but should be made very gradually in a way that does not interrupt or prejudice the living arrangements and economic assumptions on which people have predicated their retirement. Thus, when people talk about, for example, raising the retirement age, a proposal which may or may not be to the liking of Senators, a proposal which I may or may not at the right time endorse, but when that proposal is discussed, it is always in the context of a very gradual change.

For example, I believe our colleague, Representative PICKLE, who has done so much effective work on this subject, has recommended raising the age of first retirement by 3 years, not in one jump or two jumps or even in 10 increments, but in 36 increments, increasing the retirement age 1 month each year for the next 36 years, a change which has been recommended not only by Members of the House but by many Senators and others, as well.

But if we wait until the last minute until the worst of the problem is right on top of us, we deny ourselves the opportunity to act in a gradual, incremental way and we put ourselves in a corner where we might have little choice but to act in a more drastic fashion.

So, Mr. President, with these few thoughts, I would like to first ask unanimous consent that I be permitted to have printed in the RECORD at this point a summary of the 1981 annual report of the social security board of trustees. This is the report which spells out both the short- and long-range financing problems. It incorporates not one economic projection but five. Interestingly, by all five projections, from the most optimistic to the most pessimistic, there is a short-term funding problem. Even under the most optimistic scenario considered and reported by the trustees, the social security system will be in trouble by sometime next year.

It is noteworthy that even the most pessimistic of the scenarios implies better performance of the economy than we have actually seen in the last 5 years. So we have got a serious shortrun problem and a problem which I would say to my friend from New York might well be addressed in the way he has suggested, although it is my view that this is scarcely the time to do so. But the report of the trustees goes far beyond what is going to happen in the next 12 or 18 months and looks well into the future in a documented, carefully worked out way.

This is not a report prepared by Senators. It is a report which has been prepared with the input of demographers and actuaries who are fulfilling their legal and moral obligation to keep the trust fund on a sound basis.

I commend it to the attention of my colleagues and I ask unanimous consent to have it printed in the RECORD.

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

SUMMARY OF THE 1981 ANNUAL REPORTS OF THE SOCIAL SECURITY BOARDS OF TRUSTEES

HIGHLIGHTS

During calendar year 1980, 115 million workers paid Social Security payroll taxes. Monthly Social Security benefits were being paid to 35 million beneficiaries at year-end. About 95 percent of all persons aged 65 or over were protected by Medicare.

The funds held for retirement, survivors, and disability benefits declined by $3.8 billion during 1980, to about $26 billion at year-end, while the fund for Medicare Hospital Insurance increased by $0.5 billion, to about $14 billion.

The short-range financing of the retirement and survivors benefit program must be strengthened very soon, so that benefits can be paid throughout 1982 and beyond.

Hospital Insurance taxes are set at about the levels needed for that program during the early 1980's, but later on these taxes will be too low if the assumptions underlying the estimates are realized.

In approximately 30 years, the aged population will have grown significantly, both in total number and relative to the number of covered workers. While these numbers cannot be forecast precisely, reasonable estimates can be made based on the population already born. To finance the benefits scheduled over the long range, much more income to these programs will be needed from taxes unless benefit outlays are substantially reduced.

Action to remedy the short-range financial crisis by lowering the benefit outgo could well carry over to the long range and solve its problems as well.

INTRODUCTION

Four Social Security programs provide basic financial security to American workers and their families:

(1) Old-Age and Survivors Insurance (OASI) pays monthly cash benefits after a worker retires or dies.

(2) Disability Insurance (DI) pays monthly cash benefits after a worker becomes disabled. (OASI and DI together are referred to as OASDI.)

(3) Hospital Insurance (HI, or Medicare Part A) pays for hospital care of those aged 65 and over and of the long-term disabled.

(4) Supplementary Medical Insurance (SMI, or Medicare Part B) pays for doctor bills and other medical expenses of those aged 65 and over and of the long-term disabled.

These programs are financed essentially on a pay-as-you-go basis. Taxes paid by current workers are used to pay benefits to current beneficiaries. However, Social Security does maintain trust funds that provide small reserves against fluctuations. These trust funds hold all of the income not needed currently to pay benefits and expenses. Social Security funds may not be used for any other purpose.

The Secretaries of Treasury, Labor, and Health and Human Services serve as trustees of the Social Security trust funds. They report annually to the Congress on the condition of each fund and on projected future results.

The 1981 annual reports for the four trust funds are summarized here. Copies of the complete Trustees Report for OASDI can be obtained without charge from the Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, Maryland 21235. The HI and SMI Trustees Reports are available from the Health Care Financing Administration, Office of Public Affairs, Room 313H, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Payroll taxes from employees, their employers, and the self-employed go into the trust funds to pay for OASI, DI, and HI. These trust funds pay benefits to current beneficiaries. SMI is financed differently and is discussed separately in Appendix A, so that this summary can focus on the three payroll-tax supported programs.

Table 1 shows the payroll tax rates for employers and employees, as established by law. Taxes at these rates are paid on each worker's earnings up to $29,700 in 1981. In future years, the Social Security earnings base will rise as average wages increase.

TABLE 1.—PAYROLL TAX SCHEDULE

[In percent]

Calendar year	Contribution rates (percent of taxable earnings) payable by employers and employees, each			
	OASI	DI	HI	Total
1981	4.70	0.65	1.30	6.65
1982–84	4.575	.825	1.30	6.70
1985	4.75	.95	1.35	7.05
1986–89	4.75	.95	1.45	7.15
1990 and later	5.10	1.10	1.45	7.65

For the self-employed, the OASDI tax rates are about 1½ times the rates for employees, and the HI tax rates are the same as for employees.

It is intended that the income for each program will closely match outgo in most years. When income exceeds outgo, the excess serves to increase the trust funds. When outgo exceeds income, the trust funds are drawn down. Thus, the trust funds serve as a contingency reserve to absorb temporary fluctuations in income and outgo. The trust funds are invested in U.S. government bonds, notes, and other securities, bearing rates of interest similar to those for long-term securities issued to the general public.

RESULTS FOR 1980

During 1980, 115 million workers contributed to the OASDI and HI programs through payroll taxes. At the end of 1980, 35 million OASDI beneficiaries were receiving monthly benefit payments, and 95 percent of the population over age 65 was covered under HI.

Table 2 presents the cash income, outgo, and changes in assets during 1980 for the three programs, with 1979 data for comparative purposes.

TABLE 2.—RESULTS OF FINANCIAL OPERATIONS DURING 1980

[In billions]

	OASI	DI	HI	Total
Trust fund assets on Jan. 1, 1980	$24.7	$5.6	$13.2	$43.5
Income in 1980:				
Payroll taxes	103.5	13.3 +	23.8	140.6
Premiums from participants			(1)	(1)
General fund of Treasury	.5	.1	.9	1.5
Interest	1.8	.5	1.1	3.4
Transfer from railroad retirement account			.2	.2
Total income	105.8	13.9 +	26.1 +	145.8
Outgo in 1980:				
Benefit payments	105.1	15.4 +	25.1	145.6
Administration, including rehabilitation	1.2	.4	.5	2.1
Transfer to railroad retirement account	1.4	(1)		1.4
Total outgo	107.7	15.9	25.6	149.1
Net change in trust fund in 1980	−1.8	−2.0	.5	−3.3
Trust fund assets on Dec. 31, 1980	22.8	3.6	13.7 +	40.2
Comparative results for 1979:				
Income in 1979	90.3	15.6	22.8	128.7
Outgo in 1979	93.1	14.2	21.1	128.4
Net change in trust fund in 1979	−2.9	1.4	1.8	.3

[1] Less than $50,000,000.

Note: Components may not add to totals due to rounding.

In 1980, income to the three trust funds was $145.8 billion, while outgo was $149.1 billion. As a result, the three trust funds together decreased by $3.3 billion. The OASI and DI Trust Funds dropped by $3.8 billion, while the HI Trust Fund rose by $0.5 billion.

Administrative expenses represented about 1.3 percent of benefit payments for OASDI and 2.0 percent for HI—1.5 percent for the three programs combined. This combined expense rate was 1.6 percent in 1979.

Compared to the prior year's figures, income to the three funds in 1980 rose by 13 percent, but outgo was up by 16 percent. During 1980, as in 1979, there were unanticipated negative developments in the economy, including high unemployment and inflation, with prices rising more rapidly than wages. Thus, Social Security cash benefits (which are adjusted for changes in the Consumer Price Index) went up faster than Social Security revenues (which are based on covered payrolls). Medicare Hospital Insurance expenditures also rose faster than revenues because of rapidly increasing health care costs.

ACTUARIAL COST PROJECTIONS

As required by law, the annual Trustees Reports contain projections on each fund's estimated financial operations and status. The estimates given here are on a calendar-year basis (and are for the programs as they are now structured). They extend over the next 75 years for OASDI and 25 years for HI. The estimated costs after the first few years are presented as percentages of taxable payroll, so that expenditures can be compared directly with the payroll tax rates. A precise prediction of the future is not possible, even in the short range. Both short- and long-range estimates are made using reasonable assumptions to indicate the trend and general range of future costs.

Assumptions used

Future OASDI income and outgo will depend on mortality, fertility, unemployment, inflation, and other economic and demographic factors. Medicare costs will also depend on how often health care services are used and how much these services cost.

The OASDI and HI cost projections are prepared using five alternative sets of assumptions regarding these economic and demographic factors, referred to as "optimistic", "intermediate-A", "intermediate-B", "pessimistic", and "worst-case" assumptions. Because recent economic performance has been erratic, the economic assumptions now allow for more possible variation than before, including both an A and B set of intermediate economic assumptions, and also a "worst-case" set of short-range economic assumptions.

Intermediate A assumes future economic performance resembling the experience in recent periods of more robust economic growth, such as would result from policies aimed at stimulating growth and lowering inflation; this presentation shows the favorable effect on the trust funds of an improved economy. Intermediate B assumes the adoption of policies that would yield less economic growth. The set of assumptions characterized as "worst-case" covers 1981–86 and is more pessimistic than the other four sets (although even more unfavorable assumptions could be designed). The "worst-case" assumptions were also used to test the adequacy of the

short-range financing under the Administration's recent Social Security proposals.

Appendix B shows selected values of several of the assumptions used in the five basic projections.

Measures of actuarial status

In analyzing the financial status of the program, several measures of actuarial status are commonly used.

Fund ratio is the amount in the trust fund at the beginning of a year expressed as a percentage of that year's expenditures. For example, a fund ratio of 25 percent means that the amount in the fund is one-fourth of annual outgo (or enough to pay benefits for about three months in the absence of any income). At the beginning of 1981, the fund ratios for OASI, DI, and HI were 18, 20, and 46 percent, respectively.

Several factors should be considered in determining appropriate fund ratios, as follows:

(1) The OASI and DI benefit payments go out early each month, but the income from payroll taxes is spread over the entire month. If the OASI or DI Trust Funds drop to a point where the balance on hand at the beginning of a month is too low to pay the benefits, the benefit checks could not be sent out in a timely manner. In practice, a fund ratio of about 12 to 14 percent would usually mean that this point is near, and that action must be taken very soon to strengthen the financing.

(2) HI benefit payments do not have this cash-flow pattern, but they do fluctuate noticeably from month to month.

(3) Payroll-tax receipts to the trust funds also fluctuate during the year (as do other items of income and outgo).

(4) Unforeseen changes in the economy may cause the trust funds to decrease unexpectedly. Each trust fund should have sufficient assets to avoid the need for hasty action to assure the payment of benefits.

Year-by-year expenditures as a percentage of taxable payroll is another useful measure. These percentages can be used to establish tax rate schedules that approximately support pay-as-you-go financing.

Actuarial balance is the average difference between the scheduled tax rate and the projected annual outgo over a given period. The actuarial balance is the usual measure of financial status over periods of 25 years or more. The OASDI system is said to be in close actuarial balance over the long-range period if the average scheduled tax rates are between 95 and 105 percent of the average estimated expenditures as a percentage of taxable payroll.

SHORT-RANGE FINANCING (1981–85)

The Trustees emphasize that there is an urgent need to strengthen the financing of the Social Security system in the short range. Without any changes in current law, the OASI Trust Fund will become unable to pay benefits by late 1982. Even if the three payroll-tax financed trust funds were allowed to borrow from one another, their combined assets would decline significantly during the next 5 years. In fact, their combined assets would barely suffice under the two more-optimistic sets of assumptions. Under the three less-favorable projections, combined assets of these trust funds would become depleted within a few years.

Projections over the next 5 years allow Congress and the Administration to monitor and adjust income to the programs. In this short-range picture, the numbers of persons receiving OASDI benefits can be forecast closely. However, changes in the national economy can have major effects on outgo and income, and are difficult to predict. Past economic downturns that were more severe than anticipated have led to the current financial crisis.

Table 3 indicates year-by-year projections of OASDI fund ratios through 1985, under all four sets of long-range assumptions and under the so-called "worst-case" economic assumptions, which prudently served as the basis for the Administration's recommendations to solve the short-range and long-range financing crisis of the OASDI program.

The OASI Trust Fund would become unable to pay timely benefits by late 1982 under any of the projections. Combining the DI Trust Fund with the OASI Trust Fund would not postpone the latter's exhaustion by more than a few months. Even combining all three trust funds would provide a slim margin at best. Under the three less-favorable projections, the three combined trust funds would become exhausted before the end of 1985.

TABLE 3.—FUND RATIOS PROJECTED TO 1985

	Fund at Jan. 1 as a percent of outgo during year—					
	1980	1981	1982	1983	1984	1985
OASI:						
Optimistic assumptions	23	18	[1]14	[1]6	[1]−1	[1]−8
Intermediate A assumptions	23	18	[1]13	[1]5	[1]−4	[1]−13
Intermediate B assumptions	23	18	[1]13	[1]4	[1]−9	[1]−16
Pessimistic assumptions	23	18	[1]13	[1]4	[1]−13	[1]−22
"Worst-case" assumptions	23	18	[1]13	[1]2	[1]−13	[1]−29
OASI and DI combined:						
Optimistic assumptions	25	18	14	[1]9	[1]6	[1]4
Intermediate A assumptions	25	18	13	[1]8	[1]3	[1]−1
Intermediate B assumptions	25	18	[1]13	[1]7	[1]2	[1]−5
Pessimistic assumptions	25	18	[1]13	[1]7	[1]2	[1]−12
"Worst-case" assumptions	25	18	[1]13	[1]5	[1]−7	[1]−18
OASI, DI, and HI combined:						
Optimistic assumptions	29	23	21	20	19	19
Intermediate A assumptions	29	23	21	18	15	13
Intermediate B assumptions	29	23	21	18	14	[1]8
Pessimistic assumptions	29	23	21	17	[1]9	[1]1
"Worst-case" assumptions	29	23	20	15	[1]5	[1]−5

[1] Under present law, the program would be unable to pay timely benefits during this year because financing is projected to be inadequate.

Chart A shows the projected fund ratios through 1990 for these three funds combined. Even on this basis, which assumes interfund borrowing (which would require legislation), there is a need to strengthen the short-range financing. The combined funds would barely get through the early 1980's under the two more-favorable sets of assumptions. Under the other three less-favorable projections, the combined funds would be used up within a few years. Thus, any reallocation of the tax rates or borrowing among the trust funds would not result in adequate short-range financing under adverse conditions.

LONG-RANGE FINANCING (1981–2055)

Over the next 75 years, the projections indicate a need for substantial changes in the long-range financing of OASDI. Action is urgently needed to solve the financing problems during the 1980's (as discussed earlier). Later on, the outlook for the OASDI Trust Funds improves substantially, after the tax increases that would take effect during 1985–90, and remains favorable during the first 25-year period. During the following 25 years, however, OASDI tax rates are projected to become inadequate, as expenditures rise (due to a larger beneficiary population), while tax rates remain level under current law. During the final 25 years of the 75-year projection period, there is a substantial deficit projected under all but the most optimistic assumptions. Thus, the long-range financing of OASDI needs to be strengthened.

HI income is projected to cover expenditures during the early 1980's. But later in the 25-year period, HI financing is estimated to deteriorate. Although the HI Trust Fund is not in imminent danger, the Board of Trustees recommends that Congress should investigate ways of strengthening its financing.

Long-range cost estimates for OASDI over the next 75 years, although sensitive to variations in the assumptions, give the best indication of the trend and general range of the program's cost. HI projections customarily do not go beyond 25 years, because of the high degree of uncertainty about the trend of future hospital costs relative to the rest of the economy.

Several important demographic trends are anticipated in the next 75 years which would sharply raise the proportion of the aged in the population.

(1) After the turn of the century, rapid growth is expected in the aged population because of the large number of persons born shortly after World War II.

(2) Projected improvements in mortality also would increase the numbers of aged persons.

(3) At the same time, low birth rates would hold down the number of young people.

(Charts B and C not reproducible in RECORD.)

Chart B shows the long-range trend in the number of OASDI beneficiaries per 100 covered workers, based on the three sets of demographic asumptions. (It is important to note that "beneficiaries" includes not only retired workers, but also disabled workers, spouses, children, and survivor beneficiaries.) This ratio has gone up from zero in 1940 to 31 currently. It is estimated to rise to a range of 40 to 70 by the middle of the next century. Because most of the beneficiaries during the next 75 years have already been born, their numbers are projected mainly from the present population. The numbers of workers involved in these projections, however, depend on future birth rates, which are subject to more variability.

Chart C shows the trend in the estimated annual OASDI outgo as a percentage of taxable payroll under each of the four sets of long-range assumptions during the next 75 years. Also shown for comparative purposes are the scheduled OASDI tax rates. Under each set of assumptions, the estimated outgo as a percentage of taxable payroll increases rapidly after the turn of the century. Under the intermediate and optimistic sets of assumptions, the outgo in relation to taxable payroll peaks around 2030, while under the pessimistic assumptions, the outgo is still increasing at the end of the valuation period. These projections indicate the need for action to restore the OASDI system to financial health over the long range.

Table 4 compares the estimated average OASDI expenditures in relation to taxable payroll and the tax rates over the next 75 years under the four alternative sets of long-range assumptions. The estimated average annual tax income for the entire 75-year projection period falls below the estimated average annual outgo for the period by 0.93 percent of taxable payroll under Intermediate A and 1.82 percent under Intermediate B.

TABLE 4.—ESTIMATED AVERAGE OASDI TAX RATES, EXPENDITURES, AND ACTUARIAL BALANCE

[Percent of taxable payroll]

	25-yr averages			75-yr average
	1981–2005	2006–2030	2031–2055	1981–2055
Average scheduled tax rate (combined employer-employee rate)	11.94	12.40	12.40	12.25
Estimated average expenditures:				
Optimistic assumptions	9.99	11.07	11.93	10.99
Intermediate-A assumptions	10.67	13.07	15.79	13.17
Intermediate-B assumptions	11.51	13.87	16.81	14.07
Pessimistic assumptions	12.55	17.50	25.43	18.50
Difference (actuarial balance):				
Optimistic assumptions	1.95	1.33	.48	1.25
Intermediate-A assumptions	1.27	−.67	−3.39	−.93
Intermediate-B assumptions	.43	−1.47	−4.41	−1.82
Pessimistic assumptions	−.61	−5.10	−13.03	−6.25

Chart D summarizes the projections of HI expenditures as percentages of taxable payroll as compared with the tax rates through the year 2005, based on the four sets of long-range assumptions. HI income scheduled for the early 1980's is sufficient to cover HI expenditures. But the chart shows that this favorable short-range financing picture is projected to begin deteriorating shortly after 1985. The expected net outflows from HI beginning in the late 1980's add to the problems already discussed for OASDI, and underscore the need to do more than rely on interfund borrowing to restore the strength of the combined system.

Table 5 shows the actuarial balance for HI over the next 25 years, based on the two sets of intermediate assumptions. This actuarial balance compares the average scheduled HI tax rate and the estimated average cost, both for meeting the HI expenditures and for bringing the HI fund ratio up to a more adequate level over the long run. For illustrative purposes, a fund ratio of 50 percent has been used here as providing such a level.

TABLE 5.—HI ACTUARIAL BALANCE, 1981–2005

[Percent of taxable payroll]

	Optimistic assumptions	Intermediate-A assumptions	Intermediate-B assumptions	Pessimistic assumptions
Average scheduled payroll tax rate (Combined employer-employee rate)	2.84	2.84	2.84	2.84
Expenditures	3.21	3.94	4.19	5.46
Trust fund buildup and maintenance	.05	.08	.09	.18
Total cost of the program	3.26	4.02	4.28	5.64
Difference (actuarial balance)	.42	−1.18	−1.44	−2.80

APPENDIX A

FINANCING OF SUPPLEMENTARY MEDICAL INSURANCE (SMI)—(MEDICARE PART B)

SMI income of $10.9 billion during 1980 included $7.5 billion from the general fund of the Treasury and $3.0 billion in monthly premiums from participants. Expenditures of $11.2 billion included $10.6 billion for benefit payments. During 1980, the SMI Trust Fund decreased from $4.9 billion to $4.5 billion.

In July 1980, the SMI standard monthly premium rate increased from $8.70 to $9.60; in July 1981, the rate increased to $11.00. The promulgated premiums paid by SMI participants have been increasing each year by the same percentage by which OASDI benefit payments went up the year before. The payments to the SMI Trust Fund from the general fund of the Treasury cover the portion of program costs not paid by participants.

There is only one principal set of cost estimates for SMI, extending three years into the future, although alternative high-cost and low-cost projections are also made. These projections show that the financing is adequate through June 1982.

The amount of the SMI Trust Fund may be compared to its liability for claims incurred, but not yet paid. In recent years, the SMI Trust Fund has exceeded this liability, so that, by any standard, the program can be said to be actuarially sound.

APPENDIX B

ECONOMIC AND DEMOGRAPHIC ASSUMPTIONS

The table below shows selected values of several of the assumptions used in the projections for OASDI and HI in the 1981 Trustees Reports.

Calendar year	Percent increase over previous year in average annual—				In percent	
	Real GNP [1]	Wages in covered employment	Consumer Price Index	Inpatient hospital costs [2]	Annual unemployment rate	Total fertility rate [3]
Optimistic assumptions:						
1981	1.7	10.6	10.7	15.6	7.7	1.9
1985	4.4	6.8	4.1	11.4	5.7	2.0
1995	3.2	4.5	2.0	6.8	4.5	2.1
2005 and later	3.5	4.5	2.0	6.3	4.0	2.4
Intermediate A assumptions:						
1981	1.1	10.2	11.1	15.6	7.8	1.9
1985	4.2	7.1	4.7	12.9	5.9	1.9
1995	2.8	5.0	3.0	9.1	5.0	2.0
2005 and later	3.1	5.0	3.0	8.4	5.0	2.1
Intermediate B assumptions:						
1981	1.1	10.2	11.1	15.6	7.8	1.9
1985	2.9	8.1	7.4	14.4	6.8	1.9
1995	2.4	5.5	4.0	10.0	5.4	2.0
2005 and later	2.7	5.5	4.0	9.3	5.0	2.1
Pessimistic assumptions:						
1981	.7	11.5	12.6	15.6	7.9	1.8
1985	3.0	10.1	9.7	18.8	7.4	1.8
1995	2.3	6.4	5.4	12.9	6.0	1.8
2005 and later	2.2	6.0	5.0	11.9	6.0	1.7
"Worst-case" assumptions (1981–86 only):						
1981	−.1	10.6	12.8	15.6	8.3	1.8
1985	4.4	10.4	9.7	15.6	8.0	1.8

[1] Gross national product (the total output of goods and services) expressed in constant dollars. The percentage increase in real GNP is assumed to change after the year 2005. The values for the year 2055 are 3.4, 2.5, 2.1, and 0.9 percent for the optimistic, intermediate A, intermediate B, and pessimistic assumptions, respectively.

[2] Includes hospital costs for all patients, not just those covered under HI. Figures shown for "2005 and later" are for 2005.

[3] The number of children who would be born to a woman in her lifetime if she were to experience the age-specific birth rates assumed and were to survive the entire child-bearing period.

Mr. ARMSTRONG. Mr. President, I also ask unanimous consent to have printed in the RECORD the observations of our distinguished former colleague, Richard Schweiker, who is now the Secretary of Health and Human Services, because with his usual perspicacity and candor, Dick Schweiker has spelled out exactly what the problem is. He really gives the lie to any complacency or any thought that if we closed our eyes or make some simple changes, that the problem will more or less go away.

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

STATEMENT BY RICHARD S. SCHWEIKER

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the financial condition of the Social Security program.

As the members of this Subcommittee know all too well, Social Security faces both a short-range financing crisis and a long-range actuarial deficit. No matter whose economic forecasts or assumptions you use, the basic Social Security program is going to be unable to meet its commitments to millions of Americans unless some legislative action is taken, and taken soon. The time for bland reassurances and for further studies or stopgap measures is over—by late 1982 there just won't be enough money in the OASI Trust Fund to pay benefits to retirees, to widows, and to orphan children and their mothers.

The American people have been told repeatedly over the last several years by some individuals that Social Security will not go bankrupt. And the Congress has repeatedly taken action to shore up the system's financing with large tax increases and measures to help control the growth of benefits. But here we are again faced with the threat of bankruptcy and a continuing threat of insolvency in the long run, which seriously undermines public confidence in Social Security.

CURRENT PROJECTIONS AND STATUS OF TRUST FUNDS

The attached table, which I would like to submit for the record, shows the estimated operations of the Old-Age and Survivors Insurance (OASI), Disability Insurance (DI) and Hospital Insurance (HI) Trust Funds, under "worst case" economic assumptions. In developing Social Security financing proposals, we believe that the most prudent course is to use such assumptions so as to provide an adequate margin of safety just in case unfavorable economic circumstances should arise. These projections show the status of the trust funds if present law is not changed.

Under these very pessimistic assumptions, the OASI Trust Fund will have insufficient funds to pay monthly benefits, by the latter part of next year. Under these assumptions even if, as we have proposed, the OASI Trust Fund could borrow from the DI or HI Trust Funds to meet the deficits, the combined funds would be exhausted in late 1983. So you can see that while the interfund borrowing may be a valuable and necessary interim device, by itself the problem is only postponed by about a year. As things stand, without changes, the deficit of the Social Security program would, under the pessimistic economic assumptions, be $111 billion during the next 5 years.

Under the Administration's economic assumptions, the exhaustion of the OASI Trust Fund will still occur in 1982 if no change in the present law occurs, although deferred for a few months. In fact, under almost any reasonable economic assumptions, the OASI Trust Fund will be at an insufficient level to pay monthly benefits in the latter part of 1982, or at most in early 1983.

I am pleased to be able to tell you that the Trustees of the OASI, DI, and HI Trust Funds met on July 2 and occurred in the respective Trustees Reports for 1981. The reports were transmitted to the Congress yesterday. I must tell you, however, that the OASDI Trustees Report that you received does not differ greatly from the 1980 report with respect to either the short-range or long-range actuarial status of the OASDI system. Under all sets of assumptions, the 1981 OASDI Trustees Report shows that, under present law, the assets of the OASI Trust Fund will become insufficient to pay benefits timely in the latter part of 1982.

You will notice a departure from past practice this year in that we show two sets of intermediate economic assumptions, reflecting the estimated progress of the funds under relatively more favorable and relatively less favorable experience in economic growth. Under the two sets of intermediate assumptions, the combined OASI and DI Trust Funds show an average deficit over the 75-year valuation period of 0.93 and 1.82 percent of taxable payroll. Under even more pessimistic assumptions, the average deficit in the OASDI system is estimated at 6.25 percent of taxable payroll.

In examining the causes of the current crisis, a review of recent experience is instructive. The assets of the combined OASI and DI Trust Funds have fallen continually since 1974. The fund ratio—the assets on hand at the beginning of the year expressed as a percentage of the outgo during the year—fell from 103 percent for 1970 to 66 percent for 1975 and then to only 25 percent for 1980 and 18 percent for 1981. The drawdown of the assets of the Trust Funds has masked the fact that outlays have exceeded revenues each year after 1974.

Only 4 years ago, there was the largest peace-time tax increase in history, which was supposed to have placed the Social Security system on a sound financial basis for at least the next 40 years. The grim recital of these figures illustrates the enormous damage that can be done to the balances in a very short period by unanticipated downturns in the performance of the economy. Even while we work to restore growth, we must prepare in advance for unexpected shocks. There will be no time to react in the future, because there is now no margin for slippage in the trust funds.

The element in the cost estimates with the greatest effect is the projection of real growth in wages—i.e., the excess of the increase in the CPI. When wages do not keep up with inflation, increases in Social Security tax revenues do not keep pace with the increase in expenditures arising from the automatic adjustment of benefits to prices. In 1977, the Board of Trustees assumed that real wages would grow by an average of 2.5 percent per year in 1977 to 1980. The reality, however, was that real wages actually declined by an average of 1.5 percent during that period.

This example highlights past difficulties in relying on predictions of economic performance, that by their very nature are inexact and volatile. to provide a rationale for taking minimal action to ensure the financial integrity of Social Security. In early 1981, some economic indicators have been more positive than earlier predictions, but people can read too much into these short run fluctuations.

As for the economic predictions themselves, common sense will tell you that when they cover a wide range and change so often, you would not want to bet your next paycheck on them, let alone the benefit checks of millions of American people. The prudent course is to prepare for the worst, while striving to adopt policies which produce the best. By using assumptions that allow for real-world domestic and international economic contingencies and the range of possible economic performance, we are acting on the side of prudence.

As you know, Social Security is financed on a pay-as-you-go basis. Current contributions are, on the whole, used to pay current benefits, and the balances in the trust funds act as a contingency reserve.

Any discussion about maintaining appropriate trust-fund levels involves determining the amount of assets that is adequate to provide a margin of safety against economic variations and other contingencies, so that benefit commitments can be met even if payroll tax revenues are temporarily reduced.

An important, accepted measure of adequacy of the trust funds is the fund ratio—the ratio of the assets at the beginning of a year to the total outgo during the year. For the OASI and DI Trust Funds, if income is exactly equal to expenditures each month over the course of a year, the fund ratio must be at least 9 percent to assure that there will be sufficient funds to meet current benefit commitments. A considerably larger ratio is required, however, to assure adequate funds in the course of normal fluctuations in income and outgo, and to provide a margin of safety if economic conditions worsen.

The 1979 Advisory Council on Social Security recommended that a ratio of at least 75 percent be present before the start of a recession, in order to provide an adequate cushion and allow sufficient time to take remedial action. The National Commission on Social Security recommended that a ratio of 100 percent be developed over time. Naturally, we all wish that the trust funds were now at these levels. As a matter of prudence, I personally believe that a level of at least 50 percent is reasonable, and that once the financial integrity of the system is restored, a fund ratio of at least 50 percent should be maintained as nearly as possible.

LONG-RANGE CONSIDERATIONS

While it is possible for analytical and discussion purposes to separate the short-run and long-run financing of Social Security, as a practical matter the two are inseparable. What we do for the short run has impact, obviously, on the long run, and so it is necessary to view them together.

Of course, there are different factors affecting the long-range picture which do not affect the short run. The primary cause of the long-range financing problem is the anticipated demographic changes. Some 50 years from now, the Nation will have a very large retired population being supported by a smaller relative number of workers than at present. Intermediate projections indicate that, by 2030, there will be 2.0 workers per Social Security beneficiary, as compared with a ratio of 3.2 workers per beneficiary today. Put another way, while the total population is estimated to grow by about 40 percent over the next 50 years, the population aged 65 or older will increase by about 150 percent. Growth in the very oldest portion of the population will be greater still—those over age 85 will triple.

This change in the age structure of the population will have a growing effect on Social Security. Despite cash-flow problems in near-future years, under the more optimistic intermediate assumptions of the 1981 Trustees Report, the OASDI system will have an excess of income over outgo averaging 1.27 percent of taxable payroll over the next 25 years.

However, the picture changes drastically when the post-World War II baby boom reaches retirement age. A deficit of 0.67 percent of payroll is shown for 2003–2030, while for 2031–55, it is 3.39 percent of payroll. Under the less optimistic intermediate assumptions of the 1981 Trustees Report, these figures would be 0.43 percent, −1.47 present, and −4.41 percent, respectively. Under the pessimistic assumptions, there is a deficit of 5.10 percent of payroll for 2006–30 and 13.03 percent for 2031–55. These deficits would intensify and continue beyond the end of the usual 75-year planning horizon, representing an ongoing concern.

One point to bear in mind is that these are projections, not certainties. They represent the best estimates of capable actuaries, based on the best information available. As I said earlier, economic and actuarial forecasting is an inexact science. However, despite many uncertainties, there is no doubt that a major demographic shift will occur in the next four decades. Therefore, it is important to act now to ensure the integrity of the Social Security system for the relatively large, aged population which will be present in the 21st century.

Restoring the system's financial integrity will not be easy, popular, or painless. There are really only two basic solutions available: restrain the growth of benefit outgo or increase taxes.

Increasing the Social Security tax rates to cover whatever the current program requires would be both unfair to current taxpayers, who have to bear the tax burden, and a serious drag on the economy. The apparent alternative of turning to general revenues for additional financing is not really a viable or proper option. The current congressional budget process makes it very clear that there really are not any uncommitted general revenues present to turn to for Social Security. Any general revenues for this purpose would have to come from new or increased taxes of other types. This would mean that additional taxes would need to be paid by—and be a burden on—the same people who now pay Social Security taxes. The remaining option of slowing the growth of the benefit outgo under the program is the only real choice.

The Administration's initial budget proposals were a first step toward that goal. Subsequent to these proposals, the Administration has developed further proposals to reform the program. These proposals will overcome Social Security's serious funding problems by eliminating excessive incentives to claim benefits early, by removing penalties for continued work efforts, and by lessening the emphasis on the social-adequacy or welfare aspects of the system at the expense of its basic purposes.

We are prepared to work with interested parties to improve our set of proposals to deal with the fundamental problems. However, we are committed to the following principles:

1. Preserve the integrity of the Social Security system, the basic benefit structure that protects older Americans.

2. Hold down the tax burdens on current workers, who finance Social Security.

3. Eliminate the anomalous features and abuses in the system.

4. Finance the permanent, ongoing benefit provisions solely from visible payroll taxes—and not from general revenues, which in reality involve other, hidden taxes.

Generally, our proposals would restore Social Security to program and financial soundness by:

1. Relating disability benefits more closely to a worker's recent work history and medical conditions. For example, we propose a requirement of, in essence, 7½ years of covered work (rather than the present 5 years) in the 10-year period preceding disability and the elimination of vocational factors in determining disability.

2. Encouraging workers to stay on the job at least until the traditional Social Security retirement age of 65. For example, this would be done by reducing to a greater extent the benefit amounts for people who retire early and by not paying benefits with respect to their children.

3. Reducing the social-adequacy (or welfare-oriented) elements that duplicate other programs. These have been over-emphasized in recent years. For example, we propose the same maximum family benefit for families of retired and deceased workers as is now provided for families of disabled workers.

4. Lowering by about 3 percentage points the future replacement rate of a worker with average covered earnings—that is, the initial benefit as compared with recent preretirement earnings. This would be done by moderating, for the next 6 years, the indexing of the initial benefit formula computation. This would be done so as to adjust for benefit overliberalizations made in the early 1970s, which substantially exceeded the increases needed then to keep pace with changes in prices.

5. Reducing the opportunity for "windfall" benefits—that is relatively high benefits payable to persons who spend most of their working lifetime in noncovered employment, and only a short time in covered work.

These reforms would have very little effect on the 36 million beneficiaries now on the rolls or on the several million persons now aged 62 or over who are eligible for benefits but not receiving them because of employment or other reasons.

CONCLUSION

If these proposals and those that we proposed in April reflecting the Administration's budget are enacted, the Social Security system will be financially viable in the short range and well into the next century. This can be stated without qualifications concerning the state of the economy in the short run. Under the pessimistic economic assumptions, the combined Social Security trust funds will not decrease below 17 percent of annual expenditures in the next few years. Quite naturally, the program would be in more favorable financial condition in the short run according to the estimates based on the economic assumptions which reflect the effect of the Administration's Program for Economic Recovery. Under these more realistic economic conditions, the low point for the fund ratio would be reached next year, at 22 percent.

It will be possible, even under pessimistic economic assumptions, to have a somewhat smaller Social Security tax-rate increase in 1985 than that now scheduled. Then, in 1990, the Social Security tax rates can be decreased below the current level. The present tax rate for employers and employees of 6.65 percent each is scheduled to go to 7.05 percent in 1985, and this rate could be decreased to 6.95 percent. Similarly, the 1990 scheduled rate of 7.65 percent could be 6.45 percent. If the economy improves at a more rapid rate—as we anticipate that it will under the President's Program for Economic Recovery—the tax rates could be further reduced.

If strong actions are not now taken, the Social Security system faces financial insolvency. The economic security of the millions of people who now receive Social Security benefits, and the many more millions who expect to receive them in the coming decades, is threatened. Under the Administration's proposals, these future benefits will be paid, even under the pessimistic economic assumptions.

We recognize that there are other possible ways to deal with the financial problems of Social Security. We are working with congressional leaders to develop mutually agreeable solutions to the Social Security financing crisis. I should emphasize that, although there may be room for debate over the specific details of our proposals, we strongly believe that any alternatives must meet the fundamental objectives mentioned earlier.

ESTIMATED OPERATIONS OF THE OASI, DI, AND HI TRUST FUNDS UNDER PRESENT LAW, BASED ON PESSIMISTIC ECONOMIC ASSUMPTIONS, CALENDAR YEARS 1980-86

[Amounts in billions]

Calendar year	Income					Outgo				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
1980	$105.8	$13.9	$119.7	$26.1	$145.8	$107.7	$15.9	$123.5	$25.6	$149.1
1981	122.7	17.0	139.7	35.3	175.0	126.7	17.9	144.6	29.4	174.0
1982	132.7	23.9	156.7	40.3	196.9	147.7	20.0	167.7	34.4	202.2
1983	143.0	27.1	170.2	44.7	214.8	171.5	22.4	193.9	40.5	234.4
1984	159.7	31.3	191.0	50.8	241.8	196.4	24.8	221.2	47.9	269.1
1985	184.9	41.0	225.9	59.2	285.1	222.6	27.4	250.0	56.2	306.2
1986	205.1	47.3	252.3	70.6	322.9	249.0	30.1	279.1	65.4	344.5

	Net increase in funds					Funds at end of year					Assets at beginning of year as a percentage of outgo during year				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI [1]	HI	Total [1]	OASI	DI	OASDI [1]	HI	Total
[1]1980	−$1.8	−$2.0	−$3.8	$0.5	−$3.3	$22.8	$3.6	$26.5	$13.7	$40.2	23	35	25	52	29
[1]1981	−4.0	−.9	−4.9	5.8	1.0	18.8	2.7	21.6	19.6	41.2	18	20	18	47	23
[1]1982	−15.0	3.9	−11.1	5.8	−5.2	3.9	6.6	10.5	25.4	35.9	13	14	13	57	20
[1]1983	−28.5	4.8	−23.8	4.2	−19.6	(2)	11.4	(2)	29.6	16.3	2	30	5	63	15
[1]1984	−36.8	6.5	−30.2	2.9	−27.3	(2)	17.9	(2)	32.5	(2)	(2)	46	(2)	62	6
[1]1985	−37.7	13.6	−24.1	3.1	−21.0	(2)	31.6	(2)	35.5	(2)	(2)	65	(2)	58	(2)
[1]1986	−43.9	17.2	−26.8	5.2	−21.5	(2)	48.8	(2)	40.8	(2)	(2)	105	(2)	54	(2)

[1] Assumes interfund borrowing is in effect. [2] Trust fund is exhausted, and so benefits could not be paid.

Mr. ARMSTRONG. Mr. President, I hope that the Senator from New York will withdraw this amendment; that he will see fit not to reintroduce it. It is not, in and of itself, a bad idea. I anticipate, in fact, that interfund borrowing, which has been recommended, I think, by everyone who has looked at the problem, will be a part of the overall final reforms that are necessary to preserve the Social Security System.

I do not know whether or not the precise formula for interfund borrowing which he has suggested will emerge as the ultimate short-term solution. My guess is that it will be part of it in some form and that even the short-run solution will require somewhat more ambitious measures than he has suggested.

But I do not think, at least for my own part—and I will defer to those who are wiser, particularly the chairman of the Finance Committee—that this is any place to be hooking on a social security amendment. I think that that is a subject, by its very nature, which should be treated separately after we have had a chance to consider in detail the various alternatives.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, it is my understanding at this time that the amendment will not be withdrawn, so, at the appropriate time, there will be a motion to table the amendment.

I would agree, as has been suggested by the Senator from Colorado, that there is nothing wrong with offering the amendment. But I can smell politics in the air now with all the people coming forth with objections on the other side.

I might say at the outset that this is one way to frighten the American people. We are getting ready for some horror stories from the other side. Certainly, this matter should be discussed, but I would only suggest that for 26 years this program has been controlled by the Democratic Party, and now we are seeing the problems with the Social Security System.

We are seeking to address those problems in an orderly fashion, with committee hearings and, hopefully, a bipartisan effort to find not only a short term—very

short term, I might add—solution, as suggested by the Senator from New York, but also a long-term solution to the problem.

It is a matter that is under serious consideration on the House side, with the efforts of Congressman PICKLE from Texas, who is the chairman of the committee on that side, and Congressman BILL ARCHER from Texas, the ranking Republican on that side.

I would assume that if we again want to stir up the American people as we did about 6 weeks ago on this Senate floor, then we certainly have that opportunity. But if we are talking about political terror tactics and panic among senior citizens, I hope the senior citizens understand that there are some of us who want to address the problem and there are some of us who want to play with the problem, play politics with the problem.

In 1977 we passed amendments to the Social Security Act. We were told then, "Do not worry about a thing. The system is going to be in good shape until the year 2030." We imposed six new taxes on employers and employees under that provision. Other changes were made to increase the wage base, and certain other things were done. It was everyone's hope that that would see us through the year 2030.

Now it is 1981, less than 4 years after that action. We are back before the Senate. This time the responsibility is that of the President of the United States, Ronald Reagan. This time it is the responsibility of the Republicans in the Senate to address the very serious problems that exist. So I think this time it will certainly be the responsibility of members of both parties to cooperate and find a long-term solution that will preserve the integrity of the social security system.

I would hope that, as we hear the moans and groans about the system and about what some would not be willing to do about the system to preserve its integrity, we ought to keep in mind that we have a very serious responsibility.

The President of the United States made certain recommendations. This Senator did not agree with some of those recommendations. He agreed with others.

The amendment before us is only one of those recommendations.

This Senate, approved an amendment offered by the Senator from Kansas by a vote of 96 to zero. That amendment took a lot of the harsh political language out of the alternative resolution. The resolution we passed indicated our disagreement in principle insofar as early retirees were concerned, primarily, and with the President's view on that issue, or at least with the view that some had suggested to the President.

Now we have just completed hearings in a subcommittee of the Senate Finance Committee, and it would seem to me that in the interest of orderly process and progress we should let that committee and the Senate Finance Committee work its will. Having been on the other side of efforts like this, I can understand the glee that must be emanating from my left as the chance to burn the Republicans a little on the social security issue is there.

With that, I yield the floor because I know the Senator from Michigan wants me to do that.

Mr. RIEGLE. I thank the Senator from Kansas.

I might say at the outset, so that I am not misunderstood, that I have great personal regard for him, as he knows, over a long period of years, and also for the Senator from Colorado who spoke earlier, who now chairs the subcommittee responsible in this area on the Senate Finance Committee.

Having said that, I want to strongly disagree with what I have heard both of them say. The assault on the social security system that is taking place has not come from this side of the aisle. It has come from the new Republican administration. In terms of the specific efforts to damage or cripple the social security system, those have also come from the Republican side of the aisle.

It is fair to say that in the last several days, the new administration and the Republican Party have greatly exaggerated the problems facing the social security system. In fact, within the last 10 minutes on the Senate floor the word "crisis" was used by Members on the other side of the aisle and yet the last speaker seemed to be saying that, in effect, there is no crisis.

Clearly, people in the country today who depend upon social security or those who are about to go into retirement under social security are frightened to death, and they have reason to be, because the Reagan administration on four different occasions has attacked the social security system directly. Any notion that this was part of the mandate of 1980, the 1980 election, just stands the truth right on its head. Everyone here knows that when Ronald Reagan was running for President, part of his platform was that he was going to protect the social security system, that that was part of the safety net and that we would not see that torn apart.

Well, that promise lasted a matter of only a few weeks. Then the administration moved aggressively to start dismantling the social security system. As a matter of fact, the first cut that was recommended was in the minimum benefit on social security, those 3 million old people in the country who rely on the minimum benefit to get by and who found that was going to be withdrawn.

As a matter of fact, I understand that even though that elimination of the minimum benefit is now in the reconciliation bill in both the House and the Senate, perhaps the administration is having some second thoughts about it. Perhaps they would like to put that back in. I do not know whether those reports are true or not.

If that is the view, then let us put it in here now. Let us put it in here now. I do not know how, in the conference, it would even be proper to restore that in light of the fact that the Republicans here overwhelmingly insisted upon and supported and voted into legislation the elimination of the minimum benefit under social security.

I led the fight here in the Senate to restore the minimum benefit on social security—but we fell short because virtually every Republican voted to eliminate the minimum benefit.

But that was only the first of four attacks. Then we had the attack on the cost-of-living index, the COLA formula. And then, of course, the most outrageous proposal of all, namely, the massive reduction, the 40-percent reduction, in the early retirement benefit under social security. It set off such a firestorm of concern and outrage that, yes, in the end, under great pressure from this side of the aisle, every Republican in the Senate felt compelled to vote with every Democrat to express a concern about that and to disassociate themselves from that proposal.

But perhaps the worst thing that has been done yet is the propaganda campaign that the Senator from New York has rightly termed political terrorism which has been launched by this administration just within the last 10 days, to create the impression and to frighten people across the country that there is a crisis, that there is an imminent collapse facing us in social security and, therefore, we have to be prepared to accept whatever cuts the Reagan administration has in mind.

Well, that happens to be an out and out lie. It is just not true. Anybody who looks at the numbers knows that it is not true. In fact, the reductions in social security that have already been legislated and which I think go far beyond what is needed and what is justified, reduce the outlays in the system over the next 5 years by some $26 billion. The proposal by the Senator from New York which is now on the floor, to provide for interfund borrowing, in effect would solve our problem over the next 5 years.

I think the Members on the other side know that. They know that. If we want to talk about who is propagandizing this issue, it is clearly those who have come in and made outrageous statements and claims about the dangers facing the system.

It is an outrage that they are doing it. The fact that the seniors in this country are up in arms is a fact that has been created by these excessive scare tactics which have been used.

There is no excuse for it.

I congratulate the Senator from New York and others on the committee who have fought to try to get the facts out there so people can understand what we are really facing.

The fact of the matter is that the changes that the Reagan administration has proposed, the tremendous reduction in benefits in early retirement, would provide an $82 billion solution over the next 5 years to a $11 billion problem. It makes no sense at all. As a matter of fact, as people start examining carefully what is involved here with these numbers they see that this is a shell game.

There are a number of people who still do not understand what is really taking place here, however, in terms of what the ultimate motive and purpose is. In my view, it is an effort to hide through an accounting gimmick the tremendous def-

icits that are going to be rolled up over the next few years because of the massive tax cut, most of it for the very well-to-do in this country, and also the tremendous increases in defense spending, going up $193 billion cumulatively over the next 5 years, creating horrendous Federal operating deficits.

So the solution that Stockman and the President and the Republicans have hit upon is to generate a big surplus, a big accounting surplus in the social security system. They want a big surplus in the social security fund so that then when that gets put into the unified budget, it will hide the effect of these massive operating deficits from the big tax cut and from the breakout in defense spending.

That is what is taking place here, Mr. President. That is why all the outrageous talk to try to stampede people into accepting major cuts and dismantling off the social security system benefit structure and protections.

But I say this to my friends on the other side of the aisle: If you think you are going to get away with this, either in this Chamber or with the public at large for any length of time, come 1982, you are in for a big surprise and a big shock. There is a reason the Republican Party has been in the minority for so long around here, before 1980. It is because it has fought things like social security.

I suggest they take another look at this issue. If they keep it up and keep waging this campaign of fear and crisis mongering and go and steal money out of that system, they are going to be right back in the minority. And I say the sooner the better.

Mr. DOLE. I object.

Mr. RIEGLE. All you have to do these days is go out across the country and talk to people. If you think people are satisfied with the propaganda that has been directed by the administration and the scare tactics used on the social security system, then you are not really talking to people. What I find in my State of Michigan is that people are plenty angry about it. They are seeing through it. They want the social security system. They want it strong and they want it sound.

I think I can say with respect to the Members on this side of the aisle that we intend to keep it that way. We fought to put the system in place. We intend to keep it in place and we intend to keep it sound.

I must say, Mr. President, it is very, very frustrating to go out, as I did in Michigan the last week, and talk to senior citizens, those that are about to lose the minimum benefit under social security, those that are approaching age 62 and that are in poor health and are intending to go out on early retirement, taking the reduced benefit that the law now provides because their health is not sufficient to continue to work.

They are frightened to death because they do not know exactly what it is that Stockman and others in charge in this administration have in mind in terms of who is going to be the next victim on social security.

So, Mr. President, it is time that we voted on these issues. I hope the chairman of the Finance Committee will not resort to the tactic of using tabling motions. If they have such strong feelings on this, then let us vote up or down. If you want to vote no, vote no. That is your business and you can go out and defend your vote. For those who want to vote yes, let us who want to vote yes have the opportunity to do so. There has been enough crisis mongering on that side of the aisle with the hearings of the past week or so that I think we deserve to have these be up or down votes. Let the people know where we stand.

If the Republicans over there want to vote for more cuts in social security, let them go right ahead. But I want to put this thought forward at this time: We have a way to finance this system with interfund borrowing. The people on the other side know as well as we do that the percentages paid into social security, divided into three funds, are an absolutely arbitrary division. We are running surpluses in two funds, not in the third. Why do we not adjust the percentages?

I do not think we even have to talk interfund "borrowing." That is one way to do it, but let us adjust the percentages to reflect a closer measurement of the way the money is being drawn out.

If we really want to solve the social security problem, let me give a bit of advice that I am sure the other side is not interested in. Let them go to bat on bringing down these horrendous interest rates. They are what is causing the problem. If we could get people back to work, with lower interest rates, we would have enough money coming into the social security fund to meet any of our financial needs. The reason we have any problem at all today is that we have so many people unemployed. With the Republican policy of high interest rates, 20 percent and above, we are going to have problems in social security and every other part of our economic system. So, if we want to do something about solving this problem in a fundamental way, let us put people back to work.

One of the ways we can do it is by better targeting this tax bill that is right before us now. There are several things we can do to strengthen it and that will have the effect of putting people back to work so we shall have more contributions coming into the social security fund. That is fundamentally the answer we need. That is the very big difference between the two parties.

Mr. President, I have a feeling people are beginning to understand this. I think it is healthy and constructive that we debate this issue. I say to my friend from Kansas, I hope that he will be willing to vote on it. It is one thing to speak on it, but let us have these up or down votes and everybody can take the position he or she wishes.

Mr. DOLE. Mr. President, I could have accurately forecast that speaker's response. It is the same speech he gave several weeks ago; he will probably give it several more times. He is running in 1982.

I also say this: One way to frighten the American people is to make speeches like the one just given. If people listen to that, I am certain they are really concerned about not only social security, but the country itself.

I find it somewhat amusing, having only had the privilege of being in charge for a few months, to have the Senator from Michigan always pointing at this side to explain all the problems that must have originated since January. I remind the Senator from Michigan, who at one time sat on this side and then left to go to the other side, that these problems have been building and building for a number of years. They are serious.

They are not going to go away by indignant speeches by the Senator from Michigan. They are going to be resolved by a bipartisan effort to address the problem. They are not going to go away by speeches from this Senator or that Senator or any other Senator.

There are going to be some difficult votes, Mr. President. We shall find out where the people stand. I just suggest that I understand politics—not too well, but I have learned. But I do understand a little about politics. I understand the best time to make certain speeches would not be at 20 minutes to 6, but it is all we could do today. It seems to this Senator that the President is addressing social security for the long term. We do not all agree with some of his recommendations. In fact, as the Senator correctly pointed out, there was a vote of 96 to zero that said that some should not be addressed in the way the President would have done.

That does not suggest that the President is all wrong and the Senator from Michigan is all right. It indicates we have a problem. It suggests that the President has had the courage to address that problem and he has asked the Congress to have the courage to address that problem, not to try to terrify the American people.

I do not know how many times the word "crisis" was used, but I do know if we do not do something by next November, somebody is going to get a short check. Maybe that is not a crisis to the Senator from Michigan, but it is certainly a problem that should be addressed by everybody in this Chamber. I think it will be.

The Senator from Kansas understands the need for campaign rhetoric. I suggest we ought to move on to something else unless there is some strenuous objection.

Mr. President, I should like to move to table this amendment and see if we cannot move on—the Senator from New Jersey is still planning to call up an amendment.

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

Mr. DOLE. Without losing the floor, yes.

Mr. RIEGLE. I thank him for yielding. As I said before at the outset, despite our disagreement on this issue, I have great regard for the Senator from Kansas, as he knows. Let me ask this question: Why can we not vote up or down on this issue? I realize there is an element of strategy in this but on a basic issue of this kind,

what is gained by tabling? Can we not have a straight up-or-down vote on this proposition?

Mr. DOLE. Mr. President, we are going to have an up-or-down vote on this proposition at some later time. I assure the Senator from Michigan he will have an opportunity not only to vote on this issue but a number of other issues that concern social security. Just to drop in a little social security amendment on a tax bill is not unprecedented, not unanticipated. However, we prefer simply to have a tax reduction bill in which we know how many Members are interested.

There will be votes up and down. We are just trying to move on and finish this bill by Saturday night. We think we can, if we stay tomorrow night until 11 and Friday night late and Saturday night late.

We believe that the American people want a tax cut. They do not want more speeches by this Senator, the Senator from Michigan, or anyone else, on what might be done on social security.

A tax reduction was promised by the President, and the President is trying to deliver on his promise. We can take care of social security. It is a big problem. It cannot be taken care of piecemeal. This amendment is nothing but a Band-Aid. It would not stop the bleeding for longer than 3 years. That is what it amounts to—about a 3-year band-aid. It may get us through the 1982 election, but there will be other elections, and the senior citizens want us to do this now.

Let us not address this problem in a piecemeal fashion. I hope we can go on to the President's tax reduction program.

If the Senator from Michigan is concerned about interest rates, I am sure he must be planning to vote for this tax bill and the spending bill. Once it is understood we mean business and Congress is not going to lose its nerve and do business as usual, we will see the markets respond to the efforts the President has been making ever since he took office in January. He needs cooperation, and he has had a great deal of cooperation from Members in both parties on this bill.

I suggest to the Senator from Michigan that we had hearings last week. I am not sure whether the Senator from Michigan testified, whether it was important enough for him to testify. The Senator from Michigan may have been there. This Senator was not there at every moment of the hearings. We may have more hearings. We have a committee composed of the Senator from New York, the Senator from Kansas, the Senator from Colorado, and the Senator from Louisiana, trying to figure out some way to address the problem, not only short term but also long term.

I suppose that is a long answer as to why I believe that in this case we should not do it piecemeal. We have an opportunity and a responsibility to address the problem.

My mother receives social security. She has all kinds of problems. She does not have a lot of other income. She is concerned about her check, just as many people are concerned in Michigan, and we are concerned in Kansas.

It is not my intent to do anything that would dismantle the program, as suggested by the Senator from Michigan when he looked in this direction. That is not the intent of our committee, our subcommittee, of anyone I know in either party on the committee.

So I believe we should table this amendment by a voice vote, adopt the indexing amendment and then go on to something else. I am certain that will not meet with the complete approval of the distinguished Senator from West Virginia or the Senator from New York.

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

Mr. DOLE. I yield.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays on the motion to table.

Mr. DOLE. I have not made it yet.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be added as an original cosponsor.

Mr. DOLE. On the indexing?

Mr. ROBERT C. BYRD. Of the Moynihan amendment.

Mr. MOYNIHAN. Is the Senator from Kansas having difficulty following these conversations?

Mr. DOLE. I am confused.

Mr. MOYNIHAN. Mr. President, I associate myself with everything the Senator from Michigan has said. He feels strongly about this matter, and we all feel strongly about this matter.

Mr. President, I hope the distinguished chairman knows that I came to the floor today to offer the data of the Congressional Budget Office about the shortfall that might be expected in the next 6 years and the increased revenues that will come from the tax bills already adopted by this body, such that there is a basic change in the outlook that the trust fund for the next 6 years is the only period with any difficulty in the next half century. Because of the changes that have been made, no one disputes that the problems that we face in the short term and the long term can be dealt with, but they are not a matter of crisis. We have a problem which is manageable.

It was not in a spirit of partisanship but to report the judgment of the CBO and other actuaries about our facts that I came to the floor.

Mr. DOLE. I thank the Senator from New York.

I do not want to shut off the Senator from Michigan.

Mr. RIEGLE. I would be interested in a response.

Mr. DOLE. We had all sorts of charts, as the Senator from New York knows, in our committee hearing. I heard most of the witnesses. Two I recall are Mr. Penner, from AEI, and Dr. Aaron, from Brookings, both very well respected men in the field. They testified before our committee. They had different numbers, different assumptions, different views, different ways to approach it.

I asked both gentlemen, at the end of their testimony, if they felt they could reach some agreement that would take care of the short-term and long-term problems in social security, and they indicated quickly that they could. I have been urged by the Senator from New York to pursue that, and I did not need any urging. I intend to pursue it. One was a Republican, I understand, and one a Democrat.

So I say, without trying to discuss specific numbers, that we did have different opinions expressed. Some were partisan, some are not, but different views were expressed about how seriously we may be in trouble and, if we are in trouble, what we should do about it.

I assure the Senator from Michigan that it is my opinion that we can come to some overall agreement in our committee and on the Senate floor.

There is still some rumor, at least, that on the House side there could be an amendment attached to the tax bill which addresses both the short-term and long-term problems. We are doing our best, I say to the Senator from Michigan.

Mr. MOYNIHAN. Does the Senator want to keep talking so that gang at the rear of the Chamber does not get him?

Mr. DOLE. Having served in the other body, I am pleased that they are here. Perhaps they bring good tidings.

The Senator from Kansas does not want to preclude any debate. I understand that two other Senators wish to speak.

Mr. MOYNIHAN. The Senator from Massachusetts and the Senator from Florida wish to be heard on this matter before we have a vote. The Senator from Florida will be here tomorrow afternoon. The Senator from Massachusetts is here, but he would rather speak tomorrow.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, while the distinguished minority leader confers with the distinguished majority leader, so that we can protect the rights of those who want to speak on this matter tomorrow.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LOWER INTEREST RATES

Mr. PRESSLER. Mr. President, one of my first actions after the Senate confirmation of Treasury Secretary Donald Regan was to write a letter to the Secretary, urging him to make lower interest rates his top priority in developing a sound economic policy. Today I rise to repeat this plea to the Honorable Secretary and to President Reagan.

Small businesses and farmers are being crushed by high interest rates because credit is essential to their operations. Farmers borrow every year to produce the season's crops and livestock. It is becoming increasingly difficult for them to even recoup their investment when they must pay 20 percent interest rates.

I receive letters daily from persons involved in the housing industry who tell

me they are on the verge of going out of business, indeed, some have already, because of the slump in the housing market created by unreasonably high interest rates. Some of our State's banks report that they are only 30 percent loaned out because no one can afford to buy money at the interest rates charged today.

High interest rates are the major problem facing our Nation right now. If family farmers are unable to borrow money at reasonable rates and if small businesses do not have access to loan funds, we are paving the way for corporate takeover of these enterprises which until now have served as the backbone of our country.

Congress has finally begun to act on one of the causes of high interest rates which is undoubtedly related to the massive Federal debt our country has amassed over the past years. The Federal Government, since 1971, has placed an increasingly burdensome demand on the U.S. credit market for funds. As a consequence, interest rates for all borrowers have increased. I believe that as a legislator one of the most positive and necessary steps I can take is to continue the fight for a balanced budget; a cause to which I have been committed first in my terms in the U.S. House of Representatives and now in the Senate.

However, there also must be immediate action in response to the American people who look to their country's leaders to first explain the cause for these unbearable interest rates and then take appropriate action.

Although the Federal debt is certainly a culprit in this scenario, I also call upon the President to communicate with the Federal Reserve Board on this most pressing matter. Although most Americans are aware that the Federal Reserve establishes the discount rate which determines how much interest member banks must pay to borrow money from the Federal Reserve, how many Americans understand the workings of the Federal Open Market Committee (FOMC)?

I wonder how many of my South Dakota constituents know that the FOMC met just last week to discuss the money supply growth of this country and that this body of 12 men decided at a 2-day meeting in New York to lower a key money growth target as another anti-inflation move. While this action might have a stunting effect on inflation, it will also most likely mean continued high interest rates for the present.

It is past due time to hold the Federal Reserve Board accountable for its decisions that affect the mortgage rate of a young couple trying to purchase their first home in Sioux Falls, the businessman wanting to take out a loan for expansion in Huron, and the farmer who borrows to buy a much needed tractor in Freeman.

On Tuesday I spoke personally with the President and asked him to issue a special statement explaining to the American people why interest rates remain excessively high and detailing the the steps the administration is taking to lower these rates. I have cautioned President Reagan that if sky-high, 20-percent-plus interest rates persist, they could become a millstone that could pull down the administration's entire economic recovery program.

It was, therefore, with urgency and confidence that I called upon our President, who is known throughout the Nation and the world for his ability to communicate effectively with all people, to explain to the American public the cause for the continued 20-percent interest rates and what actions the administration is preparing to deal with the problem.

I believe that America still has the strength to overcome the damage done by these staggering interest rates. However, the time for tackling this problem head on is now. I stand ready to work with the President in fighting this, one of the greatest threats to America's economic security.

POTENTIAL FOR WIDESPREAD CONFLICT IN SOUTHEAST ASIA

Mr. HAYAKAWA. Mr. President, the potential for widespread conflict in Southeast Asia is significantly greater today than it has been for many years.

Thailand in particular is confronted with a serious military threat. Almost 200,000 Soviet-supplied Vietnamese troops occupy neighboring Kampuchea—Cambodia—and operate in strength along the Thai border. There is a long and sorry history of border clashes in the area and Vietnamese troops, heavily outnumbering Thai forces, are capable of mounting even stronger incursions at any time.

Speaking to the opening session of the General Assembly Conference on Cambodia on July 13, Secretary of State Haig said that the invasion of Cambodia in December 1978 was a direct threat to Thailand.

The United States will continue to work closely with ASEAN (Association of Southeast Asian Nations) in seeking to resolve the Kampuchea issue in recognition of the fact that the interests of Thailand are most directly threatened.

I wholeheartedly agree with Secretary Haig's concerns and applaud U.S. participation in the Conference which seeks to find a political settlement to the Cambodian problem, thereby enhancing the stability of all of Southeast Asia. I commend the attention of my colleagues to the Secretary's speech and ask unanimous consent that it be printed in the RECORD.

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

SECRETARY'S STATEMENT BEFORE INTERNATIONAL CONFERENCE

Mr. Chairman, distinguished delegates, our purpose in meeting here today is of compelling importance—to restore Kampuchea's sovereignty and independence. The conquest of one nation by another represents the most fundamental violation of the UN Charter. The International community cannot and will not acquiesce in the eradication of Kampuchea's sovereign identity through the aggression of its neighbor.

The great majority of the members of that community have already expressed their desire for a comprehensive solution to the Kampuchea problem through UN General Assembly resolution 35/6, which mandates this conference. Our gathering owes much to the initiative of ASEAN, which, besides the Kampuchean people themselves, represents those nations most affected by the situation. The United States will continue to work closely wth ASEAN in seeking to resolve the Kampuchea issue while recognizing that the interests of Thailand are most directly threatened.

A successful conference will be of great importance to the entire world community, but most particularly to the smaller nations, which are increasingly in danger of foreign intervention. Most of all, our efforts are crucial to the Khmer people, whose national life has been marred over the past fifteen years by a succession of horrors. The position of the United States is clear: We believe that the world community has an obligation to assure the Khmer people their right to choose their own government and to live in peace and dignity.

The facts of the Kampuchean problem are not less appalling for being well-known. In December 1978 Vietnam, supported and financed by the Soviet Union, invaded Kampuchea and installed a puppet regime. The puppets are maintained in power by an occupation army 200,000 strong. Vietnam's seizure of Kampuchea poses a direct threat to the security of Thailand, and undermines the stability of the whole region. It is thus the source of tensions that inevitably affect the entire international situation.

We, therefore, see this conference as having two closely related goals: (1) the restoration of a sovereign Kampuchea free of foreign intervention, whose government genuinely represents the wishes of the Khmer people; and (2) a neutral Kampuchea that represents no threat to any of its neighbors. These goals can be realized through the implementation of UNGA resolution 35/6, which calls for UN supervised withdrawl of all foreign forces and restoration of Khmer self-determination. The achievement of these goals would remove the main cause of conflict in the Southeast Asia region, greatly improving the prospect for resolving other regional disputes and for easing global tensions. All nations in the area—including Vietnam—would benefit from such an achievement.

Unfortunately, the Vietnamese authorities have been blind to their own best interests. They have rejected all serious efforts to negotiate the substantive issues of the Kampuchea problem, maintaining that the present arrangement there is an "irreversible" condition. We are therefore asked by Vietnam to ignore the facts, to pretend that there is no Kampuchea problem and that, instead of this forum, a regional meeting should be held between the ASEAN countries and an "Indochina bloc." Such a formulation is a thinly disguised effort to gain acceptance of Vietnam's actions in Kampuchea; the Kampuchea issue would be reduced to a mere border problem with Thailand. We cannot accept such a negotiating format. This is no minor squabble. The principles of self-determination and independence are at stake.

Vietnam is paying a price for its blindness in the form of an ever deepening diplomatic and economc isolation from the world community. Vietnam must recognize that participation in this conference provides the best opportunity to escape the dead end of international reproach and economic depression. The work being done here offers the avenue for Vietnam to rejoin the world community and to work toward a solution which protects its own interests as well as those of the other nations of Southeast Asia.

For our part, the United States has no intention of normalizing relations with a Vietnam that occupies Kampuchea and destabilizes the entire southeast Asian region. We will also continue to question seriously any economic assistance to Vietnam—from whatever source—as long as Vietnam continues to squander its scarce resources on aggression.

Vietnam is not the only party to this tragedy missing here today. We believe that the Soviet Union, the financier of the Vietnamese military occupation of Kampuchea, has a special obligation to cooperate in this effort to resolve a major source of international tension. Soviet participation in this conference and in the conference on Afghanistan this fall will indicate Moscow's interest in surmounting these major barriers to the development of more constructive East-West relations.

The dictates of self-interest cannot be ignored forever, even by Vietnam and the Soviet Union. In the meantime, the rest of the world community must proceed vigorously to search for a solution to the Kampuchean tragedy. This present session provides the opportunity to consider the broad outlines of a settlement.

Let me close by reminding the conference that our fundamental obligation is to the suffering Khmer people, heirs of a proud history and rich culture. They deserve our best efforts to restore peace and self-determination to their land. We have seen already that the world community can act to help Kampuchea. Fourteen months ago, a meeting in Geneva put in motion a massive relief effort that saved thousands of Khmer lives, helping to ensure the survival of the Khmer people. The same spirit of international cooperation can ensure the survival of an independent Khmer nation.

DEREGULATION SPAWNS NEW AIRLINES

Mr. PERCY. Mr. President, in October we will mark the third anniversary of the enactment of the Airline Deregulation Act of 1978. As one who lent active support to this legislation, I would like to report that deregulation has succeeded in fulfilling one of its basic promises: Creating opportunities for new airlines and spurring competition.

A new category of interstate airline has been molded which operates out of underutilized satellite airports and provides low-fare, no-frills service.

The first of these was, of course, Midway Airlines which began service in October 1979. It operates out of Chicago's Midway Airport. When Representative JOHN FARY, Gov. James Thompson, and other Illinois leaders joined me in the effort to revitalize Midway Airport, we never realized that Midway Airlines would become profitable so quickly. Further, we never imagined that it would serve as the prototype for other low-fare interstate operations operating out of satellite airports throughout the United States.

Midway Airlines now flies to eight cities from Chicago and plans to add several other points in short order. Its jet fleet has tripled and more aircraft are on order, including the DC-9-80 jet that is one of the quietest jets now in operation. The increasing use of Midway Airport is already pumping new life into the economically depressed Southwest Side of Chicago—and without the use of Federal dollars. About 527 direct new jobs have been created, most in Chicago, by Midway. Its total annual payroll is $7.8 million. Midway Airlines' outstanding success is directly attributable to the foresight of chief executive officer Irv Tague and President Gordon Linkon.

This fall, another new airline hopes to inaugurate Midway service: Air Chicago. It will eventually generate another 300 new jobs.

The shift to satellite airport utilization is spreading to other sections of the United States.

Later this fall, Jet America will begin operating nonstop jet service to Chicago-O'Hare International Airport from Long Beach, Calif. Its average fares will be $100 less than other carriers. The Long Beach Airport is ideally situated to relieve the congestion at Los Angeles International Airport, where ground access is limited and where motorists have to wait as long as an hour to get near the terminal buildings. Jet America plans a work force of 238 and $6 million annual payroll.

Along the east coast, People Express has begun service out of the Newark Airport at bargain fares to cities such as Norfolk, Buffalo, Columbus, and Jacksonville. It soon will inaugurate service to the Baltimore-Washington International Airport. For many years, Newark has been underserved, while the carriers have crowded into New York-LaGuardia and New York-Kennedy Airports.

Also, in the New York metropolitan area, Air Florida has breathed life into the Westchester County Airport with jet service to Chicago-O'Hare and Washington, D.C.

Recently, plans were announced for a new carrier to operate out of the Baltimore-Washington International Airport: Columbia Air. It will offer low-fare service to several Eastern United States points.

The diversion of traffic to these satellite airports is in the public interest because:

First, it postpones or eliminates the need to build costly new airports;

Second, it lessens congestion at major hub airports that are designed for long distance and international flights. The airlines save fuel and the traveling public saves time; and

Third, it creates new employment opportunities and economic growth patterns. Industrial and business development may be more widely dispersed throughout a metropolitan area, as businessmen have more than one airport among which to choose.

Despite some of the problems experienced by small communities, airline deregulation has proven to be a success. Businessmen can start their own airlines without worrying about overcoming a gamut of Federal regulations, as long as they meet stringent safety standards. This is the way the American economy should operate.

Mr. President, I ask unanimous consent that articles appearing in the Chicago Sun-Times and Business Week regarding the development of the new carriers be printed in the RECORD.

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

[From the Chicago Sun-Times, June 28, 1981]

THE UPSTART IS GETTING NOTICED

(By Jerry C. Davis)

In the sixth quarter after start-up, Midway Airlines began showing a solid profit and became recognized as more than just a nuisance by the major carriers.

Its big airline competitors took notice of the success of Midway by adopting some of its budget fare tactics.

"United has started to selectively match our fares from O'Hare to some cities and that has to concern us," said Gordon Linkon, president of the Midway Airport-based carrier. "But we feel that their costs are much higher and that they can't follow such a price structure throughout the system. It's like selling two dimes for a nickel. Sooner or later, you'll go broke."

Midway counts on its low overhead and the convenience of Midway to many area residents to meet the competition.

"We really work to keep costs down," Linkon said. "First, we bought used planes so we paid less for our fleet than other carriers. Then, we keep all maintenance here at our hub, not dispersed to other airports. We do not have food service in flight and we have a simplified ticketing procedure. Finally, there are few layers of management. We count on efficiency and productivity to give us an advantage."

That has been the premise behind several smaller airlines that sprang up as the result of governmental deregulation. They have started causing problems for the majors by selling bargain fares and holding down costs to make those fares possible. Midway founder Irving T. Tague had such a concept when he left Hughes Air West, where he was general manager, to start Midway.

"He figured that if you operated from a convenient airport, controlled costs and served areas where there was a lot of air travel, you had to be a winner," Linkon said. A law firm did the paper work to get certified on a contingency fee basis and Tague managed to raise $5.7 million in venture capital after he got the certificate.

The company made its first public offering of stock last year and quickly sold 850,000 shares at $13.50 a share to raise more than $11 million.

It recently filed a registration statement with the Securities and Exchange Commission for an additional offering of approximately 1 million shares of common stock, scheduled for late July.

The first capital infusion bought three more aircraft for a total of nine so the company could add to its routes, which now include eight cities. Midway also paid off some long-term debt and bought needed ground vehicles. With some of the cash, the company put state-of-the-art radar equipment in all of its aircraft as an aid to fuel efficiency.

"We started with less capital than anyone else," Linkon said. That's why we are going back to the well more often."

Linkon, former marketing director of Frontier Airlines until joining Midway last year, says the big disappointment of the first 18 months of operation has been the upkeep and management of the Midway Airport terminal.

"The roof still leaks and the air conditioning was not tested until May 15 when they found it wasn't working," Linkon said. "Its been several weeks now and it still isn't working [as of mid-June]. Can you imagine them letting O'Hare's air conditioning stay out of commission this long? They talk about spending millions on this airport a few years from now. I'd rather see them spend a few thousand to make it work today."

Despite what Linkon regards as the city's continued neglect of Midway Airport, he thinks other airlines will be attracted by its proximity to much of the area's population, and to additional services that are being provided. Continental Transportation has increased its bus service and plans to start a Midway to O'Hare service. A limousine to the University of Chicago is now

available, and a good restaurant and bar are open to supplement the fast-food counters.

In addition to Midway, Delta flies two flights to St. Louis, offering direct price competition, and Northwest provides three flights a day to Minneapolis from the airport. Midway Airlines has 28 departures a day and expects to increase that to 32 in July.

"Other airlines are going to come in—it's only a question of time," Linkon said. "But, I don't know if anyone else will headquarter here as we have. It could do us some good with the airport management if United came out and Delta had more flights because we would carry a bigger stick.

"What is encouraging to us is that surveys show we are still averaging about half passengers who are flying Midway for the first time," Linkon added.

"We'd be worried if they were all new passengers because that would mean that people weren't coming back. But, we've been getting about a 50–50 breakdown, which means we are both building traffic and getting repeat business."

[From the Business Week, June 15, 1981]

UPSTARTS IN THE SKY: HERE COMES A NEW KIND OF AIRLINE

A new kind of airline industry is in the making. Suddenly a flock of cut-rate carriers, offering point-to-point, no-frills service, has jostled its way into a deregulated market to the delight of the flying public and the dismay of the established, full-service airlines. Midway Airlines, New York Air, and People Express have begun service in the past 18 months, and at least five other low-cost, high-frequency carriers—Muse Air, Pacific Express, Sun Pacific, Sun Air, and Air Chicago—expect to take wing this year. Budget airlines are here to stay.

Among conventional airlines, the reaction to this onslaught is one of undisguised concern. Calling the new airlines "upstarts," "skimmers," and other unflattering names, the bigger carriers are matching their low prices even as they complain bitterly that they cannot compete against the low labor costs of the nonunionized newcomers.

And they are fretting about the impact the new entrants will have on the nation's air transport system. One of American Airlines Inc.'s anxieties about airline deregulation in 1978, says President Robert L. Crandall, was that the inevitable influx of cut-rate carriers "would undermine the nationwide, integrated air transport system that has served us all so well. We still think [that's] valid." The question now, says one industry expert, is "whether the system is more desirable, or whether each individual consumer should pay for just the service he or she wants. That is the great airline revolution in the first half of the 1980s."

The revolution is here, and the answer is that there's room for both. The budget carriers cannot fill the needs of all passengers, particularly those with complex itineraries who are likely to want the convenience of multistop ticketing and baggage forwarding. But there are enough travelers willing to accept minimal service in return for lower fares to assure a market niche for the new breed. In the process, cut-rate fares can expand the market for all, including established carriers. Indeed, older airlines sheepishly acknowledge that they are suddenly flying nearly full in the shorter routes where new entrants have lowered fares.

"THEIR SACRED SYSTEM"

An important ingredient lacking in the newcomers' operations is interlining, which they eschew because of its high costs. Interlining, a body of reciprocal agreements between airlines to cooperate on such matters as ticketing and baggage delivery, is the mechanism that enables the air transport system to function as a cohesive entity. Because of interlining, a passenger on a participating airline can buy one ticket for flights on several carriers, use that ticket on any airline, and check his baggage through to destination, even with plane changes. Eliminating interlining may gall the carriers who devised the technique, but it will not destroy what a founder of one upstart calls "their sacred system." Says T. H. Davis, founder and chairman of Piedmont Aviation Inc., who is less alarmist than many of his colleagues: "The new airlines will not be big enough to break down the system."

Perhaps not, but the new entrants are far more than a minor irritant to the airlines, even though their impact on traffic so far is minuscule. In the first quarter of this year, Midway Airlines Inc. and New York Airlines Inc.—People Express Airlines Inc. did not begin operations until Apr. 30—carried only 362,500 passengers. In specific markets, those figures loom larger. In March, for example, New York Air carried more than 25 percent of the traffic on the New York-Washington and New York-Boston routes that have been dominated by Eastern Air Lines Inc.'s shuttles in recent years. Still, these Davids are not out to topple the Goliaths of the airline industry. "Our ambition is not necessarily to be the dominant carrier in any particular market," says Gordon Linkon, Midway's president. "We can do well with a small piece of a large pie."

Such small pieces have a way of growing, however. "Why bother about someone who comes in with a few hundred seats and cuts the fare?" asks Morton Ehrlich, senior vice-president for planning at Eastern. Because, he answers, "successful aggressiveness begets more successful aggressiveness, and that leads to bigness. Then you've got a formidable competitor."

SOUTHWEST'S DESCENDANTS

Eastern should know. Even before it had New York Air to contend with, it watched as new management took over its Miami neighbor, Air Florida System Inc., and turned the tiny intrastate carrier into an aggressive international airline that last year earned $5.7 million on revenues of $161.2 million. It has built a solid route system within Florida, added a few other choice domestic routes feeding into Miami, and flies from Miami to Europe and Central America.

Air Florida is a cousin of today's new airlines. It is a low-fare operator on its flights to Miami from New York and Washington and on its international flights, but it charges full fares on intrastate routes. Its nonunionized work force is among the most productive in the industry, thus helping to keep costs down, even though its wage rates are very close to those of the bigger airlines. It flies the small twin jets that are the mainstay of the upstarts' fleets but also has three widebodied DC–10s. And Air Florida interlines, thus making it a full member of the air transport system.

In genealogical terms, today's upstarts are more closely related to Southwest Airlines Co., the enormously successful Dallas-based carrier. They are, in fact, direct descendants. Southwest began flying the unregulated intrastate skies over Texas from Dallas' downtown Love Field on June 18, 1971. It calls itself a mass transit operation. Its basic formula has not changed in 10 years: frequent flights on short out-and-back routes, high labor productivity, minimal services, fares sharply lower than existing ones, and only two classes of fares (peak and off-peak). The marketing theory behind Southwest's strategy is that, if fares are lowered enough, traffic will explode.

The theory proved out. Southwest asserts that on most routes its low fares and frequent flights have roughly doubled the market. The Dallas-Houston market has mushroomed from 425,000 to 1.1 million in 10 years, and air travel has been boosted throughout Texas. Since deregulation it has been moving into key cities in neighboring states.

The Southwest experience cannot be duplicated everywhere, but it will work when a major city is part of a point-to-point route system that can draw heavy traffic from within a 500-mi. radius if the price is right.

These short-haul markets are precisely where air traffic is growing most. Trunk traffic fell 5.3 percent in 1980 and is expected to drop at least an additional 3 percent this year. Traffic on the regional carriers actually grew by 9 percent last year, and analysts predict it will increase at about 10 percent for several years. They expect short-haul travel—less than 500 mi.—to grow even faster, at 20 percent a year.

"It's very possible we are dealing with the beginnings of a shift for short-haul travel in which a large fraction of what's now auto travel will shift to air," says Roy Pulsifer, an associate director in the Bureau of Domestic Aviation at the Civil Aeronautics Board (CAB). "A shift like this takes place once every 50 years." Pulsifer tracks the evolution of transportation from water to rail to highway and points out that as gasoline prices have soared, the cost of automobile travel has risen faster than air fares. People Express' newspaper ads are headlined, "Flying that costs less than driving." The ads cite $23 flights on weekends and evenings and $35 on weekdays from New York to Buffalo vs. $82.20 by car—without tolls and meals.

The new airlines are wasting no time cultivating new markets with their low fares. In the New York area alone, New York Air and People Express expect to have 37 planes serving 18 cities by mid-1982. "That suggests to me a revolutionary change in the fare structure in the Northeast," says Pulsifer.

Leading the revolution are entrepreneurial alumni of bigger carriers who think they can duplicate the Southwest formula. "It's gotten to the point that as soon as an aggressive guy leaves an airline, you start looking for announcement of the new airline he's going to start," quips one industry source. Even the upstart airlines have upstarts. Air Chicago is the brainchild of two alumni of Midway Airlines. Midway itself was founded by Irving T. Tague, formerly general manager of Hughes Airwest.

AIR REVENGE

Terry R. Ashton, chairman of Pacific Express, also came from Hughes Airwest. His operation is financially the most ambitious of the potential newcomers and the first such effort in the Far West. Pacific Express proposes to begin service on Oct. 1 with seven planes on short-term lease. It is committed to buying six new-technology, 100-seat BAe 146s, with eight more on option, from British Aerospace. The 14 planes, including spare parts, will cost $250 million, much of which will be financed with low-cost loans from Britain's Export Credits Guarantee Dept.

Texas was the training ground for many of the new breed's managers, who thus know the strengths of Southwest Airlines first hand. New York Air is a corporate sister of Texas International Airlines Inc., which is being clobbered by Southwest in its basic Texas markets. (Both carriers are subsidiaries of Texas Air Corp.) Most of New York Air's senior executives are TIA alumni. People Express was founded by TIA graduates as well, but Donald C. Burr and Gerald L. Gitner left TIA early last year, taking five other executives with them.

M. Lamar Muse, one of Southwest's founders, with his son, Michael L. Muse, is starting an airline whose takeoff on July 15 is being watched with perhaps the most interest. The senior Muse, who left Southwest in 1978 after a bitter dispute with directors, now has founded Muse Air Corp. Dallasites say it might just as well be named Air Revenge. He plans to compete directly with Southwest's prime Dallas Love Field-Houston

Hobby Airport local service. Muse is aiming for sophistication. "Halston instead of hot pants," says one observer, referring to the attire of some Southwest flight attendants. Muse does not plan to offer a lower fare than the $40 peak and $25 off-peak currently charged by Southwest.

The newcomers can make money at these low fares because of their very low costs and high labor productivity. Employees' awareness that they are in at the beginning of an experiment that could alter the course of aviation history not only contributes to high productivity but also generates a unity of purpose rarely found in a big organization. Management tries to keep that spirit alive with various incentives including profit-sharing plans; People Express even requires employees to buy a few shares of stock.

Because industry pay scales are based on seniority, the brand-new airlines have rock-bottom labor costs. Captains start at about $30,000, not much lower than entry levels at other airlines. But at the older carriers, a captain's pay averages $71,000 and can rise to $120,000 a year. As important as the pay itself is what the airline gets for it. Pilots at the upstarts put in double the "stick time" (actual flying time) of those at older airlines. Other labor costs are also lower, although the differences are not as dramatic.

Labor is the biggest cost advantage the upstarts have over bigger airlines, but there are others. One is not being a full member of the air transport system. "The complications and costs involved [in interlining] are substantial and would detract from our type of strictly point-to-point service," notes James V. O'Donnell, New York Air's senior vice-president for marketing. And having little investment in maintenance and other facilities, which are leased from established operators, adds New York Air President Neal F. Meehan, "saves considerably on front-end costs."

The newcomers use small twin-jet aircraft, with crews of two, and so far all are flying secondhand planes for which they paid from $3 million to $5 million or, cheaper yet, leased. New planes of the same size—86 to 118 seats—cost about $20 million. The older airliners burn more fuel than new planes, but for short-haul routes that is not critical. "It's a capital cost vs. an operating cost trade-off," says People Express Chairman Burr. The upstarts are gambling that they can clear enough profit in the first few years to enable them to buy more-efficient aircraft, which will help keep operating costs low as seniority begins to push up wages.

The newcomers point out that their cost advantages are not all what they seem. "The advantage we and the newer airlines have in labor all goes out the window when you look as all the airplanes they [established carriers] have that were bought with very inexpensive money and at prices way lower than what we now have to pay," says Air Florida Chairman C. Edward Acker. And the newcomers are outraged at charges that they pay slave wages. Says Gitner: "I reject the bald assertion that People Express is some kind of labor skinner that's going to make money off the backs of its labor."

The eight airlines that have already filed with regulatory authorities (table, page 80) will not be the last new entrants. "They will grow like weeds," predicts Thomas M. Wendel, senior vice-president of finance at Pan American World Airways Inc., "going into specific markets, one city pair at a time." Investment bankers report a steady flow of inquiries about financing more of the new breed of airlines.

Nor will all the newcomers be cut-rate carriers. Alan H. "Skip" Kenison, a founder of AirCal, a California-based regional airline, expects to launch a full-service airline from Long Beach, Calif., in November. Sun Lands Airlines Inc., a Reno-based charter operator, launched scheduled service between Reno and Seattle on May 29. Local businessmen in Erie, Pa., plan an airline, pretentiously named Air International, to bring better air service to their city. And proposals have surfaced for other airlines to provide first-class-only service. "You're going to see a lot of boutiques in the airline industry," says Gitner of People Express.

One thing is certain: Right now, money is no problem. All airline stocks are currently high flyers, including the upstarts that have gone public. Midway, which came out at $13.50 a share, is trading above $20. New York Air and People Express, neither of which has yet shown a profit, are both trading at about $14. "The fact that People Express, [before it had any] planes or anything else, could go out [last November] and raise $26 million in a public offering is incredible testimony," says Michael R. Armellino, a vice-president at Goldman Sachs & Co. Adds Michael Derchin, vice-president at Oppenheimer & Co.: "Airline financing is almost indiscriminate."

Potential problems do loom for the newcomers, notably continued access to the capital markets and the ability to maintain their cost advantages. "There's no secret to it," says Howard D. Putnam, president of Southwest Airlines, which has successfully kept costs down even though part of its work force is unionized and its salary levels approach those at other regional carriers. "It's just high productivity." The biggest challenge to today's upstarts may well be tomorrow's upstarts. "We're not the last," says Kenneth T. Carlson, vice-president of planning at New York Air. "There'll be another and another and another. We'll have to be constantly watching what the new guy is doing."

They will also have to watch what the old guy is doing. "The big boys [the established carriers] are trying to bury them, and fast," says one source. With a few exceptions, the airlines already encountering competition from the new breed—TWA, American (Eastern, United, Piedmont, Delta, and USAir—are cutting fares in entire markets. And there are ripple effects. USAir, for example, not only lowered its $99 basic price for a one-way ticket to Buffalo from Newark International Airport to match the People Express $35 fare but also reduced its fare to Buffalo from New York's LaGuardia and Kennedy airports, although only to $69. That, in turn, led American to drop its LaGuardia-Buffalo fare to match USAir.

Fares will probably come down in other markets as the newcomers add routes. Vows Edwin I. Colodny, chairman of USAir Inc.: "We're going to stay in our markets, keep our frequencies, in some cases increase them, match the fare, and give better service."

Entrenched airlines are heavily advertising their service advantages. "On Piedmont [which competes against People Express from Newark to Norfolk] the extras aren't extra," reads one piece of promotion. The copy refers to the People Express charge for such "extras" as soft drinks (50¢) and checking luggage ($3 per bag).

Passengers seem content to do without the traditional amenities. Indeed, veteran travelers complain that meals, for instance, are of such poor quality and are so badly served on bigger airlines that passengers will not miss them. And few passengers will check a bag they can carry anyway, because too often it does not arrive on the same plane. Says one frequent flyer: "Service could be important, but not the way they [the established airlines] provide it."

GIVING UP AMENITIES

Enough passengers—about half of them business travelers—already have been willing to forgo such traditional amenities that the new airlines are likely to make a profit far sooner than the three years it took Southwest Airlines to turn the corner. Midway, which floundered until it added its New York and Washington routes late last year, reported its first profit in the first quarter of this year—$510,000 on revenues of $13.1 million. In the same period, which was its first full quarter of operation, New York Air lost $1.9 million on revenues of $7 million, which the company says was "well within" its estimates. Analysts expect New York Air to report a small operating profit by yearend.

Making money at the upstarts' cutrate fare levels will be tougher for the older carriers, several of which are less than robust financially to start with. Says Neil M. Effman, TWA's senior vice-president for airline planning: "These new airlines and their low fares won't destroy the entire industry. But unless we can get our act together and control our costs, there will be a danger."

The key to controlling costs is greater productivity, and the airlines are seeking it everywhere. They are improving the productivity of their planes by increasing capacity with newly designed seats. Fuel conservation is another target. "We have a very active program to get more oomph per Btu," says USAir's Colodny. Carriers are also improving materials management and inventory systems. And they are reequipping themselves with more-efficient aircraft, for delivery beginning in 1983.

Now the traditional airlines are turning to their workers and using the upstarts as a threat to try to wring productivity concessions from them. "The new point-to-point airlines represent a profound long-term threat to the job security of every airline employee," Crandall has told American's work force.

Management must share the blame with the big airline unions for the high salaries, big benefits, and rigid work rules at most trunk carriers. In the days of regulation, there was less incentive to hold the line on costs because increases were passed through to the consumer.

LOTS OF RENEGOTIATION

Management knows it cannot force wholesale salary reductions. Revising work rules is another matter. But winning back what was given away at the bargaining table—or, from labor's side, giving up what was won—is not easy. And it will be impossible if union leaders see this productivity push as just another negotiating tactic. The push is especially critical now because 66 union contracts are up for renegotiation this year. "In a perverse way, we're probably the best thing that's happened to Frank Borman [Eastern's president] in a long time," jokes New York Air's Meehan.

All the unions profess concern about the health of the big airlines, which furloughed some 15,000 employees last year. But they are not buying management's claims. "We pride ourselves on our ability to evaluate different conditions at different carriers," says Arthur Brennan, director of representation at the Air Line Pilots Assn. (ALPA).

Most union leaders would agree with William F. Genoese, top organizer for the airline division of the International Brotherhood of Teamsters, when he worries that airline managements are "scapegoating labor." A top official of the International Association of Machinists puts it more bluntly: "All the airlines are going to cry wolf at negotiations this year. If they are looking for big concessions, they are not going to get them from this union."

Among the main issues for the carriers are the use of part-time ticket agents during such heavy seasons as Christmas and Easter, reduction of the number of pilots in new twin-jet airlines, and trimming the number of workers who walk a flight out to the runway.

Airline executives point to the example of Delta Air Lines Inc. to emphasize the importance of work rules. Delta, where only the pilots are organized, is the most profitable of the trunk carriers: It earned $93.2 million on

revenues of $3 billion last year. Eastern, by contrast, lost $17.4 million on revenues of $3.5 billion. Says Robert Oppenlander, Delta's senior vice-president for finance: "We don't have any advantage in pay scales. The plus element in our equation is the work rules."

Other carriers are now pushing for work rules similar to Delta's. Their problem is to persuade labor that higher productivity is essential to meet the new competition and preserve jobs.

Thus far the airlines are losing the battle. American Airlines failed to get its unit of the Transport Workers Union to agree to use part-time workers in some jobs. Borman asked Eastern's workers to agree to 37 specific "productivity improvement prospects" in return for job guarantees; the unions are still talking, but no one is sanguine about the outcome. Workers at Western Airlines Inc. turned a deaf ear to management's request for a one-year pay freeze.

But unions are not always adamant. When convinced that management is not crying wolf, they will cooperate, usually with the pilots in the forefront. Not all unions can bargain with the flexibility of the highly paid pilots, however.

Reducing cockpit crews from three to two on new-generation aircraft remains a critical issue. "That third pilot burns up 3.5 percent to 4 percent of an airline's direct operating costs," says John M. Swihart, vice-president for domestic sales at Boeing Commercial Airplane Co.

Three in the cockpit of its smaller 737s at ALPA's insistence led United Airlines Inc. two years ago to announce a phase out of all of its 737 services. CAB figures show it costs United nearly $53 to fly a passenger 300 mi. in a 737 vs. about $45 for Piedmont, using two pilots, and only $22 for Southwest Airlines.

But in mid-May, United changed course. Now it says it will keep its fleet of 49 737s, stuff more seats into them, and throw them into competition against cut-rate carriers in some of its important short-haul markets.

Many had questioned the wisdom of United's decision to abandon so many of its short-haul services (BW—Aug. 18), because controlling the traffic flow to a hub-and-spoke operation is critical to a full-service airline's success. "The future is feed," says Julius Maldutis, vice-president at Salomon Bros. "Controlling traffic flow will determine profitability for the full-service airlines. Giving away that control will come back to haunt the airlines that do it."

Other trunk carriers are going their own way, nonetheless. "If we find up-starts hurting us in dense markets where we don't have to be, we'll just drop those routes," says Crandall, who pulled American out of New York-Boston and New York-Washington early this year and is dropping New York-Cleveland and New York-Louisville on June 11. Adds TWA's Effman: "We are not a major factor in high-density, short-haul markets. We give them the local markets and stress hub-and-spoke operations. What we're looking for is the guy who's going beyond."

EPHEMERAL LOYALTIES

In a sense the trunks have little choice. They have huge investments in baggage-handling equipment, reservations systems, airport terminals, and other assets that cannot be abandoned. And they are saddled with huge fleets of the jumbo jets and wide-bodies they bought to service the long-haul routes that were allocated to them under regulation.

Veteran airline executives insist that travelers, especially business travelers, would rather fly with a traditional airline than experiment with a new one if given an equal choice. That may be a comforting thought, but the evidence shows that passenger loyalties are ephemeral. Already the three upstarts aloft are flying at least half full and, in some cases, closer to 70 percent. They have forced the airline industry into a new structure offering a variety of services to the flying public. Passengers are delighted at having the opportunity to choose. And if the experience of their role model, Southwest Airlines, is any guide, this is just the beginning.

SENATOR JENNINGS RANDOLPH SPEAKS ON SYNFUELS

Mr. PERCY. Mr. President, last April our distinguished colleague from West Virginia, Senator JENNINGS RANDOLPH, led an American delegation to the Agri-Energy Roundtable meeting in Geneva, Switzerland, for discussions on issues affecting world food and energy production.

The Geneva meeting brought together corporate, government, and academic leaders from the industrialized nations and the energy-surplus developing countries for an exchange of ideas on cooperative approaches to solving the global food/energy dilemma.

JENNINGS RANDOLPH has long been a strong advocate for energy self-reliance and a leader in attempting to develop the dialog on these issues between the nations of the world.

Joining with Senator RANDOLPH in the mission to Geneva were: Dr. Armand Hammer of Occidental Petroleum, our former colleague Adlai Stevenson, and Mr. Warren Lebeck of the Chicago Board of Trade.

Mr. President, I ask unanimous consent that Senator RANDOLPH's excellent thought-provoking remarks before the Agri-Energy Roundtable meeting in Geneva on April 27, 1981, entitled "Synfuels—Future Conflict or Cooperation," be inserted in the RECORD.

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

SYNFUELS—FUTURE CONFLICT OR COOPERATION?

Excellencies, distinguished guests, ladies and gentlemen. This conference is focusing on some of the most vital subjects of our time—at a critical juncture in history. We gather in "The City of International Peace," and counsel with you at this Agri-Energy Roundtable.

This is an excellent site for our gathering. It is a friendly atmosphere conducive to developing useful dialogue. I come from "The Mountain State" in America—West Virginia, I feel particularly at home looking out at these majestic mountains and fertile valleys.

Our remarks today, "Synfuels—Future Conflict or Cooperation?" bear at the heart of the issue: interdependence versus self-sufficiency. Can we find ways to cooperate and seize the opportunities of energy development and resource management? or, are we—the industrialized, energy-importing nations and the OPEC countries on a destructive collision course where our relations will be marked by confrontation and disharmony?

The answers to these questions and how we choose to direct our decisions will have a strong impact on successful international economic peacekeeping for decades to come.

Permit me to do a bit of reminiscing . . . to turn back the clock . . .

Historically, the world has experienced several transitions in energy supply and source. Each time energy became cheaper, cleaner and more abundant—contributing to major strides in economic development. Today, we are in a different kind of transition—moving into an era of higher-cost energy. Production levels of non-renewable, traditional fuels—mainly petroleum—are no longer guaranteed or even likely due to shrinking reserves. We are on the threshold of a new era—where alternate energy sources, "synfuels," must play a vital role if together we are to maintain and develop the world's economic base, particularly in the areas of food and energy production.

As a longtime advocate of America's potential in alternate fuel production, I remember our early technology successes with synfuel development. In November 1943, I flew from Morgantown, West Virginia, to Washington, D.C., in an airplane powered by high-grade synthetic gasoline produced from coal. This experimental project and others designed to produce gasoline for automobiles were sparked by World War II and a decrease in the discovery of domestic oil.

I remember our first congressional hearings, in 1942, which reawakened American interest in securing oil and gasoline from sources other than petroleum. As a result, in 1943, Senator Joseph O'Mahoney (D-Wyoming) and I cooperated and introduced legislation to develop and operate fuel plants designed to produce synthetic liquid fuels from coal and other substances. On April 5, 1944, President Franklin D. Roosevelt signed this legislation into law which mandated demonstration programs for the production of ethanol, methanol and other liquid fuels from coal, agricultural products and oil shale.

During the war, three new grain alcohol plants were constructed to support our synthetic rubber effort and, by 1944, the U.S. was producing 600 million gallons of ethanol—100 million more than our recent Department of Energy projection for 1980.

Of course, we were not alone in synfuel development which was particularly advanced in Germany. However, with the war's end—plentiful, low-cost petroleum production surged—thus, reducing the pressure for synfuel development which quickly became suspended.

Since 1973–74 with the first, dramatic oil price increases to the present, the world has slowly begun to face the reality of a new era—and end to cheap, plentiful fuel and a corresponding need to find new sources. The implications of this era of higher energy costs—have not been fully gauged. But, it is safe to say that we are all in this "white water" transition together. It reminds me of the group rafting on some of the wild, uncharted river rapids of my native West Virginia. We must keep our heads clear and paddle together to avoid the rocks and waterfalls. It is in all our economic interests to moderate the shocks of the transition—to buy time for our economies to adjust and absorb the changes.

It is for primarily this reason that I support the Agri-Energy Roundtable concept of cooperative dialogue and information sharing—looking toward world food and energy production.

The connection between synfuels—one form of which is ethanol production from agricultural commodities—and our cooperative food/energy theme is vital. As we plunge into this new area of scarcity and alternate fuels, we must view the world's energy and agricultural economies as a single, interrelated system—with the energy side dangerously burdened by its emphasis on the Arabian Gulf. On the food side we share a collective interest in alleviating the enormous pressures brought on the poorer countries by declining agricultural production. This is in our best strategic, as well as humanitarian, interests—since stagnant economies become quickly destabilized—affecting entire regions.

Even in the rapidly developing economies of the energy-surplus, OPEC countries—where food production is a priority, we have a unique opportunity through en-

lightened technology transfer, equipment installation and farm management and training to stimulate new agricultural breadbaskets.

To succeed, this endeavor will depend on a climate of good will and cooperation engendered by natural trust, respect and dialogue.

So, what about the opportunities and realities of our current situation?

Today, in the United States there is a strong national revitalization underway. We are witnessing a return of confidence, of Yankee "can-do" ingenuity. Other countries can sense this spirit and there is strong, new investment moving into the United States. In the synfuel development arena, foreign investment has contributed a significant sum thus far in our Morgantown, West Virginia, SRC–II demonstration project. This plant will convert coal into synthetic crude oil for refining into gasoline, diesel and boiler fuel producing the equivalent of 20,000 barrels of oil a day. It will also employ over 400 West Virginians.

I would predict considerable additional opportunities for productive investment in synfuels. Despite the Reagan Administration's announced budget cutbacks in research and development, our commitment to synfuels will gather momentum as the private sector seizes the potentials created by market forces. And, just as in past eras of economic development, foreign investment will perform a necessary role. I believe it is in our best interests to accelerate synfuels development and we should welcome all cooperative ideas in this direction.

As we turn our attentions to working together to moderate the shocks of this era of transition, we have a common interest in exchanging our technology, human and financial resources. On the "agri-energy" theme, we will work with friendly OPEC countries in developing their agricultural production while seeking other cooperative approaches in energy and toward the developing countries. In this period our commitment to alternate fuels and conservation will need the cooperation and understanding of oil-producing countries to succeed and cushion the shocks. We must work to reduce inflation. Traditional energy production levels should be maintained—with price increases moderated—as we all adjust our economies.

We stand today at a turning point in civilization. The choice is ours. One hundred years from now—with a cooperative blend of resources and technology—many arid regions of our world could be green, food-producing and peaceful. New agricultural breadbaskets could be making famine obsolete and the world's industrial machine could be powered on cleaner-burning, renewable fuels.

As Daniel Webster, our famous statesman/orator, said in 1849:

"When tillage begins, other arts follow. Farmers, therefore, are the founders of human civilization."

Another source added:

"There's only one way to get rich farming, and that's to sell your corn as whiskey; your potatoes as vodka; your barley as beer; your fruit as brandy; your sorghum as rum."

But, I do know that the doctor heals, the lawyer pleads and the miner follows precious leads. But, this or that, what ere befall, the farmer he must feed them all.

It is gratifying that you, as agribusiness and energy leaders and policy makers, have come together to seek positive, action-oriented solutions and well-reasoned understanding on the agri-energy relationships. It is the mark of the private sector to shape this innovative and constructive effort—and you can be certain of my continued cooperation and enthusiastic encouragement of this crusade in the building of a better world.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:19 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3982) to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the entire bill and Senate amendment: Mr. JONES of Oklahoma, Mr. MINETA, Mr. SOLARZ, Mr. PANETTA, Mr. GEPHARDT, Mr. ASPIN, Mr. LATTA, Mr. REGULA, Mr. SHUSTER, and Ms. FIEDLER.

From the Committee on Agriculture, solely for consideration of title I; sections 7001(12), 7002(10), 7003(9), 8002, 5112, 8007, and 15452 of the House bill, and title I (except part G), title V, subtitle B, section 1117(e), and title VI, subtitle B, part B of the Senate amendment: Mr. DE LA GARZA, Mr. FOLEY, Mr. JONES of Tennessee, Mr. BROWN of California on all matters except as listed below, Mr. BOWEN, Mr. RICHMOND, Mr. ROSE in lieu of Mr. BROWN of California on sections 1027 and 1029 of the House bill and section 112 of the Senate amendment, Mr. WEAVER in lieu of Mr. BROWN of California on sections 1015 and 8002 of the House bill and sections 511–513, 516–519 of the Senate amendment, Mr. HARKIN in lieu of Mr. BROWN of California on section 1021 of the House bill, and in lieu of Mr. BOWEN on sections 1001–1014, and 15452 of the House bill and sections 151–169 of the Senate amendment, Mr. WAMPLER, Mr. FINDLEY on all matters except as listed below, Mr. JEFFORDS on all matters except as listed below, Mr. HAGEDORN on all matters except as listed below, Mr. THOMAS in lieu of Mr. FINDLEY on sections 1015, 7001–7003 of the House bill, and sections 131–133 of the Senate amendment, and in lieu of Mr. JEFFORDS on sections 1023–1026, and 1029 of the House bill and section 111 of the Senate amendment, Mr. HOPKINS in lieu of Mr. JEFFORDS on sections 1027 and 1029 of the House bill and section 112 of the Senate amendment, Mr. COLEMAN in lieu of Mr. HAGEDORN on sections 1001–1014, and section 15452 of the House bill and sections 151–169 of the Senate amendment, and Mr. MARLENEE in lieu of Mr. HAGEDORN on sections 1015 and 8002 of the House bill and sections 511–513 and 516–519 of the Senate amendment.

From the Committee on Armed Services, solely for consideration of title II of the House bill, and title II of the Senate amendment: Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. WHITE, Mr. NICHOLS, Mr. BRINKLEY, Mr. DICKINSON, Mr. WHITEHURST, Mr. SPENCE and Mr. MITCHELL of New York.

From the Committee on Banking, Finance and Urban Affairs, solely for consideration of titles III and VI, subtitles B of the House bill, and title III (except part B), title V, subtitle E of the Senate amendment: Mr. ST GERMAIN, Mr. REUSS, Mr. GONZALEZ, Mr. MINISH, Mr. ANNUNZIO, Mr. MITCHELL of Maryland, Mr. STANTON of Ohio, Mr. WYLIE, Mr. MCKINNEY, and Mr. EVANS of Delaware.

From the Committee on the District of Columbia, solely for consideration of title IV of the House bill, and section 904 of the Senate amendment: Mr. DELLUMS, Mr. FAUNTROY, Mr. MAZZOLI, Mr. LELAND, Mr. GRAY, Mr. DYMALLY, Mr. MCKINNEY, Mr. PARRIS, Mr. BLILEY, and Mrs. HOLT.

From the Committee on Education and Labor, solely for consideration of sections 5101, 5104, 5105, 5109, 5113, 5117, 5120, 5121, 5122, 5124, 5125, 5126, 5130, 5132, 5140, 5143, 5211(2), 5211(3), 5211(4), 5211(5), 5211(6), 5211(7), 5211(8), 5211(9), 5211(10), 5211(11), 5211(12), 5341–5376, 5441–5447 of the House bill; and sections 1111, 1112, 1113, 1115, 1116, 1117(a), 1117(i), 1117(j), 1119, 1120–1, 1121, 1123–7 of the Senate amendment: Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS, Mr. MILLER of California, Mr. CORRADA, Mr. KILDEE, Mr. ASHBROOK, Mr. GOODLING, Mr. ERLENBORN, and Mr. JEFFORDS.

For consideration of sections 5391–5398 of the House bill: Mr. PERKINS, Mr. PHILLIP BURTON, Mr. MILLER of California, Mr. MURPHY, Mr. WILLIAMS of Montana, Mr. RATCHFORD, Mr. ASHBROOK, Mr. ERLENBORN, Mrs. FENWICK, and Mr. JOHNSTON.

For consideration of sections 5103, 5106, 5107, 5108, 5110, 5114, 5115, 5116, 5118, 5119, 5123, 5128, 5135, 5139, 5140, 5142, 5144, 5211(1), 5211(13), 5211(14), 5211(17), 5211(18), 5211(19), 5211(20), 5211(21) of the House bill; and sections 1117(g), 1131–1, 1133–1—1136–1, 1152, 1161–1164 of the Senate amendment: Mr. PERKINS, Mr. HAWKINS, Mr. CLAY, Mr. BIAGGI, Mr. ANDREWS, Mr. MURPHY, Mr. ASHBROOK, Mr. JEFFORDS, Mr. ERDAHL, and Mr. PETRI.

For consideration of sections 5102, 5111, 5127, 5129, 5131, 5134, 5136, 5137, 5138, 5211(15), 5211(16), 5631–5643 of the House bill; and sections 1114, 1117(b), 1117(c), 1117(d), 1117(e), 1117(f), 1118, 1120 of the Senate amendment: Mr. PERKINS, Mr. FORD of Michigan, Mr. SIMON, Mr. WEISS, Mr. PEYSER, Mr. ECKART, Mr. ASHBROOK, Mr. COLEMAN, Mr. ERLENBORN, and Mr. DENARDIS.

For consideration of title V, subtitle C, chapter 2, subchapter A, sections 5611–5625 of the House bill; and title I, part G

of the Senate amendment: Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS, Mr. MILLER of California, Mr. CORRADA, Mr. KILDEE, Mr. ASHBROOK, Mr. GOODLING, Mr. JEFFORDS, and Mr. CRAIG.

For consideration of section 5133, subtitle C, chapter 1, subchapter E of the House bill; and title X, section 1002 of the Senate amendment: Mr. PERKINS, Mr. ANDREWS, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. WASHINGTON, Mr. ASHBROOK, Mr. PETRI, Mr. COLEMAN, and Mr. BAILEY of Missouri.

For consideration of sections 1104–5(a)(2), 1104–5(b)(9), 1101–8 (16), (17), (18), (19) of the Senate amendment: Mr. PERKINS, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. MILLER of California, Mr. MURPHY, Mr. KOGOVSEK, Mr. ASHBROOK, Mr. ERLENBORN, Mr. KRAMER, and Mrs. FENWICK.

For consideration of sections 5311–5328 of the House bill: Mr. PERKINS, Mr. ANDREWS, Mr. BIAGGI, Mr. MURPHY, Mr. CORRADA, Mr. WILLIAMS of Montana, Mr. ASHBROOK, Mr. PETRI, Mr. ERLENBORN, and Mr. ERDAHL.

For consideration of sections 5411–5421, 15427–15429, and title XV, subtitle C, chapter 4 of the House bill; and sections 1132–1—1132–11, section 757–759, and title XI, part D, subpart 2 of the Senate amendment: Mr. PERKINS, Mr. HAWKINS, Mr. CLAY, Mr. ANDREWS, Mr. CORRADA, Mr. WILLIAMS of Montana, Mr. ASHBROOK, Mr. JEFFORDS, Mr. PETRI, and Mrs. ROUKEMA.

From the Committee on Energy and Commerce, solely for consideration of subsection 3110(d), titles VI, V, subtitle C, chapter 1, subchapters A and D; title XV, subtitle C, chapters 4 and 5; and sections 8004, 8005, 8009, 8010, 10003, 15600, 15602, 15614–15616, 15622–15624, 15631–15634, 15636, 15641, 15642, 15651, 15643–15645, 15647–15649 of the House bill, and title XI, part D, subparts 2 and 3, title XI, part E, title IV, parts A, B, and E, sections 421–423, and 427, title V, subtitle D, part 3, title VII, parts C, D, and I, section 1163, title XI, part A (except sections 1104–5(a)(2) and 1101–12), title V, subtitle G, sections 622, 711, 712, 714–716, 718–720, 720A–720H, and 729, title V, subtitle B, part 2; and such portions of title V, subtitle D, parts 1 and 2 as fall within the jurisdiction of the Committee on Energy and Commerce of the Senate amendment: Mr. DINGELL, Mr. OTTINGER, Mr. WAXMAN, Mr. WIRTH, Mr. SHARP, Mr. FLORIO, Mr. SCHEUER, Mr. MOFFETT, Mr. BROYHILL, Mr. BROWN of Ohio, Mr. COLLINS of Texas, Mr. LENT, Mr. MADIGAN, and Mr. MOORHEAD.

From the Committee on Foreign Affairs, solely for consideration of that portion of section 1015 entitled "International Programs" (page 12, lines 32–41, House engrossed bill), and title VII of the House bill, and titles VIII and I, part D of the Senate amendment: Mr. ZABLOCKI, Mr. FOUNTAIN, Mr. FASCELL, Mr. ROSENTHAL, Mr. HAMILTON, Mr. BINGHAM, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. FINDLEY, and Mr. WINN.

From the Committee on Government Operations, solely for consideration of title XVI of the House bill, and sections 905 and 906 of the Senate amendment: Mr. BROOKS, Mr. FOUNTAIN, Mr. FASCELL, Mr. ROSENTHAL, Mr. FUQUA, Mr. CONYERS, Mr. HORTON, Mr. ERLENBORN, Mr. BROWN of Ohio, and Mr. MCCLOSKEY.

From the Committee on Interior and Insular Affairs, solely for consideration of title VIII, and section 6101 of the House bill, and title V, subtitle A, subtitle B, part 1, subtitle C, subtitles F and H, and such portions of title V, subtitle D, parts 1 and 2 as fall within the jurisdiction of the Committee on Interior and Insular Affairs of the Senate amendment: Mr. UDALL, Mr. PHILLIP BURTON, Mr. KASTENMEIER, Mr. KAZEN, Mr. BINGHAM, Mr. SEIBERLING, Mr. LUJAN, Mr. YOUNG of Alaska, Mr. LAGOMARSINO, and Mr. MARRIOTT.

From the Committee on the Judiciary, solely for consideration of sections 13016 and 13017 of the House bill, and title X (except section 1002), and section 1137 of the Senate amendment: Mr. RODINO, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. SEIBERLING, Mr. DANIELSON, Mr. MAZZOLI, Mr. MCCLORY, Mr. RAILSBACK, Mr. FISH, and Mr. BUTLER.

From the Committee on Merchant Marine and Fisheries, solely for consideration of title XI, subtitle B, chapter 4, and title IX of the House bill, and sections 426 and 1101–4 of the Senate amendment; Mr. JONES of North Carolina, Mr. BIAGGI, Mr. BREAUX, Mr. D'AMOURS, Mr. HUBBARD, Mr. STUDDS, Mr. MCCLOSKEY, Mr. FORSYTHE, and Mr. PRITCHARD.

From the Committee on Post Office and Civil Service, solely for consideration of title X, sections 5397 and 15651 of the House bill, and sections 901–903 of the Senate amendment: Mr. FORD of Michigan, Mrs. SCHROEDER, Ms. FERRARO, Ms. OAKAR, Mr. CLAY, Mr. LELAND, Mr. DERWINSKI, Mr. TAYLOR, Mr. GILMAN, and Mr. CORCORAN.

From the Committee on Public Works and Transportation, solely for consideration of sections 8003, 8007, title IX, subtitle C, title XI, and the portions of section 6531 on page 349, lines 26–37 and on page 350, lines 9–11 and lines 16 and 17 of the House bill, and title V, subtitle C, title III, part B, title VI, subtitles A, B, C, D, E, and F, sections 424, 425, 427 and 431–437 of the Senate amendment: Mr. HOWARD, Mr. ANDERSON, Mr. ROE, Mr. LEVITAS, Mr. OBERSTAR, Mr. FARY, Mr. CLAUSEN, Mr. SNYDER, Mr. HAMMERSCHMIDT, and Mr. HAGEDORN.

From the Committee on Science and Technology, solely for consideration of title XII, section 6101 and the proviso in section 8004, lines 2–24 on page 381 of the House bill, and such portions of title V, subtitle D, parts 1 and 2 as fall within the jurisdiction of the Committee on Science and Technology of the Senate amendment: Mr. FUQUA, Mr. ROE, Mr. SCHEUER, Mr. HARKIN, Mrs. BOUQUARD, Mr. GLICKMAN, Mr. WINN, Mr. GOLDWATER, Mr. FISH, and Mr. LUJAN.

Solely for consideration of section 1101–12 of the Senate amendment: Mr. FUQUA, Mr. WALGREN, Mr. BROWN of California, Mr. SHAMANSKY, Mr. LUNDINE, Mr. WINN, Mrs. HECKLER, Mr. WEBER of Minnesota, and Mr. GREGG.

From the Committee on Small Business, solely for consideration of title XIII of the House bill, and title XII of the Senate amendment: Mr. MITCHELL of Maryland, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. GONZALEZ, Mr. LAFALCE, Mr. BEDELL, Mr. MCDADE, Mr. BROOMFIELD, Mr. MARRIOTT, and Mr. WILLIAMS of Ohio.

From the Committee on Veterans' Affairs, solely for consideration of title XIV of the House bill, and title XIII of the Senate amendment: Mr. MONTGOMERY, Mr. EDWARDS of California, Mr. MOTTL, Mr. EDGAR, Mr. SAM B. HALL, JR., Mr. LEATH of Texas, Mr. HAMMERSCHMIDT, Mrs. HECKLER, Mr. WYLIE, and Mr. SAWYER.

From the Committee on Ways and Means, solely for consideration of title XV; title V, subtitle C, chapter 1, subchapter A, title V, subtitle C, chapter 1, subchapter D, section 10003, title VI, subtitle D, chapter 11, subchapters B and C, and section 6212 of the House bill, and title VII, parts A, B, E, F, G, H, I, and J, and title XI, part D, subparts 2 and 3 of the Senate amendment: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. FORD of Tennessee, Mr. CONABLE, Mr. DUNCAN, Mr. ARCHER, and Mr. VANDER JAGT.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1003. An act to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1982 and 1983.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1309. An act to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, for the purpose of assisting these institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for research in the food and agricultural science;

H.R. 2903. An act to extend by 1 year the expiration date of the Defense Production Act of 1950;

H.R. 3454. An act to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes; and

H.R. 3975. An act to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 31. An act to amend the Truth in Lending Act to encourage cash discounts, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 1309. An act to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, for the purpose of assisting these

institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for research in the food and agricultural science; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3975. An act to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits; to the Committee on Energy and Natural Resources.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read by unanimous consent, and placed on the calendar:

H.R. 2903. An act to extend by one year the expiration date of the Defense Production Act of 1950;

H.R. 3454. An act to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes; and

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–1579. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for July 1981; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC–1580. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on the President's tenth special message for fiscal year 1981 under the Impoundment Control Act of 1974; pursuant to the order of January 30, 1975, jointly referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Labor and Human Resources.

EC–1581. A communication from the Acting Assistant Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, regulations for administering the Coastal Zone Management Act of 1972, as amended; to the Committee on Commerce, Science, and Transportation.

EC–1582. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the prior sixty day period; to the Committee on Foreign Relations.

EC–1583. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the Fiscal Year 1980 Report on the Records Disposition Activities of the Federal Government; to the Committee on Governmental Affairs.

EC–1584. A communication from the Chairman of the United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Equal Opportunity In The Foreign Service"; to the Committee on the Judiciary.

EC–1585. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of the review of the Department of Health and Human Services on the issues regarding the export of infant formula that would not meet current domestic standards; to the Committee on Labor and Human Resources.

EC–1586. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the review by the Department of Health and Human Services of existing Federal requirements for the labeling of infant formula to determine the effect of such requirements on infant nutrition and proper use of infant formula; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

Treaty Doc. 97–13. Treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges (Ex. Rept. 97–15).

By Mr. PERCY, from the Committee on Foreign Relations:

Vernon A. Walters, of Florida, to be Ambassador at Large:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Vernon A. Walters.

Post: Ambassador-at-Large.

Contributions, amount, date, donee:

1. Self: $1,500.00, March 1980, Center for a Free Society, Inc.

2. Spouse: None, $250.00, 1980, Republicans of Palm Beach, Fla.

3. Children and Spouses Names: None.

4. Parents Names: None.

5. Grandparents Names: None.

6. Brothers and Spouses Names: Frederick and Virginia Walters, Vincent and Sheri Walters, None, $500.00, during last 4 years, various Republican Organizations.

7. Sisters and Spouses Names: Laureen and Franco Masini, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

VERNON A. WALTERS.

Richard L. Walker, of South Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Korea:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard L. Walker.

Post: Ambassador to Republic of Korea.

Contributions, amount, date, donee:

1. Self and 2. spouse: $80, 1977; $60, 1978; $75, 1979; $70, 1980; Republican Party.

3. Children and spouses—names: None.

4. Parents—Names: Robert S. Walker, $50 per year each year to the Republican Party.

5. Grandparents—Names: None.

6. Brothers and spouses—Names: Col. and Mrs. Robert S. Walker, Jr., none.

7. Sisters and spouses—Names: Dr. and Mrs. Bryan P. Warren, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

RICHARD L. WALKER.

William Lacy Swing, of North Carolina, a Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Liberia:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William Lacy Swing.

Post: Ambassador to the Republic of Liberia.

Contributions, amount, date, donee:

1. and 2. Self and spouse. None except the $1 annual contribution to Presidential Election Campaign Fund provided for on Form 1040 (US Individual Income Tax Return), which I made in 1980 and 1979 but not in 1978. I am unmarried.

3. Children and Spouses—Names: Brian Curtis Swing, 18, no contributions of which I am aware.

4. Parents—Names: Baxter Dermot Swing, none. Mary Frances Swing (nee Barbee), none.

5. Grandparents—Names: Mrs. James R. Swing (nee Sowers), none of which I am aware.

6. Brothers and spouses—Names: James B. Swing, none of which I am aware. Arlene Swing (nee Lashmidt), none of which I am aware.

7. Sisters and spouses—Names: Lawrence Leonard, none of which I am aware. Anna Leonard (nee Swing), $7 National Republican Senatorial Committee (1977); $2, National GOP Campaign Committee (1977). Probably similar amounts in subsequent years.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM LACY SWING.

Edward L. Rowny, of Virginia, to be Special Representative for Arms Control and Disarmament Negotiations, and to have the rank of Ambassador while so serving.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edward L. Rowny.

Post: Special Representative for Arms Control and Disarmament Negotiations.

Contributions, amount, date, donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses—Names: Son Michael and his wife Melissa: $200.00, December 1979, Democratic Primary Committee; $2000.00, September 1980, Democratic National Committee. Daughter Marcia Jordan and her husband Charles; son Peter Rowny and his wife Sheila; Son Paul Rowny and his wife Nora; Son Michael Rowny and his wife Melissa (see above); son Grayson John. (Except for Michael and Melissa Rowny, my children and their spouses made no contributions.)

4. Parents—Names: G. John and Mary Rowny, $100.00, April 15, 1978, Congressman Jack Kemp.

5. Grandparents—Names: None.

6. Brothers and Spouses—Names: Brother Carroll and his wife Bernadine Rowny, None.

7. Sisters and Spouses—Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these per-

sons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

EDWARD L. ROWNY.

Julius Waring Walker, Jr., of Texas, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Upper Volta:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Julius Waring Walker, Jr.
Post: Ambassador, Upper Volta.
Contributions, amount, date, donee:
1. Self: None.
2. Spouse: None.
3. Children and Spouses—George J. S., none; Names: Savannah Waring, none; Lucile Lenore, none.
4. Parents—Names: Lucile Hill Walker, none.
5. Grandparents—Names: Deceased.
6. Brothers and Spouses—Names: None, I am an only child.
7. Sisters and Spouses—Names: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

JULIUS W. WALKER.

Parker W. Borg, of the District of Columbia, s Foreign Service Officer of Class two, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Mali:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Parker W. Borg.
Post: Bamako.
Contributions, amount, date, donee:
1. Self: $50, April 25, 1979; $25, May 15, 1978; $25, March 13, 1977; $25, October 17, 1976; Democratic National Committee.
2. Spouse: None.
3. Children and Spouses—Names: None.
4. Parents—Names: Mr. and Mrs. Lloyd E. Borg, none.
5. Grandparents—Names: Deceased.
6. Brothers and Spouses—Names: None.
7. Sisters and Spouses—Names: Leslie Conway (separated), none; Merrily Babcock (separated), none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

PARKER W. BORG.

H. Monroe Browne, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to New Zealand, and to serve concurrently, and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to Western Samoa:

Contributions are to be reported for the period begining on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: H. Monroe Browne.
Post: Ambassador, New Zealand.
Nominated: March 24, 1981.
Contributions, (if none, write none) amount, date, donee:
1. Self: $1,000, 1979–80, Ronald Reagan.
2. Spouse: $500, 1980, Ronald Reagan.
3. Children and Spouses—Names: Elizabeth Ann Denny, none; Richard Browne, none; David Browne, none.
4. Parents—Names: Mrs. Ruth A. Browne, none.
5. Grandparents—Names: None.
6. Brothers and Spouses—Names: None.
7. Sisters and Spouses—Names: Mr. and Mrs. M. M. Ackerman, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

H. MONROE BROWNE.

Richard D. Erb, of Virginia, to be United States Executive Director of the International Monetary Fund for a term of two years.

The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1982.

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. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. CANNON, Mr. LAXALT, Mr. DECONCINI, Mr. RANDOLPH, Mr. INOUYE, Mrs. HAWKINS, Mr. METZENBAUM, Mr. PELL, Mr. HATFIELD, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. DENTON, and Mr. MATHIAS):

S. 1483. A bill to amend title 28, of the United States Code to make the United States liable for damages to certain individuals, to certain unanium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada Test Site or employment in a uranium mine, and for other purposes; to the Committee on Judiciary and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. WARNER (for himself, Mr. MCCLURE, and Mr. WALLOP):

S. 1484. A bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 1485. A bill to amend the Revenue Act of 1978 to provide that, with respect to the amendments allowing the investment tax credit for single purpose agricultural or horticultural structures, credit or refund shall be allowed without regard to the statute of limitations for certain taxable years to which such amendments apply; to the Committee on Finance.

By Mr. MITCHELL:

S. 1486. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide compensation for medical expenses caused by hazardous substance releases, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOREN (for himself, Mr. COHEN, Mr. KASTEN, Mr. PRESSLER, Mr. STEVENS, Mr. HELMS, Mr. BAUCUS, Mr. LUGAR, Mr. PELL, Mr. COCHRAN, Mr. WILLIAMS, Mr. GOLDWATER, Mr. SCHMITT, Mr. DIXON, Mr. RIEGLE, Mr. SYMMS, and Mr. BENTSEN):

S. 1487. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

By Mr. HART:

S. 1488. A bill to amend the Atomic Energy Act of 1954 to condition the license the export of certain nuclear equipment and material to certain countries only on their agreement not to obtain access to separated plutonium, and for other purposes; to the Committee on Foreign Relations.

By Mr. BAUCUS:

S. 1489. A bill to direct the Department of the Interior to conduct certain studies related to the Muddy Creek special water quality project; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 1490. A bill to amend the authorization of the demonstration project at Broadway Lake, S.C.; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. CRANSTON, Mr. DANFORTH, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. HATFIELD, Mr. HEINZ, Mr. HUDDLESTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. LUGAR, Mr. MELCHER, Mr. MITCHELL, Mr. PELL, Mr. PERCY, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. SPECTER, Mr. STAFFORD, Mr. TSONGAS, and Mr. INOUYE):

S.J. Res. 98. Joint resolution to authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day"; to the Committee on the Judiciary.

JOINT REFERRAL OF S. 1483—RADIATION EXPOSURE COMPENSATION ACT OF 1981

Mr. BAKER. Mr. President, I ask unanimous consent that S. 1483, a bill entitled "Radiation Exposure Compensation Act of 1981," be jointly referred to the Committee on Labor and Human Resources and the Committee on the Judiciary.

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. CANNON, Mr. LAXALT, Mr. DECONCINI, Mr. RANDOLPH, Mr. INOUYE, Mrs. HAWKINS, Mr. METZENBAUM, Mr. PELL, Mr. HATFIELD, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. DENTON, and Mr. MATHIAS):

S. 1483. A bill to amend title 28, of the United States Code to make the United States liable for damages to certain individuals, to certain uranium miners, and to certain sheep herds, due to certain nuclear tests at the Nevada test site or employment in a uranium mine, and for other purpose; by unanimous consent, referred jointly to the Committee on Labor and Human Resources and the Committee on the Judiciary.

RADIATION EXPOSURE COMPENSATION ACT OF 1981

(The remarks of Mr. HATCH on this legislation appear earlier in today's RECORD.)

By Mr. WARNER (for himself, Mr. McCLURE and Mr. WALLOP):

S. 1484. A bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act; to the Committee on Energy and Natural Resources.

NATIONAL OIL SHALE LEASING ACT OF 1981

(The remarks of Mr. WARNER on this legislation appear earlier in today's RECORD.)

By Mr. ROTH:

S. 1485. A bill to amend the Revenue Act of 1978 to provide that, with respect to the amendments allowing the investment-tax credit for single purpose agricultural or horticultural structures, credit or refund shall be allowed without regard to the statute of limitations for certain taxable years to which such amendments apply; to the Committee on Finance.

INVESTMENT-TAX CREDIT FOR POULTRY HOUSES

● Mr. ROTH. Mr. President, I am today introducing a bill which is a technical amendment to section 314 of the Revenue Act of 1978 as it relates to certain agricultural or horticultural structures. This legislation will clarify what Congress thought was its clear intent in making available the investment-tax credit for chicken houses and greenhouses.

Congress enacted section 314 in order to clarify its intent and end years of costly court battles. In 1971, the Senate Finance Committee stated the restored investment-tax credit was to be allowed for the construction of special purpose agricultural structures. Despite this expression of intent, the Internal Revenue Service has continued to deny the investment-tax credit to poultry producers, even though numerous court decisions have ruled in favor of the producers.

Because Congress believed the credit had been unfairly denied to poultry farmers by the IRS contrary to congressional intent, the provision enacted in 1978 was made retroactive to August 15, 1971.

However, the IRS has taken the position that the investment tax credit will only be allowed retroactively to taxpayers who disputed the original IRS regulations. In other words, taxpayers who could not afford to fight the IRS and who filed returns according to the Service's interpretation of the 1971 law are now being penalized for following the laws and regulations.

I believe the IRS position is yet another example of law-abiding working Americans being denied equity by the system. The legislative intent of Congress is clear, the investment tax credit for poultry farmers is to "be effective for taxable years which end on or after August 15, 1971."

However, because section 6511 of the Internal Revenue Code limits refunds for credits to 3 years after the tax return is filed, many taxpayers are finding that they are only eligible for the tax credit for expenditures made after 1976.

The legislation I am introducing today would simply give all taxpayers the right to claim the investment tax credit for all taxable years beginning after August 15, 1971. It provides that credit or refund of the investment credit shall be allowed without regard to the statute of limitations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 314 of the Revenue Act of 1978 (relating to investment credit for certain single purpose agricultural or horticultural structures) is amended to read as follows:

"(c) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after August 15, 1971.

"(2) REFUND OR CREDIT.—If refund or credit of any overpayment of tax resulting from the amendments made by subsections (a) and (b) is prevented on the date of the enactment of this paragraph or at any time within one year after such date by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed within one year after such date of enactment."●

By Mr. MITCHELL:

S. 1486. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide compensation for medical expenses caused by hazardous substance releases, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL POISONING COMPENSATION ACT

● Mr. MITCHELL. Mr. President, I am today introducing legislation to redress the imbalance that currently exists in the "Superfund" hazardous waste law.

My bill will provide compensation to persons injured by toxic chemicals, relief that is not now available. The law passed last year by the Congress makes no provision for medical expenses incurred when human beings are harmed by hazardous substances, but permits recovery of expenses incurred when natural resources are damaged by those same substances.

Giving a higher priority to things than to people is misguided, inequitable, and unacceptable. Good health is irreplaceable. When one party acts in a way harmful to another's physical well-being, he should be held responsible for that harm.

Yet, in the law as it is now written, that is not the case. Not only is the guilty party held free from responsibility for taking away a person's health, but the law also does not provide any recourse to the industry-financed fund to compensate for health care.

But the law does place legal responsibility upon those who damage Federal or State natural resources with toxic chemicals. And the Federal and State Governments may also be compensated for damage to those natural resources should the legal process provide inadequate recovery.

Thus, we now have a law that elevates things above people. No longer can a victim of chemical poisoning seek from the fund out-of-pocket medical expenses for an illness resulting from the action or inaction of another party. Indeed, as to the fund, a guilty party can not be held accountable for any damage it has inflicted on a person.

Under the law now, if a toxic waste discharge injuries both a tree and a person, the tree's owner, if it is a government, can promptly recover from the fund for the cost of repairing the damage, but the person cannot. In effect, at least as to the superfund, it is all right to harm people but not trees.

My bill will redress the imbalance in the current law in two ways. First, any person whose health is damaged by exposure to a hazardous substance may recover his or her medical expenses from the "Superfund," which is financed primarily through a tax on those who make chemicals. This is an extension of the existing law which now permits recovery for the expense of cleaning up hazardous wastes and for demage to Federal and State natural resources. Without this source of compensation, an individual, made temporarily ill or permanently impaired by chemical exposure, is burdened with medical bills, because of the action of another party.

I ask my colleagues: To what higher use could this fund be put? What is more precious than good health? The answer of course, is nothing.

Second, any person harmed as a result of exposure to a hazardous substance will be given a cause of action against a responsible party. This is simply an extension of the cause of action provided in current law to pursue those who damage federally or State owned natural resources, and those who do not fulfill their legal responsibility to clean up releases of hazardous substances into the environment. Without this change in the law, persons whose health is impaired by these wastes must bear the financial burden of health care made necessary by circumstances out of their control.

When Congress enacted the existing law, it made the judgment that the judicial process may be inadequate, or too slow, or too expensive, for the recovery of cleanup costs, or for natural resource damages. If this is so with respect to the land and water, why is the status quo acceptable for recovery of damages to human health? I do not believe this is acceptable, and my amendments to the current law will address this serious shortcoming.

Mr. President, we should not delude ourselves that the hazardous waste prob-

lem is solved simply because we passed a law. Today there are as many dangerous dump sites, as many threatened water supplies, and as many people at risk as there were before the law was passed. We have just begun. And, until the law provides compensation for human beings, we have not yet begun to address the real tragedy of chemical poisons—injury to humans.

When the superfund law was passed by the Senate last year, I reminded this body that we were denying real individuals help. I quoted testimony from a distraught mother whose son is one of the human tragedies of Love Canal. That mother, Ann Hillis wrote to me recently to tell me more about her son. She said:

After over two years of unbelievable mental anguish and also fighting for what I thought were our Constitutional Rights, the right to live in a safe environment, our family has relocated to what we pray is a little better environment. But the anguish goes on, I smile and lead as normal a life as I can, but at times and in the quiet of the night I think about the lumps in my son's lymph glands, what are they? Why have they not gone away? I also think if he will have to forego the wonderment of siring and watching his own child grow, for he will have to make this decision, he has to think about the chromosome damage he may have.

My son has had too much physical, psychic trauma for his young years, but my child and all the others should have the right to know, the right to have testing, if they so wish.

As money prevented our leaving Love Canal in the early days of awareness, so does it prevent the testing and other help he may need.

Yes, I have a paranoia for my child and all the other children.

I cry for my earth, I cry for my Government, and most of all, I cry for the children, with as many as 50,000 waste dumps all over our land, I cry.

Mr President, the people who suffer now from exposure to these chemicals poisons have asked for our help. We have let them down once. We cannot let them down again.

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. 1486

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 "Environmental Poisoning Compensation Act."

SEC. 2. Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96–510) shall be amended by adding the following:

"(D) any out-of-pocket medical expenses, including diagnostic services, rehabilitation costs, and burial costs, for personal injury resulting from such a release".

SEC. 3. Section 107(c)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96–510) is amended by inserting before "shall not exceed" the following: "(other than for damages specified in subparagraph (D) of subsection (a) of this section)".

SEC. 4. Section 111(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96–510) is amended to read as follows:

"(b) Claims asserted and compensable but unsatisfied under provisions of section 311 of the Clean Water Act which are modified by section 304 of this Act, may be asserted against the Fund under this title. The following other claims resulting from a release or threat of release of a hazardous substance from a vessel or a facility may be asserted against the Fund under this title:

"(1) any out-of-pocket medical expenses, including diagnostic services, rehabilitation costs and burial costs;

"(2) any injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction or loss: *Provided,* That any such claim may be asserted only by the President, as trustee, or by any State for natural resources within the boundary of that State belonging to, managed by, controlled by, or appertaining to the State."

SEC. 5. (a) Section 101(6) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96–510) is amended by striking "injury" and inserting in lieu thereof "personal injury."

(b) Section 111(e)(2) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Public Law 96–510) is amended by striking "85" and inserting in lieu thereof "66⅔".

SEC. 6. Section 303 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96–510) is amended to read as follows:

"SEC. 303. Unless reauthorized by the Congress, the authority to collect taxes inferred by this Act shall terminate on September 30, 1985, or when the sum of the amounts received in the Response Trust Fund totals $3,000,000,000, whichever first occurs.●

By Mr. BOREN (for himself, Mr. COHEN, Mr. KASTEN, Mr. PRESSLER, Mr. STEVENS, Mr. HELMS, Mr. BAUCUS, Mr. LUGAR, Mr. PELL, Mr. COCHRAN, Mr. WILLIAMS, Mr. GOLDWATER, Mr. SCHMITT, Mr. DIXON, Mr. RIEGLE, Mr. SYMMS, and Mr. BENTSEN):

S. 1487. A bill to amend the tax laws of the United States to encourage the preservation of independent local newspapers; to the Committee on Finance.

INDEPENDENT LOCAL NEWSPAPER ACT OF 1981

● Mr. BOREN. Mr. President, over the past 30 years, a profound phenomenon has occurred in the ownership of newspapers in this country. While the number of daily newspapers has remained fairly constant, at 1,750, the growth of groups or chains has become predominant. Today, almost two-thirds of the daily newspapers are owned by chains and media conglomerates. More significant is the fact that these chains control more than 72 percent of all daily circulation. The four largest chains control 30 percent of the Nation's daily newspaper circulation, while the 25 largest chains control over 50 percent of all daily circulation. At present, there are just over 600 independently owned dailies left.

Why do the independents sell out? Obviously, the high prices are too great a temptation for some, and others find there is no interest in the next generation of their families to operate an independent newspaper. However, the most significant cause of sales to the chains may be found in the Federal estate tax laws. The Internal Revenue Services bases its valuation of an estate on the amount a willing buyer will pay a willing seller. Thus, while an independent newspaper owner may consider value to be 10 to 15 times earnings, the IRS must look to the amount a chain would pay for an independent, that is, 40 to 60 times earnings.

Here is an example. If a newspaper were earning $250,000 per year, its value to a chain might be as high as $12,500,000. The estate tax, at 70 percent, would be over $8.5 million. Should the heir to a newspaper seek to borrow such sums to pay estate taxes, the annual cost of interest on the loan would be more than three times the newspaper's earnings. Is it any wonder that the heirs must sell, or that an owner sells prior to death to put his estate in order?

The Independent Local Newspaper Act offers a novel approach to the estate tax problem. Rather than seek a lower tax rate for newspapers, or exemption or exclusions from the sums to be paid, the bill provides for a form of prepayment of the estate tax. This is to avoid the catastrophic situation now facing the heirs to a newspaper. This act would allow the owners of an independent newspaper to establish an advance estate tax payments trust, to be funded by corporate earnings with not more than 50 percent of pretax income of the newspaper in any year. The contributions to and income of the trust may be invested solely in obligations of the United States. Excess funding of the trust is expressly prohibited. The funds accumulated in the trust may be used only to pay the estate taxes of the owners of the newspaper.

This advance estate tax payment trust does offer major tax benefits to owners of independent newspapers. The funding is with pretax income of the newspaper, and sums in the trust are recognized that with a valuation of 40 to 60 times earnings, it will be difficult to fully fund the trust, and there must be an incentive for funding. However, if the owners of the newspapers having established such a trust sell their newspaper, the bill provides for penalties which would amount to some 118 percent of the funds in the trust. The bill also has a recapture provision should the heirs attempt to sell the newspaper after having benefited from the trust.

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. 1487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Independent Local Newspaper Act of 1981".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section

or other provision of the Internal Revenue Code of 1954.

(c) TABLE OF CONTENTS.—

TABLE OF CONTENTS

SEC. 2. CERTAIN ADVANCE ESTATE TAX PAYMENT TRUSTS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VIII—CERTAIN ADVANCE ESTATE TAX PAYMENTS TRUSTS

"SEC. 529. INDEPENDENT LOCAL NEWSPAPER ADVANCE ESTATE TAX PAYMENT TRUST.

"(a) Requirements for Qualification.—A trust created or organized in the United States for an individual has an interest in an independent local newspaper business shall constitute a trust qualified under this section if—

"(1) the trust is created pursuant to a plan adopted by such independent local newspaper business;

"(2) the plan adopted—

"(A) requires the creation of trusts conforming to the requirements of paragraph (3) for one or more individuals having an interest in such independent local newspaper business.

"(B) requires contributions to be made to such trusts by such independent local newspaper business during the period described in paragraph (3) (D) exclusively for the purpose described in paragraph (3) (F), and

"(C) limits the aggregate contributions to such trusts for any taxable year to 50 percent of the taxable income derived from the independent local newspaper business (determined as provided in subsection (e)); and

"(3) the written governing instrument creating each such trust meets the following requirements:

"(A) the contributions to and income of the trust will be invested solely in obligations of the United States except for cash on hand or in bank accounts pending such investment;

"(B) the trustee is a bank (as defined in section 401(d)(1)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section;

"(C) the assets of the trust will not be commingled with other property except in a common trust fund;

"(D) the contributions to the trust will be made exclusively by such independent local newspaper business during the lifetime of the individual for whom such trust is created, and after his death during the period (including any extension period) prior to payment of the tax imposed by section 2001;

"(E) the assets of the trust will be devoted exclusively to the prompt payment of the tax imposed by section 2001 which is attributable to the interest in such independent local newspaper business includable in the gross estate of such individual, except to the extent of any excess funding of the trust; and

"(F) any excess funding of the trust will be distributed to such individual if living or if deceased to his estate within 65 days of the determination of such excess funding.

"(b) LIMITATION.—In the case of an individual who has an interest in more than 1 independent local newspaper business, a trust qualified under this section may be created or organized only with respect to the interest in 1 (and not more than 1) such independent local newspaper business includable in the gross estate of such individual.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) INDEPENDENT LOCAL NEWSPAPER BUSINESS.—The term 'independent local newspaper business' means—

"(i) a proprietorship which publishes an independent local newspaper;

"(ii) a partnership which publishes an independent local newspaper and which has none of its outstanding partnership interests traded in an established securities market; or

"(iii) a corporation which publishes an independent local newspaper and which has none of its outstanding capital stock traded in an established securities market.

"(B) INTEREST IN AN INDEPENDENT LOCAL NEWSPAPER BUSINESS.—The term 'interest in an independent local newspaper business means—

"(i) the interest of the proprietor in a proprietorship described in subparagraph (A)(i) to the extent the value of such interest is attributable to the independent local newspaper published by such proprietorship;

"(ii) the interest of a partner in a partnership described in subparagraph (A)(ii) to the extent the value of such interest is attributable to the independent local newspaper published by such partnership; or

"(iii) the stock of a corporation described in subparagraph (A)(iii) to the extent the value of such stock is attributable to the independent local newspaper published by such corporation.

"(C) INDEPENDENT LOCAL NEWSPAPER.—The term 'independent local newspaper' means a newspaper publication which is not one of a chain of newspaper publications and which has all of its publishing offices (containing its principal editorial, reportorial, circulation, and business staff) in a single city, community, or metropolitan area, or, on January 1, 1981, within one State.

"(D) CHAIN OF NEWSPAPER PUBLICATIONS.—The term 'chain of newspaper publications' means 2 or more newspaper publications which are not published in a single city, community, or metropolitan area or, on January 1, 1981, within one State and are controlled, directly or indirectly, by the same person or persons.

"(E) EXCESS FUNDING.—The term 'excess funding' means the excess of the face value of the assets of a trust qualified under this section over—

"(i) 70 percent of the value of the interest in an independent local newspaper business which would be includable in the gross estate of the individual for whom such trust was created; or

"(ii) in the case of a decedent, the tax imposed by section 2001 which is attributable to the interest in an independent local newspaper business included in the gross estate of such decedent.

"(F) ATTRIBUTABLE ESTATE TAX.—The term 'the tax imposed by section 2001 which is attributable to the interest in an independent local newspaper business' means the excess of the tax imposed by section 2001 over the tax which would have been imposed if the interest in an independent local newspaper business had not been included in the gross estate of the decedent.

"(2) SPECIAL RULES.—For purposes of this subsection—

"(A) TIME FOR DETERMINATIONS.—Except as otherwise provided by subsection (d) or (g)—

"(i) in the case of an individual, all determinations shall be made as of December 31 of each calendar year, and

"(ii) in the case of a decedent, all determinations shall be made as of the time the tax imposed by section 2001 is finally determined.

"(B) CONTROLLED GROUP OF CORPORATIONS.—In applying paragraphs (1)(A)(iii), (1)(C), and (1)(D) of subsection (c), if a corporation is a member of a controlled group of corporations (as defined by section 1563 but substituting the phrase '50 percent' for the phrase '80 percent' each place appearing therein), the determination whether such corporation is publishing an independent local newspaper shall be made by treating all members of such controlled group as a single corporation.

"(C) VALUE ATTRIBUTABLE TO INDEPENDENT LOCAL NEWSPAPER.—In applying paragraph (1)(B)(ii) or (iii) of subsection (c), the determination of the value of an interest in a partnership or the stock of a corporation which is attributable to an independent local newspaper shall, except in the case of a decedent, be made by apportioning the net fair market value of such independent local newspaper (determined as a separate going business concern) proportionately among all the outstanding interests in such partnership or proportionately among all the outstanding shares of the capital stock of such corporation, as the case may be, except that the apportionment made to a partnership interest or corporate preferred stock possessing limited equity participation rights shall not exceed such limited equity participation rights.

"(D) CERTAIN INDIRECT INTERESTS.—In applying paragraph (1)(B) of subsection (c), if an individual is the grantor of a trust which holds an interest in an independent local newspaper business and is treated as the owner of such interest by section 671, or is the beneficiary of a trust which holds an interest in an independent local newspaper business and a deduction was allowed with respect to such interest by section 2056(a), such individual shall be treated as owning the interest held by such trust to the extent such interest is includable in the gross estate of such individual.

"(d) TAX TREATMENT OF QUALIFIED TRUST AND THE INDIVIDUAL FOR WHOM ESTABLISHED.—

"(1) EXEMPTION FROM TAX UNDER THIS TITLE.—

"(A) QUALIFIED TRUST.—Any trust qualified under this section is exempt from taxation under this title except to the extent otherwise provided by paragraph (2).

"(B) INDIVIDUAL FOR WHOM ESTABLISHED.—Except to the extent otherwise provided by paragraph (2), any individual for whom there is created a trust qualified under this section, and the estate of any such individual, is exempt from taxation under this title with respect to—

"(i) such trust and the contributions made to, the gross income earned by, and the payments of the tax imposed by section 2001 made by, such trust in accordance with its governing instrument, and

"(ii) the distributions, if any, made by the independent local newspaper business to any other person who has an interest in such independent local newspaper business on account of the contributions made to such trust.

Any other person who has an interest in such independent local newspaper business shall also be exempt from taxation under this title with respect to such trust (including the contributions to, gross income of, and payments made by such trust).

"(2) TERMINATION OF TAX EXEMPT STATUS.—

"(A) EVENTS CAUSING LOSS OF QUALIFICATION.—If a trust qualified under this section is not administered in conformity with any of the requirements specified in subsection (a) and the regulations prescribed by the Secretary to carry out the purposes of this section, then the trust shall cease to be exempt from taxation under this title and the assets of the trust shall be distributed to the individual by or for whom such trust was created if he is then living or if he is then deceased shall be distributed to his estate.

"(B) DISPOSITIONS AND OTHER EVENTS CAUSING EXCESS FUNDING.—If at any time—

"(i) any part of the interest in an independent local newspaper business is sold, exchanged, or otherwise disposed of (other than under the individual's will or applicable law of descent and distribution) or becomes traded in an established securities market, and such event results in the excess funding of a trust qualified under this section;

"(ii) the local independent newspaper ceases to be published or is sold or otherwise disposed of or ceases to qualify as a newspaper publication which is not one of a chain of newspaper publications; or

"(iii) there is for any other reason an excess funding of a trust qualified under this section;

then the amount of such excess funding shall be distributed to the individual for whom such trust was created if he is then living or if he is then deceased shall be distributed to his estate.

"(C) TAXATION OF DISTRIBUTED AMOUNTS.—

"(i) INDIVIDUAL.—Any amount distributed to the individual for whom such trust was created shall be included in the gross income of such individual for the taxable year of distribution.

"(ii) ESTATE.—Any amount distributed to the estate of a decedent shall be included in the gross income of the estate for the taxable year of distribution as an item of income in respect of a decedent subject to section 691, and shall be included in the decedent's gross estate in determining the tax imposed by section 2001.

"(e) TAX TREATMENT OF INDEPENDENT LOCAL NEWSPAPER BUSINESS.—

"(1) DEDUCTION FOR CONTRIBUTIONS.—Any contribution made by an independent local newspaper business to a trust qualified under this section in accordance with the terms of the governing instrument of such trust shall be deductible under section 162 provided such contribution is paid to the trust during the taxable year and at a time when the trust is exempt from taxation under this title. For purposes of this paragraph, an independent local newspaper business shall be deemed to have made a payment on the last day of the taxable year if the payment is on account of such taxable year and is not made later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS.—

"(A) EXCESS FUNDING.—No deduction under section 162 shall be allowed for any contribution to the extent such contribution results in the excess funding of a trust qualified under this section.

"(B) 50 PERCENT OF TAXABLE INCOME.—No deduction under section 162 shall be allowed for any contribution to the extent the aggregate contributions made during the taxable year exceeds 50 percent of the taxable income derived from such independent local newspaper (determined on a separated basis and without regard to such contributions) for the taxable year.

"(3) RECAPTURE OF DEDUCTIONS FOR PRIOR CONTRIBUTIONS.—If at any time a trust qualified under this section is required to make a distribution described in subsection (d)(2) and if an independent local newspaper business realized a tax benefit as a result of prior contributions to such trust, then such independent local newspaper business (and in the case of a deceased proprietor his estate) shall include in its gross income for the taxable year ending with or during the taxable year of such distribution or if none, for the taxable year immediately preceding the taxable year of such distribution an amount equal to the lesser of—

"(A) the amount required to be distributed under paragraph (2), or

"(B) the prior contributions made to such trust as to which a tax benefit was realized.

"(f) INADVERTENT EXCESS FUNDING.—If there is excess funding of a trust qualified under this section for any calendar year and such excess funding is due solely to a decrease in, or to a good faith dispute concerning, the value of the interest in an independent local newspaper business held by or includable in the gross estate of the individual for whom such trust was created, then the determination of the amount of such excess funding shall be postponed to, and shall be made as of, the last day of the fifth calendar year immediately following such calendar year (or in the event of such individual's earlier death, the date of the determination of the tax imposed by section 2001) and the amount of any excess funding existing on the last day of such fifth calendar year (or the date of such determination) shall be distributed to such individual (or if he is then deceased shall be distributed to his estate).

"(g) TAX TREATMENT OF DISPOSITIONS BY HEIR OR LEGATEE.—

"(1) RECAPTURE OF ESTATE TAX BENEFITS.—If, at any time within 15 years after the death of the individual for whom a trust qualified under this section was created—

"(A) A trust described in paragraph (2)(D) of subsection (c), or any person receiving under such individual's will or applicable law of descent and distribution, sells, exchanges or otherwise disposes of any part of the interest in the independent local newspaper business with respect to which the qualified trust was created, or

"(B) the local independent newspaper is sold or otherwise disposed of or ceases to qualify as a newspaper publication which is not one of a chain of newspaper publications, then the estate tax of such individual shall be redetermined, as of the date of such disposition or other event, by including as part of the gross estate of such individual an amount equal to the payment made by such trust of the tax imposed by section 2001 which is attributable, in the case of such a disposition, to the interest disposed of, or in the case of any such other event, to the interest in the independent local newspaper business included in the gross estate of such individual.

"(2) SELLS, EXCHANGES, OR OTHERWISE DISPOSES OF.—For purposes of paragraph (1), the term 'sells, exchanges, or otherwise disposes of' does not include—

"(A) an exchange of stock pursuant to a plan of reorganization described in subparagraph (E) or (F) of section 368(a)(1),

"(B) a distribution or exchange of stock pursuant to a plan of reorganization described in subparagraph (D) of section 368(a)(1) or a distribution to which section 355 (or so much of section 356 as relates to section 355) applies by reason of subsection (h), or

"(C) a transfer or distribution to an executor or trustee, or by an executor or trustee, or a person entitled to receive such interest, under a will, applicable laws of descent and distribution or governing trust instrument,

but the person receiving the interest in the independent local newspaper business with respect to which such qualified trust was created shall be subject to this section.

"(3) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTIONS.—Any additional estate tax owing as a result of such redetermination shall be immediately due and payable by the person making such disposition, or the persons holding the interest in the independent local newspaper business as of the date of such other event, as the case may be, and the periods of limitations provided in sections 6501 and 6502 on the making of assessments and the collection by levy or a proceeding shall with respect to any deficiency (including interest and additions to the tax resulting from such redetermination) include 1 year immediately following the date on which the Secretary is notified of such disposition or other event in accordance with regulations prescribed by the Secretary, and such assessment and collection may be made notwithstanding any provision of law or rule of law to the contrary.

"(4) PHASEOUT OF ANY ADDITIONAL ESTATE TAX.—If the date of disposition or such other event occurs more than 120 months and less than 180 months after the death of such individual, the amount of any additional estate tax shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such individual's death in excess of 120, and

"(B) the denominator of which is 60.

"(h) SPIN-OFF OF UNRELATED BUSINESS.—

"(1) GENERAL REQUIREMENTS.—If an independent local newspaper business described in paragraph (1)(A)(iii) of subsection (c) adopts a plan described in subsection (a) and is engaged in the active conduct of a trade or business in addition to the publication of an independent local newspaper, each of which satisfies the requirements of section 355(b)(2), then the distribution to its shareholders of stock of a controlled corporation (as defined in section 355(a)(1)(A)) engaged in the active conduct of such other trade or business or of such newspaper, so that the determination of the value of its stock attributable to its independent local newspaper is facilitated, shall be treated as satisfying the requirements of section 355(a)(1)(B) (including the required corporate business purpose) provided that the following conditions are satisfied:

"(A) The distributee shareholders do not, prior to the fifth anniversary of the date of distribution, sell, exchange or otherwise dispose of the stock of either the distributing corporation (as defined in section 355(a)(1)(A)) or the controlled corporation except—

"(i) pursuant to a redemption described in section 303 or a plan of reorganization described in section 368(a)(1)(D), (E) or (F),

"(ii) by will or by the laws of descent or distribution, or

"(iii) in the case of a distributee corporation or trust, by distribution to its shareholders or beneficiaries;

"(B) The distributee shareholders (including the successors-in-interest to a deceased distributee shareholder and the shareholders or beneficiaries of a distrubutee corporation or trust) retain control (as defined in section 368(c)) of the distributing corporation and controlled corporation throughout the 5-year period ending on the

fifth anniversary of the date of distribution; and

"(C) The distributing corporation and the controlled corporation each continue to be engaged in the active conduct of the trade or business conducted on the date of distribution throughout the 5-year period ending on the fifth anniversary of the date of distribution.

"(2) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION.—If the distributing corporation or controlled corporation fails to meet the conditions contained in paragraph (1)(C) or if the distributee shareholders (including the successor-in-interest to a deceased distributee shareholder and the shareholders or beneficiaries of a distributee corporation or trust) fail to meet the conditions contained in subparagraphs (A) or (B) of paragraph (1) during any taxable year within 5 years from the date of distribution, then the periods of limitations provided in sections 6501 and 6502 on the making of an assessment and the collection by levy or a proceeding shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting from such failure, until 1 year after the date on which the distributing corporation, the controlled corporation, or a distributee shareholder (including the successors-in-interest to a deceased distributee shareholder and the shareholders or beneficiaries of a distributee corporation or trust) notifies the Secretary of such failure in accordance with regulations prescribed by the Secretary, and such assessment and collection may be made notwithstanding any provision of law or rule of law to the contrary.

"(3) INVOLUNTARY CHANGE OF TRADE OR BUSINESS.—The distributing corporation and the controlled corporation shall be treated as meeting the conditions of paragraph (1)(C) if—

"(A) one of such corporations ceases to be engaged in the trade or business such corporation conducted on the date of distribution as a result of—

"(i) an involuntary conversion,

"(ii) an order of a governmental regulatory agency, or

"(iii) a contested or consent order of any Federal court, and

"(B) the other such corporation continues throughout the 5-year period described in paragraph (1)(C) to actively conduct the trade or business which such other corporation conducted on the date of distribution.

"(i) APPLICABILITY.—This section shall be applicable to trusts created after December 31, 1980.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

"(k) CROSS REFERENCES.—

"(1) ESTATE TAX.—For the exclusion from the gross estate of a decedent of a trust qualified under this section, see section 2046.

"(2) INCOME IN RESPECT OF DECEDENT.—For the taxation of income in respect of a decedent, see section 691.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"PART VIII. CERTAIN ADVANCE ESTATE TAX PAYMENT TRUSTS.".

(c) CONFORMING AMENDMENTS.—

(1) Section 2002 (relating to liability for payment of estate taxes) is amended by striking out "executor." and inserting in lieu thereof "executor except to the extent paid by an independent local newspaper advance estate tax payment trust as provided by section 529.".

(2) Section 2013 is amended by adding at the end thereof the following new subsection:

"(h) TAX IMPOSED UNDER SECTION 2046 ON CERTAIN INDEPENDENT LOCAL NEWSPAPER ADVANCE TAX PAYMENT TRUSTS.—For purposes of this section, if section 2046 applies to exclude any property from the gross estate of the transferor and an additional tax is imposed with respect to such property under section 259(g)—

(1) the additional tax imposed by section 529(g) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2046 did not apply with respect to such property.".

(3) Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end thereof the following new section:

"SEC. 2046. EXCLUSION OF NEWSPAPER TRUST.

"Notwithstanding any other provision of law, the value of the gross estate shall not include the value of any interest of the decedent at the time of his death, or any tax payment made by him, an independent local newspaper advance estate tax payment trust to the extent provided by section 529.".

(4) The table of sections for part III of subchapter A of chapter 11 of subtitle B is amended by adding at the end thereof the following new item:

"Sec. 2046. Exclusion of newspaper trust.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after December 31, 1980.

SEC. 3. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE INCLUDES INTEREST IN INDEPENDENT LOCAL NEWSPAPER.

(a) IN GENERAL.—Subchapter B of chapter 62 (relating to extension of time for payment of estate tax) is amended by adding after section 6166A the following new section:

"SEC. 6166B. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE INCLUDES INTEREST IN INDEPENDENT LOCAL NEWSPAPER.

"(a) EXTENSION PERMITTED.—If an interest in an independent local newspaper business is included in the gross estate of a decedent who was (at the date of his death) a citizen or resident of the United States, the executor may elect to pay, in 2 or more (but not exceeding 10) equal installments, part or all of the tax imposed by section 2001 attributable to the interest in 1 (but not more than 1) such independent local newspaper business. Any such election shall be made not later than the time prescribed by section 6075(a) for filing the return of such tax (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe. If an election under this section is made, the provisions of this subtitle shall apply as though the Secretary were extending the time for payment of the tax.

"(b) LIMITATION.—The maximum amount of tax which may be paid in installments as provided in this section shall be—

"(1) the excess of—

"(A) the amount of tax imposed by section 2001 on the estate of the decedent, over

"(B) the tax which would have been imposed under section 2001 if the interest in an independent local newspaper business had not been included in the gross estate of the decedent, reduced by

"(2) all payments of the tax imposed by section 2001 which are made by an independent local newspaper advance estate tax payment trust described in section 529 at or before the time prescribed by section 6075(a) for filing the return of such tax (including extensions thereof).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section, the terms 'independent local newspaper business', 'interest in an independent local newspaper business', 'independent local newspaper', and 'a chain of newspaper publications' have the meaning given such terms in section 529(c).

"(2) SPECIAL RULE.—For purposes of this subsection—

"(A) TIME FOR DETERMINATIONS.—Except as otherwise provided by paragraph (3) of subsection (c), all determinations shall be made as of the time immediately before the decedent's death.

"(B) CONTROLLED GROUP OF CORPORATIONS.—In applying paragraphs (1)(A)(iii), (1)(C), and (1)(D) of subsection (c), if a corporation is a member of a controlled group of corporations (as defined by section 1563 but substituting the phrase '50 percent' for the phrase '80 percent' each place appearing therein), the determination whether such corporation is publishing an independent local newspaper shall be made by treating all members of such controlled group of corporations as a single corporation.

"(C) CERTAIN INDIRECT INTERESTS.—In applying paragraph (1)(B) of subsection (c), if an individual is the grantor of a trust which holds an interest in an independent local newspaper business and is treated as the owner of such interest by section 671, or is the beneficiary of a trust which holds an interest in an independent local newspaper business and a deduction was allowed with respect to such interest by section 2056(a), such individual shall be treated as owning the interest held by such trust to the extent such interest is includable in the gross estate of such individual.

"(d) DATE FOR PAYMENT OF INSTALLMENTS.—If an election is made under subsection (a), the first installment shall be paid on or before the date selected by the executor which is not more than 5 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this subsection for payment of the preceding installment.

"(e) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) to pay any part of the tax imposed by section 2001 in installments and a deficiency has been assessed, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(f) INTEREST.—If the time for payment of any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually on each anniversary of the date prescribed by section 6151(a) for payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

"(g) ACCELERATION OF PAYMENT.—

"(1) DISPOSITION OF INTEREST.—If any part of the interest in an independent local newspaper business is sold or exchanged or otherwise disposed of (including by means of a distribution), then the extension of time for payment of tax provided in this section shall cease to apply with respect to the tax attributable to the interest sold, exchanged or otherwise disposed of and any unpaid portion of such tax shall be due and payable upon notice and demand by the Secretary. The tax attributable to such interest shall bear the same proportion to the total tax as to which an extension has been granted as the value of the interest so disposed of bears to the total value of the interest as to which such extension has been granted.

"(2) TERMINATION OF STATUS OF INDEPENDENT LOCAL NEWSPAPER.—If any part of the interest in the independent local newspaper business becomes traded in an established securities market, or if the independent local newspaper ceases to be published or is sold or otherwise disposed of or ceases to qualify as a newspaper publication which is not one of a chain of newspaper publications, the unpaid portion of the tax payable in installments shall be due and payable upon notice and demand from the Secretary.

"(3) FAILURE TO PAY INSTALLMENT.—If any installment under this section is not paid on or before the date fixed for its payment by this section (including any extension of time for the payment of such installment), the unpaid portion of the tax payable in installments shall be paid upon notice and demand from the Secretary.

"(4) EXCEPTIONS.—

"(A) Paragraph (1) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (E) or (F) of section 368(a)(1), but any stock received in such an exchange shall be treated for purposes of such paragraph as an interest qualifying under subsection (a).

"(B) Paragraph (1) does not apply to a distribution of stock pursuant to a plan of reorganization described in subparagraph (D) of section 368(a)(1) or a distribution to which section 355 (or so much of section 356 as relates to section 355) applies by reason of section 529(g).

"(C) Paragraph (1) does not apply to a transfer of property of the decedent by the executor to a person entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

"(h) APPLICABILITY.—This section shall apply to the estate of decedents dying after December 31, 1980.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to the application of this section.

"(j) CROSS REFERENCES.—

"(1) SECURITY.—For authority of the Secretary to require security in the case of an extension under this section, see section 6165.

"(2) LIEN.—For special lien (in lieu of bond) in the case of an extension under this section, see section 6324A.

"(3) PERIOD OF LIMITATION.—For extension of the period of limitation in the case of an extension under this section, see section 6503(d).

"(4) INTEREST.—For provisions relating to interest on tax payable in installments under this section, see subsection (j) of section 6601.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 is amended by adding after section 6166A the following new item:

"Sec. 6166B. Extension of time for payment of estate tax where estate includes interest in independent local newspaper.".

(c) CONFORMING AMENDMENTS.—

(1) Section 6166A(b) is amended by striking out "The maximum" and inserting in lieu thereof "No election may be made under this section if an election under section 6166 or 6166B applies with respect to the estate of such decedent, and the maximum".

(2) The following provisions are each amended by striking out "or 6166A" each place it appears therein and inserting in lieu thereof ", 6166A, or 6166B":

(A) section 2204(a),
(B) section 2204(b),
(C) section 2204(c),
(D) section 6324A(a),
(E) section 6324A(c)(2),
(F) section 6324A(e)(1),
(G) section 6324A(e)(3), and
(H) section 6324A(e)(4).

(3) Paragraph (4) of section 6166(a) is amended by striking out "section 6166A" and inserting in lieu thereof "section 6166A or 6166B".

(4) Section 6324A is amended—

(A) by striking out "or 6166(h)" in paragraphs (3) and (5) and inserting in lieu thereof ", 6166A(h), or 6166B(g)", and

(B) by striking out "OR 6166A" in the heading and inserting in lieu thereof ", 6166A, OR 6166B".

(5) Subsection (d) of section 6503 is amended by striking out "or 6166A" and inserting in lieu thereof "6166A, or 6166B".

(6) Subsection (j) of section 6601 is amended by striking out "6166" each place it appears in the text and caption thereof and inserting in lieu thereof "6166 or 6166B".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1980.●

By Mr. HART:

S. 1488. A bill to amend the Atomic Energy Act of 1954 to condition the license the export of certain nuclear equipment and material to certain countries only on their agreement not to obtain access to separated plutonium, and for other purposes; to the Committee on Foreign Relations.

NUCLEAR NON-PROLIFERATION ACT AMENDMENTS OF 1981

● Mr. HART. Mr. President, every civilization one day reaches the critical point at which it must either control the technology it has created or face certain destruction. It seems hard to deny we have reached, or are rapidly approaching, that point in our development of nuclear energy. We have tried to convince ourselves that the threat of nuclear destruction comes primarily from the expanding nuclear weapons arsenals of the current nuclear weapons states, rather than from the introduction of civilian nuclear power throughout the world. Yet nuclear equipment and materials, even if dedicated to such peaceful purposes as the generation of electricity, can be misused to build nuclear bombs.

We have consistently contended that a sharp, inviolable line separates the military and civilian uses of nuclear energy. The very name of President Eisenhower's atoms for peace program embodies that distinction. We and the other supplier nations have relied on this tenuous distinction to justify peddling all types of nuclear material and equipment to developing nations—for ostensibly peaceful use.

The increased availability of nuclear technology throughout the world carries with it the grave and growing risk that current nonnuclear countries and terrorist or other subnational organizations will seek access to the weapons-usable plutonium necessarily produced by civilian nuclear power programs. Thus, in equipping nations for peace, we have heightened the risks of war—and planted the seeds of our own annihilation.

Since the early days of the atomic age, we have sought ways to prevent any further spread of nuclear weapons from civilian uses of nuclear power. The solutions have proved frustratingly elusive. Diplomatic initiatives, economic and military sanctions, and the application of international pressure may have deterred, but have not prevented, countries from joining the nuclear club.

Twenty-four countries appear technically capable of exploding a nuclear bomb within the next 10 years. They will join the six countries that currently have a nuclear weapons capability. Other countries may also aspire to join the nuclear club.

The gravity of the risk of nuclear proliferation demands that the United States and other supplier nations redouble their efforts to deny nonnuclear countries access to nuclear weapons. Yet, this administration shows disturbing signs it will abdicate this responsibility, giving us "less of the same" rather than proposing a nuclear nonproliferation policy with the authority to work.

The proposed guidelines for the administration's forthcoming nuclear nonproliferation policy, as reported last week, do not address many of the disturbing questions which Israel's strike last month against Iraq's research reactor finally raised. Instead, for the most part they restate the broad nonproliferation objectives already embraced in existing law. Merely stating objectives, however, does not assure their attainment.

Rather than continue with "business as usual," the United States needs to take bold, innovative steps to prevent the further spread of nuclear weapons. On June 16, I outlined an 11-point policy for curbing nuclear proliferation. Today, I am requesting the General Accounting Office to begin an extensive investigation into the ability of the United States and the International Atomic Energy Agency, to track and account for bomb-grade material exported throughout the world for civilian nuclear power programs. (See GAO letter reprinted at end of statement.) Victor Gilinsky, a Commissioner of the Nuclear Regulatory Commission, has been quoted as saying, "To my knowledge, nobody keeps track of this material in a serious way."

Mr. President, in addition to these initiatives, I am introducing today a bill to amend the Nuclear Nonproliferation Act of 1978 (NNPA). This bill does not presume to strengthen the NNPA in every way it should be strengthened. Rather, it attempts to address the single most difficult problem for preventing the spread of nuclear weapons: How to insure that nonnuclear countries do not obtain access to separated plutonium for use in an atomic bomb.

This bill has three main provisions:

First, it imposes a moratorium on the export of all nuclear materials and equipment from the United States until: First, President Reagan submits to the Congress a report setting forth the nuclear

nonproliferation policy of the United States, including a certification by the President that his policy will significantly reduce the risks of nuclear proliferation; and second, the Congress, by concurrent resolution of both Houses, approves the report and concurs in the certification.

Second, it prohibits the export from the United States of any nuclear material or equipment to a foreign nation not now possessing the capability to reprocess spent reactor fuel, unless that nation agrees not to obtain a reprocessing capability or seek access to separated plutonium.

Finally, it provides a positive economic incentive for the foreign nations to enter into such an agreement by requiring the United States to provide, at a discount, a subsequent amount of enriched uranium fuel with the energy equivalent of the unreprocessed plutonium in the spent fuel subject to the agreement.

The moratorium on nuclear exports merely seeks to encourage the development of a nuclear nonproliferation policy acceptable to the Congress. Congress must join with the President in developing a policy on something as vital to our national security and our future survival as nuclear nonproliferation.

The provision requiring a recipient country to agree not to obtain a reprocessing capability or seek access to separated plutonium recognizes that we can only contain the nuclear genie by outright denying nonnuclear countries access to separated plutonium. This provision seeks to build a well between "atoms for peace" and "atoms for war." It places the United States in the appropriate position of explicitly supporting nuclear power without nuclear bombs.

The Congressional Research Service has estimated that even with its low projections for the growth of nuclear power, by the year 2000, the world will generate 270 tons per year (or 594,000 pounds/year) of plutonium in spent fuel. It will have accumulated a total of 2,690 tons (or 5,918,000 pounds) of plutonium in spent fuel. Because it takes from 10 to 20 pounds of plutonium to make a bomb, by the year 2000 the world will have accumulated enough commercial plutonium in spent fuel for between 296,000 and 592,000 bombs. For so long as this plutonium remains "locked" in the spent fuel, it does not pose an immediate risk of diversion for use in nuclear weapons.

If countries use reprocessing facilities to separate or "unlock" the plutonium from the spent fuel, however, the danger that the plutonium will be used to build a nuclear weapon, rather than solely as a substitute fuel for power reactors, increases astronomically. Giving countries reprocessing technology with a warning never to use it for building bombs is as naive as placing bullets next to a gun with a warning never to shoot it.

Currently, seven countries—Belgium, France, West Germany, India, Italy, Japan, and Great Britain—have the ability to reprocess spent fuel and separate out the plutonium. This provision would not apply to them. Instead, it would apply to future attempts to introduce reprocessing technology into countries not currently possessing it, attempts that will bring us dangerously close to the advent of the "plutonium economy."

The reciprocal requirement that the United States supply the agreeing recipient nation at a reduced price—or even free—a subsequent amount of U.S.-enriched uranium equivalent to the energy content of the unreprocessed plutonium in the previously shipped fuel has several beneficial consequences. First, in addition to the currently unfavorable economics of spent fuel reprocessing, it gives agreeing foreign nations another strong economic incentive to forego reprocessing or subsequent access to separated plutonium.

In a preliminary review, the Congressional Research Service has estimated the cost of fully compensating a recipient nation for not recovering the plutonium in its spent fuel at about $9 million per year for a large power reactor (1000 MWe). This is the cost of the additional uranium yellowcake and enrichment services the recipient country will have to use if it does not recycle plutonium into its power reactor. For ease of calculation, the United States may simply want to provide all uranium enrichment services to the recipient country free of charge—a cost of about $15 million per 1000 MWe reactor.

Of course, the unfavorable economics of spent fuel reprocessing as indicated by the CRS analysis, gives recipient countries an independent reason not to go forward with plutonium recycle. The proposal in this bill, however, would encourage these countries to rely upon U.S.-supplied and enriched uranium for their nonrecycle nuclear fuel cycle, rather than uranium enriched and supplied by other countries.

The calculations are contained in a memorandum by Dr. Warren H. Donnelly, senior specialist, CRS, attached at the end of these remarks.

Second, it could make the United States a more desirable and reliable supplier of enriched uranium. The discount in the price of its uranium enrichment services would give the United States a competitive advantage over other suppliers of enriched uranium fuel. The competitive advantage could spill over to increase demand for domestically-produced uranium, and help pull the currently depressed domestic uranium industry out of its slump. The United States could even insure this result by requiring, as part of its agreement, that the recipient nation purchase U.S.-produced uranium as well as use U.S.-enrichment services, to obtain the price discount.

Finally, the provision could demonstrate a positive way of using market forces and economic incentives to achieve desired nonproliferation objectives as a substitute for toothless diplomatic initiatives and restrictive covenants.

Mr. President, this bill is intended to serve as the need for further proposals to prevent the spread of nuclear weapons and restrict the availability of separated plutonium. More important, this proposal raises a question that is central to the nuclear nonproliferation debate: How much is it worth to us to halt the spread of nuclear weapons? I hope the response is, "Quite a lot." There is no more important or more urgent issue facing this Congress.

Mr. President, I ask unanimous consent that the bill, a chart, and a letter to the Acting Comptroller General be printed in the RECORD.

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

S. 1488

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 "Nuclear Non-Proliferation Act Amendments of 1981."

SEC. 2. Section 2 of the Nuclear Nonproliferation Act of 1978 is amended by:

(1) striking out in subsection (c) in the whole "and";

(2) striking out the period at the end of subsection (d) and inserting in lieu thereof a semicolon and "and"; and

(3) adding at the end thereof:

"(e) discourage and prevent the use of plutonium as a commercial reactor fuel because of—

(1) the abundance of available natural and low-enriched uranium for use as reactor fuel, and

(2) the substantial risks of misuse of commercial plutonium for nonpeaceful purposes.

SEC. 3. Section 128 of the Atomic Energy Act of 1954, is amended by adding at the end thereof:

"c. Notwithstanding any other provision of law, no production or utilization facility, component for use in a nuclear facility, or source material or special nuclear material may be transferred or licensed for export to any foreign nation which, on the date of enactment of this Act, does not have a capability to reprocess spent reactor fuel for commercial purposes, until the government of such nation enters into an agreement with the Government of the United States by which such nation agrees not to obtain or use such capability or seek access to separated plutonium from the United States or any other nation.

"d. If a foreign nation enters into the agreement required by subsection (c), the Government of the United States shall agree to provide such nation, at a discount, an amount of enriched uranium reactor fuel with a total energy content equivalent to the unrecovered energy content of the plutonium in the spent reactor fuel for which such nation has agreed not to seek access under such agreement."

SEC. 3. The Nuclear Nonproliferation Act of 1978 is amended by adding at the end thereof:

"SEC. 604. Notwithstanding any other provision of law, no production or utilization facility, component for use in a nuclear facility, or source material or special nuclear material may be transferred or licensed for export to a foreign nation until

(1) the President prepares and transmits to the Congress a report setting forth in detail the nuclear non-proliferation policy of the United States, including a certification that such policy will significantly reduce the risks of nuclear proliferation; and

(2) the Congress, by concurrent resolution of both Houses, states in substance that it approves the policy and concurs with the certification set forth in such report.

SEC. 4. Section 131 of the Atomic Energy Act of 1954 is amended by striking out in subsection d. "to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States,".

SEC. 5. For purposes of this bill, the terms

"production facility", "source material", "special nuclear material", and "utilization facility" have the same meanings as ascribed to them by paragraphs v., z., aa., and cc., respectively, of the Atomic Energy Act of 1954.

SOME ILLUSTRATIVE CALCULATIONS ABOUT COSTS OF USING AND NOT USING PLUTONIUM

It has long been presumed that sooner or later plutonium from spent nuclear fuel would be recovered and reused to fuel conventional nuclear power reactors (recycle) as well as to fuel breeders. While the economic analysis of this idea is full of uncertainties and assumptions, the following figures will give some feel for the kinds of expenses involved.

Effect on uranium use. For a typical large (1000 MWe) nuclear power reactor of a pressurized water type, the differences in annual uranium with and without plutonium recycle are:

Annual makeup amount of uranium, without recycle, 195 short tons.

Annual makeup amount of uranium, with recycle, 115 short tons.

Difference, 80 short tons.

With uranium at $25 a pound, this difference would cost $4 million a year.

Effect on enrichment. For the same typical large nuclear power reactor, the difference in annual enrichment requirement is:

Annual enrichment without recycle, 118,000 separative work units.

Annual enrichment with recycle, 79,000 swu.

Difference, 39,000 swu.

Using DOE's enrichment charges of $131 to $140 per swu, which take effect in October 1981, and taking the lower figure, the additional enrichment required would cost another $5 million.

Offsetting costs of reprocessing. The plutonium from spent fuel is not free. It has to be recovered by reprocessing, which is expensive. Typically, a large nuclear power reactor (1000 MWe PWR) discharges about 31 metric tons of spent fuel a year. Taking a reprocessing charge of $800/kilogram, which is what the French are charging, the cost of reprocessing the annual spent fuel discharge would be some $24.8 million. This would provide about 240 kg of plutonium.

Fuel value of the plutonium. If the recovered plutonium is used to enrich normal uranium to 5 percent plutonium, the 240 kg could provide about 48 metric tons of fuel most of which would be uranium which would cost about $2 million.

Comparison. Keeping in mind other costs not mentioned, which would require attention in a detailed analysis, the costs of uranium and reprocessing for recycle would be about $26 million a year in comparison with about $9 million a year to buy and enrich an offsetting amount of uranium and enrichment.

U.S. SENATE,
Washington, D.C., July 14, 1981.

MILTON J. SOCOLAR,
Acting Comptroller General,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. SOCOLAR: Increasing concern over the proliferation of nuclear weapons has raised questions about the United States' ability to account for, and monitor the use of the highly-enriched uranium fuel it exports to foreign countries. For example, Victor Gilinksy, Commissioner of the Nuclear Regulatory Commission, has been quoted as saying, "To my knowledge, nobody keeps track of this material in a serious way."

In light of these questions, I request the General Accounting Office to undertake an investigation that will:

(1) Evaluate the mechanisms established in international agreements of cooperation for controlling the use of U.S.-supplied highly-enriched uranium (HEU) fuel and assuring adequate protection of HEU fuel shipments from terrorists.

(2) Assess the ability of the International Atomic Energy Agency (IAEA) to detect diversions of HEU and fissionable materials produced from this fuel, through use of material accounting techniques and of containment and surveillance devices.

(3) Ascertain the rationale for supplying HEU fuel to foreign countries and the possible nuclear proliferation consequences.

(4) Review the implementation and effects of the United States' programs announced at the United Nations Special Session on Disarmament in 1978 aimed at limiting the use of HEU fuel in research reactors, as well as any United States foreign policy initiatives in this area.

(5) Assess the system used by the United States for keeping track of its exports of HEU fuel and any fissionable materials produced from this fuel.

(6) Determine what controls, if any, the United States has over the use of fissionable materials produced from U.S.-supplied HEU fuel or in U.S.-supplied nuclear facilities.

My staff has discussed the issues presented in this request with Joseph F. Murray, group director for arms control and nonproliferation, International Division. If you have any questions about the scope or nature of this request, please contact me or my staff.

Thank you for your prompt attention to this matter.

Sincerely,

GARY HART.●

By Mr. BAUCUS:

S. 1489. A bill to direct the Department of the Interior to conduct certain studies related to the Muddy Creek special water quality project; to the Committee on Environment and Public Works.

SOIL EROSION AND WATER QUALITY

● Mr. BAUCUS. Mr. President, conservation of our Nation's precious agricultural lands must be one of our highest priorities. We have witnessed in recent years the conversion of our Nation's farmland to nonagricultural uses at increasingly alarming rates. Equally alarming has been the loss of additional millions of acres of prime agricultural land each year through wind and soil erosion.

Mr. President, we must expand our commitment to the preservation and conservation of our farmland. To neglect this commitment in the face of budget austerity is penny-wise and pound-foolish economics. Clearly, I support every effort to cut waste within the Federal budget and to bring spending and revenues into balance. Equally clear, however, is the fact that Government has a legitimate role to play in the long-range management of our natural resources. The preservation of our farmlands falls under this rubric and a failure to commit funding for this task is a false economy, in my estimation.

Last fall, I addressed my colleagues in this Chamber on the subject of Muddy Creek. Muddy Creek is a serious nonpoint pollution problem located in north-central Montana. The problem directly affects over 540 small ranchers and farmers. Local, State, and Federal officials in Montana consider Muddy Creek to be the State's No. 1 water quality and soil conservation problem. For the past 2 years, I have been working with these officials and the landowners along Muddy Creek to develop a coordinated strategy for resolving this very serious threat to some of Montana's best agricultural farmland.

At my request, the Soil Conservation Service (SCS) of the USDA assumed leadership in forming an interagency Federal task force and a technical field committee to develop a strategy for implementing solutions to the erosion problems on Muddy Creek. The technical field committee, with the cooperation and direction of the interagency task force, recently issued its report, "Muddy Creek Erosion Problem: A Coordinated Strategy for Federal Action."

The study reflects a fine example of cooperation among a number of local, State, and Federal agencies working to resolve a serious communication problem. Among the report's many recommendations are two that call for studies to be conducted by the Bureau of Reclamation in the Department of the Interior. One is a hydrology study, which would document the present operation of the irrigation system in the Muddy Creek basin area, highlighting waste water discharge. The other is a feasibility grade surge release study, which would evaluate remedies for the problem of surge flow in Muddy Creek. According to the report, these studies are essential to the on-going efforts to solve the Muddy Creek problem.

Therefore, Mr. President, I am today introducing a bill directing the Department of the Interior to conduct these two studies. The price tag on these studies is not large. Without these studies, however, the future price tag on solutions to Muddy Creek could be quite large indeed. I ask, therefore, that my colleagues join me in support of this legislation.

Mr. President, I ask unanimous consent that my bill, S. 1489, and the interagency task force report be printed at this point in the RECORD.

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

S. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Interior shall conduct a hydrology study and a feasibility grade surge relief study in relation to the soil erosion and natural resource problems in the Muddy Creek Basin near Great Falls, Montana.

(b) On or before the expiration of the eighteen-month period following the date of enactment of this Act, the Secretary of Interior shall report to the Congress his findings and recommendations resulting from the study conducted pursuant to this Act.

(c) There are authorized to be appropriated $235,000 to carry out the provisions of this Act.

MUDDY CREEK EROSION PROBLEMS: A COORDINATED STRATEGY FOR FEDERAL ACTION

FOREWORD

In June 1980, Senator Max Baucus requested the Soil Conservation Service of the U.S. Department of Agriculture to assume leadership in forming a technical field committee to develop a strategy for implementing solutions to the erosion problems on Muddy Creek in Cascade and Teton Counties.

Organized in July 1980, the committee membership included representatives of the Soil Conservation Service of the U.S. Department of Agriculture, the Water and Power

Resources Service of the U.S. Department of the Interior, the Environmental Protection Agency, and the U.S. Army Corps of Engineers. The Muddy Creek Special Project Area Coordinator for the Cascade County and Teton Conservation Districts served with the committee. State and local agencies cooperated in an excellent manner.

The committee focused on the role federal agencies could play in contributing to the problem's solution. The committee's recommendations are explained in both the summary and body of this report.

SUMMARY

This report provides a strategy for coordinated federal agency action to solve the Muddy Creek erosion problem and serves as a federal funding guide.

The report describes alternative solutions to immediately accelerate onfarm programs and proposes further feasibility analysis of alternative structural measures.

Representatives of the Departments of Agriculture, Army, and Interior and the Environmental Protection Agency wrote this report as a technical field committee. The Muddy Creek Special Project Area coordinator, Greenfields Irrigation District manager, and many state and local agencies contributed to the report.

Erosion of the Muddy Creek channel contributes about 213,000 tons of suspended sediment to the Sun and Missouri Rivers each year. Irrigation return flows are a big part of the problem, causing flows in Muddy Creek to be approximately 10 times normal watershed runnoff.

Local interest in the problem sparked the formation of a Muddy Creek Special Project Area, sponsored by the Cascade County and Teton Conservation Districts. State and federal agencies have redirected existing resources to the area as much as possible. To save irrigation water, a rehabilitation and betterment project costing $8.3 million is currently being installed through the cooperative efforts of the Greenfields Irrigation District and the Water and Power Resources Service.

After considering five alternative plans to improve onfarm irrigation water management, the committee recommended increasing the area under sprinkler irrigation from the present 5,000 acres to 25,000 acres. Optimum surface irrigation systems with automation would be installed on the remainder of the 51,000-acre area. Installing the recommended plan will reduce the flow in Muddy Creek by approximately 61 percent and contribute to a 35 percent crop yield increase. The estimated cost of implementing the recommended onfarm plan is $19 million or $372 per acre (1980 dollars).

U.S. Department of Agriculture agencies would provide technical, research, and information and education assistance to install the recommended onfarm plan at a cost of $2,765,000.

The committee examined three alternatives to remedy the problem of surge flow in Muddy Creek. These included construction of a surge relief canal to Freezeout Lake, a dam and pumping plants in Big Coulee and a series of canal checks. The committee identified a $171,000 funding need for the Water and Power Resources Service to conduct feasibility grade studies and develop plans for constructing surge relief measures.

Both the onfarm management program and proposed structural measures need an environmental assessment to evaluate the environmental concerns. The U.S. Fish and Wildlife Service will coordinate the environmental assessment at a cost of $31,500. This assessment will evaluate effects of implementing the overall plan on wildlife habitat, ground water, and Muddy Creek flows.

The total estimated costs for installing the improvements in the Muddy Creek area are $32 million. A table showing cost is at the end of the Summary.

The committee's preferred funding method is to fund the Department of the Interior's Water and Power Resources Service as the "lead agency." Funds to other agencies would be provided as necessary through reimbursable agreements.

An optional funding method would be to fund the agencies of USDA, USDI, and EPA separately. There are several USDA programs that could, if adequately funded, serve to implement the onfarm program. The Department of the Interior's Water and Power Resources Service would obtain funds through traditional appropriations procedures.

This study did not include a detailed economic analysis of benefits. Beneficial effects are, however, apparent and are described on a limited basis. Improved irrigation water management, for example, almost always increases crop production and/or reduces the costs associated with irrigation water use.

A total of 53,000 acre-feet of water will be saved for environmental, recreational, and other uses. Sediment production from Muddy Creek will be reduced by 154,000 tons and salt pickup reduced by 48,000 tons each year.

TOTAL COSTS FOR MUDDY CREEK IMPROVEMENTS

[In dollars]

Activity	Total cost	Federal	Other	Responsible agency [1]
On-farm management financial assistance	19,000,000	12,469,000	6,531,000	USDA
On-farm management technical assistance	2,285,000	2,285,000	0	USDA
Snake River Cons. Research Center Asst.	110,000	110,000	0	SEA-AR
Information and education	370,000	370,000	0	CES
Feasibility grade studies	171,000	171,000	0	WPRS
Surge relief construction [2]	10,000,000	10,000,000	0	WPRS
Environmental studies	31,500	31,500	0	F. & W.L.S.
Monitoring	170,000	127,500	42,500	EPA
Hydrology study	64,000	64,000	0	WPRS
Total	32,201,500	25,628,000	6,573,500	

[1] Key to abbreviations follow:
USDA = U.S. Department of Agriculture.
SEA-AR = Science Education Administration-Agricultural Research.
CES = Cooperative Extension Service.
WPRS = Water and Power Resources Service.
F. & W.L.S. = U.S. Fish and Wildlife Service.
EPA = Environmental Protection Agency.

[2] Scheduled after 1985.

FUNDING NEEDS BY YEAR THROUGH 1985 [1]

Year	Total	Federal	Other
1982	2,372,500	1,751,000	621,500
1983	2,338,000	1,717,000	621,000
1984	2,100,000	1,500,000	600,000
1985	7,100,000	6,500,000	600,000

[1] Summarized from appendix, page 31.

INTRODUCTION

Purpose of this report

This report describes alternative onfarm solutions which federal programs could offer to the Muddy Creek erosion problem, proposes further analysis of alternative structural measures, and describes the scope of work for a feasibility study. It is geared to provide a strategy for coordinated federal agency action and to serve as a guide for obtaining federal funding to immediately accelerate onfarm programs and complete feasibility grade studies for structural measures.

Background

Muddy Creek, a tributary of the Sun River in the Upper Missouri River Basin, meets the Sun River 15 miles upstream from the Sun-Missouri confluence at Great Falls, Montana. The Muddy Creek watershed covers about 200,000 acres.

The major problem with Muddy Creek is the large amount of sediment that it discharges into the Sun and Missouri Rivers. Muddy Creek derives its name from historical sediment-laden flows, so the problem is not new. However, the problem is worsening. An average of 213,000 tons of suspended sediment is contributed by Muddy Creek each year. Much of the sediment comes from the lower 10 miles of highly unstable and eroding Muddy Creek channel. Increased flows generated from the Greenfields Irrigation Project have greatly aggravated channel instability. Natural flow before installation of the project is estimated to have been about 8,000 acre-feet per year compared with approximately 88,000 acre-feet measured in recent years at the Near Vaughn gauging station at Gordon.

The Greenfields Irrigation Project is a Water and Power Resources Service project dating back to about 1910. The project is operated by the Greenfields Irrigation District. The project covers 80,000 irrigated acres, 51,000 of which are in the Muddy Creek watershed. (Refer to map, appendix, page 23.)

The Sun River basin provides water for irrigation of Greenfields Irrigation District through Gibson reservoir. The irrigation water is diverted to Pishkun reservoir from the Sun River downstream of Gibson Dam.

Muddy Creek originates east of Freezeout Lake in Teton County and flows generally east toward Power, Montana, where it turns southeast to its confluence with the Sun River at Vaughn, Montana. Throughout its 42-mile length, the creek accumulates flows from small tributaries within its 314-square-mile drainage area.

Muddy Creek was incised in the plains from the draining of a glacial lake, which also created Freezeout Lake. Entrenched in the soft underlying shales, the stream developed a saline-alkaline flow. This low-gradient stream continues to meander into the unstable alluvium, carrying dispersed soil from periodic storm runoff and streambank erosion. The amount of clay particles and the chemistry of the soils produce an easily erodible soil which remains in suspension indefinitely, eventually flowing into the Sun River and on into the Missouri River.

Other groups have analyzed problems in the watershed. The Muddy Creek Landowners Association contracted for a report through the consulting firm of Systems Technology, Inc., to define alternative solutions to the Muddy Creek sediment problem. The report, entitled "Muddy Creek Special Water Quality Project," (November 1979) outlined areas for further consideration:

1. On-farm management:

a. Improved water management systems.

b. Improved watershed and stream corridor management.

c. Increased cost-sharing and program policy modification.
d. Increased technical assistance.
2. A surge relief canal to Freezeout and Priest Lake.
3. Muddy Creek channel stabilization, which could include:
a. Interceptor canal.
b. Storage.
c. Grade and bank stabilization.
4. An expanded operation and maintenance program for the irrigation project.
5. An expanded information and education program.

SOILS AND GEOLOGY

The major landforms in the Muddy Creek watershed and bench-forming terraces, shale uplands, continental glacial till plains, and alluvial valley fans and terraces.

The soils on bench-forming terraces—such as the Greenfield Bench and the Bole Bench—are the main irrigated soils in the watershed area. They were formed predominantly in alluvium derived from limestone, dolomite, and other calcareous sedimentary rock. These soils are nearly level to moderately sloping, deep and well drained, and characteristically have a high concentration of lime in the profile.

In addition to a high concentration of lime, some soils on the Greenfield Bench have a cemented hardpan (caliche) and very gravelly textures at shallow or moderate depths. The cemented hardpan restricts root and moisture penetration, and the very gravelly textures limit the available water capacity and increase the chance of deep percolation of water.

The shale upland soils between the Greenfield Bench and Teton Ridge are used mainly for nonirrigated cropland and rangeland. These soils formed mainly in clayey mantled materials and in interbedded shale, siltstone, and mudstone of the Colorado shale group. These soils range from shallow to deep and are well drained. They are on gently sloping to steep foot slopes, side slopes, and ridges.

An undulating to strongly rolling continental glacial till plain mantles the shale uplands in the eastern third of the watershed. The glacial till plain consists of moderately deep and deep soils formed in compacted glacial till and glacial fluvial deposits, mostly underlain at a depth of 20 to 60 inches by shale of the Colorado group. Many of these soils have a layer of concentrated gypsum and sodium salts. These soils are used mainly for nonirrigated crops and as rangeland. Saline seeps commonly develop on side slopes and foot slopes in this area.

The alluvial valley fans and terraces adjacent to Muddy Creek and the shale uplands consist of nearly level to moderately sloping, deep, well drained soils that formed in silty and clayey alluvium. Some of these soils have high concentrations of salts at or near the surface.

The principal soil management related problems in the Muddy Creek drainage are (1) low and moderate water capacity of the gravelly irrigated soils on the Greenfield Bench and the potential for deep percolation of water; (2) slow permeability and high concentration of salts in the soils on the glacial till plain and alluvial valley fans and terraces; and (3) slow permeability and shallow depth to bedrock on the shale uplands.

PROJECT SUPPORT

Increased sediment flow in Muddy Creek since the installation of the irrigation project has been locally recognized as a problem for over 25 years.

Local interest

In an effort to bring attention to the land loss, erosion, and sediment problems along Muddy Creek, landowners formed the Muddy Creek Landowners Association in 1978. This interest spurred the formation of a Muddy Creek Special Project Area with joint sponsorship by Cascade County and Teton Conservation Districts.

The project area leaders held a number of public meetings and made presentations defining the problems and possible solutions to area farmers, civic organizations, and agricultural interest groups, and gained the active support of the Great Falls Economic Growth Council, the Western Trade Association, and other organizations. Great Falls residents are concerned about the amount of sediment discharged into the Sun and Missouri Rivers, which reduces recreational opportunities in the vicinity of Great Falls.

The Greenfields Irrigation District has been involved in a number of programs to provide better delivery efficiencies and minimize seepage and return flow. These include 48-hour advance notification of farm water delivery and installation of a radio communications system for faster response. These programs will be continued.

Ongoing State and Federal activities

As noted earlier, the Muddy Creek Landowners Association organized a task force in 1979 with membership consisting of more than a dozen local, state, and federal agencies. This group produced the "Muddy Creek Special Water Quality Project" report (November 1979).

The Montana Departments of Health and Environmental Sciences and Natural Resources and Conservation recognized Muddy Creek as a significant sediment problem in the Statewide Water Quality Management Plan. The Environmental Protection Agency provided funds through Section 208 of the Clean Water Act to assist the Montana Department of Health and Environmental Sciences in funding the project coordinator and conducting water quality monitoring activities.

At the federal level, several agencies have committed manpower and funding to evaluate the needs of the project and implement some work. The Agricultural Stabilization and Conservation Service (ASCS) directed approximately $500,000 into the project area in fiscal year 1980 for agricultural improvements. The Old West Regional Commission (OWRC) provided $9,800 for a water quality sampling program in Muddy Creek and later added $200,000 to supplement the Agricultural Conservation Practices Program administered by the ASCS in 1980.

The Soil Conservation Service (SCS) has assigned two additional full-time staff members to the area. The SCS is also providing guidance and direction to the technical field committee responsible for this document.

The Water and Power Resources Service is assisting the Greenfields Irrigation District in financing a canal and lateral rehabilitation and betterment project. This $8.3 million activity is explained in detail later. The Service has developed plans and is ready to proceed under local sponsorship to install a pilot channel stabilization project in the Muddy Creek channel.

The U.S. Army Corps of Engineers, Omaha District, has investigated the feasibility of stabilizing the Muddy Creek channel. The report on this investigation was completed for the Muddy Creek landowner's task force in September 1979. It included preliminary design information and estimated costs for stabilizing the lower 28 miles of Muddy Creek.

EXISTING SYSTEMS AND EFFICIENCIES

During 1975–1978 the average water supply was 217,500 acre-feet. This included direct flow and storage release for the entire 80,000-acre Greenfields project. Canal losses and wastes have been 47,900 acre-feet, leaving deliveries to laterals of 169,600 acre-feet. Canal efficiency, therefore, has been about 78 percent. Lateral losses and wastes have been another 69,800 acre-feet, leaving a farm delivery of 99,800 acre-feet. The lateral efficiency averaged 52 percent. The overall delivery efficiency is 46 percent.

The following methods are currently being used to apply irrigation water in the 51,000-acre area that drains to Muddy Creek.

Method	Percent	Acres
Border ditch	34	17,300
Border dike	10	5,100
Contour ditch	6	3,100
Sprinkler	10	5,100
Wild flooding	40	20,400

A systems modeling approach [1] was used to analyze present management with the above methods. Cropping systems, soils, length of run, and time of set were among the criteria included in making this analysis. The results indicated that existing on-farm efficiencies average about 35 percent.

In 1980 the principal crops grown on the irrigated portion of the project that drains to Muddy Creek were approximately as follows:

Crop	Percent	Acres
Barley and other cereal grains	68	34,700
Alfalfa and other forage crops	21	10,700
Irrigated pasture	11	5,600
Total		51,000

Using the Modified Blaney-Criddle [2] method, the net supplemental irrigation requirement for cropping systems in the irrigated area draining to Muddy Creek is calculated to be approximately 1.15 acre-feet per acre.

Onfarm water budget

Using information supplied by the Greenfields Irrigation District and the systems modeling approach, a water budget was developed for the 51,000 irrigated acres in the Muddy Creek drainage area.

The flow of Muddy Creek provides an indication of the return flow from the portion of the Greenfields Irrigation Project that drains through Muddy Creek. Natural nonirrigated watersheds in Montana with characteristics similar to the Muddy Creek watershed discharge approximately 8,000 acre-feet of runoff per year. The average annual flow of Muddy Creek at the two gauging stations in current use is over 10 times this average. One station shows an average annual flow of 107,700 [3] acre feet and another upstream station shows 88,300 [4] acre-feet.

With interpolation, the amount of water contributed to Muddy Creek by irrigation is estimated to be 83,000 acre-feet per year. The present water budget for irrigated lands contributing to Muddy Creek is shown in appendix on page 24.

Rehabilitation and betterment program

An $8.3 million rehabilitation and betterment program to improve irrigation efficiencies for Greenfields Irrigation District is under construction. The Water and Power Resources Service-assisted program of canal lining and underground pipes will save approximately 37,000 acre-feet of water annually, of which 18,000 acre-feet would have returned to Muddy Creek. A Service document, "Report on Proposed Rehabilitation and Betterment Program—Greenfields Irri-

[1] U.S. Dept. of Agriculture, Soil Conservation Service, West Technical Service Center. 1979. *User's Guide to the Irrigation Method Analysis Program IRMA*. Portland, Oregon.

[2] U.S. Dept. of Agriculture, Soil Conservation Service, Engineering Division. 1970. *Irrigation Water Requirements, Technical Release No. 21*. Washington, D.C.

[3] Muddy Creek At Vaughn Gauging Station USGS data for years 1961–1977.

[4] Muddy Creek Near Vaughn Gauging Station USGS data for years 1968–1979.

gation District" (June 1976), details the program which is now under way and will be completed in 1988. The work is summarized on page 26 of the appendix.

EVALUATION OF ALTERNATIVE ONFARM SOLUTIONS

The problem-causing flows in Muddy Creek are closely correlated with the irrigation season and irrigation water management activities in the watershed. Therefore, only alternative plans for the 51,000-acre irrigated area draining to Muddy Creek were evaluated. The nonirrigated portion of the watershed will be placed in a high priority for use of the Great Plains Conservation Program and other ongoing soil and water conservation programs for land treatment in Cascade and Teton Counties.

Ongoing program

Approximately 20 landowners in the Muddy Creek Watershed have been applying irrigation water management practices with USDA assistance that benefited an estimated 2,400 acres per year. Based on an estimated practice life of 15–20 years, this level is not adequate to install and maintain a continuous high-level of irrigation water management.

Alternative plans of action for on-farm management

In addition to the ongoing program, five alternative plans were analyzed. These are compared in a table on page 26 of the appendix and are summarized as follows:

Plan 1—Recognizing water measurement as one of the primary needs for management of irrigation water, this plan provides for a level of management using only measuring devices and tensiometers. The cost of this plan for the project area would be $485,000. It is estimated that Muddy Creek return flows would be reduced by 5 percent.

Plan 2—This plan builds on Plan 1. Using the same level of management and the measuring devices and tensiometers, Plan 2 would also install ditch lining and pipelines to serve a 25,000-acre area. The total cost of this plan is estimated at $6.58 million. Return flow in Muddy Creek would be reduced by an estimated 25 percent.

Plan 3—This plan also uses measuring devices and the installation of ditch lining and pipelines. It adds 11,000 acres of land leveling and is based on an intermediate level of management. This plan costs an estimated $9 million with an estimated reduction in Muddy Creek return flows at 45 percent.

Plan 4—A high level of management that provides for optimum use of surface irrigation systems characterizes this plan. This plan could be implemented with either intensive use of labor or automated. Intensive use of labor costs are estimated at $12,630,000 while costs for the automated plan are estimated at $12,880,000. Over a 10-year period, the cost of the labor versus automated plan would be nearly equal. It will be difficult to gain acceptance of the intensive labor plan. The estimated reduction of return flows to Muddy Creek is 55 percent.

Plan 5—This plan is based on a high level of management and the installation of sprinkler systems on 50 percent of the area. Sprinklers would be installed where soil and topographic features make surface systems difficult to install and manage. The remaining 50 percent would use optimum surface irrigation systems. A disadvantage in using sprinklers is the increased energy requirement. Maximum use of gravity systems would reduce energy needs. The estimated cost of installing this plan is $19 million. The estimated reduction in return flows to Muddy Creek is 61 percent.

On page 26 of the appendix is a table that describes the management, systems practices, irrigation method, effects and cost of each of these alternatives on farm plans. The cost breakdown for each of these alternative plans is shown in greater detail in the appendix on page 27.

Recommended onfarm plan

Plan 5 is recommended as the most viable onfarm management alternative. This plan offers the best potential for managing the application of irrigation water in areas with shallow soils and difficult topography. Several farmers and ranchers attending the public meeting on November 19, 1980, felt that emphasis needed to be placed on greater use of sprinkler systems. Under this plan, approximately half of the area would be sprinkler irrigated, stressing the importance of these systems for areas of highly permeable soils and difficult topography. Optimum surface systems would be installed on the other half of the project area. In addition to improving the problems, this plan would provide for more efficient use of fertilizer and a full supply of irrigation water. Crop yield increases of approximately 35 percent should be possible with this plan installed. Details of this plan are displayed in the table on page 26 of the appendix. Total cost is estimated to be $19 million (1980 dollars). Annual cost over 20 years at 7⅜ percent interest would be $1,846,000. Operation and maintenance costs were assumed to equal that of existing systems.

Technical assistance needed to implement the recommended onfarm plan

The Soil Conservation Service (SCS) will have leadership for providing technical assistance to implement the recommended plan. The annual SCS technical assistance needed with 1980 costs for providing that assistance is shown in detail on page 33 of the appendix. The total cost of SCS technical assistance over the 10-year period required to implement the recommended plan is $2,285,000.

In addition to SCS technical assistance, the U.S. Department of Agriculture will provide assistance through the Snake River (Idaho) Conservation Research Center. This assistance is needed to develop and implement automated and other up-to-date techniques to achieve the highest practicable onfarm irrigation efficiencies. The estimated assistance in this category for the life of the project with 1980 costs is as follows:

Professional salaries (1 man-year)	$40,000
Research technician (2 man-years)	30,000
Travel	10,000
Equipment, materials purchased, and shop time	30,000
Total	110,000

All onfarm technical assistance will be closely coordinated with the information and education activities that are described in the following section.

INFORMATION AND EDUCATION

The information and education phase is important in developing and carrying out a program to solve the problems of Muddy Creek. The program should address the agricultural community with a coordinated interagency approach to solving those problems. It is recommended that the Cooperative Extension Service be funded sufficiently to provide one additional full-time person to handle the overall responsibilities of information and education relating to the program for solving the problems of Muddy Creek. The cost of providing this additional service is $37,000 per year, or $370,000 over the life of the project.

The following information and education activities are considered essentional to the Muddy Creek solution:

1. Carefully plan and conduct meetings with small groups of 5 to 10 farm operators to develop an understanding of the techniques and benefits of installing systems for improving irrigation water use and management.

2. Identify and work to establish a series of demonstration farms to cover a range of typical soil conditions, irrigation methods, and cropping systems.

3. Develop ways to implement an irrigation scheduling program using the computerized "Ag-Net" and Irrigation Management Systems programs or other acceptable methods.

4. Develop and present information programs to the general public through use of the available media, service clubs, or other means.

STRUCTURAL MEASURES

Discussions are presented for two types of solutions: surge relief for the supply canal and Muddy Creek stabilization.

Surge relief for supply canal

It takes 24 hours to deliver water through approximately 30 miles of canal from Pishkun Holding Reservoir to the Greenfields Project irrigated lands. When a sudden rainstorm occurs and farmers cancel their water orders, water from Pishkun is already in the system. Usually this water already flowing through the canal and lateral system is wasted into Muddy Creek. These wastewater discharges, combined with storm runoff, are closely correlated to high sediment concentrations at a downstream gaging station. Three alternative solutions for surge relief, including a wasteway to Freezeout Lake, storage reservoir, and canal storage are presented.

Wasteway to Freezout Lake—A wasteway (called a surge relief canal by local residents) could be constructed near the town of Fairfield to carry excess water from Spring Valley Canal to Freezeout Lake. It would reduce the impact of these storm-induced wastes into Muddy Creek by about two-thirds. If these flows were wasted into Freezeout Lake, an improved channel would be required from Freezeout Lake to Priest Lake downstream and from Priest Lake to Teton River. Quality of the water that would enter Teton River is a matter of concern and is being investigated by the Montana Water Quality Bureau.

The wasteway from Spring Valley Canal would be 2.5 miles long with a capacity of 600 ft^3/s. An existing wasteway would be enlarged to carry the water through most of the route. Total investment cost (January 1, 1980) would be about $7 million. This alternative could be justified only as an environmental quality project.

Reservoir to store water—Dam(s) located along the canal route could take water from the canal during storms when water orders are canceled. After the storm, the water would be pumped back into the canal. Big Coulee appears to be the only location where the water can be stored. There are two potential dam sites on the Coulee. The upper site was selected as being more advantageous. More fill material would be required, but costs would be more than offset by 20 feet less pumping head. The dam would be 10 miles farther upstream on the canal than the wasteway to Freezeout Lake. The location of the wasteway, therefore, would keep an additional 300 acre-feet of water from dropping into Muddy Creek than the dam would.

The dam would be rolled earthfill with a height of 50 feet and a crest length of 1,200 feet. A grassed spillway with a concrete lip would be located on the left side of the dam. The reservoir would have an active capacity of 3,150 acre-feet.

Surplus water would be dropped from the canal into the reservoir through a drop-chute structure 1,000 feet long. After the storm the water would be returned to the canal by a 100-ft^3/s pumping plant with a total dynamic head of 140 feet. Capacity for the

2-unit plant would be 115 ft³/s to allow for wear. Average diversions during a storm would be 2,000 acre-feet. It would take 10 days to pump the water back into the canal. A repeat storm could occur 5 days after the first storm without causing the reservoir to spill. Total investment would be $9.6 million (January 1980 prices at 7⅛ percent interest rate).

Checks in supply canal—Another alternative is to place checks in the main canal. When it rains, and water users cancel their orders, a series of checks in the canal would be closed. The water between Pishkun Reservoir and the distribution system east of Fairfield would be saved in the main canal instead of wasting into Muddy Creek.

Eleven checks would be required to stop water flow in the canal from Pishkun Reservoir to a point about 2 miles east of the town of Fairfield. The checks would keep about 250 acre-feet more water out of Muddy Creek than the Freezeout wasteway. Canal freeboard would be raised where required. The checks would contain rotating or radial gates. The gates would be controlled by remote-operated mechanisms that would allow them to close at 5-minute delays from Pishkun Reservoir to the lower end. Total investment would be $5.2 million (January 1980 prices at 7⅛ percent interest rate).

SUMMARY OF SURGE RELIEF—3 ALTERNATIVES FOR SURGE RELIEF

	Water kept out of Muddy Creek (acre-feet)	Water saved for project use (acre-feet)	Total investment
Surge relief canal	2,300	0	$10,000,000
Big Coulee Dam and pump plant	2,000	2,000	9,600,000
Surge relief checks	2,600	2,600	5,200,000

The following is a summary of costs of the surge relief alternatives:

	Annual Investment cost	Annual O.M. & R.[1]	Total annual cost
Surge relief canal	$711,000	$9,100	$720,000
Big Coulee Dam and Reservoir.	678,000	33,000	720,000
Canal checks	370,000	530,000	900,000

[1] Operational, maintenance, and replacement.

The Service will conduct feasibility grade studies and provide a detailed plan for surge relief.

Muddy Creek stabilization

Five alternatives were analyzed at appraisal level to determine the most practical solution to stabilize Muddy Creek: (1) a dam near Power, Montana, (2) an interceptor canal, (3) a series of drop structures, (4) a dam near Vaughn, Montana, and (5) a combination of low dams and drop structures.

Dam near Power, Montana—This alternative was explained in "Information on Muddy Creek Erosion Problem," Water and Power Resources Service, April 1974. It includes a dam and reservoir located on Muddy Creek in southeastern Teton County near the town of Power, Montana. The facility would be combined with a recycling system to provide 18,000 acres with additional water and irrigate about 2,350 acres of new land adjacent to the Greenfields District through an exchange agreement. The plan would also utilize the recycling system to provide, through exchange, low flow augmentation of Sun River.

The dam would be a rolled earthfill structure 80 feet in height with a crest length of 660 feet. The total volume of fill required would be about 240,000 cubic yards. It would have an ungated overflow spillway of 30,000 ft³/s and an outlet works with a capacity of 200 ft³/s. The surface area of the reservoir at a capacity of 25,000 acre-feet would be 1,400 acres. Reservoir characteristics are shown below.

	Storage (acre-feet)	Surface area (acres)	Elevation (feet, MSL)
Streambed	0	0	3,591.0
Inactive storage	5,000	410	3,641.5
Active conservation storage	25,000	1,400	3,664.5

The reservoir would store the flows of Muddy Creek originating above the dam and wastewater from the Greenfields Irrigation District. Wastewater from terminal wasteways and drains entering Muddy Creek below the dam would be carried into the reservoir by a collection system. This collection system would extend a distance of 12.8 miles downstream from the dam and collect flows from five major drainages. The flows of each drainage would be fed into the concrete-lined system through small diversion dams. The system capacity would increase from 60 to 200 ft³/s along the 12.8-mile length to the reservoir.

Several possible uses for the stored water were examined. The use selected is to recycle the water onto the lower benches of the Greenfields Division of the Sun River Project for reuse.

The recycling system would consist of a series of 5 130-ft³/s pumping plants and a canal system to serve the lower benches adjacent to the reservoir. This system would be situated so that water flowing in project drains would be pumped simultaneously with water from the reservoir to effect a savings throughout the system. The following physical information is given for the recycling system.

Pumping plant	Q (ft³/S)	Discharge diameter (inches)	Line length (feet)	TDH (feet)
1	130	42	2,900	141
2	130	42	3,960	53
3	130	42	3,100	100
4	130	42	1,500	75
5	130	42	4,300	55
Total			15,760	

Canal length=16,000 feet.
Capacity=130 ft³/s (concrete-lined).

Total investment cost (January 1, 1980 prices) would be $37,000,000. Construction period would be 6 years.

Intercepter canal—A 15-mile-long concrete-lined canal with 500 ft³/s maximum capacity would be constructed along the west side of Muddy Creek. It would begin near the town of Power and end in a relatively stable part of Muddy Creek near the town of Vaughn. The canal would intercept wastewater and return flows from Greenfields Project. Although there may be potential for two small hydropower plants along the canal, flows would probably be too erratic to justify the power plants. They were not analyzed in this study. Flows entering Muddy Creek upstream from the canal and from the east side would not be controlled. Total investment cost (January 1, 1980, prices) would be $14 million.

Series of drop structures—Constructing 35 five-foot concrete retention-drop structures would decrease the channel gradient by three-fourths through the Power-to-Vaughn segment of Muddy Creek. Riprap would be placed to further stabilize the stream in the vicinity of the drops. Total investment (January 1, 1980, prices) would be about $9 million.

Dam near Vaughn, Montana—A dam and reservoir on Muddy Creek about 4 miles upstream from the town of Vaughn would capture most of the creek's sediment load behind the dam. Very little meandering or erosion would be controlled; however, Sun River would again run clear.

The dam would be a rolled earth structure 60 feet high above streambed with a crest length of 1,550 feet. It would require 500,000 cubic yards of earthfill. The ungated concrete spillway would have a capacity of 150,000 ft³/s flow of water. A pipe outlet would have a capacity of 2,000 ft³/s. Four miles of railroad and 3.5 miles of highway would be relocated. Reservoir characteristics are shown below.

	Storage (acre-feet)	Surface area (acres)	Elevation (feet, MSL)
Streambed	0	0	3,400
Sediment storage available	13,800	605	3,447
Surcharge	3,100	603	3,452
Top of dam			

The reservoir would trap about 12,000 acre-feet of sediment during its 100-year useful life span. Beyond that time sediment would have to be dredged out of the reservoir each year if it were to continue functioning. Sediment control and recreation would be the only functions of the reservoir. Total investment (January 1, 1980 prices) would be $23 million.

Combination of low dams and drop structures—A series of four low dams and 13 drop structures would be located in Muddy Creek between the towns of Power and Vaughn. Each dam would be about 40 feet high above the bottom of the channel. They would be rolled earth fill construction averaging 42,000 cubic yards of fill. Grassed chute spillways with earthen plugs would be utilized. Average reservoir area at normal water level would be 50 acres. The 13 drop structures would be identical to those described in the third alternative. Muddy Creek gradient would be reduced by 75 percent. Total investment (January 1, 1980 prices) would be about $23 million.

Summary of Annual Costs—The following summarizes the annual costs of the Muddy Creek stabilization alternatives.

Alternative	Annual investment cost	Annual O.M. & R.	Total annual cost
Dam near Power	2,635,000	105,000	2,740,000
Interceptor canal	995,000	15,000	1,010,000
Drops in Muddy Creek	665,000	155,000	820,000
Dam near Vaughn	1,641,000	39,000	1,680,000
Combination of low dam and drops	1,641,000	99,000	1,740,000

Muddy Creek Stabilization Conclusions—The Muddy Creek Stabilization potentials are all, to one degree or another, alternatives to surge relief, onfarm irrigation water management, and educational programs. If these three proposed action programs are successful, it is doubtful if a Muddy Creek stabilization program would be needed. Therefore, no action should be taken to stabilize Muddy Creek until the surge relief measures, On-farm Management Plan 5, and the Information and Education program are implemented.

Hydrology Study—A hydrology study has been proposed. This study will document present operation of the irrigation system, highlighting wastewater discharge. The time of water spilling or wasting will be studied based on rainfall frequency and/or special

system operations which induce spilling or waste. Details of the study are discussed on page 29 of the appendix.

OVERALL IMPLEMENTATION PLAN

The recommended plan for Muddy Creek is to implement Onfarm Management Plan 5, surge relief measures, and the Information and Education Program.

A limited onfarm management program for the Muddy Creek area is presently ongoing. This program was stepped up to a funding level of approximately $700,000 in fiscal year 1980. The U.S. Department of Agriculture could provide funding up to $350,000 in fiscal year 1981. Action should start immediately to provide the $12.5 million of financial assistance and $2.4 million of technical assistance that are required to implement Onfarm Management Plan 5 over the next 10 years.

Immediate action is needed to provide $97,000 in fiscal year 1982 for Water and Power Resources Service to start feasibility grade studies to evaluate alternatives in detail and develop plans for constructing surge relief measures.

Immediate funds in 1982 totaling $52,000 should also be provided to start an environmental assessment for the overall implementation plan and a feasibility grade hydrologic analysis for that plan. Details on funding needs by fiscal year through 1985 are shown on page 31 of the appendix.

Construction will continue under the ongoing Rehabilitation and Betterment Project, and efforts should continue for installing the pilot Muddy Creek channel stabilization work.

Additional channel stabilizing measures should not be pursued until the success of Rehabilitation and Betterment, onfarm irrigation water management, information and education, and surge relief implementation is determined.

ENVIRONMENTAL CONCERNS

The environmental concerns have been divided into two parts—onfarm and off-farm. Following a discussion of the two parts, the resources needed for assessing the impacts are discussed.

Onfarm management program environmental concerns include:

A. Reduction of wildlife habitat through ditch lining, pipe laying, and sprinkler system development.

B. Lowering of the ground water table which may result in increased nitrate concentrations in wells in the area and the need to deepen wells.

C. Decreased flows in drainageways and upper Muddy Creek where fish and waterfowl populations may be adversely impacted.

These impacts will be addressed through the following activities:

1. Summarize the amount of wildlife habitat that may be disturbed by ditch lining, pipe laying, and sprinkler system development for the entire project area. The SCS will develop this information and establish an associated wildlife habitat unit value. It is believed that reseeding disturbed areas with SCS-approved seeding mixtures will mitigate the disturbance of upland game habitat. SCS will establish the specifications for reseeding which will be required as a condition for receiving cost-sharing funds for ditch lining. This activity can be accomplished with existing resources.

2. Locate and quantify the wetland areas now present because of system water losses and estimate wildlife populations in these areas. This will determine baseline conditions before this type of habitat is reduced as irrigation efficiencies improve and seepage and return flows decline. The SCS and the Montana Department of Fish, Wildlife and Parks should make these estimates. They should also determine if management practices are needed to maintain some impacted wetland areas in present conditions. This activity can be accomplished with existing resources.

3. Evaluate the effect of decreased flows in certain drainageways and in Muddy Creek in terms of adverse impacts on existing fish and waterfowl communities. The Department of Fish, Wildlife and Parks should continue their present effort to determine baseline fish populations. Estimates of waterfowl use of these areas should also be determined, if possible. Present resources are adequate for this activity.

4. Evaluate the effect of increased irrigation efficiencies on ground water table depth and quality. This impact will be partially addressed through a proposed State grant to the Bureau of Mines to drill six to 12 test wells in areas where the SCS will be evaluating alternative irrigation management practices. Although good information should result from this effort, a broader, more comprehensive evaluation will be necessary to evaluate potential cumulative effects of the on-farm irrigation improvements. It is recommended that additional funds be provided to the Bureau of Mines to expand their ground water evaluation to include the potential effects on the Fairfield and Power municipal water supplies. In addition, modeling of the six to 12 test wells sites to project ground water reaction on a much broader scale which would be applicable to various geohydrologic conditions should be undertaken. This investigation should also identify and evaluate alternative potable water supplies for affected farms and municipalities.

To develop a comprehensive evaluation of ground water impacts, surface flows in appropriate drainageways and Muddy Creek must be monitored. Sample collection should be coordinated with the ground water study in terms of timing, duration, and parameter selection. Flow rates, physical and chemical water quality, and biological community reaction are the primary factors to be monitored and related back to the type of irrigation management practice being conducted in the particular subwatershed. The Water Quality Bureau and the Department of Fish, Wildlife and Parks would carry out this monitoring activity in coordination with the SCS. However, additional funds would be required for this effort. The monitoring would also be coordinated with the continuing USGS monitoring on Muddy Creek.

Proposed off-farm measures environmental concerns include:

A. Changes in erosion rates on Muddy Creek streambanks downstream from Gordon.

B. Changes in sedimentation rates in lower Muddy Creek below Vaughn, in Sun River below the mouth of Muddy Creek, and in the Missouri River immediately below the mouth of Sun River.

C. Changes in water quality in stream reaches outlined in items A and B.

D. Changes in fish and wildlife habitats in these reaches and other locations.

E. Projected changes in fishing and hunting attributable to the project alternatives.

F. Decreased return flows may also reduce water available for Freezeout-Priest Butte Lakes and for pumping to Benton Lake Wildlife Refuge.

These impacts will be addressed through the following:

1. Water and Power, in cooperation with other appropriate agencies, will develop projections of the change outlined in items A through C above. These projections will be based on existing data.

2. The Fish and Wildlife Service, with other agencies, will analyze impacts on fish and wildlife habitats associated with the appropriate stream reaches.

3. Water and Power, with assistance of other agencies, will determine changes in fishing and hunting associated with the project alternatives.

4. An estimated 75 percent of the water is currently entering the Freezeout-Priest Lake Butte Lake system arises from the Greenfields Bench irrigated area. The impact on the lakes of improved onfarm irrigation management practices must be considered. To ensure the continued maintenance of a desirable lake system habitat, the Greenfields Irrigation District shall provide sufficient flow to the lakes from water saved by upgrading the irrigation system.

The present baseline flow entering the lakes from the irrigated area will be determined by the Department of Fish, Wildlife and Parks. The Department will also jointly determine with the Irrigation District the feasibility of providing supplemental water supplies to the lakes through existing or new ditch or lateral turnouts. Monitoring of this flow will continue as necessary to determine if improved irrigation efficiencies are reducing the lakes' water supply.

If significant reductions become apparent, the Department of Fish, Wildlife and Parks will coordinate with the Irrigation District to maintain an adequate flow to the lake system. There will be no significant impacts on the Teton River from the onfarm management program if the present flow to the lakes is maintained.

5. Because the Benton Lake Refuge is dependent upon Muddy Creek for most of its water supply, the Greenfields Irrigation District agrees to coordinate with the U.S. Fish and Wildlife Service to ensure that adequate flow is maintained in the creek for this purpose. Appropriate flow data will be obtained, as necessary, to determine if supplemental water must be released from the canal system to Muddy Creek.

Resources needed to carry out the identified environmental assessment activities for both the on-farm and off-farm measures:

ACTIVITY, RESPONSIBLE AGENCY, AND RESOURCES REQUIRED

State

Ground water monitoring: Bureau of Mines/EPA, $50,000/yr/2 years.

Surface WQ monitoring: Water Quality Bureau/EPA, $30,000/yr/2 years.

Biological monitoring: Department of Fish, Wildlife and Parks/EPA, $5,000/yr/2 years.

Federal

Fish and Wildlife Coordination Act Analysis:[1] U.S. Fish and Wildlife Service, $27,500 over 2 years (note: $20,000/1st yr., $7,500/2nd yr.).

Cooperation in habitat assessments: Water and Power Resources Service, $2,000 over 2 years; SCS, $2,000 over 2 years.

Other environmental assessments, monitoring, and analyses listed herein will be accomplished with existing resources.

BENEFICIAL EFFECTS

A detailed economic analysis of implementing improvements in the Muddy Creek area was not done for this study. Beneficial effects based on the limited available data are, however, described in this section.

Improved irrigation water management almost always increases crop production and/or reduces the costs associated with irrigation water use. Better onfarm water management results in less soil fertilizer, and pesticide loss; increased in yield and quality of the crop; and, depending on the system, a reduction in labor. A detailed farm budget is needed to estimate the benefits in specific cases.

The potential for increasing yields in the Muddy Creek area appears good for the principal crops of barley and alfalfa. The 1978 annual report for the Greenfields project, which includes the Muddy Creek drainage area, shows barely yields at 65 bushels per acre. With the planned high level of irrigation water management, barley yields should

[1] Includes habitat impact changes using current assessment techniques.

increase to an 85-bushels-per-acre average for the entire irrigated area. Fertilizer, pesticides, and labor savings that result from changed systems and improved irrigation efficiencies should offset any increase in labor, pesticides, and fertilizer that will be needed to achieve the 20-bushel-per-acre increase in yield. This production increase on 34,700 acres of barley at $3.00 per bushel results in an annual value of $2,082,000.

In the case of alfalfa hay, the 1978 yield reported in the annual report was 3.2 tons per acre. Better irrigation water management should produce an increase to an average of 4.2 tons per acre for the irrigated area. Savings again should offset any increased costs to attain the higher yield. The increased production on 10,700 acres of alfalfa hay, valued at $50 per ton, gives an annual value of $535,000 for the irrigated Buddy Creek area.

Systems Technology, Inc.[1] documented estimates of other benefits from improvements in the Muddy Creek area in a letter dated December 18, 1979, to the Cascade County Conservation District. This document estimated that improved water quality of the Sun River would produce an increase in 3,500 to 5,000 fisherman-days, at a value of $21,000 to $50,000 per year.

The amount of water saved includes a reduction of 33,000 acre-feet delivered to farms and a reduction of 20,000 acre-feet in off-farm seepage and spill for a total savings of 53,000 acre-feet. The water saved will be available for environmental, recreational, and other uses. Return flow through Muddy Creek will be reduced by 72 percent.

It is difficult to document the total dollar value of the improvements to water quality. The reduction in sediment produced is assumed to be equal in proportion to the reduced flow in Muddy Creek, or 154,000 tons annually. Sediment damages to irrigation pumps and agricultural operations along Muddy Creek were estimated to be $24,000 per year by Systems Technology, Inc.

Based on U.S. Geological Survey data for 1978,[2] it is estimated that 67,000 tons of salt are picked up annually in the Muddy Creek area. The reduction in salt pickup by installing improvements is estimated to be in direct proportion to the reduction in deep percolation (appendix, pages 24 and 30). On this basis, the planned improvements would reduce the salt pickup by 48,000 tons per year. Data currently are not adequate to assign a monetary value to this benefit.

[1] Systems Technology, Inc., Helena, Montana, to Joy Fulton, Administrative Assistant, Cascade County Conservation District, December 18, 1979.

[2] U.S. Geological Survey, 1978. Water Resource Data for Montana, pp. 91–98.

FUNDING CONSIDERATIONS

There are two major options for funding the Muddy Creek program. The first and preferred option would be to provide total funding through a "lead agency." That lead agency would provide funds to the other agencies who are responsible for their respective roles. With this approach, all funding would go to the Department of the Interior, and funds to USDA and other agencies would be provided as necessary through reimbursable agreements.

The second option would be to fund USDA agencies, USDI agencies, and EPA separately. There are several programs available in USDA that could, if they were adequately funded, provide a means to implement the onfarm program. These programs include the Agricultural Conservation Program (ACP), Rural Clean Water Program, and the Small Watersheds Program (PL–566). Funding to Department of the Interior's Water and Power Resources Service to implement structural measures would be through traditional appropriations procedures.

Tables showing total costs and funding schedule and agency assignment are found on pages 31 and 32 of the appendix.

APPENDIX

IRRIGATION WATER BUDGET FOR 51,000-ACRE MUDDY CREEK AREA

[Thousand acre-feet]

	Present	Future (recommended plan installed)
On-farm:		
Gross application (field)	146	92
Reuse[1]	[2](−)26	[3](−)5
Project water delivered through "A" drop[4]	120	87
Irrigated crop consumptive use	41	57
Ground water use by crops[1]	[5](+)10	[3](+)3
Total supplemental water use by crops	[6]51	[6]60
Return flow	69	27
Return flow determination:		
Surface runoff	23	12
Deep percolation and seepage	82	23
Ground water use[1]	(−)10	(−)3
Reuse[1]	(−)26	(−)5
Return flow	69	27
Off-farm:		
Off-farm seepage and spill	35	15
On-farm return and off-farm seepage	104	42
Benton Lake Refuge diversion	(−)4	(−)4
Incidental water use (hydrophytes, seeped areas and evaporation)	(−)17	(−)15
Muddy Creek irrigation return flow (both on-farm and off-farm)	83	23

[1] From on-farm and off-farm water losses (seepage, surface runoff, deep percolation).

[2] 18 percent reuse of project water deliveries was based upon information provided by the Greenfields Irrigation District for 1978.

[3] 5 percent.

[4] Based on water measurements information provided by Greenfields Irrigation District.

[5] 20 percent.

[6] Assume 85 percent adequacy of irrigation for present conditions.

REHABILITATION AND BETTERMENT PROJECT

Gibson Dam—Installing automation of three spillway gates, telemetric communication of the water elevation, and supervisory control of two river outlet gates.

Pishkun Dam—Installing telemetric communication of the canal stage and supervisory control of two diversion gates.

Main Canals—(1) Installing 2,500 linear feet of membrane lining in the Greenfields Main Canal (910 ft³/s capacity); 10,000 linear feet of Greenfields South Canal (386 ft³/s capacity); and 12,500 linear feet of miscellaneous reaches (60–145 ft³/s capacity).

(2) Abandonment of a section of the Greenfields South Canal.

(3) Installing telemetric communication of Mary Taylor Drop.

(4) Replacing four lateral turnouts and installing seven new measuring devices.

Laterals—(1) Installing membrane lining in 3,000 linear feet of various laterals, 45–75 ft³/s capacity.

(2) Installing concrete lining in various size laterals as follows: 267,200 linear feet, 0–5 ft³/s capacity; 141,373 linear feet, 5–10 ft³/s capacity; 129,500 linear feet, 10–15 ft³/s capacity; 84,700 linear feet, 15–25 ft³/s capacity; 41,400 linear feet, 25–35 ft³/s capacity; 17,600 linear feet, 35–50 ft³/s capacity; and 11,800 linear feet, 50–75 ft³/s capacity.

(3) Installing 26,340 linear feet of buried low-head pipe ranging in size from 10-inch to 27-inch in various laterals ranging in size from 3 ft³/s to 20 ft³/s.

(4) Installing telemetric communication of J Wasteway.

(5) Replacing or repairing 22 control structures by constructing new structural walls, supports, etc. These structures may be modified to adapt to modern operational techniques.

(6) Providing measuring devices by modifying present turnout structures to adapt to the portable flowmeter measurement method and by providing new devices where required.

Action	Ongoing program	Alternative plans of action 1	2	3	[1]4	5 (Recommended plan)
		Management I and measuring devices	Management I measuring devices ditch lining	Management II measuring devices ditch lining border ditches	Management III optimum surface systems	management III optimum surface system with sprinklers
Management:						
Landowners scheduling irrigation (percent)	0	50	50	75	75	100
Delivered Q	----------	[2]	[2]	[2]	[2]	[2]
IRMA level[3]	----------	IRMA–1	IRMA–1	IRMA–2	IRMA–3	IRMA–3
Systems (Practices) (acres):						
Measuring device coverage	0	50,000	50,000	50,000	50,000	50,000
Ditch lining/pipelines	0	0	25,000	25,000	25,000	25,000
Land leveling	11,000	11,000	11,000	22,000	25,000	22,000
Automation	0	0	0	0	[4]25,000	25,000
Soil moisture sensors	0	[5]	[5]	[5]	[5]	----------
Soil swapping	0	0	0	0	4,000	0
Wildlife habitat improvement	2,000	2,000	2,000	3,250	3,250	3,250
Methods (acres):						
Border ditch	17,000	17,000	17,000	0	0	0
Border dike	5,000	5,000	5,000	22,000	26,000	22,000
Wild flooding	20,000	20,000	20,000	20,000	16,000	0
Contour ditch	3,000	3,000	3,000	3,000	3,000	3,000
Sprinkler	5,000	5,000	5,000	5,000	5,000	25,000

Action	Ongoing program	Alternative plans of action 1 Management I and measuring devices	2 Management I measuring devices ditch lining	3 Management II measuring devices ditch lining border ditches	[1] 4 Management III optimum surface systems	5 (Recommended plan) management III optimum surface System with sprinklers
Effects:						
On-farm efficiency (percent)	37	40	40	50	65	65
Reduction in Muddy Creek return flow (percent)	2	5	25	45	55	61
Sediment reduction (T/yr.)	4,000	10,000	48,000	86,000	106,000	117,000
Salt reduction (T/yr.)	1,350	4,000	20,000	36,000	43,000	48,000
Costs (January, 1980):						
Total cost		$485,000	$6,580,000	$9,000,000	[6] $12,630,000 [7] $12,880,000	$19,000,000
Federal cost share		$332,500	$4,903,750	$6,718,750	[6] $7,378,750 [7] $9,628,000	$12,468,750
Total cost per acre		$10	$129	$176	[6] $247 [7] $252	$372

[1] Options of labor input versus automated systems were considered.
[2] SCS Irrigation Method Analysis Program Level.
[3] 4 cfs minimum is required.
[4] Option.
[5] Total of 2,500 acres for plans 1, 2, 3, and 4.
[6] Labor.
[7] Automated.

ONFARM MANAGEMENT PLAN COSTS

	Total cost	Federal cost share Percent	Federal cost share Amount
Plan 1:			
800 measuring dev. at $450	$360,000	75	$270,000
2,500 tensiometers at $50	125,000	50	62,500
Total, plan 1	485,000		332,500
Plan 2:			
Cost from plan 1	485,000		332,500
Ditch lining & pipelines on 25,000 acres	6,095,000		4,571,250
Total, plan 2	6,580,000		4,903,750
Plan 3:			
Cost from plan 2	6,580,000		4,093,750
Add 11,000 acres of land leveling	2,420,000		1,815,000
Total, plan 3	9,000,000		6,718,750
Plan 4 (with labor):			
Costs from plan 3	9,000,000		6,718,750
Add 4,000 acres leveling	880,000	75	660,000
Addition labor, 10 yr at $275,000/yr	2,750,000		
Total, plan 4 (with labor)	12,630,000		7,378,750
Plan 4 (with automation):			
Costs from plan 3	9,000,000		6,718,750
Add 4,000 acres leveling	880,000	75	660,000
Automation on 25,000 acres	3,000,000	75	2,250,000
Total, plan 4 (with automation)	12,880,000	75	9,628,750
Plan 5:			
Costs from plan 3	9,000,000		6,718,750
25,000 acres automated	3,000,000	75	2,250,000
Add 20,000 acres sprinkler system	7,000,000	50	3,500,000
Total, plan 5	19,000,000		12,468,750

SCS TECHNICAL ASSISTANCE NEEDS AND COST

(1980 dollars)

1—Project leader, GS–11	$22,000
1—Conservation Engineer, GS–11	25,000
2—Soil Conservationist, GS–9	36,000
2—Soil Conservation Technician, GS–7	30,000
1—Clerk, Cartographic, GS–5	12,000
1½ man-years, other specialists, ave. GS–12	40,000
Subtotal	165,000
Benefits @ 10 percent	16,500
Subtotal	181,500
Travel: $1,000	1,000
Computer Services	1,000
Other Overhead @ 25 percent	45,000
Total per year	228,500

HYDROLOGY STUDY

Study Scope—This study will document present operation of the irrigation system, highlighting wastewater discharge. The time of water spilling or wasting will be studied based on rainfall frequency and/or special system operations which induce spilling or waste, etc., (fall shutdown of system). The documentation of the wastewater discharge and its relation to time should allow correction of the present operation if necessary by physical means or management means.

The study steps are:

1. Meet with irrigation district personnel to determine their standard operating procedures for shutting down the canal under various conditions (emergency or normal practices).

2. Obtain discharge information on diversions and wasteways to determine water quantities of outflow from the system. This may require setup of a monitoring program for data collection.

3. Obtain or compute inflow to system, including diversion from the river, return flows to canal system, and storm runoff entering the canal system.

4. With collected data, perform hydrologic analysis to obtain system time response to water travel through system.

5. Water quality evaluation.

6. Prepare appendix.

Estimate of time to perform study:

Step and cost:

1. ½ man-month (project review, meet with district management, and write present operation procedure), $1,700.

2. 2 irrigation seasons (data collection if necessary) or 12 man-months, $35,600.

3. 2 irrigation seasons (data collection if necessary) or 12 man-months, $3,300; 1 man-month (data organization for inflow-outflow analysis), $3,300.

4. 2 man-months (determine from inflow-outflow analysis the travel time response), $6,800.

5. 3 man-months.

6. 1 man-month (prepare appendix), $3,300.

Total: $64,000.

NOTE: Cost-based on $40,000 per year per man or $3,300 per man-month. The data collection of inflow and outflow steps 2 and 3 will be done together by same personnel, so one cost was included using a rate of one man at GS–5, $12,531/year, and one man at GS–9 at $17,035/year, plus $6,000 for equipment equals $35,566.

FUNDING SCHEDULE AND AGENCY ASSIGNMENT

	Federal funds USDA	WPRS	EPA	F. & W.L.S.	Other funds State	Private	Local government
1982							
On-farm	1,500,000					600,000	
Environmental	1,000	1,000		20,000			
Surge relief		97,000					
Hydrology study		30,000					
Information and education	37,000						
Monitoring			65,000		21,500		
1983							
On-farm	1,500,000					600,000	
Environmental	1,000	1,000		7,500			
Surge relief		74,000					
Hydrology study		34,000					
Information and education	37,000						

FUNDING SCHEDULE AND AGENCY ASSIGNMENT—Continued

	Federal funds				Other funds		
	USDA	WPRS	EPA	F. & W.L.S.	State	Private	Local government
Monitoring			62,500		21,000		
1984							
On-farm	1,500,000					600,000	
1985							
On-farm	1,500,000					600,000	
Surge relief (construction)		5,000,000					

TOTAL COSTS

The estimated costs for installing the improvements in the Mud dy Creek area are over $32 million. The costs are summarized in the following table.

TOTAL COSTS FOR MUDDY CREEK IMPROVEMENTS

[In dollars]

Activity	Total cost	Federal	Other	Responsible agency [1]
On-farm management financial assistance	19,000,000	12,469,000	6,531,000	USDA
On-farm management technical assistance	2,285,000	2,285,000	0	USDA
Snake River Cons. Research Center Asst.	110,000	110,000	0	SEA–AR
Information and education	370,000	370,000	0	CES
Feasibility grade studies	171,000	171,000	0	WPRS
Surge relief construction [2]	10,000,000	10,000,000	0	WPRS
Environmental studies	31,500	31,500	0	F. & W.L.S.
Monitoring	170,000	127,500	42,500	EPA
Hydrology study	64,000	64,000	0	WPRS
Total	32,201,500	25,628,000	6,573,500	

[1] Key to abbreviations follow:
USDA = U.S. Department of Agriculture.
SEA–AR = Science Education Administration-Agricultural Research.
CES = Cooperative Extension Service.
WPRS = Water and Power Resources Service.
F. & W.L.S. = U.S. Fish and Wildlife Service.
EPA = Environmental Protection Agency.
[2] Scheduled after 1985.

FUNDING NEEDS BY YEAR THROUGH 1985 [1]

Year	Total	Federal	Other
1982	2,372,500	1,751,000	621,500
1983	2,338,000	1,717,000	621,000
1984	2,100,000	1,500,000	600,000
1985	7,100,000	6,500,000	600,000

[1] Summarized from appendix, page 31. ●

By Mr. HOLLINGS:

S. 1490. A bill to amend the authorization of the demonstration project at Broadway Lake, S.C.; to the Committee on Environment and Public Works.

DEMONSTRATION PROJECT FOR BROADWAY LAKE, S.C.

● Mr. HOLLINGS. Mr. President, section 98, Public Law 93–251, March 7, 1974, authorized a demonstration project to be undertaken for the removal of silt and aquatic growth from Broadway Lake at an estimated cost of $400,000. The authorization states that the Secretary of the Army shall report to the Administrator of the Environmental Protection Agency the plans for the anticipated results of such a project, together with such recommendations as he determines necessary to assist EPA in carrying out the clean lake program under section 314 of the Federal Water Pollution Control Act (Public Law 92–500).

The Savannah district of the Corps of Engineers coordinated with EPA and the State of South Carolina to develop a plan for restoring a 6-foot depth in shallow areas of the lake. The district completed a detailed project report and final environmental impact statement. The selected plan requires dredging to a water depth of 6 feet in both Neals Creek and Broadway Creek arms of Broadway Lake and includes comprehensive monitoring of sediment and water quality and fisheries before, during, and after dredging.

Also, State implementation of land treatment measures to control erosion in the watershed with the aid of an EPA section 314 grant is considered a major part of the plan. Based on October 1979 prices, the demonstration project is estimated to cost a total of $2,539,000, of which $2,112,000 would be Federal and $427,000 would be non-Federal.

The Federal cost is composed of $1,777,000 for the Corps of Engineers to dredge the lake and monitor fish and $335,000 for the EPA's 50/50 share with the State of South Carolina in a program of sediment management. The non-Federal cost for the State of South Carolina of $427,000 is composed of $335,000 for their 50/50 share with the EPA in the program for sediment management and $92,000 to monitor water and sediment quality.

The selected plan has been approved by the corps. However, due to the significant increase in cost over the authorized project, the discretionary authority of the Chief of Engineers to further pursue this project has been exceeded. The Director of Civil Works has determined that Congress must be informed of the selected plan and requested to reaffirm the 1974 authorization. A significant post authorization report is being prepared for coordination with the State of South Carolina and EPA prior to submittal to the Congress through the Secreary of the Army and the Office of Management and Budget.

Investigation made in connection with the dam safety program determined there are major problems associated with the dam, spillway, and low-level outlet which are outside the authority of the demonstration project. An agreement has been signed between the State and Anderson County to repair the dam. Some work has been completed but the State will not certify the dam's safety until all specified work is accomplished. The corps requires the State's certification before requesting funds for the demonstration project.

The significant post authorization report is a long tedious procedure required by current regulations. The land owners around Broadway Lake have agreed to form a taxing district to finance the portion of the repairs to the dam beyond the limits of available funds. However, the land owners are reluctant to pass the bond issue required unless there is a firm commitment by the corps to dredge the lake. Thus, we are now stymied by two equally valid competing interests. Approval of the legislation I am introducing today will enable the Committee on Appropriations to increase the funding for Broadway Lake so that the work can proceed. ●

By Mr. LEAHY (for himself, Mr. ANDREWS, Mr. BAUCUS, Mr. BRADLEY, Mr. CRANSTON, Mr. DANFORTH, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. HATFIELD, Mr. HEINZ, Mr. HUDDLESTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. LUGAR, Mr. MELCHER, Mr. MITCHELL, Mr. PELL, Mr. PERCY, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. SPECTER, Mr. STAFFORD, Mr. TSONGAS, and Mr. INOUYE):

S.J. Res. 98. Joint resolution to authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day"; to the Committee on the Judiciary.

WORLD FOOD DAY

(The remarks of Mr. LEAHY on this legislation appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 782

At the request of Mr. COCHRAN, the Senator from North Dakota (Mr. BURDICK) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 782, a bill to amend

the Internal Revenue Code of 1954 to exempt from taxation the pay received by members of the National Guard or of reserve components of the Armed Forces to the extent that such pay does not exceed $5,000.

S. 814

At the request of Mr. NUNN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 814, a bill to improve the administration of criminal justice with respect to organized crime and the use of violence.

S. 1154

At the request of Mr. MATTINGLY, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 1154, a bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits.

S. 1163

At the request of Mr. NUNN, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 1163, a bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1249

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. HEINZ), the Senator from Wyoming (Mr. SIMPSON), the Senator from Georgia (Mr. MATTINGLY), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 1249, a bill to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States.

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from Illinois (Mr. PERCY), and the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981 as "National Cystic Fibrosis Week".

SENATE CONCURRENT RESOLUTION 24

At the request of Mr. GLENN, the Senator from South Dakota (Mr. PRESSLER), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of Senate Concurrent Resolution 24, a concurrent resolution submitting a proposal to Improve the International Nonproliferation Regime.

AMENDMENT NO. 105

At the request of Mr. PRESSLER, the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of amendment No. 105 intended to be proposed to S. 884, a bill to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

SENATE RESOLUTION 175—RESOLUTION CONGRATULATING OKLAHOMA ON ITS DIAMOND JUBILEE

Mr. BOREN (for himself and Mr. NICKLES) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 175

Whereas, Oklahoma, founded with an unparalleled pioneering spirit, became a State on November 16, 1907;

Whereas, Oklahoma will celebrate its seventy-fifth anniversary on November 16, 1982; and

Whereas, the weekend of June 13, 1981, marks both the seventy-fifth anniversary of the Oklahoma Statehood Act and the beginning of a seventy-five-week period of activities to celebrate the Oklahoma Diamond Jubilee: Now, therefore, be it

Resolved, That the Senate congratulates the State of Oklahoma and its people and leaders on the celebration of their Diamond Jubilee.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate of the State of Oklahoma.

● Mr. BOREN. Mr. President, 75 years ago, on a dry and dusty June day, legislation was signed authorizing the admission of Oklahoma Indian Territory into the United States. Five months later, on November 16, 1907, President Theodore Roosevelt proclaimed Oklahoma the Nation's 46th State.

In celebration of its approaching Diamond Jubilee, Oklahoma has launched a 75-week celebration, which began June 13, 1981, and continues through November 16, 1982, to commemorate the 75th anniversary of Oklahoma's statehood.

As senior Senator from Oklahoma, I am honored, along with my colleague, Senator NICKLES, to offer legislation declaring the Senate's congratulations to Oklahoma, its people, and its leaders on the celebration of the State's Diamond Jubilee.

Oklahoma has a lengthy and colorful history. Portions of 68 Indian tribes, more than in any other State, inhabit the area. Oklahoma is proud of its Indian and Western heritage, and this characteristic is reflected in the State's attitudes and institutions. Openness and opportunity are present; the atmosphere is clean and the climate good; people are friendly and tolerant. The pioneering heritage which founded Oklahoma remains intact. Oklahomans believe in the work ethic and in providing a good work environment, which is reaping benefits as new industry is attracted to the State.

As a Senator from Oklahoma, I have taken as one of my goals the efforts to "bring more Oklahoma thinking to Washington." I am proud to be an Oklahoman, and I feel especially honored to author this piece of legislation recognizing the Sooner State. I urge my colleagues to join me in this recognition of Oklahoma's 75th statehood anniversary.●

AMENDMENTS SUBMITTED FOR PRINTING

ECONOMIC RECOVERY TAX ACT OF 1981

AMENDMENT NO. 487

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. TSONGAS) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 266) to provide for a temporary increase in the public debt limit.

ENERGY CONSERVATION

Mr. KENNEDY. Mr. President, I am intending to offer an amendment on the tax bill to increase the incentive for energy conservation.

I would like to ask unanimous consent that a copy of a "Dear Colleague," of the amendment itself and of an explanation of the amendment related to energy conservation be printed in the RECORD.

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

After title V, add the following new title:

TITLE VI—ENERGY EFFICIENCY PROVISIONS

SEC. 651. INCREASE IN ENERGY PERCENTAGE FOR CERTAIN ENERGY PROPERTY AND SPECIFICATION OF ENERGY PERCENTAGE FOR QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY.

(a) IN GENERAL.—The table contained in clause (i) of section 46(a)(2)(C) is amended by adding at the end thereof the following new subclauses:

"VII. Certain Alternative Energy Property, Specially Defined Energy Property, Recycling Equipment, and Cogeneration Equipment.—Property described in sec. 48(1)(3) (other than clause (viii) or (ix) of subparagraph (A) thereof), sec. 48(1)(5), sec. 48(1)(6), or sec. 48(1)(14)	20 percent	Jan. 1, 1981	Dec. 31, 1986.
"VIII. Qualified Industrial Energy Efficiency Property.—Property described in sec. 48(g)	20 percent	Jan. 1, 1981	Dec. 31, 1986".

(b) AFFIRMATIVE COMMITMENTS.—Section 46(a)(2)(C) is amended by adding at the end thereof the following new subsection:

"(v) LONGER PERIOD FOR CERTAIN ENERGY PROPERTY.—Clause (iii) shall apply to energy property described in subclauses VII or VIII of clause (i). However, in applying clause (iii) to such property, 'December 31, 1986' shall be substituted for 'December 31, 1982', 'December 31, 1994' shall be substi-

tuted for 'December 31, 1990', 'January 1, 1987' shall be substituted for 'January 1, 1983', and 'January 1, 1990' shall be substituted for 'January 1, 1986'.".

SEC. 602. QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY TREATED AS ENERGY PROPERTY.

(a) QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY DEFINED.—Section 48 (relating to definitions; special rules) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'qualified industrial energy efficiency property' means property used as a part of a modification to an existing industrial or commercial facility (including the modification or replacement of one or more processes carried on at such facility on January 1, 1981), but only if such modification—

"(A) results in the utilization by such facility, process or processes of less energy per unit of output,

"(B) results in an aggregate annual decrease in energy consumed by such facility, process or processes, based upon levels of output in effect before such modification, of not less than 1,000 barrels of oil equivalent, and

"(C) does not increase the total amount of oil and natural gas (or products thereof other than petroleum coke, petroleum pitch and waste gases) consumed by such facility, process or processes per unit of output.

"(2) LIMITATION.—Property shall be considered as qualified industrial energy efficiency property only if it is—

"(A) property—

"(i) the construction, reconstruction or erection of which is completed by the taxpayer after January 1, 1981, or

"(ii) which is acquired after January 1, 1981 if the original use of such property commences with the taxpayer and commences after such date,

"(B) property with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years, or more, and

"(C) property—

"(i) which results in the utilization described in paragraph (1)(A), or

"(ii) the installation and operation of which is reasonably necessary to the achievement of such utilization.

"(3) APPLICATION TO PROPERTY WHICH IS ENERGY PROPERTY WITHOUT REGARD TO BEING QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY.—No property shall be treated as qualified industrial energy efficiency property if the taxpayer claims the energy percentage provided by section 46(a)(2)(C)(i) (other than by subclause VIII thereof) with respect to that property.

"(4) COMPUTATIONS PER UNIT OF OUTPUT.—The determinations required by paragraph (1) shall be made by comparing the BTU content of the energy (or of the oil and natural gas in the case of the determination required by subparagraph (1)(C)) used by the facility, process or processes per unit of output prior to the modification with the BTU content of the energy (or of the oil and natural gas in the case of the determination required by subparagraph (1)(C)) used by such facility, process or processes per unit of output upon completion of the modification. Computations under this subparagraph shall be made in accordance with subparagraph (6).

"(5) REDUCTION OF CREDIT WHERE COST OF ENERGY SAVINGS EXCESSIVE OR WHERE ENERGY SAVINGS WARRANT INVESTMENT WITHOUT REGARD TO CREDIT.—Notwithstanding subclause (VIII) of section 46(a)(2)(C)(i), the energy investment credit allowable by section 38 for qualified industrial energy property shall be determined in accordance with the following table:

"If the adjusted BOE cost of the property is—	The energy investment credit is—
Less than $10	The reduced credit amount
At least $10 but not more than $60.	The section 46(a)(2)(C) amount.
Over $60	The alternative credit amount.

"(6) DEFINITIONS.—For purposes of paragraph (5)—

"(A) ADJUSTED BOE COST.—The term 'Adjusted BOE cost' means, with respect to any qualified industrial energy efficiency property—

"(i) the section 46(a)(2)(C) amount with respect to such property, divided by

"(ii) the annual number of BOE's saved by the modification of which such property is a part.

"(B) ANNUAL BOE'S SAVED BY PROPERTY.—The term 'annual number of BOE's saved' means, with respect to any property, an amount equal to—

"(i) the excess of the average number of BOE's utilized by the facility, process or processes per unit of output during a representative 1-year period before the use of the property commences over the number of BOE's utilized by such facility, process or processes per unit of output during any representative 12-month period occurring within the recomputation period, multiplied by

"(ii) the units of output during such 1-year period prior to the modification.

"(C) REDUCED CREDIT AMOUNT.—The term 'reduced credit amount' means the energy investment credit determined as if the energy percentage equaled the percentage which bears the same ratio to 20 percent as the BOE cost of the property bears to $10.

"(D) SECTION 46(A)(2)(C) AMOUNT.—The term 'section 46(a)(2)(C) amount' means the energy investment credit determined without regard to paragraph (5).

"(E) ALTERNATIVE CREDIT AMOUNT.—The term 'alternative credit amount' means, with respect to any qualified industrial energy efficiency property, an amount equal to—

"(i) $60, multiplied by

"(ii) the annual number of BOE's saved by the modification of which such property is a part.

"(F) BOE.—

"(i) IN GENERAL.—One BOE shall be equal to 5.8 million Btu's.

"(ii) BOE FOR ELECTRICAL ENERGY.—In the case of electrical energy, BOE's shall be calculated by using a heat rate of 10,000 Btu's per kilowatt hour.

"(7) SPECIAL RULES.—

"(A) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE WITHIN 2 YEARS AFTER DATE OF ENACTMENT.—In the case of qualified industrial energy efficiency property which is placed in service during the 2-year period beginning on the date of the enactment of this subsection, the table contained in paragraph (5) shall be applied by substituting '$5' for '$10' each place it appears.

"(B) CERTAIN ENERGY SAVINGS DISREGARDED.—For purposes of this subsection, energy savings shall be disregarded which result from——

"(i) the installation of property other than qualified industrial energy efficiency property, or

"(ii) substantial changes in the character of either the output or input of the facility.

"(8) REDUCTION OF CREDIT WHERE CAPACITY INCREASES.—

"(A) IN GENERAL.—In the case of qualified industrial energy efficiency property which directly results in more than a 10-percent increase in the capacity of the facility, process or processes, the energy investment credit attributable to such property shall be an amount which bears the same ratio to such credit (determined without regard to this paragraph) as the capacity of the facility, process or processes prior to the modification bears to the capacity of the facility, process or processes upon completion of the modification.

"(B) CERTAIN CAPACITY INCREASES DISREGARDED.— For purposes of subparagraph (A), reductions in intermediate or finished product waste or reprocessing shall not be considered an increase in capacity.

"(9) TIME OF APPLICATION OF LIMITATIONS ON AMOUNT OF CREDIT.—

"(A) IN GENERAL.—The provisions of paragraphs (5) and (8) shall be applied as of the close of the recomputation period.

"(B) RECOMPUTATION PERIOD DEFINED.—For purposes of this paragraph, the term 'recomputation period' means, with respect to any modification, the period beginning on the date on which the qualified industrial energy efficiency property which is a part of such modification is placed in service and ending on the last day of the first taxable year beginning more than 180 days after such date.

"(C) RECAPTURE OF EXCESSIVE CREDIT.—If the amount of the credit allowed under this subsection (determined without regard to paragraphs (5) and (8) with respect to qualified industrial energy efficiency property exceeds the credit allowable under paragraphs (5) and (8), the tax imposed by this chapter for the recomputation year shall be increased under section 47 by the amount of such excess.

"(10) EXISTING DEFINED.—For purposes of this subsection, a facility shall be considered an 'existing facility' if industrial or commercial operations were conducted at that geographic location as of January 1, 1981.

"(11) PROCESS CARRIED ON IN A FACILITY ON JANUARY 1, 1981—A process which was carried on in an existing facility on January 1, 1981, shall not thereafter cease to be treated as such solely because capitalizable expenditures are paid or incurred with respect to such process after January 1, 1981, or the chemical, physical or mechanical action by which the desired result is accomplished is modified.

"(12) REPLACEMENT OF PROCESS.—In the case of a replacement of a process or processes carried on in an existing facility on January 1, 1981, no property shall be treated as qualified industrial energy efficiency property if—

"(A) the replaced property is not retired from service, except for property maintained as standby or temporary replacement property for the qualified industrial energy efficiency property during periods for which such qualified property is inoperable due to an emergency or on account of repairs or maintenance, or

"(B) the replacement property is placed in service on a site other than the site of the replaced property or reasonably adjacent to that site.

"(13) QUALIFIED INVESTMENT.—In determining the amount of the taxpayer's qualified investment in qualified industrial energy efficiency property, for purposes of section 46(c)(1), the applicable percentage shall be 100 percent for items of such property without regard to the useful life of any particular item of such property."

(b) CONFORMING AMENDMENTS.—

(1) TREATMENT AS ENERGY PROPERTY.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(A) by striking out "or" at the end of clause (viii),

(B) by inserting "or" at the end of clause (ix), and

(C) by inserting after clause (ix) the following new clause:

"(x) qualified industrial energy efficiency property.".

(2) QUALIFIED INDUSTRIAL ENERGY EFFICIENCY PROPERTY DOES NOT INCLUDE PUBLIC UTILITY PROPERTY.—Paragraph (17) of section 48(1) is amended by striking out "and 'cogeneration property'" and inserting in lieu thereof "'cogeneration property', and 'qualified industrial energy efficiency property.'"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 1980.

SEC. 603. AMENDMENTS RELATING TO ENERGY PROPERTY.

(a) AMENDMENTS RELATING TO ALTERNATIVE ENERGY PROPERTY.—

(1) EQUIPMENT FOR CONVERTING ALTERNATE SUBSTANCES INTO ELECTRICITY ELIGIBLE FOR CREDIT.—Clause (iii) of section 48(1)(3)(A) (defining alternative energy property) is amended by striking out "solid fuel" and inserting in lieu thereof "solid fuel, or into electricity (but only, in the case of electricity, up to (but not including) the electrical transmission stage)".

(2) DEFINITION OF BOILER.—Paragraph (3) of section 48(1) (defining alternative energy property) is amended by adding at the end thereof the following new subparagraph:

"(D) BOILER.—For purposes of subparagraph (A), the term 'boiler' means a system for producing a vapor or high pressure liquid steam from water or some other working fluid. Heat is produced by combustion or otherwise, and is transferred through metal of ceramic tube walls to generate a vapor or high pressure liquid steam at a positive pressure within the boiler vessel.".

(3) HEAT TREATING FURNACES, METAL FURNACES AND MODIFICATIONS.—

(A) IN GENERAL.—Subparagraph (A) of section 48(1)(3) (defining alternative energy property) is amended—

(i) by striking out "and" at the end of clause (viii),

(ii) by striking out the period at the end of clause (ix) and inserting in lieu thereof a comma, and

(iii) by inserting after clause (ix) the following new clauses:

"(x) heat treating furnaces, the primary fuel for which will be an alternate substance,

"(xi) melt furnaces if such furnaces use no fuel, or if the primary fuel for which will be an alternate substance, and

"(xii) equipment designed to modify existing equipment in a facility which was using an alternate substance as a primary fuel on October 1, 1978, provided such modification reduces the use of fuels other than alternate substances at the existing facility.".

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 48(1), as amended by paragraph (2), is amended by adding at the end thereof the following new subparagraphs:

"(E) MELT FURNACE.—The term 'melt furnace' includes any device, apparatus, or configuration which directly or indirectly converts solids into liquids or gases through the use of heat.

"(F) HEAT TREATING FURNACE.—For purposes of subparagraph (A), the term 'heat treating furnace' means any device, apparatus, or configuration which heats materials (such as metals) for the purpose of obtaining improved properties (such as through normalizing or annealing).".

(ii) Subparagraph (A) of section 48(1)(3) is amended—

(I) by striking out "or (v)" in clause (vi) and inserting in lieu thereof "(v), (x), or (xi)", and

(II) by striking out "or (vi)" in clause (vii) and inserting in lieu thereof "(vi), (x), or (xi)".

(4) CERTAIN SUBSTANCES TREATED AS ALTERNATE SUBSTANCES.—Subparagraph (B) of section 48(1)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence: "The term 'alternate substance' includes petroleum coke; petroleum pitch; synthetic fuels; and any other product produced from any alternate substance, whether or not such product has undergone a chemical change in the process of its production.".

(5) PRIMARY FUEL DEFINED.—Paragraph (3) of section 48(1), as amended by paragraphs (2) and (3)(B)(i), is amended by adding at the end thereof the following new subparagraph:

"(G) PRIMARY FUEL.—For purposes of this paragraph—

"(i) IN GENERAL.—An alternate substance shall be considered the 'primary fuel' if any alternate substance or combination of alternate substances accounts for more than 50 percent of the Btu's used by any item of alternative energy property.

"(ii) 50-PERCENT RULE NOT REQUIRED IN CERTAIN CASES.—Notwithstanding clauses (i), (ii), (x), (xi), and (xii) of subparagraph (A) the taxpayer shall not be required to comply with a primary fuel requirement for any taxable year—

"(I) if the taxpayer is unable to obtain the alternate substance for reasons (other than cost thereof) beyond his control, or

"(II) in the case of the 12-month period beginning on the date the boiler, burner, or furnace is placed in service, to the extent a fuel other than an alternate substance is used by reason of startup conditions, requirements or timing.

"(iii) ELECTRICITY TO SATISFY PRIMARY FUEL REQUIREMENT IN CERTAIN CASES.—Electricity shall be treated as an alternate substance for purposes of the primary fuel requirement in clauses (i), (ii), (x), (xi), and (xii) of subparagraph (A) if—

"(I) the electricity is generated by the taxpayer primarily from an alternate substance, or

"(II) the electricity is purchased by the taxpayer and the taxpayer establishes to the satisfaction of the Secretary that the electricity reduces the need for onsite use of oil or gas and that more than 50 percent of the electricity purchased by the taxpayer for that use is generated from an alternate substance.".

(b) AMENDMENTS RELATING TO SPECIALLY DEFINED ENERGY PROPERTY.—Paragraph (5) of section 48(1) (defining specially defined energy property) is amended to read as follows:

"(5) SPECIALLY DEFINED ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'specially defined energy property' means—

"(i) a heat wheel,

"(ii) a heat exchanger,

"(iii) a waste heat boiler,

"(iv) a heat pipe,

"(v) an automatic energy control system,

"(vi) a turbulator,

"(vii) a combustible gas recovery system,

"(viii) an economizer,

"(ix) modifications to alumina electrolytic cells,

"(x) industrial insulation,

"(xi) an industrial heat pump,

"(xii) modifications to burners, combustion systems, or process furnaces,

"(xiii) batch operations conversion equipment,

"(xiv) product separation and dewatering equipment,

"(xv) fluid bed dryers and calciners,

"(xvi) insulating material or coating installed in connection with a building, pipe, duct, container, or window,

"(xvii) a storm or thermal window or door for the exterior of a building, a second entry door, or a revolving door,

"(xviii) caulking or weatherstripping of an exterior door or window,

"(xix) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(xx) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(xxi) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(xxii) an electrostatic precipitator, a charcoal filter, or any other air cleaner,

"(xxiii) an automatic energy saving setback thermostat,

"(xxiv) replacement or modification of heating distribution, cooling, ventilating, or lighting systems which increase their energy efficiency,

"(xxv) a recuperator,

"(xxvi) a regenerator,

"(xxvii) a preheater, or

"(xxviii) any other property of a kind specified by the Secretary by regulations,

the installation of which is for the principal purpose of reducing the amount of energy consumed in any existing industrial or commercial process, processes or activities and which is installed in connection with an existing industrial or commercial facility. The Secretary shall not specify any property under clause (xxviii) unless he determines that such specifications meet the requirements of subparagraph (C) of this paragraph. Any property specified by the Secretary under clause (xxviii) shall be deemed qualified specially defined energy property as of October 1, 1978. In the case of any property installed in connection with any commercial facility (including a hotel, office building, educational facility, health care facility, or retail or wholesale trade facility), any reduction of the amount of energy consumed in connection with such facility shall be treated as a reduction of energy consumed in a commercial process.

"(B) DEFINITIONS RELATED TO SUBPARAGRAPH (a).—

"(i) HEAT EXCHANGER.—The term 'heat exchanger'—

"(I) means a configuration of equipment used to transfer energy to incoming combustion air, or lower temperature fluids, gases, or solids with or without the interposition of heat transfer surfaces, and

"(II) includes but is not limited to devices commonly referred to as recuperators, regenerators, and preheaters.

"(ii) WASTE HEAT BOILER.—The term 'waste heat boiler' means any boiler (within the meaning of paragraph (3)(D)) which uses waste heat from whatever source derived.

"(iii) AUTOMATED ENERGY CONTROL SYSTEM.—The term 'automatic energy control system'—

"(I) means equipment comprising a system which by automatic controls reduces the energy consumed in environmental space conditioning or in other industrial or commercial processes or activities, and

"(II) includes, but is not limited to, systems which automatically control fuel or electric power inputs to a combustion system or process or the utilization or transfer of energy within a process, or which automatically control process variables (other than energy) in order to minimize energy consumption.

"(iv) COMBUSTIBLE GAS RECOVERY SYSTEM.—The term 'combustible gas recovery system' means equipment comprising a system to recover, and condition for use, unburned fuel or other combustible material from combustion exhaust gases or process streams.

"(v) INDUSTRIAL INSULATION.—The term 'industrial insulation' means any material which—

"(I) is designed to possess a material resistance to the flow of heat, and

"(II) is to be used primarily to retard loss or gain of such heat with respect to pipes, tanks, vessels, equipment, or processes, but not with respect to buildings or structural components thereof.

"(vi) INDUSTRIAL HEAT PUMP.—The term 'industrial heat pump' means equipment which—

"(I) uses the compression and expansion of a contained fluid to extract heat from a gas or liquid and transfer it to another gas or liquid at another temperature, or

"(II) uses nonmechanical means to achieve an equivalent result.

"(vii) BATCH OPERATIONS CONVERSION EQUIPMENT.—

"(I) IN GENERAL.—The term 'batch operations conversion equipment' means equipment to permit conversions from batch operations to one or more continuous processes.

"(II) BATCH OPERATIONS.—The term 'batch operations' means operations where temporary storage of materials in process results in heat transfer to the surrounding environment, or where such handling or temporary storage is accompanied by the waste or reprocessing of more than 5 percent of the material in process.

"(III) CONTINUOUS PROCESS.—The term 'continuous process' means a process which minimizes the handling or temporary storage of the material in process so as to reduce either the amount of heat transfer to the surrounding environment or the amount of waste or reprocessed material.

"(viii) PRODUCT SEPARATION AND DEWATERING EQUIPMENT.—The term 'product separation and dewatering equipment' means equipment designed to separate water or other liquids or volatiles from process materials.

"(ix) FLUID BED DRYERS AND CALCINERS.—The term 'fluid bed dryers and calciners' means equipment in which solid particles are chemically processed by direct heat exchange with a gas or liquid. The gas or liquid passes through a bed of solid particles at sufficient velocity to physically suspend the particles in the gas or liquid stream.

"(C) SPECIFICATION OF ADDITIONAL ITEMS BY SECRETARY.—The Secretary shall specify property under subparagraph (A)(xxviii) at his discretion, or if—

"(i) such property is recommended for specification to the Secretary by the Secretary of Energy, and

"(ii) there are no generally available and substantial Federal subsidies for such property. The Secretary shall act on a recommendation of the Secretary of Energy within 6 months of its receipt.".

(c) AMENDMENTS RELATING TO RECYCLING EQUIPMENT.

(1) IN GENERAL.—Subparagraph (A) of section 48(1)(6), (defining recycling equipment) is amended to read as follows:

(A) IN GENERAL.—The term "recycling equipment" means any property which is used exclusively—

(i) for the unloading, transfer, storage, reclaiming from such storage, sorting, and preparation (including, but not limited to, washing, crushing, drying and weighing) of solid waste, or

(ii) in the recycling of solid waste.

(2) INCLUSION OF CERTAIN EQUIPMENT.—

(A) IN GENERAL.—Subparagraph (D) of section 48(1)(6) relating to inclusion of certain equipment is amended to read as follows:

"(D) CERTAIN EQUIPMENT INCLUDED.—The term 'recycling equipment' includes any new or replacement property which is used in the conversion or processing of solid waste into a fuel or into useful energy such as steam, electricity, or hot water an any property which is used in the processing of solid waste to recover and store other reusable resources and materials, including but not limited to paper, ferrous metals, nonferrous metals, and glass.".

(B) APPLICATION WITH SUBPARAGRAPH (b)(1).—Subparagraph (B)(i) of section 48(1)(6) (relating to equipment not included) is amended by striking out "any" and inserting in lieu thereof "except as provided in subparagraph (D), any".

(3) SOLID WASTE DEFINED.—Section 48(1)(6) is amended by adding at the end thereof the following new subparagraph:

"(E) 'SOLID WASTE' DEFINED.—For purposes of this section, the term 'solid waste' means garbage, refuse, and other discarded solid, semi-solid and liquid materials, including materials resulting from industrial, commercial, agricultural and community activities.".

(d) AMENDMENTS RELATED TO COGENERATION EQUIPMENT.—Paragraph (14) of section 48(1) (defining cogeneration equipment) is amended to read as follows:

"(14) COGENERATION EQUIPMENT.—

"(A) IN GENERAL.—The term 'cogeneration equipment' means property comprising a system for using the same fuel for the sequential generation of electric power and/or mechanical shaft power in combination with qualified energy at a facility at which, as of January 1, 1980, electricity, mechanical shaft power, or qualified energy was produced.

"(B) QUALIFIED ENERGY.—The term 'qualified energy' means steam, heat, or other forms of useful energy (other than electric power and/or mechanical shaft power) to be used for industrial, commercial, or space-heating purposes (other than in the production of electric power and/or mechanical shaft power).".

(e) BIOMASS PROPERTY.—Subparagraph (B) of section 48(1)(15) (relating to biomass property) is amended—

(1) by striking out "and" in clause (i) after the word "substance" and inserting in lieu thereof a comma, and

(2) by inserting after the phrase "such coal" the following: "and does not include source separated, separately collected, recyclable waste paper".

(f) AMENDMENTS TO DEFINITION OF EXISTING.—Paragraph (10) of section 48(1) (defining existing) is amended to read as follows:

"(10) EXISTING DEFINED.—For purposes of this subsection,

"(A) EXISTING FACILITY.—When used in connection with a facility, a facility shall be considered an 'existing facility' if industrial or commercial operations were conducted at that geographic location as of October 1, 1978.

"(B) EXISTING PROCESS.—When used in connection with a process, a process shall be considered an 'existing process' if such process was carried on at that facility on October 1, 1978.

"(C) EXISTING EQUIPMENT.—When used in connection with an item of equipment, an item of equipment shall be considered 'existing equipment' if it was placed in service prior to October 1, 1978.

"(D) PROCESS CARRIED ON IN A FACILITY ON OCTOBER 1, 1978.—A process which was carried on in an existing facility on October 1, 1978 shall not cease to be treated as such solely because capitalizable expenditures are paid or incurred with respect to such process after October 1, 1978, or the chemical, physical or mechanical action by which the desired result is accomplished is modified.".

(g) REPLACEMENT OF EQUIPMENT OR PROCESS.—Section 48(1) (relating to energy property) is amended by adding the following new section at the end thereof:

"(18) REPLACEMENT OF EQUIPMENT OR PROCESS.—In the case of a replacement of an item of equipment or one or more processes in service or carried on in an existing facility on October 1, 1978, no property shall be treated as energy property if—

"(A) the replaced property is not retired from service, except for property maintained as standby or temporary replacement property for the energy property during periods for which such property is inoperable due to an emergency or on account of repairs or maintenance, or

"(B) the replacement property is placed in service on a site other than the site of the replaced property or reasonably adjacent to that site.".

(h) INCREMENTAL COST RULE.—Section 48(1) (relating to energy property) is amended by adding the following new section at the end thereof:

"(19) INCREMENTAL COST RULE.—Property, other than alternative energy property, recycling equipment, qualified hydroelectric generating property, or cogeneration equipment, which otherwise qualifies as energy property under this section but which also substantially increases the operating capacity of the existing process, processes or facility, shall only qualify to the extent of the 'energy component' of the property.

"(A) For purposes of this subparagraph, a substantial increase in capacity is defined as an increase as a result of the installation of the otherwise qualified energy property of more than 10 percent over the capacity of the process, processes or facility prior to the installation of the otherwise qualified property.

"(B) Certain capacity increases disregarded.—For purposes of subparagraph (A) reductions in intermediate or finished product waste or reprocessing shall not be considered an increase in capacity.

"(C) The term 'energy component' means a pro rata allocation of the total cost of the installation of the otherwise qualified industrial energy property, determined by multiplying the total cost by a fraction, the numerator of which is the energy related cost of the equipment and the denominator of which is the total cost.

"(D) In the case of property which qualifies under section 48(1)(3) (alternative energy property) 48(1)(6) (recycling equipment), 48(1)(13) (qualified hydroelectric generating property), and 48(1)(14) (cogeneration equipment), no reductions in the credit otherwise allowable under this section shall be required.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 1980, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

SEC. 604. ASSOCIATED PROPERTY.

(a) IN GENERAL.—Subsection (1) of section 48 (defining energy property) is amended by adding at the end thereof the following new subparagraph:

"(20) ASSOCIATED PROPERTY.—

"(A) GENERAL RULE.—Any property associated with alternative energy property, specially defined energy property, recycling equipment, or cogeneration equipment shall be treated as qualified industrial energy efficiency property.

"(B) WHEN PROPERTY ASSOCIATED.—For the purposes of subparagraph (A), property shall be considered associated if:

"(i) in the case of property associated with alternative energy property, the installation and operation of such property is reasonably necessary to enable the utilization of an alternate substance, or

"(ii) in the case of property associated with specially defined energy property, the installation and operation of such property is reasonably necessary for realization of the reduction of the amount of energy consumed or heat wasted by the process, processes or activity, or

"(iii) in the case of property associated with recycling equipment, the installation and operation of such property is reasonably necessary to achieve the sorting, preparation or recycling, or

"(iv) in the case of property associated with cogeneration equipment, the installation and operation of such property is reasonably necessary to achieve the energy savings intended by the installation of the cogeneration equipment, or

"(v) in the case of property associated with qualified industrial energy efficiency

property, the installation and operation of such property is reasonably necessary for the utilization of less energy per unit of output.".

(b) CONFORMING AMENDMENTS.—

(1) ENERGY PERCENTAGE.—Subparagraph (C) of section 46(a)(2) (defining energy percentage) is amended by adding at the end thereof the following new clause:

"(vi) ASSOCIATED PROPERTY.—In the case of property described in section 48(1)(20), the energy percentage shall be the same as the energy percentage determined under clause (i) for the energy property it was installed in connection with.".

(2) ENERGY PROPERTY.—Subparagraph (A) of section 48(1)(2) (defining energy property), as amended by this Act, is amended—

(A) by striking out "or" at the end of clause (ix),

(B) by inserting "or" at the end of clause (x), and

(C) by inserting after clause (x) the following new clause:

"(xi) associated property,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning after December 31, 1980.

SEC. 605. PERIOD TO WHICH ENERGY INVESTMENT CREDIT APPLIES.

(a) IN GENERAL.—Subclause (I) of section 46(a)(2)(C)(i) (relating to energy percentage) is amended by striking out "1982" and inserting in lieu thereof "1985".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 606. EXTENSION OF RESIDENTIAL ENERGY CREDIT TO LESSORS.

(a) IN GENERAL.—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraphs:

"(5) EXPENDITURES BY LESSORS.—

"(A) LESSORS.—Notwithstanding any provision of this section requiring the taxpayer to use a dwelling unit as a residence, if any taxpayer who is the lessor of a dwelling unit makes expenditures which, but for such provision, constitute energy conservation or renewable energy source expenditures, then, for purposes of this section, the lessor shall be treated as having made energy conservation or renewable energy source expenditures in connection with such dwelling unit.

"(B) AMOUNT OF CREDIT.—The amount of the credit allowed under subsection (a) in the case of a lessor shall be the amount otherwise determined under this section, except that in any case in which a deduction under section 167, 168, or 179 (or amortization in lieu of depreciation) is allowed with respect to the dwelling unit, subsection (b) shall be applied—

"(i) by substituting '10 percent' for '15 percent' in paragraph (1), and

"(ii) by substituting '30 percent' for '40 percent' in paragraph (2).

"(C) WHEN EXPENDITURE MADE.—An expenditure with respect to an item shall be treated as made when the original installation of such item is completed.

"(D) COORDINATION WITH OTHER PROVISIONS.—No credit or deduction shall be allowed under any other provision of this chapter with respect to any amount for which a credit has been allowed under subsection (a).".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 44C (relating to general rule) is amended by striking out "In the case of an individual, there" and inserting in lieu thereof "There"

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after December 31, 1981, in taxable years ending after such date.

SEC. 607. AMOUNT OF RESIDENTIAL ENERGT CREDIT.

(a) IN GENERAL.—Subsection (b) of section 44C (defining qualifying expenditures) is amended—

(1) by striking out "$2,000" in paragraph (1) and inserting in lieu thereof "$3,000", and

(2) by striking out "$10,000" in paragraph (2) and inserting in lieu thereof "$15,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

U.S. SENATE,
Washington, D.C., July 13, 1981.

DEAR COLLEAGUE: When the Tax Bill reaches the floor, we will offer an amendment to encourage increased energy conservation by businesses and individuals. The amendment will increase by 10 percent the existing energy conservation tax credit for commercial and industrial energy users. For many years, I have been concerned about the serious imbalance in the energy incentives provided by the Federal Government. According to the Treasury Department, the incentives for energy production in 1980 were nine times greater than those for energy conservation.

This very serious imbalance in our energy incentives will skew energy investments away from the most cost effective toward the least cost effective.

When the 1981 Tax Bill was first considered there was an understanding that no energy matters would be dealt with in this legislation. The legislation that the Senate Finance Committee has reported, however, begins to make major changes in energy related tax matters in its sections related to oil taxation. If these changes are approved—together with other windfall profit exemptions that are being widely discussed—the Windfall Profit Tax would be reduced by more than a quarter in 1986.

Since this legislation is proposing major changes in the incentives for oil production, we believe it is essential that new incentives for energy conservation be adopted in order to prevent Federal energy policy from being further prejudiced against energy conservation. Therefore, we will offer an amendment that will make several changes in the tax treatment of energy conservation expenditures.

First, it will expand the list of equipment eligible for the industrial energy conservation tax credit. The IRS has interpreted the existing legislation in an overly narrow fashion.

Second, the legislation will make eligible for the increased energy conservation tax credit commercial energy savings equipment which the IRS excluded through its narrow interpretation of the existing law.

Third, the legislation will establish an innovative energy conservation capital investment tax credit which will reward energy savings capital projects that are developed by business even though the equipment is not included on the legislated list of equipment.

Finally, the legislation will increase the limits on the home-owner energy conservation tax credit to account for inflation. The amendment will also make the rental buildings eligible for the tax credit.

Extensive hearings have been held on these and other energy conservation proposals. Legislation similar to this amendment we are offering has bipartisan support from every region of the country. We urge you to join us in support of this amendment.

If you have any questions, please contact Jim Cubie at x4-2993, or Mitch Tyson at x4-2742.

Sincerely yours,

PAUL TSONGAS.
EDWARD M. KENNEDY.

EXPLANATION OF COMPREHENSIVE KENNEDY-TSONGAS ENERGY CONSERVATION AMENDMENT

SUMMARY

This amendment combines the Wallop-Boren-Kennedy Industrial Conservation bill (S. 756) with the Kennedy-Tsongas Commercial Conservation bill (S. 1323).

The legislation:

Increases the credit from 10 percent to 20 percent for industrial/commercial energy conservation and expands significantly the projects eligible for the credit.

Makes an increased range of coal conversion equipment eligible for the increased credit.

Broadens the definition of recycling equipment eligible for the increased credit.

Expands coverage of the cogeneration credit to mechanical shaft power.

Extends the eligibility of the residential credit to landlords.

Increases the limits of the residential conservation credit and solar energy credit to compensate for inflation.

EXISTING LAW

The Energy Tax Act of 1978 (Code Sec. 46 (a) and Sec. 48(1)) as amended by the Windfall Profits Tax Act, provides a 10 percent nonrefundable energy tax credit for specified categories of energy property, including:

(a) "Alternative energy property"—generally boilers and burners fueled by "alternative substances" (substances other than oil or gas or their products) together with equipment for converting "alternate substances" into synthetic fuels.

(b) "Specially defined energy property"—generally property to reduce the amount of energy consumed in any existing industrial or commercial process. Only 12 specific items of equipment qualify for the credit and the Secretary of Treasury has not exercised his authority to add additional items.

(c) "Recycling equipment" (partial coverage).

(d) "Cogeneration equipment" (partial coverage).

The credits for "alternative energy property," "specially defined energy property," and "cogeneration equipment" expire at the end of 1982, but for taxpayers with projects that require substantial planning and production periods the expiration date is extended to December 31, 1990, if certain, specified affirmative commitments have been made in a timely fashion.

These credits are not available for public utility property, or for property installed in connection with a "new facility." Rules to prevent "double dipping" through the use of other Federal incentives are included.

The 1978 Energy Tax Act of 1978 also established a 15 percent tax credit for residential energy conservation and a 40 percent tax credit for nenewable energy property. Landlords are not eligible under existing law.

SECTION-BY-SECTION DESCRIPTION

Section 601: Increased Energy Credit.

This legislation would raise to 20 percent the credit available for "alternative energy property," "specially defined energy property," "recycling equipment," and "cogeneration equipment." Additionally, it would make two new categories of energy property also eligible for a 20-percent credit—"qualified industrial energy efficiency property" (QIEEP) and "associated property." It would extend the expiration date for the credit in all the above categories through 1986 and similarly extend the "affirmative commitments" extension made possible by current law.

Like the existing credits, these would not be available for public utility property, or property installed in connection with a new

facility. Double dipping rules continue to apply.

Section 602: Qualified Industrial Energy Efficiency Property (QIEEP).

The most significant improvement over existing law made by this legislation is in the establishment of a new category of energy property called QIEEP. Rather than limiting qualifying equipment to those items that are specified on a list, this category lets energy savings investment projects qualify so long as the taxpayer can meet certain qualifications and show an actual reduction in energy consumption per unit of output. QIEEP must be a part of a modification to an existing industrial or commercial facility (including the modification or replacement of one or more processes carried on at such facility on January 1, 1981).

Additionally, in order to qualify, the taxpayer must show that the installation of QIEEP not only results in the utilization of less energy per unit of output, but also results in an aggregate annual decrease in energy consumed of not less than 1,000 barrels of oil equivalent and does not increase the total amount of oil and natural gas consumed per unit of output.

The bill limits qualifying property under this section to that property which is completed or acquired by the taxpayer after January 1, 1981, and with respect to which depreciation is allowable and which has a useful life of at least three years. Additionally, the taxpayer cannot include property as QIEEP if he has claimed any of the other credits enumerated above. Replacement property qualified in a manner parallel to that described above, and capacity increases result in a reduction in the credit, again in a manner similar to that described above.

The availability of the credit is also dependent upon the amount of energy saving produced by the QIEEP. If the energy investment credit allowed is less than $10 per barrel of oil equivalent (BOE) saved, the credit is reduced to that percentage which bears the same ratio to 20 percent as the actual BOE cost of the property bears to $10. This assures that projects which are highly economic will only get a reduced credit. To "front end load" the bill to get maximum energy savings up front, the $10 figure is reduced to $5 for the first two years the bill is in effect.

There is also a reduction in the credit amount when the investment becomes too great per BOE saved. This bill caps the credit at $60 per BOE saved in the first year, regardless of the percentage equivalent. This is an amount which correlates to the investment per BOE that a synthetic fuels facility is likely to require.

The $10 and $60 limitations are applied at the end of a "recomputation period" where actual operating experience over a representative period is the determining factor, rather than engineering estimates. All QIEEP investment would be entitled to full credits so long as the useful life was greater than three years.

Section 603(a): Alternative Energy Property (AEP).

Existing section 48(1)(3) defining AEP is amended to:

(1) Include equipment, other than boilers, such as combustion turbines and generators, that produce electricity from an alternate substance;

(2) Define the term "boiler";

(3) Include heat treating and melt furnaces (as defined) which use an alternate substance;

(4) Define alternate substance to include petroleum coke; petroleum pitch; and synthetic fuels, as well as electricity produced from an alternate substance;

(5) Define the term "primary fuel".

Section 603(b): Specially Defined Energy Property (SDEP).

Existing section 48(1)(5) defining SDEP is amended to:

(1) Add the following new items of equipment (as defined); industrial insulation, an industrial heat pump, modifications to burners, combustion systems, or process furnaces, batch operations conversion equipment, product separation and dewatering equipment and fluid bed dryers and calciners.

(2) Add definitions for several items of equipment covered by existing law (specifically heat exchanger, waste heat boiler, automatic energy control system, and combustible gas recovery system).

(3) Clarify and expand the authority of the Secretary of the Treasury to add additional items of equipment, and give the Secretary of Energy authority to make recommendations to the Secretary of the Treasury.

(4) Clarifies the definition of the SDEP so that it specifically includes conservation investments in commercial facilities. The bill applies this change retroactively to the 1978 origin of the credit. Section 2 also adds several types of property within the category of SDEP so that businesses can receive tax credits for investments in less technologically complex devices than those already listed (e.g., materials to insulate buildings, pipes, and containers; storm windows). The addition of these properties applies prospectively starting July 1, 1981.

The changes would retroactively provide commercial facilities with credits for expenditures on property presently listed within the category of SDEP. One such property, automatic energy control systems, many commercial facilities can use. The bill would also prospectively provide both commercial and industrial facilities with credits for the smaller, less complex items that the bill adds to the SDEP category.

The retroactive aspect of the change of the SDEP category.

The retroactive aspect of the change of the SDEP statute would normally create tax administration problems. However, since IRS just issued final regulations for this credit on January 23, 1981, few taxpayers would have intentionally not taken the credit in reliance on the regulations. Instead, most have probably taken the credit and face a deficiency. In addition, since the amendment clarified rather than changes the intent of the statute the amendment should apply to the life of the statute.

Section 603(c): Recycling Equipment.

Existing section 48(1)(6) defining Recycling Equipment is amended to:

(1) Broaden the definition of "recycling equipment" to include specifically certain waste preparation equipment, as well as to assure inclusion of equipment to recover and store reusable resources; and

(2) Define "solid waste" so as to include semisolid and liquid materials.

Section 603(d): Cogeneration Equipment.

Existing section 48(1)(14) defining cogeneration equipment is amended to:

(1) Include mechanical shaft power as well as electrical power;

(2) Eliminate the restrictions on oil or gas based cogeneration systems;

(3) Eliminate the limitation that allows the credit only for "capacity increases."

Section 603(e) et seq: Limitation on Industrial Credits.

Other amendments are included to:

(1) Exempt qualifying small power production facilities and qualifying cogeneration facilities from the public utility property exclusion.

(2) Confine the scope of the credit to equipment installed in connection with an existing process at an existing (non greenfield site) facility. In defining an existing facility the percentage of basis test is repealed so that a facility continues to be an existing facility even though more than 50 percent of the basis of that facility is attributable to investments made since October 1, 1978.

(3) Clarify the coverage of replacement property so that such property will be entitled to the credit so long as the replaced property is retired from service. A single exception is allowed for property kept in service for standby or emergency use.

Section 604: Associated Property.

This section makes eligible for the energy credit all property the installation and operation of which is reasonably necessary to achieve the results intended by the qualifying investments in the above categories.

Section 605: Period of Credit.

Extends the credit to 1985. Under present law, the credits will end in 1982.

Section 606: Extension of Residential Credit to Lessors.

Allows landlords to use both the 15 percent energy conservation and 40 percent renewable energy residential credits for expenditures on rental residences. For residence upon which landlords deduct depreciation, the level of the tax credit is lower. This section copies a provision of the 96th Congress S. 3919, the Senate version of the Windfall Profits Tax Bill. The Conference Committee deleted that provision.

Section 607: Increase in Residential and Renewable Energy Credit.

Adjusts the limits on expenditures covered by the residential energy credit upward by 50 percent to compensate for inflation. The section raises the expenditures amount covered by the Energy Conservation Credit from $2,000 to $3,000 and raises the expenditure amount covered by the Renewable Energy Source Credit from $10,000 to $15,000.

The expenditure limits presently in the code came from the Energy Tax Act of 1978 and apply to expenditures made after April 20, 1977. Using the Consumer Price Index, inflation from January 1978, to June 30, 1981, was 47.1 percent. Using the more conservative GNP Deflator, inflation from January 1978, to June 30, 1931, was 33 percent. Since the changes the bill would make will presumably remain effective until the credit's termination date on December 31, 1985, a 50 percent increase seems appropriate to maintain the effect intended in enactment of the credit in 1978.

AMENDMENT NO. 488

(Ordered to be printed.)

Mr. DOLE proposed an amendment to the joint resolution (H.J. Res. 266), supra.

AMENDMENT NO. 489

(Ordered to be printed.)

Mr. MOYNIHAN (for himself, Mr. CHILES, Mr. KENNEDY and Mr. ROBERT C. BYRD) proposed an amendment to the amendment No. 488 to the joint resolution (H.J. Res. 266), supra.

AMENDMENT NO. 490

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 266), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public changes in the schedule of certain hearings to be held by the Subcommittee on Energy and Mineral Resources.

The subcommittee hearing previously scheduled for Thursday, July 16 at 9:30 a.m. to consider S. 1032 and S. 1383, bills to amend the Mineral Leasing Act of

1920 to promote development of oil shale, has been rescheduled for Thursday, July 23, beginning at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building. In addition, the subcommittee will consider S. 1484, also related to the development of oil shale.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Energy and Mineral Resources, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

The Energy and Mineral Resources Subcommittee hearing previously scheduled for Thursday, July 23 at 10 a.m. to review the Federal coal leasing program has been postponed and will be rescheduled at a later date.

For further information regarding these hearings, you may wish to contact Mr. Roger Sindelar at 224–4236.

COMMITTEE ON FOREIGN RELATIONS

Mr. PERCY. Mr. President, I wish to announce that the Committee on Foreign Relations has scheduled a hearing on S. 854, the Foreign Missions Act of 1982. The hearing will be held on Friday, July 24, beginning at 10 a.m. in room 4221 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. David Keaney or Mrs. Betty Alonso of the committee staff on 224–4615.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INNOVATION AND TECHNOLOGY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Innovation and Technology of the Committee on Small Business be authorized to meet during the session of the Senate today to hold hearings on S. 881, the "Small Business Innovation and Research Act."

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Innovation and Technology of the Committee on Small Business be authorized to meet during the session of the Senate Thursday, July 16, to hold hearings on S. 881, the "Small Business Innovation and Research Act."

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

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to continue their markup of water pollution amendments.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Thursday, July 16, to hold markup hearings on S. 898, the Telecommunication, Competition and Deregulation Act of 1981.

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

ADDITIONAL STATEMENTS

BRING BACK GOLD

● Mr. HELMS. Mr. President, early this year I introduced S. 6, the Gold Reserve Act of 1981, a bill which is referred to in an article in the June 22 issue of Time magazine.

The article entitled, "A New Cry: Bring Back Gold," describes the growing national effort to provide a gold-backed U.S. currency.

It is often said that in order to restore credibility to the phrase, "as sound as the dollar," we have to make the dollar as good as gold.

The Time article outlines many of the arguments that have been mentioned, though there is one small error in the article which should be noted.

The article states:

In times of steady economic growth, the limits imposed by the gold standard restrain spending and curb inflation. But during hard times, this can cause deflation since it inhibits its deficit Government spending.

It is Keynesian doctrine that Federal deficits can prevent economic downturns. More likely, deficits cause more economic distortions and deepen any slow-down. In fact, deflation is a monetary phenomenon just as inflation is. During "hard times," one would expect the real output of an economy to be declining. If money supplies remain constant, a reduced real output of goods and services would mean more money per unit of output, and higher prices. Reduced output given a same quantity of money means inflation, not deflation.

Second, history shows a close correlation between declining economic activity and inflation, not deflation.

Third, a deflation under a gold standard, that is, an increase in the value of a unit of currency, can come about only if the value of gold—which is the surrogate for the value of all goods and services in the economy—rises vis-a-vis the other components of the economy's output. In other words, only if gold became more valuable could a properly administered gold standard result in a deflationary economy.

Finally, Mr. President, there have been periods of inflation and deflation under gold standards in the past. In other words, there have been times when supplies or production means or growing economies have meant that currencies have depreciated or appreciated during specific short periods under a gold standard.

The statistics show, however, that the largest swings in value, one way or another, seldom exceed 1½ percent per year and almost never exceed 2½ percent per year. This contrasts with recent historical inflation rates in the United States of up to 18 percent annualized rate in a recent 3-month period.

In other words, gold is not perfect. It just happens to be better than anything else.

Mr. President, I ask that the Time magazine article and the accompanying item, entitled, "The Legacy of King Croesus" be printed in the RECORD.

The article follows:

A NEW CRY: BRING BACK GOLD

While gold has not been used to settle accounts between central banks for a decade, it still remains the barometer of world tension. From mud and straw shanties in India to plush villas in France, nervous people stash away Krugerrand coins or gold jewelry at the first sign of any political or economic unrest. Last week, after the Irsaelis attacked Iraq's nuclear reactor, the price of gold immediately shot up $13.50, to $473.50 per oz.

Now a group of conservative economists is trying to make gold again the anchor of the world's monetary system, a position it held during the late 19th and early 20th centuries. Says Lewis Lehrman, a wealthy businessman and sometime consultant to the Reagan Administration: "I am convinced that we will be back on the gold standard within ten years." The Administration later this month will announce the appointment of a committee to study the feasibility of returning to the gold standard. The 17 members include House Democrat Henry Reuss of Wisconsin, chairman of the Congressional Joint Economic Committee; Frederick Schultz, vice chairman of the Federal Reserve; and Murray Weidenbaum, head of the President's Council of Economic Advisers.

The basic requirements of a gold standard are that a unit of money be defined by a specified amount of gold and that the central bank be willing to convert money into gold. The gold standard then becomes a mechanism for controlling the money supply, and thus inflation, by linking the growth of currency to a commodity that is scarce, only slowly increasing in supply and indestructible. In times of steady economic growth, the limits imposed by a gold standard restrain spending and curb inflation. But during hard times, this can cause deflation since it inhibits deficit Government spending. The U.S. has not been on a gold standard since August 1971, and for nearly four decades before that, it had only a modified gold system.

A pure gold standard takes primary control of the money supply away from the Government. The growth of the world's money would be determined by the amount of gold dug out of mines in California, South Africa, the Soviet Union and other gold producers. Any country could get additional gold by exporting more goods abroad than it buys there. But buying gold would be the only way that a country could increase its domestic money supply.

Some supporters of the yellow metal favor a "fractional" gold standard in which money would be only partially covered by Government gold stocks. This would not entirely remove the Federal Reserve's role in monetary policy, but would restrain its powers to issue paper money. They believe that the Fed's policy of controlling inflation through the money supply is well intended but ineffectual. Lawrence Kudlow, chief economist of the Office of Management and Budget, says that the Federal Reserve has become a "monetary Gong Show."

The notion of returning to the gold standard comes from the same supply-side economists who fostered the cuts in personal income taxes that President Reagan is now trying to get through Congress. Such supply-siders as Economist Arthur Laffer and Consultant Jude Wanniski have been putting the gold bug in politicians' ears for the past several years. Republican Congressman Jack

Kemp of New York, co-author of the Kemp-Roth tax-cut bill, says that he plans to take up the gold banner as soon as he has completed his drive to lower taxes. Republican Congressman Ronald Paul of Texas and Republican Senator Jesse Helms of North Carolina have introduced bills that would restore some version of the gold standard. Says Laffer: "President Reagan is going to have a lot of trouble if he does not go to a gold standard soon." Laffer argues that a gold standard should accompany a supply-side tax cut to give consumers incentive to save.

Eugene Birnbaum, a former official of the International Monetary Fund, argues that the Government must "lick inflation first." Then the gold standard would provide the needed "discipline for politicians and bureaucrats" to maintain stable prices. He and other gold advocates believe that without such a system, governments will always fall to the temptation of inflating their currencies rather than taking prudent anti-inflation steps.

Probably the most difficult part of any return to gold would be to establish a suitable price for the yellow metal. In the past decade, gold has been as low as $35 per oz., but in January 1980 it hit $850 per oz. If world leaders fixed the price of gold too low, it could result in a severe depression, because there would not be enough cash to keep the economy running smoothly. If the price was set too high, it could cause more inflation, because the gold would have created too much cash and credit. Roy Jastram, a professor of business administration at the University of California at Berkeley, has studied the world prices of gold and other commodities going back to 1560. He concluded that the historic price of gold, in relation to the prices of those other products, would now be about $250 per oz. Some gold bugs, though, insist that the price under a new gold standard should be as high as $1,500 per oz.

So far the gold advocates have won few converts among leading economists. Opponents argue that a gold system would be far too rigid for the modern international economy. Says Otto Eckstein, president of Data Resources Inc.: "To tie the world economy to an asset that represents such a small part of the total monetary system is really impossible. You could as well stabilize the world economy on the cabbage standard. It is absurd." Adds the Fed's Schultz: "You have to get inflation down before you link the dollar with any commodity. Otherwise there will be turbulence and disruption as the real value of the dollar erodes and people demand their gold."

A new gold standard could perhaps increase the financial and political clout of the world's two major gold producers: South Africa and the U.S.S.R. South Africa mines more than half the world's gold, 21.7 million oz. last year. Most of it is extracted by black miners, whose treatment by their apartheid government is a matter of international concern. In the case of a revolt or strike by the workers, a halt in production could drive up prices and disrupt world commerce. The Soviet Union holds an estimated 60 million oz. of gold and has unmined reserves of perhaps 250 million oz. more. At today's prices, that would give the Soviets a $146 billion stranglehold on Western economies.

World financiers show scant interest in going back to gold. Says European Gold Expert Paul Jeanty of London's Samuel Montagu & Co. Ltd.: "Returning to gold would only force the Saudis to buy it with their oil profits at enormous cost to the dollar. Nobody I know of takes the notion seriously." Hermann Abs, former head of West Germany's Deutsche Bank, says that "the fluctuations of the gold market preclude the establishment of gold as a standard of value."

There is doubt about whether Reagan is seriously interested in bringing back gold. During the 1980 presidential race, he made pro-gold campaign statements, and the Republican platform hinted at endorsing "hard" money. But some observers doubt that the President will actually follow through with any move toward gold. Says the vice president of a large New York bank: "This commission is a very considered maneuver by the Reagan Administration to allow conservatives to have their day. It is a way of diffusing sentiment—a masterful stroke."

The new Government committee is unlikely to endorse a return to gold. Although there are several gold advocates like Lehrman on it, a majority of the 17 members can be expected to come out against a restoration of the gold standard. Says Representative Paul: "The important thing is that we're finally talking about it. Sooner or later, it will all dawn on people."

The final word, however, has surely not been heard from the gold supporters. As long as governments around the world let inflation run wild and debase the value of their currencies, a relentless chorus of hard-money advocates will continue to demand that their money be made as good as gold.

—By Alexander L. Taylor III.

The idea that a currency cannot be trusted unless it is backed by gold seems as durable as the metal itself. In the early 19th century, British Economist David Ricardo declared that without the gold standard the then mighty pound sterling would be at the whim of "all the fluctuations to which the ignorance or the interests of the issuers might subject it."

Though pure gold coins were first minted by King Croesus of Lydia (modern day western Turkey) in the 6th century B.C., a gold-backed currency is usually traced back to 1717, when Sir Isaac Newton, then Master of the Mint, fixed the value of the pound sterling at about .24 oz. of gold. For the next 200 years, except when it was briefly suspended during the Napoleonic wars, the gold standard made the pound the world's most trusted currency and helped Britain dominate world finance and trade.

During World War I, however, Britain went off the gold standard in order to make it easier to finance its military effort. In 1925 Winston Churchill, then Chancellor of the Exchequer, returned the country to the gold standard, believing that such a step would help restore the British Empire to its former pre-eminence. But he made the mistake of setting the value of the pound at its prewar gold price, which did not take account of high wartime inflation. This was a major cause of the nationwide general strike that virtually immobilized the economy in 1926. Indeed some historians believe that Churchill's decision to return to the gold standard helped trigger the worldwide Great Depression. In 1931 Britain again abandoned the gold standard.

As the heir to Britain's role in world finance following World War I, the U.S. clung to the gold standard. Franklin D. Roosevelt partly revoked it in 1933, when he attempted to help banks by forbidding Americans to hold gold. During the international chaos surrounding the Depression and the beginning of World War II, gold flooded into the U.S. The American gold supply jumped from $4 billion at the beginning of 1934 to $17.6 billion by the end of 1939. The U.S. suddenly held 60% of all the gold reserves in the world, and Washington officials worried about the problem of having too much gold.

The Bretton Woods Conference of 1944, which established the postwar international monetary structure, set up the gold-exchange system. The price of gold was fixed by the U.S. Treasury at $35 per oz., and Washington agreed that foreign governments could always exchange their dollars for gold. This system worked well for about two decades, but by the mid-1960s governments fearful of the future convertibility of the American currency started turning in more and more dollars for gold. At the same time, French President Charles de Gaulle began a campaign to restore the full gold standard, proclaiming its merits as a form of payment that is "eternally and universally accepted." On Aug. 15, 1971, President Richard Nixon finally ended the gold-exchange system, when he announced that the U.S. would no longer redeem foreign-held dollars for American gold.

With few exceptions, economists reject proposals for returning the world's money system to gold. Yale's Robert Triffin, for example, says that it is "an absurd waste of human resources to dig gold in distant corners of the earth for the sole purpose of transporting it and reburying it immediately afterward in other deep holes." Yet gold's hold on the general public remains. As Janos Fekete, the deputy head of the National Bank of Hungary, once explained at a conference of monetary experts: "There are about 300 economists who are against gold—and they might be right. Unfortunately, there are 3 billion inhabitants of the world who still believe in it."●

NEW MEXICANS SUPPORT A LOGICAL APPROACH TO ALIEN WORKERS

● Mr. SCHMITT. Mr. President, in the very near future the Cabinet will debate the report of the Attorney General's Task Force on Immigration. At that time, the officials will have to consider whether or not this country should have a rational temporary worker program.

I, and several other Senators, have long maintained that a rational immigration policy requires a realistic temporary worker program. To that effect, I have introduced legislation which would create such a program.

That bill, S. 47, the United States-Mexico Good Neighbor Act, would allow temporary workers from Mexico to come to this country for approximately 6 to 8 months and provide the labor needed for a robust American economy. A realistic program would also protect domestic workers, as well as eliminate that exploitation which is inherent in any illegal system.

New Mexicans recognize that such a plan is an essential ingredient of a realistic immigration policy. On July 6, 1981, the Sun News of Las Cruces, N. Mex., wrote an editorial entitled "A Logical Approach to Alien Workers," which recognizes that a guest worker program must be included in our immigration policy: otherwise, the illegal flood will continue as these Mexican workers are "pulled" north by the lure of good jobs.

Increased enforcement will not be able to close our 2,000-mile land border with Mexico absent the creation of a "tortilla curtain."

Mr. President, I recommend that all Senators read this persuasive editorial, and I request that it be printed in the RECORD.

The editorial follows:

A LOGICAL APPROACH TO ALIEN WORKERS

The Reagan administration's recently announced plan to expand its proposed Mexican guest worker quota from 50,000 annually to

350,000 demonstrates an increasing awareness of immigration realities in Washington.

The first concrete proposal by an administration in nearly two decades takes into account the view of Mexican President Jose Lopez Portillo with whom Mr. Reagan met June 8–9. The two presidents reportedly agreed that a large-scale seasonal immigration of workers would meet the needs of both countries.

Even so, some knowledgeable authorities on this issue believe than 350,000 a year is less than half the number that would have to be admitted to meet the demand for labor north of the border. And the demand for workers in this country is the magnet that draws illegal immigration.

Inasmuch as the Mexican workers will continue to come here as long as they are needed by the economy, the logical way to control illegal immigration is to legalize and regulate it. This the Reagan administration proposes to do by issuing temporary visas and requiring the worker to return to Mexico upon expiration of his work permit.

Combined with adequate enforcement and sanctions against the employment of undocumented immigrants, the guest worker program offers the best chance to control immigration.

Nonetheless, guest workers traditionally have been opposed by organized labor, which fears their competition for jobs, and by many other Americans who are concerned about the economic and cultural impact of so large an influx. As irrational as this opposition is, in view of the present flood of illegal immigration, it will pose a formidable hurdle for the president's program in Congress.

There appears to be no chance of controlling immigrants without a guest worker program. History has shown that they will come—legally or illegally—as long as the U.S. labor market offers them jobs.●

HENRY A. SNYDER COMMENTS

● Mr. DURENBERGER. Mr. President, on June 22, 1981, Henry A. Snyder, vice president of Economics Laboratory Inc., presented testimony before the Senate Environment and Public Works Committee.

Economics Laboratory suggested that the Clean Air Act should be modified to maximize industry's technological flexibility in its attempts to achieve cleaner air. Their statement stressed that that a greater number of control options would tend to minimize costs without sacrificing environmental quality.

The testimony makes several excellent suggestions which I feel are of general interest. I request the Economics Laboratory testimony be printed in the RECORD.

The material follows:

STATEMENT OF HENRY A. SNYDER

Thank you, Mr. Chairman. I would also like to thank the other members of the Environment and Public Works Committee and the committee staff for the opportunity to testify on the implications of new particulate control technology on the Clean Air Act Economics Laboratory, Inc. is a Fortune 500 Saint Paul-based company engaging in the development, manufacture, and sale of products and systems for a wide variety of cleaning, sanitation and pollution control uses. Our Apollo Technologies subsidiary is a leading developer of chemical products and equipment to control pollution and save energy in the burning of fossil fuels, especially coal. Our company strongly supports the goals of the Clean Air Act and the health based standard setting process. It is our belief, however, that those goals can frequently be reached through less costly technological alternatives which are currently discouraged by the Act.

I would like to address some of the technical options which coal-fired power plants could use to control emissions of sulfur dioxide and particulates. These two pollutants are interrelated, as I will explain. An understanding of that interrelationship provides coal burning utilities with certain innovative and cost effective technical approaches for controlling emission levels. I cannot overstate the need for minimizing costs. The utility industry is currently caught in a severe capital crunch. Using a low growth scenario, this country will need to construct about 400 additional power plants by the year 2000. Traditional industry sources of revenue appear to be inadequate as exemplified by stock prices below book value and the retreat by some utilities from the bond market.

As you will see by specific example later in my testimony, utility access to innovative control methods, not presently practical as the Act now stands, can significantly improve air quality while reducing the economic cost of regulatory compliance. Sulfur dioxide and particulate emission levels are affected by changing coal supplies, but in opposite directions. As is well known, sulfur dioxide emission levels can be reduced by adoption of a low sulfur coal supply. This approach, however, increases particulate emissions from a given coal-fired power plant. Coal which has a low sulfur content produces fly ash with greatly increased electrical resistance, thereby reducing the efficiency of particulate removal by the utility's electrostatic precipitators Advances in particulate control, however, can favorably impact on sulfur dioxide emission problems by allowing utilities to burn low sulfur coal, yet effectively overcome the resulting particulate emission problems.

This result is achievable by the use of flue gas conditioning systems which improve the efficiency of electrostatic precipitators in coal-fired power plants. This is a comparatively new technology for particulate control. It involves injecting one or more non-toxic chemicals into the flue gases of a coal-fired power plant. These products are absorbed by the fly ash and thus change the electrical properties of the particulates in the gas stream. As a result, the electrostatic precipitator becomes significantly more efficient. With an existing electrostatic precipitator, a flue gas conditioning system can reduce the emission level by 50–90 percent.

This is an adequately demonstrated technology. Some form of flue gas conditioning, offered either by our company or by numerous competitors, is used in power plant units representing roughly 17 percent of the total megawatts of coal-fired production in this country.

Flue gas conditioning is also a very cost-effective technology. The same increased efficiency could be achieved through a mechanical system such as an additional electrostatic precipitator or a larger retrofit precipitator. The latter options, however, are 7–12 times as costly. Typically, the added costs for a 500 megawatt unit would total $5 to $6 million a year.

Given the above, Congress and the Environmental Protection Agency should encourage regulatory methods which provide the necessary options which industry now has available to control both particulate and sulfur dioxide emission levels.

I submit that the current Act, in certain respects, has the unwanted effect of depriving society of a further reduction of emissions by a few unnecessarily inflexible provisions. May I suggest that the Act can be modified to provide better air quality in the following manner:

First, the Section 120(d)(2) non-compliance penalties should be modified to reflect interim efforts to comply, and also to reflect the degree of non-compliance. Currently, Section 120 penalties are set on the basis of "the economic value which a delay in compliance . . . may have for the owner . . . minus . . . the amount of any expenditure made by the owner or operator of that source . . . for the purpose of bringing that source into, and maintaining compliance . . . ." This method of assessment does not reflect the degree of non-compliance, merely the economic cost of getting into compliance. In addition, the report of the National Commission on Air Quality concluded in Chapter 1, finding Number 310 that the administratively cumbersome method of calculating non-compliance penalties makes them useless for anything other than major violations.

I submit that it would be better to establish a geometric scale of non-compliance penalties, bringing heavy fines against those companies which are grossly out of compliance, and levying much lighter fines against companies which are only moderately out of compliance. Of equal or greater importance, interim compliance measures which could substantially reduce emissions from a non-complying facility during the interim period between the determination of non-compliance and the point at which the facility is ultimately brought into compliance, are currently available but unused. Expenditures for such efforts cannot currently be used to offset non-compliance penalties.

As a result, utilities have a strong economic disincentive for implementing any interim compliance measures unless part of a specific compliance agreement, since they would have to pay for them without reduction in the non-compliance penalties. Our company once guaranteed to reduce the particulate emissions from any non-complying facility by 60 percent of the increment above the compliance level, or the utility would not have to pay for our services. Not one single utility took advantage of this guarantee, simply because a 60 percent emission reduction would not get the utility all the way into compliance and, as a result, expenditures for the system would not be offset by reductions in non-compliance penalties.

We believe the Congressional objective of the 120(d) penalty provision was to improve air quality. However, if we want cleaner air, we should remove the inadvertent disincentives which currently keep our air from being cleaner.

Second, the percentage removal requirement of Section 111(a) should be dropped from the New Source Performance Standards. This section requires "the achievement of a percentage reduction in the (sulfur dioxide) emissions . . . from the emissions (level) which would have resulted from the use of fuels which are not subject to treatment prior to combustion." From an air quality standpoint, a reduction in sulfur dioxide emissions which results from the use of low sulfur coal is the same as a reduction in emissions resulting from the use of scrubbers or other sulfur removal technology. This section in the Act, therefore, merely serves to require the implementation of expensive sulfur dioxide control technology even when emissions are low enough to meet the requirements of the given State Implementation Plan and the National Ambient Air Quality Standards. This means that the use of low sulfur coal is discouraged, since the utility would still have to install expensive equipment to remove a certain percentage of the sulfur content from the flue gas stream, even though emissions are within acceptable levels.

Third, the economic disruption provision in Section 125 should be modified to allow utilities to use low sulfur coal which is not available on a local basis. As members of

this committee are probably aware, Section 125, whenever it is invoked, requires that locally or regionally available coal be used if its discontinuance would cause significant economic disruption or unemployment. Although such economic effects are clearly undesirable, the cost of mitigating them should not be borne by the electric utility or its rate-paying customers, by being forced to use high sulfur local coal and then required to pay for expensive scrubbers to remove the excess sulfur dioxide from the air, when low sulfur coal is readily available to them from other sources. If Congress wishes to reduce economic side effects resulting from a shift away from locally available fuel, it should address those economic disruptions directly rather than forcing the use of a uneconomic fuel source on the utility.

And fourth, Congress should take all steps possible to expand the administrative flexibility of the states. The Environmental Protection Agency is already moving in a direction which would allow expanded use of the bubble concept at the state level. EPA's authority, however, is not clear. For the benefit of the agency and the regulated industry, it would be desirable for Congress to statutorily express support for enforcement policies which allow plant managers to be flexible in their technological approaches to individual emission sources within a given plant location. Similarly, the Federal EPA should approve and audit generic state implementation plans but should allow states to modify individual emission source limitations without Federal duplication of the states' administrative effort.

In summary then, it has been our experience that the technological strictures placed on coal-fired power plants by inflexible Section 120(d)(2) non-compliance penalties, the percentage removal requirement, the Section 125 local coal requirement and inflexible EPA oversight of state activities have had a retarding effect on environmental improvements. Clearly, if this country is to meet the twin goals of environmental acceptability and reasonable economic costs for pollution control, we must modify the Clean Air Act to take advantage of all of our technological options.

Attached to my statement you will find two appendices. Exhibit 1 demonstrates graphically the improvement in particulate removal levels which can be achieved with flue gas conditioning. Exhibit 2 is an analysis of the cost of flue gas conditioning versus the mechanical alternative.

Thank you, Mr. Chairman.

(NOTE: Exhibit No. 1 is not reproducible in the RECORD.)

EXHIBIT 2

COMPARATIVE ANNUAL COSTS TO PRODUCE A SPECIFIED INCREASE IN PERCENT COLLECTION EFFICIENCY

	Relative reduction in percent uncollected	Absolute increase in percent efficiency	Overall new percent efficiency	Annual cost[1]	
				Flue gas conditioning[2]	Retrofit ESP or baghouse[3]
Initial percent efficiency:					
70	50	15.0	85.0	53	667
	90	27.0	97.0	89	370
80	50	10.0	90.0	80	1,000
	90	18.0	98.0	133	556
90	50	5.0	95.0	160	2,000
	90	9.0	99.0	267	1,111
95	50	2.5	97.5	320	4,000
	90	4.5	99.5	533	2,224
99	50	.5	99.5	1,600	20,000
	90	.9	99.9	2,667	11,120

[1] Dollars per year, per megawatt of installed capacity, for each 1-percent increase in collection efficiency.

[2] Cost basis: $800 per megawatt per year and $2,400 per megawatt per year for 50-percent and 90-percent relative reductions in uncollected respectively.

[3] Cost basis: Retrofit capital cost of $40,000 per megawatt of capacity and annual charge of 25-percent (interest, maintenance, etc.).

OTTO A. TENNANT ELECTED PRESIDENT OF NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

● Mr. GRASSLEY. Mr. President, I would like to take this opportunity to congratulate my friend, Otto A. Tennant, P.E., who was recently elected president of the National Society of Professional Engineers, a nationwide organization representing 80,000 individual engineers.

Before taking on this most prestigious position, Otto served as vice chairman of NSPE's North Central Region and Professional Engineers in Industry. He also served as chairman of the NSPE Legislative and Government Affairs Committee.

Otto holds a BS degree in General Engineering from Iowa State University and an MA in Economics from Drake University.

Currently, Otto is Manager of Industrial Marketing and Technical Services of Iowa Power & Light Company.

It is an honor for me to congratulate Otto on his recent election and to wish him the best of luck.●

THE ENERGY GAP

● Mr. HELMS. Mr. President, I have read with interest an article entitled "Energy Shortages: The Downside Risks," which was recently sent to me by its author, David A. Rossin. Mr. Rossin is a system nuclear research engineer with Commonwealth Edison Co. in Chicago, Ill.

In his article, Mr. Rossin focuses on the risks associated with "not having enough electricity to go around." That is a disturbing thought—"not having enough electricity to go around." And yet it is a very real prospect if we fail to utilize our valuable and abundant resources for producing energy.

Mr. President, many have argued that we should not develop, indeed need not develop, nuclear resources. Mr. Rossin examines what might happen if we do not develop our nuclear resources.

Needless to say, nuclear power is a vital energy source. Without the supplement of nuclear energy, our energy pool would be greatly weakened. In 1980, nuclear power accounted for 12 percent of the total kilowatt supply of electrical energy used in this country—a healthy percentage. According to reliable projections, by the year 2000, 26 percent of our electrical supply should be provided by nuclear energy. But current planning will leave us far short of that goal. So it is time that we become more aware of the risks of a scarcity of electricity.

In his article, Mr. Rossin emphasizes three major risks associated with an energy shortage. The first is a loss of jobs. "* * * If a utility company cannot promise reliable electricity service," he says "the next factory or office complex will go somewhere else. With it go the jobs."

The second risk is that citizens will blame the Government for the shortages. To the extent that the Government is responsible for inhibiting full utilization of our energy resources, this will be true. Ironically, according to Mr. Rossin, "* * * the citizens will turn to the Government to take over the utility and build the plants its own regulatory process stopped."

The third risk, Mr. President, is that alternative energy sources might not work. In Mr. Rossin's words—

> The disciples of decentralized energy sources offer no assurance that their alternatives can actually deliver. What they demand now is the commitment to stop nuclear power. Such a decision would make the likelihood of electric generating shortages before long very high indeed.

Can we afford these risks? I think not, Mr. President. I am fearful, however, that many people in this country have not considered the risks associated with "not having enough energy to go around."

In order that my colleagues have the benefit of Mr. Rossin's article, I ask that it be printed in the RECORD.

The article follows:

WHAT OTHERS THINK—ENERGY SHORTAGES: THE DOWNSIDE RISKS

(By A. David Rossin)

The seventies were a period of newfound concern for the environment and an awakening to the fact that natural resources are limited. Public concern was translated into laws. The laws require a vast array of regulations. Now alternatives must be considered before a project can begin. The impacts and risks must be evaluated, reported, and, in some cases, debated.

The debate about energy—oil prices, synthetic fuels, solar energy, conservation—has become a battle when it touches nuclear power. Individual activists and interest

groups raise questions and make charges about radiation, waste, safety, and weapons proliferation. Industry and government experts document their answers with thick reports. Whom can the people trust?

Nuclear risks are weighed against risks associated with coal (pollution, acid rain, the carbon dioxide layer); with oil (spills, fires, tanker accidents, platform collapses, and dependence on the Middle East); natural gas (rising prices and limited resources), and new alternatives (unknown economics and unproven technologies). On the benefit side is the electric energy produced—the amount necessary to serve a nation that is learning to conserve.

The benefits are to be weighed against the risks. But rarely do people hear about the downside risks: the risks that come with not having enough electricity to go around. No one claims that nuclear power is the answer to all our energy problems. But nuclear power's contribution is vital. Without it the problem is tougher. It is time that Americans start to look at the downside risks of *not* having enough electric power plants.

We have grown up with dependable and relatively economical electricity. Utilities, by law, have served all. But with too few power plants being built today (coal and nuclear) and the eight to ten years or more that it takes to build one, the odds of an electric generation shortage before the end of the eighties are mounting. Even with *zero* growth in electric demand, by 1985 it would take 8,000 megawatts each year (the equivalent of seven new large nuclear plants) just to replace the old plants that become obsolete. That is with no replacement of oil-burning plants and no growth in demand. Only 6,000 megawatts were ordered in 1979. So the stage is being set today, not just for one of the three downside risks, but for any or all of them, perhaps even at the same time.

DOWNSIDE RISK ONE: THE SELF-FULFILLING PROPHECY

Utilities used to be accused (sometimes correctly) of building a new power plant, then advertising to promote demand for the power and justify its decision: the "self-fulfilling prophecy." Sometimes the advertising worked; sometimes it did not because national or worldwide events intervened. But that was back in the days of 3 per cent interest rates when the new plant would produce power at less cost than what it replaced. Now there is no financial incentive for any utility to build anything. The large number of inflated dollars required will just raise total system generation cost.

But what is certain is that if a utility company cannot promise reliable electric service, the next factory or office complex will go somewhere else. With it go the jobs. Next the plans for expansion are canceled, followed by closing of companies that had been pillars of the community for years. That is the real self-fulfilling prophecy.

DOWNSIDE RISK TWO: GOVERNMENT TO THE RESCUE

If utilities cannot build, and citizens realize what is happening, they will not blame the citizen-activist groups that caused the delay, even if the leaders are still around. They will blame the utility company for failing to do its job. And some politicians will probably blast at the utility for not warning the public about what was in store.

If history repeats itself, the citizens will turn to government to take over the utility and build the plants its own regulatory process had stopped. Yet the risk remains that the same regulations and pressure groups may just stop the government too.

DOWNSIDE RISK THREE: PRIORITIES AND ALLOCATION

The theory of some who oppose nuclear power is that if electricity is restricted everyone will conserve, the right amount of energy waste will be skimmed away, and unnecessary growth, with all its environmental impacts, will be prevented. This may be the dream, but in the real world predictions rarely come out accurately, especially where energy is involved. Energy policy decisions sometimes produce results different from those promised.

If the power plant is ready but not needed, it does not run. Interest on its mortgage must be paid anyway, but at least the fuel is saved. If oil or gas can be saved and those plants are kept idle while coal or uranium fuel is used, the benefits are obvious.

However, on the downside, if there is not enough electricity to supply all users, priorities must be set. Over the short term, blackouts and brownouts due to storms or other emergencies will occur more often. But when there are only so many generating plants, and the various new demands turn out to be greater than the supply will be, priorities will have to be set.

What new use should have priority for a limited remaining amount of electric supply? A factory with its jobs? A new energy-efficient office building? A hospital? Apartments? One hundred four-bedroom houses? Should each residence have a limit? Should certain appliances be banned?

Just who should set these priorities? Not the utility company; that is not its role under the law, and a utility has no right to discriminate among users. Should the state order the utility to raise rates or should it tax energy use to depress demand, even though that would increase welfare payments? If not, that leaves allocation. The priorities would be set and enforced, not by the utility, but by government. But not one Congressman, Senator, governor, or other public official has called for public hearings on how to set priorities for electricity when there is not enough to go around!

A number of spokesmen are calling for decentralized energy sources: house by house or in each small community. Their stated objective is to free people from the big, centralized power companies. However, utilities do not decide what uses of electricity are valid and socially acceptable. Individuals and companies make those decisions themselves.

As long as there is enough utility electricity for reliable backup, anyone can build a windmill, a solar heater, or whatever he chooses. The centralized utility cannot stop anybody. The decisions are individual, local: decentralized.

Ironically, with shortages comes allocation of energy, and people may be left with no choice but to build and tend their own generators, even if they would rather go backpacking or read a book. Allocation is centralized decision making by government: big, centralized government.

The disciples of decentralized energy sources offer no assurance that their alternatives can actually deliver. What they demand now is the commitment to stop nuclear power. Such a decision would make the likelihood of electric generating shortages before long very high indeed.

Nobody has a perfect crystal ball. No one can be sure just how much capacity would be right for 1990. But the risks of having too many power plants need to be compared with the downside risks of not enough.

A commercial airline considers downside risk. When a Chicago to San Francisco flight takes off, it is carrying a lot more fuel than it takes to make the flight. This means higher inventory costs and more weight on takeoff and landing because experience says there may be weather delays or other unexpected developments. Cutting fuel loads close to the line is tempting, but the downside risks of running short are well known, not only to pilots and executives, but to passengers and politicians.

If the debate about nuclear energy is to deal with risks, the downside risks of electric energy shortage had better become a feature of it. If a free society is to arrive at an energy policy, its people need to be well aware of the downside risks of all of its options.

CLAIM THAT ANTIBUSING LEGISLATION IS UNCONSTITUTIONAL DISREGARDING COMMONSENSE

● Mr. HELMS. Mr. President, it should be clear by now that the Helms-Johnston antibusing amendment is in no way violative of the Constitution. If I believed for one moment that this amendment violated the Constitution, I would not have offered it. It deprives no one of his or her rights.

Opponents of the amendment, however, continue the myth that it is unconstitutional. In a "Dear Colleague" letter dated June 29, 1981, circulated by the Senator from Connecticut (Mr. WEICKER) and 11 other Senators, the claim was made that the Helms-Johnston amendment "intrudes on and erodes the independence of the Federal judiciary by attempting to limit the remedies which may be required under the Constitution." I also received a letter dated June 22, 1981 from the New York City Bar Association stating that the "proposed amendment appears to violate the 14th amendment to the Constitution." And the American Bar Association—which I am convinced no longer represents the views of the majority of practicing lawyers in America—said in a letter dated June 22, 1981 to Senator BAKER:

> This amendment would drastically restrict the jurisdiction of the Federal courts to issue remedies in school desegregation cases, even when such remedies are the only available means of vindicating Constitutional rights against deliberate and intentional violations of the equal protection clause of the Fourteenth Amendment.

Mr. President, this is simply not so. Forced busing of school children to achieve racial balance is clearly not mandated by the Constitution and is, in fact, violative of the Constitution. Former Senator Sam Ervin remarked to me last year while we were discussing this issue that:

> Oceans of sophistry cannot wash away the plain fact that busing of schoolchildren deprives those who are being bused of their right under the equal protection clause to attend the school nearest their homes.

So, Mr. President, what Federal bureaucrats and judges have been doing with this folly of forced busing is violating the equal protection clause, and in doing causing the waste of hundreds of millions of dollars and the Lord only knows how much fuel and time. For what? Absolutely nothing. All that the 14th amendment requires is that a State may not deny to any person on account of race the right to attend any school that it maintains. The Constitution does not require arbitrary racial balance; it merely forbids discrimination. Yet, this principle has been rejected by the judicial activists on the Federal courts.

Mr. President, let the record be clear: The issue we confront now is the responsibility of Congress to determine what

is and what is not a proper remedy to enforce the mandates of the 14th amendment, and that is what the Helms-Johnston amendment does. This amendment reaffirms the intent of Congress that busing is unacceptable as a remedy. Congress sought to make this understood in the Civil Rights Act of 1964, but the clear legislative intent was subsequently ignored by the Federal courts. That is why it is important for Congress to act now on the Helms-Johnston amendment.

Senator Ervin has prepared an excellent analysis of the meaning of the 14th amendment's equal protection clause as it relates to the issue of school busing. Because of the constitutional objections to the Helms-Johnston amendment by some groups, I ask that Senator Ervin's statement be printed in the RECORD so that my colleagues in the Senate will have the benefit of Senator Ervin's clear thinking on this issue.

The statement follows:

STATEMENT OF SENATOR SAM J. ERVIN, JR.

THE TRUE MEANING AND OBJECTIVE OF THE EQUAL PROTECTION CLAUSE

The Fourteenth Amendment became a part of the Constitution on July 21, 1868. When it is interpreted and applied aright, its equal protection clause is one of the simplest and most salutary of the provisions of the Constitution.

The clause extends its protection to all persons of all races, colors, or classes who are similarly situated within the boundaries of any state. Its objective is to secure equality to such persons under the laws of the state. The clause specifies that no state "shall deny to any person within its jurisdiction the equal protection of the laws."

By this phrase, the equal protection clause requires the laws of the state to treat all persons within its jurisdiction alike under like circumstances, both in the rights conferred and the responsibilities imposed.

The clause applies only to states and to state officials acting under state law. Further than that, the clause does not go. It does not apply in any way to private individuals, or confer upon the federal government any power to control their conduct.

Since all federal officers, including Supreme Court Justices, are bound by oath or affirmation to support the Constitution, no court, department, or agency of the federal government has any power to require a state or any state officer acting in its behalf to violate the equal protection clause. The Supreme Court has expressly ruled that Congress cannot do so.

THE BROWN CASE

During the 86 years following the ratification of the Fourteenth Amendment, presidents, governors of states, Congress, state legislatures, and federal and state courts interpreted the equal protection clause to permit a state to segregate by law persons within its jurisdiction on the basis of race as long as the facilities which served them were equal.

The interpretation was known as "the separate but equal doctrine." This doctrine did not originate in any Southern state. It had its genesis in Massachusetts. In 1849, the Supreme Judicial Court of Massachusetts created and applied it in *Roberts* v. *City of Boston*, 59 Mass. (5 Cush.) 198, when it rejected the plea of Senator Charles Sumner that the City of Boston be compelled to admit black children to a racially segregated school for whites.

By a 7 to 1 vote, the Supreme Court applied "the separate but equal doctrine" to the segregation of passengers on the basis of race in transportation in 1896 in *Plessy* v. *Ferguson*, 163 U.S. 537; and by a unanimous vote, the Supreme Court applied "the separate but equal doctrine" to the segregation of children in public schools on the basis of race in 1927 in *Gong Lum* v. *Rice*, 275 U.S. 78.

Justice Brown of Michigan wrote the opinion in *Plessy* v. *Ferguson* for a court composed of himself and Chief Justice Fuller of Illinois, and Justices Field of California, Harland of Kentucky, Gray of Massachusetts, Brewer of Kansas, Shiras of Pennsylvania, White of Louisiana, and Peckham of New York. Harlan dissented, and Brewer did not participate. Harlan based his dissent on the proposition that "our Constitution is color blind."

Chief Justice Taft wrote the opinion in *Gong Lum* v. *Rice* for a unanimous Supreme Court composed of himself and Justices Holmes and Brandeis of Massachusetts, Van Devanter of Wyoming, McReynolds and Sanford of Tennessee, Sutherland of Utah, Butler of Minnesota, and Stone of New York.

On May 17, 1954, the Supreme Court handed down its unanimous decision in *Brown* v. *Board of Education of Topeka*, 347 U.S. 483. By this ruling the Supreme Court adjudged "that in the field of public education the doctrine of separate but equal has no place." In its final analysis, the decision in the Brown Case is based upon the proposition that the equal protection clause of the Fourteenth Amendment forbids a state to consider race in assigning children to its public schools, and in consequence a state violates the clause if it excludes a child from any of its schools because of the child's race. Hence, the decision accepts as valid Justice Harlan's assertion in *Plessy* v. *Ferguson* that "our Constitution is color blind."

At the time the decision in the Brown Case was announced 17 states and the District of Columbia were maintaining segregated schools for black and white children.

It is no exaggeration to say that the decision of the Supreme Court in the Brown Case shocked the nation. In common with multitudes of other Americans, I doubted its validity and wisdom. Such a drastic change in the interpretation of the equal protection clause, I thought, ought to have been made by a constitutional amendment and not by judicial fiat.

Since the Supreme Court handed down its decision in the Brown Case, I have spent much energy and much time studying the origin, the history, the language, and the objective of the equal protection clause of the Fourteenth Amendment.

My study has constrained me to accept as valid these deliberate and definite conclusions:

The "separate but equal doctrine" is consistent with the origin and history of the equal protection clause.

Nevertheless, the "separate but equal doctrine" is inconsistent with the words and manifest purpose of the equal protection clause.

The equal protection clause requires the laws of a state to treat alike all persons in like circumstances within its borders both in respect to rights conferred and responsibilities imposed.

The objective of the equal protection clause is to insure equality under state law of all persons similarly situated within the borders of the state.

A state frustrates the equal protection clause and its objectives if it make the legal right or legal responsibility of persons within its borders depend upon their race.

The Brown Case requires a state to assign its children to its public schools without regard to their race and invalidates any state law to the contrary.

Despite my original misgivings respecting it, the Brown Case constitutes a proper interpretation of the equal protection clause.

The equal protection clause governs state action only, and does not apply in any way to the conduct, dealings, associations, social activities, or racial preferences of individuals.

Finally, the equal protection clause contemplates that all persons shall enjoy equal civil liberties under state law, but does not entitle any persons of any race to any special privileges or preferences superior to those accorded to persons of other races by state law.

JUDGE PARKER'S EXPLANATION OF THE BROWN CASE AND THE EQUAL PROTECTION CLAUSE

When the Supreme Court made its decision in the Brown Case, it decided four separate cases which it had combined for the purpose of hearing and decision. After its decision, the Supreme Court remanded the four separate cases to the courts in which they had originated for further appropriate proceedings.

One of the four cases, *Briggs* v. *Elliott*, involved a challenge to the constitutionality under the equal protection clause of the public schools of Clarendon County, South Carolina. This case had originated in the United States District Court for the Eastern District of South Carolina and had been decided in the first instance by a three-judge district court composed of Circuit Judge Parker, and District Judges Waring and Timmerman.

Circuit Judge John J. Parker, who afterwards served as Chief Judge of the United States Court of Appeals for the Fourth Circuit, was deemed by the bench and bar to be one of America's greatest jurists of all times.

After the Briggs Case was remanded to the United States District Court for the Eastern District of South Carolina by the Supreme Court for further proceedings, Judge Parker wrote what he called a per curiam opinion for the three judge court, which was then composed of himself, Circuit Judge Dobie, and District Judge Timmerman.

In this illuminating opinion, Judge Parker explained the Brown Case and the equal protection clause with correctness and clarity. In so doing, he said:

"This Court in its prior decisions in this case, 98 F.Supp. 529; 103 F.Supp. 920, followed what it conceived to be the law as laid down in prior decisions of the Supreme Court, *Plessy* v. *Ferguson*, 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256; *Gong Lum* v. *Rice*, 275 U.S. 78, 48 S.Ct. 91, 72 L.Ed. 172, that nothing in the Fourteenth Amendment to the Constitution of the United States forbids segregation of the races in the public schools provided equal facilities are accorded the children of all races. Our decision has been reversed by the Supreme Court, *Brown* v. *Board of Education of Topeka*, 349 U.S. 294, 75 S.Ct. 753, 757, which has remanded the case to us with direction 'to take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit to public schools on a racially non-discriminatory basis with all deliberate speed the parties to these cases.'

"Whatever may have been the views of this court as to the law when the case was originally before us, it is our duty now to accept the law as declared by the Supreme Court.

"(1–4) Having said this, it is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the federal courts are to take over or regulate the public schools of the states. It has not decided that the states must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a state may not deny to any person on account of

race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the state may not do directly or indirectly; but if the schools which it maintains are open to children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools, as they attend different churches. Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The Fourteenth Amendment is a limitation upon the exercise of power by the state or state agencies, not a limitation upon the freedom of individuals.

"The Supreme Court has pointed out that the solution of the problem in accord with its decisions is the primary responsibility of school authorities and that the function of the courts is to determine whether action of the school authorities constitutes 'good faith implementation of the governing constitutional principles'."

Judge Parker's sound explanation of the Brown Case and the equal protection clause was subsequently rejected by the judicial activists on the Supreme Court.●

SENATOR SARBANES SALUTES AMERICAN LEGION'S DAN BURKHARDT

● Mr. SARBANES. Mr. President, for the past 32 years Dan Burkhardt has done an outstanding job as adjutant for the American Legion's Maryland department, a tenure of service to our veterans which is unsurpassed in Maryland and second longest in American Legion history. He will be retiring this September, but his numerous contributions will be gratefully remembered and I am certain he will continue to contribute to a stronger Nation in many ways.

During the years that Dan Burkhardt has been adjutant of the Maryland department, membership has nearly doubled to over 62,000, countless young people have learned from Legion-sponsored activities, and the veterans and all the people of Maryland have benefited from his vigorous and dedicated leadership. I have been pleased to work with Dan Burkhardt on a number of matters, including efforts to improve the health care and educational programs available to those who served their country and the many Legion programs for young people which are designed to build better citizens for our Nation's future.

A recent article in the Baltimore Evening Sun recounts well many of the contributions this outstanding Marylander has made to our community, and I ask that it be inserted in the RECORD.

The article follows:

[From the Baltimore Evening Sun, July 1, 1981]

DAN BURKHARDT'S LAST OFFICIAL FOURTH IS SURE TO BE A GLORIOUS ONE

(By James H. Bready)

Dan Burkhardt did his final Boys State last month, at Fort George G. Meade; Ocean City, in two weeks, will be the site of his final Department of Maryland convention of the American Legion; next month, he goes to his final national Legion convention, in Honolulu. The dinner in his honor, given by the department, has already happened. The time comes, in September, he must pay the penalty of age 65 and pack it all in. He vacates the desk and office at the War Memorial where long ago, to help out his old lawyer and friend Ken Hammer, he sat down as fill-in adjutant of the Department of Maryland, for a year. Daniel H. Burkhardt was commander of Waverly Post 164 then, and still full of his Pacific and European Theater experiences as the Marines' "senior permanent p.f.c." and it was 1949.

Across 32 years, changes occur. His service, for instance, becomes the second longest tenure by any department adjutant (in effect, state executive director) in Legion history, far and away Maryland's longest. And Maryland membership, with help from those hostile elements in Korea and then Vietnam, goes from 32,000 to its present, largest-ever 62,000. Yet the sound of martial music wanes—the Hamilton post's best-in-the-nation drum and bugle corps doesn't get around much any more, owing to travel's ruinous expensiveness. As to finery, today's Legionnaire wears matching gray trousers and blue blazers with embroidered pocket emblem, not the modified-military uniform of decades past. And at headquarters, the tile floor gets carpeting and, because Burkhardt's is good with his hands, the plaster walls vanish behind walnut paneling.

Legionnaires still wear those so-called overseas caps, however, and still promote patriotism, and still count roughly as many members as the other veterans organizations put together. And they still tell stories.

At St. Louis in '53, state commander and adjutant parked a couple of times close to the Mark Twain Hotel's marquee. Four stories up, a roomful of Maryland fellow-delegates were on the lookout for driver and passenger, and several times sped an arrival or departure with aimed paper bags full of water. So on the final day, being the 60th birthday of one room member, Burkhardt appeared in the doorway bearing a large chocolate cake. He spoke words of charity and forgiveness. They let him in, they let him light the candles, and the fuse of the cannon cracker buried in the center, before he left. "Everyone got his piece of cake," Burkhardt says, fondly.

Legionnaires, nowadays, are more earnest men—and women. In 1919, at the start of it all, the enrolling of Army Nurse Corps personnel made this the first coed veterans organization; by 1980, the prizewinner among Maryland's seven district commanders was Margie Jo Carnahan, of Hagerstown. Next month, as and when the senior vice commander moves up to state commander, the Vietnam War will take over, in the person of Douglas Henley of Mount Airy—even as World War II first shouldered World War I aside when Hammer and Burkhardt took office. Burkhardt says no breakdown is kept as to white-black; the post he himself now belongs to (and will go on being adjutant of) is No. 127, a downtown lunch group that is about half and half. Supposedly—again, no statistics—former EMs preponderate nationwide. The one Marylander so far to have been elected national commander, Robert E. Lee Eaton of Chevy Chase, in 1973, is a retired Air Force major general.

Retirement is a time to glance back at what has been done and what hasn't. Decades of lining up sponsors and donations, however, have bred in Burkhardt a caution, a refusal to take sides gratuitously. Starting with Truman's, every presidential regime has seen him in the White House on one mission or another. What is the affiliation, the orientation, of Phillip Riggin of Crisfield, the national Legion's new chief Washington lobbyist? Answer: he went through Maryland's Boys State, the summer citizenship-training school directed since 1960 by Burkhardt.

Because the model Legionnaire takes his patriotism so seriously, the presumption is that he or she votes for the sort of President or congressman whose lapel always flies a small U.S. flag. True enough, all presidents within memory have paid Legion dues (now $10 a year); all politicians, pretty nearly. The Maryland department, though, looks beyond, to their budgets or budget votes. That new, downtown-Baltimore VA medical center which, held unneeded, is now in abeyance: the Legion still wants it, not in addition to Perry Point, Loch Raven and Fort Howard but in place of Fort Howard, which would become a nursing home.

But on the verge of taking down the March of Dimes plaques from his office wall, and the framed traffic-safety and crime-prevention awards ("Officer, Ordre du Merite Combattant"), a man reflects rather on ideas and programs that did work out. Burkhardt made the ocean trip with the Constellation in 1955, when it came here from New England via floating drydock. He started the Christmas tree sale, now a Baltimore tradition, on the site of old Oriole Park; he started the Eye Bank, still the largest anywhere, that is its beneficiary. He is the founder-publisher of Free State Warrior, a Legion monthly named by his mother, an old suffragette. He has provided flags of various sizes and designs for uncounted occasions and causes; the War Memorial's Hall of Flags, dedicated to the original moonlanders, is his idea. So too, on the floor above, is the Eternal Flame, lit from the one in Paris on the Legion's 50th anniversary and serviced free by BG&E. A doubly-amputated service man wanted most to see his dog again; going about it through his Legion connections, Burkhardt found and fetched the dog, from Vietnam. On arrival, it hightailed across the hospital day-room and landed in its owner's lap.

Burkhardt was there at the stadium for 1958's Legion Day, when Hoyt Wilhelm beat the Yankees in the modern Orioles' first no-hitter, and Gus Triandos' homer won it, 1–0 two alumni of American Legion baseball. Burkhardt played third base himself, in Legion ball. He was living in New York City, where his father was a theater manager in the Loew's chain—an old marine and a Legionnaire himself. But it was a Baltimore family. The progenitorial Burkhardt needs be shriven of serving on the wrong side in the Revolution—a Hessian captured at Trenton, he then settled in Maryland. A descendant married an immigrant Saxon, and young Dan, spending summers on Frog Mortar Creek, got to know the eminent collateral whom cousins spoke of as Heinz—H. L. Mencken. Ultimately, the personality of Charles DeGaulle, met in Paris, may have registered more on Burkhardt. Or of half a dozen FBI officials. Or of Whittaker Chambers (in his J. Peters role. Chambers set up a camera club, which young Dan joined, at his Manhattan high school, then Burkhardt and Chambers were friends during the latter's Westminster farmer years.) Or of Jan Valtin (Richard Krebs, with whom he sailed the bay). Or of Ignace Jan Paderewski (his coffin is still in Arlington Cemetery, awaiting reburial in a free Poland; Burkhardt, who never met him, spoke there Monday at a plaque dedication.)

The requirement for American Legion membership is honorable service during one of this country's wars. What if wars cease, or U.S. participation in them? The Legion plans ahead to its own dissolution; a separate organization, the Sons of the American Legion, is entered on Legion titles and deeds. Burkhardt, his son and two grandsons living in Tennessee, is remorseful now about the years of going out evenings too, forsaking his wife Elizabeth to attend 174 posts' worth of meetings (the 175th is in Spain). He doesn't plan beyond September, other than tinkering with his cellar HO trains system, and using his powerboat for the first time in eight years. He may try memoirs.

What he looks forward to right now is Saturday. This is the first time in decades that he won't be walking or riding a Fourth of July parade somewhere. Picture Dan Burkhardt home, at last, in Severna Park, taking vigorous part in a neighborhood association's patriotic observances.●

STATUS REPORT ON THE BUDGET FOR FISCAL YEAR 1981

● Mr. DOMENICI. Mr. President, I submit to the Senate a status report on the budget for fiscal year 1981 pursuant to section 311 of the Congressional Budget Act. Since my last report the Congress has cleared for the President's signature S. 1395, eliminating the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve.

The report follows:

REPORT TO THE PRESIDENT OF THE U.S. SENATE FROM THE COMMITTEE ON THE BUDGET STATUS OF THE FY 1981 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 115 REFLECTING COMPLETED ACTION AS OF JULY 10, 1981

[In millions of dollars]

	Budget authority	Outlays	Revenues
Revised Second Budget Resolution Level	717,500	661,350	603,300
Current level	715,178	660,947	611,900
Amount remaining	2,322	403	8,600

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $2,322 million for fiscal year 1981, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in House Concurrent Resolution 115 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $403 million for fiscal year 1981, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in House Concurrent Resolution 115 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $8,600 million for fiscal year 1981, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in House Concurrent Resolution 115.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there will be no votes this evening. In a few moments I expect the Senate to recess over until 10 o'clock tomorrow, but before I do that there are certain details I would like to attend to that I believe have been cleared on the other side of the aisle.

DIRECTING SENATE LEGAL COUNSEL TO REPRESENT SENATE PARTIES IN MURRAY, ET AL AGAINST BUCHANAN, ET AL.

Mr. BAKER. Mr. President, I send to the desk a resolution by me and by the distinguished minority leader and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 176) to direct the Senate Legal Counsel to represent Senate parties in Murray, et al. v. Buchanan, et al.

The Senate proceeded to consider the resolution.

Mr. BAKER. Jon Garth Murray, Madalyn Murray O'Hair, and the society of separationists, suing as taxpayers and atheists, have brought an action which claims that the payment of salaries and expenses of the chaplains of the Senate and the House violates the establishment clause of the first amendment. The case is now on appeal to the U.S. Court of Appeals for the District of Columbia Circuit following the decision of the district court that the complaint should be dismissed. The plaintiffs have named the U.S. Senate, the President of the Senate, the President pro tempore, and the Chaplain of the Senate, as defendants. The following resolution directs the Senate Legal Counsel to represent the Senate parties in this litigation.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 176), together with its preamble, is as follows:

S. RES. 176

Whereas, in the case of *Murray, et al.* v. *Buchanan, et al.*, No. 81-1301, pending in the United States Court of Appeals for the District of Columbia Circuit, the plaintiffs-appellants are claiming that the payment of salaries and expenses for chaplains in the Senate and House violates the establishment clause of the First Amendment to the United States Constitution;

Whereas, the appellees are, among others, the United States Senate, the Honorable George Bush, in his capacity as President of the Senate, the Honorable Strom Thurmond, President pro tempore of the Senate, and the Reverend Richard C. Halverson, Chaplain of the Senate;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. III 1979), the Senate may direct its counsel to defend the Senate, its members, and officers in civil actions relating to their official responsibilities. Now, therefore, be it

Resolved, that the Senate Legal Counsel be directed to represent the United States Senate, the Honorable George H. Bush, in his capacity as President of the Senate, the Honorable Strom Thurmond, President pro tempore of the Senate, and the Reverend Richard C. Halverson, Chaplain of the Senate in the case of *Murray, et al.* v. *Buchanan, et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the following Senators be recognized on special orders for not to exceed 15 minutes each: The distinguished President pro tempore, the Senator from South Carolina (Mr. THURMOND); the distinguished Senator from Florida (Mrs. HAWKINS); and the distinguished Senator from Wisconsin (Mr. PROXMIRE).

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

Mr. BAKER. Mr. President, in addition, I ask unanimous consent that the distinguished minority leader be granted a special order of 10 minutes duration to follow after the special orders heretofore granted.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I wish to advise the minority leader that on today's Executive Calendar I have three items under the Department of Justice, beginning with Calendar Order No. 306, that are cleared for action. I would inquire if he is in a position to consider those nominations at this time.

Mr. ROBERT C. BYRD. Mr. President, the minority is ready to proceed to those nominations beginning with Calendar Order No. 306.

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

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering three nominations, Calendar Orders Nos. 306, 307, and 308.

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

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Edward C. Prado, of Texas, to be the U.S. attorney for the western district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Sarah Evans Barker, of Indiana, to be the U.S. attorney for the southern district of Indiana.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Daniel K. Hedges, of Texas, to be

the U.S. attorney for the southern district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominees were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

Mr. BAKER. Mr. President, I know of no further business that can be transacted by the Senate this evening. Before I state the program for tomorrow and the remainder of the week, may I inquire of the minority leader if he is aware of any further business to be transacted this evening?

Mr. ROBERT C. BYRD. Mr. President, I am not.

Mr. BAKER. I thank the minority leader.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10 a.m., according to the order previously entered. After the recognition of the two leaders under the standing order, four Senators will be recognized on special orders.

Mr. President, I now ask unanimous consent that at not later than 11 a.m. tomorrow the Senate resume consideration of the pending amendment, the Moynihan amendment, and that a vote occur on the Moynihan amendment or in respect thereto at not later than 1 p.m. on tomorrow.

Mr. President, may I rephrase the request so that it is in respect to the Moynihan amendment. May I say parenthetically, that it is not clear at this point whether the vote will occur on the amendment itself or, for instance, on a tabling motion. But, in either event, this order would permit a vote in respect to the Moynihan amendment at 1 o'clock and would require that vote at 1 o'clock.

The PRESIDING OFFICER. Does the Senator renew the request with the modification?

Mr. BAKER. Yes, I renew my request with that qualification.

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

Mr. BAKER. Mr. President, after the execution of the special orders, the Senate will resume consideration of the pending amendment, which is the Moynihan amendment, at no later than 11 a.m. At 1 p.m. a vote will occur in relation to the Moynihan amendment.

It is anticipated that an effort will be made tomorrow to find other amendments that may be offered, even with the possibility of temporarily laying aside the Moynihan amendment if the time provided for is not required by Senators.

In any event, it is the expectation of the leadership that after the disposition of the Moynihan amendment there will be a number of other amendments during the day.

Mr. President, I now ask unanimous consent that after the disposition of the Armstrong amendment, the Chair recognize the distinguished Senator from New Jersey (Mr. BRADLEY) to offer one or the other of two amendments: An amendment dealing with a change in the capital gains rate or an amendment dealing with tax adjustments for 1 year only.

I repeat that the Senator from New Jersey will be recognized to call up an amendment, either one of those two amendments, after the disposition of the Armstrong amendment.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. BAKER. Mr. President, I fully expect that the Senate will be in late tomorrow. The disposition of the Moynihan amendment at 1 o'clock will bring on further debate on the Armstrong amendment. I have no idea how much more debate remains before we can dispose of the Armstrong amendment.

We have now provided for the recognition of the distinguished Senator from New Jersey to offer an amendment after the disposition of the Armstrong amendment. There are a number of other amendments that must be dealt with before the Senate can reach the point of third reading and final disposition of the tax bill.

I have already indicated that I expect the Senate to be in late tomorrow. I would estimate 10 o'clock or later.

The Senate will convene, under an order previously entered, at 10 o'clock on Friday. I do not anticipate that Friday will be very late.

I do now anticipate that the odds are very great that we will have a session on Saturday. There is already an order for the Senate to convene on Saturday morning at 10 o'clock.

Mr. President, I believe that outlines the situation as I see it at this moment.

I wish to thank all Senators on both sides of the aisle for proceeding to the consideration of this important measure, the tax bill, and moving us along to the place where we are prepared now to deal with two of the major amendments that will be offered to the bill. I express the hope that we could finish this bill by Saturday, perhaps even by Friday. But I certainly hope that the Senate will complete final action on this bill within the next few days.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow.

The motion was agreed to; and, at 6:17 p.m., the Senate recessed until Thursday, July 16, 1981, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1981:

DEPARTMENT OF STATE

Kenneth L. Adelman, of Virginia, to be Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Frederic L. Chapin, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Guatemala.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Elise R. W. du Pont, of Delaware, to be an Assistant Administrator of the Agency for International Development, vice Genta A. Hawkins, resigning.

DEPARTMENT OF COMMERCE

Bruce Chapman, of Washington, to be Director of the Census, vice Vincent P. Barabba, resigned.

DEPARTMENT OF LABOR

William M. Otter, of Kentucky, to be Administrator of the Wage and Hour Division, Department of Labor, vice Xavier M. Vela, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Marie P. Tolliver, of Oklahoma, to be Commissioner on Aging, vice Robert Clyde Benedict.

DEPARTMENT OF ENERGY

William Addison Vaughan, of Michigan, to be an Assistant Secretary of Energy (Environmental Protection, Safety and Emergency Preparedness), vice Ruth C. Clusen, resigned.

DEPARTMENT OF STATE

The following-named person for appointment as a Foreign Service Officer of class 1, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Avis T. Bohlen, of the District of Columbia.

For reappointment in the Foreign Service as a Foreign Service officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James Bruce Magnor, of Florida.

For appointment as Foreign Service officers of class 2, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Anthony A. Dudley, of North Carolina.

Gabriel Guerra-Mondragón, of the District of Columbia.

Barbara S. Harvey, of New Jersey.

Susan Margaret Mowle, of the District of Columbia.

Enrique F. Pérez, of Maryland.

Stanley Herman Robinson, of New Jersey.

G. Jean Soso, of California.

For appointment as a Foreign Service Information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Thavanh Svengsouk, of the District of Columbia.

For appointment as Foreign Service offi-

cers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Judith F. Buncher, of New Jersey.
Jacklyn Cahill, of California.
Carol A. Colloton, of the District of Columbia.
Marilyn F. Jackson, of Texas.
Patricia Ann Lasbury, of Washington.
Brenda Brown Schoonover, of California.

For appointment as a Foreign Service information officer of class 3, a consular officer, and a secretary in the diplomatic service of the United States of America:

Howard E. Leeb, of California.

For reappointment in the Foreign Service as Foreign Service officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Leslie Ann Gerson, of California.
Mifia Shayne Goldberg, of Texas.

For appointment as Foreign Service officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Winston Lewis Amselem, of California.
Janet Stoddard Andres, of Virginia.
Susanne E. Beecham, of New York.
Stephen G. Brundage, of Illinois.
Edward K. H. Dong, of California.
Thomas M. Givens, of Florida.
Douglas Barry Kent, of California.
Cornelis Mathias Keur, of Michigan.
Alan L. Keyes, of Massachusetts.
Frank G. Light, Jr., of Washington.
Bonnie J. Knoll, of Pennsylvania.
Christopher F. Lynch, of California.
Jack Richard McCreary, of California.
Thomas Hunter Ochiltree II, of the District of Columbia.
Dennis Edward Skocz, of Florida.
David Miner Sloan, of California.
William A. Stanton, of California.
Doris Kathleen Stephens, of Arizona.

For appointment as Foreign Service Information officers of class 4, Consular officers, and Secretaries in the Diplomatic Service of the United States of America:

Lauri J. Fitz, of Maryland.
Eugénie A. Lucas, of the District of Columbia.

Members of the Foreign Service to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Raymond Acosta, of Virginia.
Aldrich H. Ames, of New York.
Susan Read Anderson, of Maryland.
Francisco A. Arias, Jr., of California.
Alexander A. Arvizu, of Colorado.
Barbara Jan Martinez Baden, of Michigan.
Edward M. Balint, of New York.
John B. Bestic, of Virginia.
Diane L. Blust, of California.
Peter William Bodde, of Maryland.
R. Wayne Boyls, of Texas.
Arthur M. Brown, of Virginia.
Sue Ann Burggraf, of Virginia.
David S. Cariens, of Virginia.
Thomas E. Carroll, of New Hampshire.
Paul G. Churchill, of Illinois.
Rex N. Clarke, of California.
William G. Corbett, of the District of Columbia.
Vincent Q. Crockett, of Virginia.
Michael D'Andrea, of Virginia.
Scott Davis, of the District of Columbia.
Douglas Blake Dearborn, of California.
John Dimsdale, of Texas.
Robert Richard Downes, of Texas.
Tyler Drumheller, of Virginia.
Robert A. DuCote, of Virginia.
David N. Edger, of Florida.
Stephen Anthony Edson, of Virginia.
Sharon R. Fannin, of Virginia.
Jack G. Ferraro, of Virginia.
Christine L. Fisher, of West Virginia.
John M. Fitzgerald, of Virginia.
Shaun F. Fitzpatrick, of Massachusetts.
George A. Flowers, Jr., of Florida.
Guido F. Gale, of Virginia.
Richard A. Garver, of Virginia.
Barbara L. Gentile, of New York.
Barry R. Gibson, of Maine.
Wilson Fletcher Grabill III, of Ohio.
Robert E. Griffin, of Virginia.
Michael Grivsky, of the District of Columbia.
Jeffrey D. Hallett, of Pennsylvania.
Gerald Hamilton, of Virginia.
George Han, of Florida.
Rennie Hardy, of Virginia.
Richard S. Hayes, of Virginia.
Llewellyn H. Hedgbeth, of Virginia.
A. Daniel Hernández, of Maryland.
Judith A. Hoopes, of Virginia.
Stedman D. Howard, of Massachusetts.
Alan J. Hutchings, of Virginia.
Charles Jones, Jr., of Michigan.
Thomas E. Joseph, of New York.
Rebecca A. Joyce, of the District of Columbia.
Delvin W. Junker, of Texas.
George P. Kaleyias, of Florida.
Nina L. Kane, of Virginia.
Scott Frederic Kilner, of California.
Hellmuth L. Kirchschlager, of Virginia.
Victor P. Kohl, Jr., of the District of Columbia.
Frederick L. Kupke, of Indiana.
James N. Lawler, of Florida.
Richard David Levitt, of California.
Sandra F. Lucas, of Virginia.
Stephen A. Lucas, of Virginia.
Deborah R. Malac, of Georgia.
Alec Lewis Mally, of Florida.
Stephen J. Mangis, of Virginia.
Janice E. Mastoria, of Virginia.
James Jason Matthews, of Connecticut.
Michael Joseph McCamman, of Oregon.
Susan McCloud, of California.
Dundas C. McCullough, of California.
Patricia McGuckin, of Virginia.
James Peter McIlwain, of Virginia.
Thomas M. McMahon, of Virginia.
John W. Mertz, of Virginia.
Dionis F. Montrowl, of Virginia.
Gary Montrowl, of Virginia.
Richard F. Moreno, of Virginia.
Gerald B. Mullikin, of Maryland.
Winkle Williams Nemeth, of Indiana.
H. Wesley Odom, of Florida.
Gordon R. Olson, of the District of Columbia.
William K. Owen, of New Hampshire.
Margaret E. Parke, of the District of Columbia.
Stuart C. Parker, of the District of Columbia.
Charles Evans Peacock, of California.
Thomas D. Poole, of Virginia.
Genevieve J. Pratt, of Illinois.
Kathleen Mavorneen Reddy, of the District of Columbia.
John Reed, of Maryland.
Harold Kirby Ressler, of New York.
Benjamin F. Rider, of Maryland.
Montgomery L. Rogers, of Virginia.
Dorothea-Maria Rosen, of California.
Margaret Scobey, of Tennessee.
Michael B. Sealy, of Virginia.
Peter S. Sellers, of Virginia.
Francis S. Sherry, of Maryland.
Robert Siegenthaler, of Maryland.
Mary Ann Singlaub, of Colorado.
Eugene Skotzko, Jr., of Maryland.
Bradley A. Smith, of Michigan.
James F. Strong, of Virginia.
Susan M. Struble, of California.
Jane E. Stuckert, of Virginia.
Michael J. Sulick, of Virginia.
Tien Foo Ting, of Maryland.
Alvin R. Trencher, of Maryland.
Lawrence A. Urli, of Wisconsin.
Jimmie Eugene Wagner, of Ohio.
Douglas Bruce Wake, of New York.
Ward W. Warren, of Virginia.
Jenonne Walker, of the District of Columbia.
John H. Whitehouse, of New York.
John M. Willcox, of Virginia.
Eric Wilmeth, of Virginia.

Member of the Foreign Service to be a Consular Officer of the United States of America:

James M. Copeland, of Arizona.

Members of the Foreign Service to Secretaries in the Diplomatic Service of the United States of America:

Richard M. Brennan, of Virginia.
Joyce M. Ferguson, of New Hampshire.
Alan D. Fiers, of Virginia.

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Angelini, Phillip T.	McSherry, Tracy D.
Blount, Edward	Morgan, William K.
Bose, David V.	Nadeau, Stephen E.
Daus, William B.	Nankervis, John T., Jr.
Frazier, Jerry W.	Neve, Laurence J.
Gallimore, Richard H., Jr.	Nickens, Patrick D.
Greer, Daniel S.	O'Connell, Joseph M.
Grimes, Nathan M.	Parlin, Joseph D.
Hall, John M.	Patten, John F., II
Hileman, Randall K.	Selby, Vernice B., Jr.
Kidd, Michael E.	Sellers, James K.
Kiser, Richard D.	Speer, David W.
Lucas, Steve A.	St. Clair, Albert L.
Masterson, Richard K., Jr.	Walden, Robert P.
McCollom, Kyle L.	Yarborough, Jerry L.

The following-named candidates in the Enlisted Commissioning Program to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to the qualification therefor as provided by law:

Anderson, Robert G.	Harris, Angela F.
Bane, Chuck H., Jr.	Herndon, John E.
Bawden, Scott	Hughes, Randy E.
Bernard, Richard O.	Jinkerson, Richard A.
Bevans, Michael T.	Johnston, Jeffrey M.
Brown, Thomas L.	Keeney, Karen P.
Brown, William	Kennedy, Paul R. B.
Burns, James D.	Logan, Ronald L.
Cahalan, Kathryn	Mince, Johnny A.
Carter, Danny E.	Rawls, Maurice L.
Davis, Freddie L.	Ryan, Patrick W.
Douglas, Duane H.	Sepulveda, Ramico G.
Gatton, Clyde S.	Thompson, Leroy D.
Gonzalez, Hector V.	Vasquez, David R.
Hale, Judy L.	

Luther G. Barr, temporary chief warrant officer, W–2, to be appointed a permanent chief warrant officer, W–2, in the U.S. Navy, subject to qualification therefor as provided by law.

The following-named temporary chief warrant officers, W–3, to be appointed permanent chief warrant officer, W–2 and temporary chief warrant officer, W–3, in the U.S. Navy, subject to qualification therefor as provided by law:

Bonham, Arthur J.
Walls, Robert E.

Robert Gillespie, temporary chief warrant officer, W–3, to be appointed a permanent chief warrant officer, W–3, in the U.S. Navy, subject to qualification therefor as provided by law.

Paul S. Woods, Jr., temporary chief warrant officer, W–4, to be appointed a permanent chief warrant officer, W–3 and tempo-

rary chief warrant officer, W–4, in the U.S. Navy, subject to qualifications therefor as provided by law.

Lieutenant Commander Edward H. Doolin III, U.S. Navy, retired, to be reappointed a permanent lieutenant commander, from the Temporary Disability Retired List, subject to qualification therefor as provided by law.

James P. Felder, civilian college graduate to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named civilian college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Ascione, Anthony R.

Howard, Arthur R.

The following-named U.S. Navy officers to be appointed temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Long, Harry J., III

Shreck, James N.

Robert M. Post, U.S. Navy, to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

The following-named ex-Reserve officers, to be appointed temporary commander, special duty (Merchant Marine, Deck) in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Brocco, William J.

O'Connor, Joseph O., Jr.

Gerard P. Petroni, civilian college graduate, to be appointed a temporary commander, special duty (Merchant Marine, Deck) in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

Louis W. Arny III, U.S. Navy, to be appointed a temporary commander in the line in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 15, 1981:

DEPARTMENT OF JUSTICE

Edward C. Prado, of Texas, to be U.S. attorney for the western district of Texas for the term of 4 years, vice Jamie C. Boyd, resigned.

Sarah Evans Barker, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years vice Virginia Dill McCarty, resigning.

Daniel K. Hedges, of Texas, to be U.S. attorney for the southern district of Texas for the term of 4 years vice Jose Antonio Canales, resigned.