SENATE—*Tuesday, July 28, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Let us pray in the profound and familiar words of St. Francis of Assisi.

"Lord, make me an instrument of Thy peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

"O Divine Master, grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life." Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. I thank the Chair.

Mr. President, it is my understanding that the regular time for the two leaders has been reserved under the order that applies for this morning; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

THE JOURNAL

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

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

THE IRS IN ALASKA

Mr. STEVENS. Mr. President, assuming that we can terminate this portion of our session and go into recess in August, I plan to return to my State of Alaska to conduct hearings with other Members of the Senate on an issue that I think is alarming.

In recent months I have become increasingly of the opinion that the law enforcement activities of the Internal Revenue Service are overzealous. It is my hope to explore in detail the rules followed by the Internal Revenue Service concerning seizure practices.

The hearings that we shall hold in Alaska will be before the Subcommittee on Treasury Appropriations, whose chairman is our good friend Senator JAMES ABDNOR. The dates for those hearings will be August 4 in Anchorage and August 6 in Fairbanks. It is my hope they will be well attended for I am quite disturbed with the statistics which indicate that Alaskans suffer among the highest incidence of forced collection and tax arrest in the country by the Internal Revenue Service.

The purpose of these hearings is to establish why such unequal treatment is being administered to Alaska, why the Internal Revenue Service practices such energetic enforcement in Alaska as compared to elsewhere, and to identify solutions to these problems. It may be that we will be touching just the tip of an iceberg when we address the questionable practices of the IRS in Alaska.

It is my understanding that the IRS is the only Government agency that has seizure powers without a court review. The impact of such power in the hands of the IRS means that each and every American—not just Alaskans—are subject to the exercise of these broad powers by a single agency that, to me, seems to be questionable in view of our rights and protections guaranteed by the Constitution of the United States.

It is my hope that our subcommittee will look closely into these matters and particularly into the seizure powers of the IRS during these hearings in August. Therefore, I am hopeful the Senate will complete its legislative responsibilities and that the August recess will commence on time.

SECRETARY OF THE INTERIOR JAMES WATT

Mr. STEVENS. Mr. President, I have been very concerned about the criticism that has been levied against the Secretary of Interior, James Watt. If there are voices of extremism in the country today, they are the extreme voices that are criticizing Secretary Watt before his policies have had a fair chance.

The policies he has promoted, in my opinion, will help restore the balance and reason to the programs administered by the Department of the Interior.

During the last few years, I have been intimately involved in the legislative battle over a very important issue to Alaska, which the Senate knows well from the long days that we spent on it last year. I am referring to the legislative battle on the Alaska lands bill.

During that battle, the former Secretary of the Interior, Cecil Andrus, who I believe is a good man, held viewpoints that were definitely contrary to those that I hold.

We had many battles as we tried to convince Federal officials of the needs of Alaska's Native communities, Alaska's hunters, Alaska's fishermen, miners, businessmen, hikers, and both the rural and urban dwellers of our State.

In the past, the Federal Government showed great antipathy toward Alaska and Alaskans concerning the rights and needs of Alaskans.

Now, that policy has changed. It is my opinion that Secretary Watt has brought a fresh viewpoint to the Department of the Interior, and although we are certainly not winning all of the battles, today there is a great deal more understanding of the problems relating to Alaska and the West in the Department of the Interior. Secretary Watt has surrounded himself with experts in land policy and management and he remains sensitive to concerns made known to the Department of the Interior by States and communities on controversial issues. I am pleased with his leadership at the Department.

Mr. President, an editorial was recently published in the Fairbanks Daily News-Miner describing the viewpoint of Alaskans toward the policy of Secretary James Watt. I ask unanimous consent that the full text of the editorial be printed in the RECORD at this point.

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

BACK SECRETARY WATT

The political wolves are snapping at the heels of Interior Secretary James Watt. Alaskan leaders, both here and in Washington, D.C., would do well not to join the pack because many of his policies are heading in a direction that will make him one of the best friends our state has had in the federal government for quite some time.

The focus of the criticism is Secretary Watt's plan to increase and speed up offshore leases for oil prospecting. Some of the California leases are controversial from an environmental standpoint and so are some of the ones in fish-rich Alaskan waters. He also is being criticized for letting out too much lease acreage at one time.

One aspect of the attack on Mr. Watt is outlined in an article elsewhere on this page. The thrust seems to be that the new administration should forget about what the voters seemed to be saying last November and continue with the tired policies that were rejected in that election.

Much is being made of the fact that the supposedly moderate National Wildlife Federation has joined more militant environmentalist groups in calling for Mr. Watt's resignation. It seems to us, however, that a very real question exists about just how moderate the NWF is. Alaskans will recall, for example, that federation members from our state broke with the national organization several years ago when it was bent on supporting overly restrictive Alaska lands legislation.

Another aspect of the attack takes a viciously personal approach. We saw it this week when Rep. James Weaver of Oregon tried to drag Secreatry Watt's fundamentalist religious beliefs into a House Interior subcommittee hearing. We Americans laid that sort of religious bigotry in our politics to rest with John Kennedy's campaign for the presidency in 1960 and those who are now trying to revive the corpse two decades later are ill-serving our Nation.

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

We also saw this personal approach in the attack this week from Cecil Andrus, Interior Secretary until the voters turned his boss out of office last fall. Secretary Watt has, Mr. Andrus said, "a developmental zeal I've never seen the like of before in public life."

And the former Secretary didn't stop there. "I had hoped that this was just bombastic rhetoric early on and I've remained silent for six months," Mr. Andrus said. "But it becomes apparent that he plans to dump extra acreage out, more than they can use."

That's laughable; doubly so coming from Mr. Andrus, who recently allowed that he might have tended just a wee bit to hyperbole a few years back when he characterized Alaskans who were opposing him on the lands bill as the "rape, ruin and run boys." Certainly Mr. Andrus knows whereof he speaks when he talks of bombastic rhetoric. Remember the bulldozers he said were poised to rip through Alaska? He certainly does know how to turn a phrase. By comparison, Mr. Watt seems almost tongue-tied.

It's true that many Alaskans, most of our political leaders among them, oppose some of the off-shore oil leases the Secretary has proposed for our state. Some are in areas that produce major amounts of fish for the world market and an oil spill there could have disastrous consequences. And it's also hard for Alaskans to understand why we need to explore some of these environmentally risky areas right now when there are so many good oil prospects on the land in our state.

Our leaders should continue to press those questions, working in Congress, which must approve the lease offerings before they can be made, and even going to court if we must.

But despite this disagreement, we must keep in mind the fact that Secretary Watt is generally treating our state better than we've been treated for a long time. One such indication is his rules for the new federal holdings set up under the lands bill; they generally seem to take Alaska's special conditions into account.

Certainly we Alaskans are not going to like everything Mr. Watt proposes and we're going to fight him on some issues. But on the many things he's doing right, our leaders ought to be backing him strongly. The voices that call for his resignation need to be countered if our country is to move away from its debilitating dependence on foreign resources.

Mr. STEVENS. Mr. President, I am hopeful that others will come forward and defend his right to attempt to change the policies of the Department of the Interior in the future.

APPOINTMENT OF FRED THOMPSON AS SPECIAL COUNSEL

Mr. BAKER. Mr. President, I wish to commend the Senate Select Committee on Intelligence for their appointment of Fred Thompson as special counsel.

I had the pleasure of working with Fred during the Watergate hearings, when he served as minority counsel. His knowledge of legal affairs coupled with his professional manner brought praise from both parties, and reaffirmed his status as one of the brightest and most able lawyers in Washington.

Fred recently served as Republican counsel for the confirmation hearings of Secretary of State Alexander Haig. He is a partner of the law firm of Thompson & Crawford of Nashville, Tenn., and Washington, D.C., and a member of the Nashville, Tenn., and American Bar Associations, the District of Columbia Bar Association, the Tennessee Trial Lawyers Association, and the National Association of Criminal Defense Lawyers.

I am confident that Fred will lead the investigation concerning CIA Director William Casey in an expeditious and honorable fashion.

RECOGNITION OF MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

THE ADMINISTRATION'S INCONSISTENCY REGARDING SOCIAL SECURITY

Mr. ROBERT C. BYRD. Mr. President, in a letter to me July 18, 1981, President Reagan indicated he would ask for time on television to address the Nation "as soon as possible" on the issue of social security.

He said he would ask for the time "to tell the American people the facts," and to let them know that he would "fight to preserve the social security system * * *"

On July 27, the President did address the Nation on national television. However, most of the speech was devoted to his fight for the Republican tax proposal.

In the President's brief remarks on social security, though, there were various inconsistencies in regard to previous statements and actions by his administration.

Because of this, I am inserting in the RECORD a copy of the President's letter to me of July 18, my letter to the President July 27, the text of his speech to the Nation July 27, and my brief statement at a news conference July 28.

I asked unanimous consent that these items be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., July 18, 1981.

Hon. ROBERT C. BYRD,
Minority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: The highest priority of my Administration is restoring the integrity of the Social Security System. Those 35 million Americans who depend on Social Security expect and are entitled to prompt bipartisan action to resolve the current financial problem.

At the same time, I deplore the opportunistic political maneuvering, cynically designed to play on the fears of many Americans, that some in the Congress are initiating at this time. These efforts appear designed to exploit an issue rather than find a solution to the urgent Social Security problem. They would also have the unfortunate effect of disrupting the budget conference and reversing the actions of a majority of both Houses of the Congress. Such a result would jeopardize our economic recovery program so vital to the well-being of the Nation.

In order to tell the American people the facts, and to let them know that I shall fight to preserve the Social Security System and protect their benefits, I will ask for time on television to address the Nation as soon as possible.

During this address, I will call on the Congress to lay aside partisan politics, and join me in a constructive effort to put Social Security on a permanently sound financial basis as soon as the 97th Congress returns in September.

Sincerely,

RONALD REAGAN.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, D.C., July 27, 1981.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Tax cuts, spending cuts, and the Social Security System are all part of the intricate fabric of the Federal budget. One element of the budget cannot be changed without having a direct affect on another.

During the campaign for the presidency you promised the American people that you would balance the budget in fiscal year 1983. The Administration's current budget projects a balance by fiscal year 1984, and assumes additional Social Security cuts as well as $44 billion in "unidentified" cuts.

Your economic recovery plan calls for an enormous reduction in the revenue collected by the Federal government, on the order of $730 billion over the next five years. In order to avoid large deficits, spending cuts much larger than those the Congress is about to enact will be necessary to offset the loss of revenue from the proposed tax cut.

On May 12, you recommended a severe reduction in Social Security benefits. Under your plan, Social Security benefits would be cut by $88 billion over the next five years, including a 40 percent reduction in benefits for people retiring at age 62.

Most objective analysts, including the non-partisan Congressional Budget Office, believe that your massive cuts in Social Security benefits are unnecessary to preserve the solvency of the System. Cuts in benefits which the Congress is about to enact as part of your budget-cutting program, when combined with authority for the three Social Security funds to borrow among themselves, would meet any foreseeable need to shore up the System well into the next century.

It appears that the Administration has abandoned its promise not to cut Social Security retirement benefits. It appears that Office of Management and Budget Director David Stockman discovered that the budget cannot be balanced, in light of the enormous tax cuts, unless Social Security benefits are reduced.

In a letter to me dated July 18, you promised to "ask for time on television . . . to tell the American people the facts . . ." about Social Security.

Since the tax cuts apparently are directly linked to your proposed Social Security benefit reductions, I was very disappointed to learn that your television address this evening will be directed primarily, if not exclusively, to promoting the revised tax-cutting plan.

It is my sincere hope that your speech tonight will allay the concerns of the American people by abandoning your commitment to immediately and drastically cut basic Social Security retirement benefits.

It is my further hope that your speech tonight will answer this basic question: How can we explain an economic plan to the American people which inordinately rewards the already-rich with huge tax cuts which are partially financed by cutting the Social Security benefits of the Nation's elderly?

Sincerely,

ROBERT C. BYRD.

THE PRESIDENT'S SPEECH

Good evening. I had intended to make some remarks about the problem of Social Security tonight—but the immediacy of Congressional action on the tax program, a key component of our economic package, has to take priority. Let me just say, however, I've been deeply disturbed by the way those of you who are dependent on Social Security have been needlessly frightened by some of the inaccuracies which have been given wide circulation.

It is true that the Social Security system has financial problems. It is also true that these financial problems have been building for more than 20 years—and nothing has been done.

I hope to address you on this entire subject in the near future. In the meantime, let me just say this:

I stated during the campaign and I repeat now I will not stand by and see those of you who are dependent on Social Security deprived of your benefits. I make that pledge to you as your President. You have no reason to be frightened. You will continue to receive your checks in the full amount due you. In any plan to restore fiscal integrity of Social Security I personally will see that (no part) of the plan will be at the expense of you who are now dependent on your monthly Social Security checks.

Now, let us turn to the business at hand. It's been nearly 6 months since I first reported to you on the state of the Nation's economy. I'm afraid my message that night was grim and disturbing. I remember telling you we were in the worst economic mess since the Great Depression. Prices were continuing to spiral upward and unemployment was reaching intolerable levels and all because Government was too big and spent too much of our money.

We're still not out of the woods, but we've made a start. And we've certainly surprised those long-time and somewhat cynical observers of the Washington scene who looked, listened and said, "It can never be done. Washington will never change its spending habits."

Well, something very exciting has been happening here in Washington and you are responsible. Your voices have been heard. Millions of you, Democrats, Republicans and Independents, from every profession, trade and line of work, and from every part of this land; you sent a messag: that you wanted a new beginning. You wanted to change one little two-letter word. It doesn't sound like much, but it sure can make a difference changing "control by Government" to "control of Government."

In that earlier broadcast you'll recall I proposed a program to drastically cut back Government spending in the 1982 budget which begins October 1st and to continue cutting in '83 and '84. Along with this I suggested an across-the-board tax cut spread over those same 3 years and the elimination of unnecessary regulations which were adding billions to the cost of things we buy.

All the lobbying, the organized demonstrations and the cries of protest by those whose way of life depends on maintaining Government's wasteful ways were no match for your voices which were heard loud and clear in these marble halls of Government.

And you made history with your telegrams, your letters, your phone calls and, yes, personal visits to talk to your elected representatives. You reaffirmed the mandate you delivered in the election last November. A mandate that called for an end to Government policies that sent prices and mortgage rates skyrocketing, while millions of Americans went jobless.

Because of what you did, Republicans and Democrats in the Congress came together and passed the most sweeping cutbacks in the history of the Federal budget. Right now Members of the House and Senate are meeting in a conference committee to reconcile the differences between the two budget cutting bills passed by the House from savings of approximately $140 billion in reduced Government costs over the next 3 years. And that doesn't include the additional savings from the hundreds of burdensome regulations already cancelled or facing cancellation.

For 19 out of the last 20 years the Federal Government has spent more than it took in. There will be another large deficit in this present year which ends September 30th. But with our program in place it won't be quite as big as it might have been and starting next year the deficits will get smaller until in just a few years the budget can be balanced. And we hope we can begin whittling at that almost $1 trillion debt that hangs over the future of our children.

Now so far I've been talking about only one part of our program for economic recovery—the budget cutting part. I don't minimize its importance. Just the fact that Democrats and Republicans could work together as they have, proving the strength of our system, has created an optimism in our land. The rate of inflation is no longer in double-digit figures, the dollar has regained strength in the international money markets and businessmen and investors are making decisions with regard to industrial development, modernization and expansion. All of this based on anticipation of our program being adopted and put into operation.

A recent poll shows that where a year-and-a-half ago only 25 percent of our people believed things would get better, today 46 percent believe they will. To justify their faith we must deliver the other part of our program. Our economic package is a closely knit, carefully constructed plan to restore America's economic strength and put our Nation back on the road to prosperity. Each part of this package is vital. It cannot be considered piecemeal. It was proposed as a package and it has been supported as such by the American people. Only if the Congress passes all of its major components does it have any real chance of success. This is absolutely essential if we are to provide incentives and make capital available for the increased productivity required to provide real, permanent jobs for our people.

And let us not forget that the rest of the world is watching America carefully to see how we will act at this critical moment. I have recently returned from a summit meeting with world leaders in Ottawa, Canada and the message I heard from them was quite clear—our allies depend on a strong and economically sound America and they are watching events in this country, particularly those surrounding our program for economic recovery, with close attention and great hopes. In short, the best way to have a strong foreign policy abroad is to have a strong economy at home.

The day after tomorrow—Wednesday—the House of Representatives will begin debates on two tax bills and once again they need to hear from you. I know that doesn't give you much time, but a great deal is at stake.

A few days ago I was visited here in the Office by a Democratic Congressman from one of our Southern States. He'd been back in his district and one day one of his constituents asked him where he stood on the economic recovery program I'd outlined in that earlier broadcast, particularly the tax cut. Well, the Congressman, who happens to be a strong leader in support of our program, replied at some length with a discussion of the technical points involved, but also mentioning a few reservations he had on certain points. The constituent, a farmer, listened politely until he'd finished and then said, "Don't give me an essay. What I want to know is are you for 'em or agin 'em?"

I appreciate the gentleman's support and suggest his question is a message your own Representatives should hear. Let me add those Representatives honestly and sincerely want to know your feelings. They get plenty of input from the special interest groups, they'd like to hear from their homefolks.

Let me explain what the situation is and what is at issue. With our budget cuts we presented a complete program of reduction in tax rates. Again, our purpose was to provide incentive for the individual, incentives for business to encourage production and hiring of the unemployed and to free up money for investment.

Our bill calls for a 5 percent reduction in the income tax rates by October 1st, a 10 percent reduction beginning July 1, 1982 and another 10 percent cut a year later—a 25 percent total reduction over 3 years. But then to ensure the tax cut is permanent we call for indexing the tax rates in 1985, which means adjusting them for inflation. As it is now, if you get a cost of living raise intended to keep you even with inflation, you find that the increase in the number of dollars you get may very likely move you into a higher tax bracket and you wind up poorer than you were. This is called bracket creep.

Bracket creep is an insidious tax. Let me give an example. If you earned $10,000 a year in 1972, by 1980 you had to earn $19,700 just to stay even with inflation. But that's before taxes. Come April 15th, you find your tax rates have increased 30 percent. If you've been wondering why you don't seem as well off as you were a few years back, it's because Government makes a profit on inflation. It gets an automatic tax increase without having to vote on it. We intend to stop that.

Time won't allow me to explain every detail, but our bill includes just about everything to help the economy. We reduce the marriage penalty, that unfair tax that has a working husband and wife pay more tax than if they were single. We increase the exemption on the inheritance (or estate) tax to $600,000 so that farmers and family-owned businesses don't have to sell the farm or store in the event of death just to pay the taxes. Most important we wipe out the tax entirely for a surviving spouse. No longer, for example, will a widow have to sell the family source of income to pay a tax on her husband's death. There are deductions to encourage investment and savings. Business gets realistic depreciation on equipment and machinery. And there are tax breaks for small and independent businesses which create 80 percent of all new jobs. This bill also provides major credits to the research and development industry—these credits will help spark the high technology breakthrough that are so critical to America's economic leadership in the world. There are also added incentives for small businesses including a provision that will lift much of the burden of costly paperwork that Government has imposed on small business.

In addition, there is short-term but substantial assistance for the hard-pressed thrift industry as well as reductions in oil taxes that will benefit new or independent oil producers and move our Nation a step closer to energy self-sufficiency.

Our bill is, in short, the first real tax cut for everyone in almost 20 years.

Now when I first proposed this—and incidentally it has now become a bipartisan measure co-authored by Republican Barber Conable and Democrat Kent Hance—the Democratic leadership said a tax cut was out of the question. It would be wildly inflationary. That was before my inauguration.

Then your voices began to be heard and suddenly in February the leadership discovered a 1 year tax cut was feasible. We kept on pushing our 3 year tax cut and by June the opposition found that a 2 year cut might work. Now it's July and they find they could

go for a third year cut provided there was a trigger arrangement that would only allow it to go into effect if certain economic goals had been met by 1983.

But by holding the people's tax reduction hostage to future economic events, they will eliminate people's ability to plan ahead. Shopkeepers, farmers and individuals will be denied the certainty they must have to begin saving or investing more of their money. And encouraging more savings and investment is precisely what we need most to rebuild our economy.

And there is a little sleight of hand in that trigger mechanism. The committee bill ensures that the 1983 deficit will be $6.5 billion greater than their own trigger requires. As it stands now the design of their own bill will not meet the trigger they have put in. Therefore, the third year tax cut will automatically never take place.

If I could paraphrase a well-known statement by Will Rogers that he had never met a man he didn't like—I'm afraid we have some people around who never met a tax they didn't hike.

Their tax proposal, similar in a number of ways to ours, but differing in some very vital parts, was passed out of the House Ways and Means Committee, and from now on I'll refer to it as the committee bill and ours as the bipartisan bill. They will be the bills taken up Wednesday.

The majority leadership claims theirs gives a greater break to the worker than ours and it does—that is, if you're only planning to live 2 more years. The plain truth is our choice is not between two plans to reduce taxes, it is between a tax cut or a tax increase. There is built into our present system, including payroll Social Security taxes and the bracket creep I've mentioned, a 22 percent tax increase over the next 3 years. The committee bill offers a 15 percent cut over 2 years; our bipartisan bill gives a 25 percent reduction over 3 years. As you can see by this chart—here is the 22 percent increase line and here is their cut below that line and ours wiping out the increase with a little to spare.

Incidentally, their claim that cutting taxes for individuals for as much as 3 years ahead is risky rings a little hollow when you realize that their bill calls for business tax cuts each year for 7 years ahead.

It rings even more hollow when you consider the fact the majority leadership routinely endorses Federal spending bills that project years into the future, but objects to a tax bill that will return your money over a 3 year period.

Here is another chart which illustrates what I said about their giving a better break if you only intend to live for 2 more years. Theirs is the dotted line, ours the solid. As you can see, in an earning bracket of $20,000 their tax cut is slightly more generous than ours—for the first 2 years—then taxes in that earning level start going up. On the other hand, in our bipartisan bill, the tax keeps going down and then stays down permanently. This is true of all earning brackets.

This red space between the 2 lines is the tax money that will remain in your pockets if our bill passes and it's the amount that will leave your pockets if their tax bill is passed.

I take no pleasure in saying this, but those who will seek to defeat our Conable-Hance bipartisan bill as debate begins Wednesday are the ones who have given us five "tax cuts" in the last 10 years, but our taxes went up $400 billion in those same 10 years.

The lines on these charts say a lot about who's really fighting for whom. On the one hand, you see a genuine and lasting commitment to the future of working Americans. On the other, just another empty promise. Those of us in the bipartisan coalition want to give this economy and the future of this Nation back to the people, because putting people first has always been America's secret weapon. The House majority leadership seems less concerned with protecting your family budget, than with spending more on the Federal budget.

Our bipartisan tax bill targets three-quarters of its tax relief to middle-income wage earners, who presently pay almost three-quarters of the total income tax. It also then indexes the tax brackets to ensure that you can keep that tax reduction in the years ahead. There also is, as I said, estate tax relief that will keep family farms and family-owned businesses in the family. And there are provisions for personal retirement plans and individual savings accounts.

Because our bipartisan bill is so clearly drawn and broadly based it provides the kind of predictability and certainty that the financial segments of our society need to make investment decisions that stimulate productivity and make our economy grow.

Even more important—if the tax cut goes to you the American people in the third year—that money returned to you won't be available to the Congress to spend. And that in my view is what this whole controversy comes down to: Are you entitled to the fruits of your own labor or does Government have some presumptive right to spend and spend and spend?

I'm also convinced our business tax cut is superior to theirs, because it is more equitable, and it will do a much better job promoting the surge in investment we so badly need to rebuild our industrial base.

There is something else I want to tell you. Our bipartisan coalition worked out a tax bill we felt would provide incentive and stimulate productivity, thus reducing inflation and providing jobs for the unemployed. That was our goal.

Our opponents in the beginning didn't want a tax bill at all. What is the purpose behind their change of heart? They've put a tax program together for one reason only, to provide a political victory for themselves. Never mind that it won't solve the economic problems confronting our country. Never mind that it won't get the wheels of industry turning again or eliminate the inflation which is eating us alive. This is not the time for political fun and games. This is the time for a New Beginning.

I ask you now to put aside any feelings of frustration or helplessness about our political institutions and join me in this dramatic but responsible plan to reduce the enormous burden of Federal taxation on you and your family.

During recent months, many of you have asked what can you do to help make America strong again. I urge you again to contact your Senators and Congressmen, tell them of your support for this bipartisan proposal, tell them you believe this is an unequalled opportunity to help return America to prosperity and make Government again the servant of the people.

In a few days, the Congress will stand at the fork of two roads.

One road is all too familiar to us. It leads—ultimately—to higher taxes. It merely brings us full circle back to the source of our economic problems—where the Government decides that it knows better than you what should be done with your earnings, and, in fact, how you should conduct your life.

The other road promises to renew the American spirit. It's a road of hope and opportunity. It places the direction of your life back in your hands—where it belongs.

I have not taken your time this evening merely to ask you to trust me. Instead, I ask you to trust yourselves. That's what America is all about. Our struggle for nationhood, our unrelenting fight for freedom, our very existence—these have all rested on the assurance that you must be free to shape your life as you are best able to—that no one can stop you from reaching higher or take from you the creativity that has made America the envy of mankind.

One road is timid and fearful.

The other bold and hopeful.

In these 6 months, we have done so much and have come so far. It has been the power of millions of people like you who have determined that we will make America great again. You have made the difference up to now. You will make the difference again.

Let us not stop now.

Thank you.

Mr. ROBERT C. BYRD. On May 12 President Reagan submitted a plan to cut $88 billion in social security benefits over the next 5 years.

Yet, last night the President said:

I stated during the campaign and I repeat now I will not stand by and see those of you who are dependent on Social Security deprived of your benefits.

How could he say this?

The President's plan to cut social security benefits includes the elimination of the minimum retirement benefit currently received by 3 million elderly Americans. In a few days, this cut will become law.

Last night in his nationally televised speech, the President said: "You will continue to receive your checks in the full amount due you." How could be say this?

The President's plan to cut social security benefits includes the elimination of the minimum retirement benefit currently received by 3 million elderly Americans. In a few days, this cut will become law.

In October, 1980, during the Presidential campaign Mr. Reagan said:

Any reform of the social security system must have one overriding goal: that the benefits of those now receiving—or looking forward to receiving—social security must be protected, and that payments keep pace with the cost-of-living.

Yet, in stark contrast, President Reagan's plan to cut social security would reduce the benefits of those "looking forward to receiving social security" at age 62 by 40 percent. It would also delay the date on which benefits are adjusted for inflation.

Last night the President said: "You have no reason to be frightened."

But in recent congressional testimony OMB Director Stockman said that the social security system would be bankrupt "on or about November 3, 1982."

In his letter to the congressional leadership of July 18, the President promised to tell the American people the facts about social security.

After last night's speech, we are still waiting to hear the facts.

This brings us back to what I call the $88 billion question. This is the amount the administration has said it would cut from social security retirement over the next 5 years.

Has the President abandoned his plan to slice $88 billion in social security benefits?

Or, was his statement to the Nation last night meant merely to calm the fears which have been flamed by David Stockman and others in the administration.

The American people—the elderly of the Nation, especially—deserve an

answer. The President has a responsibility to clarify these inconsistencies.

Mr. STEVENS. Mr. President, I yield to my good friend from South Carolina whatever time remains under the leadership time on this side.

The PRESIDING OFFICER (Mr. WARNER). The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Senator for yielding.

THE DAVIS-BACON ACT, PART VII, DAVIS-BACON AND THE PRESS

Mr. THURMOND. Mr. President, during the past several days, I have presented a series of discussions on the Davis-Bacon Act. I have endeavored to make these discussions factual and unbiased. But the more research I do on Davis-Bacon, the more I discuss the issue with colleagues and constituents alike, the more I become convinced that the Davis-Bacon Act must be repealed.

Regulatory reform is not the answer. No matter how the Davis-Bacon rules are rewritten, a large Federal bureaucracy will remain to set wages that will apply to Federal construction contracts.

Notwithstanding the virtual assurance that labor will delay these revised regulations for months through court action, these artifically set wage rates will continue to be an insult to the American free enterprise system of doing business.

PART VII—DAVIS-BACON AND THE PRESS

Mr. President, let me conclude my Davis-Bacon series—not with my own findings—but with the feelings of the American people, as expressed through the media of the press. I have selected the following quotations at random, but my colleagues should note that Davis-Bacon repeal is supported by the press from coast-to-coast, from border-to border, and by newspapers ranging from conservative to liberal. There are very few issues before the Congress today where there exists such widespread consensus as the call to repeal the Davis-Bacon Act.

U.S. News & World Report, July 27, 1981:

Sometimes a law that was useful for a time outlives its usefulness. This is true of the Davis-Bacon Act . . . The American taxpayers deserve some relief.

The New York Times, May 4, 1981:

The better remedy, requiring no day-to-day decisions by unmonitored Government officials; is to repeal the Davis-Bacon Act. The idea of using tax dollars to raise construction wages was dubious enough during the Depression. Carrying on with such a policy when the economy is wrestling with a disastrous inflation is mad.

The Wall Street Journal, April 22, 1981:

The case for repeal (of the Davis-Bacon Act) is so overwhelming that it's hard to see how arguing it would be distracting. Indeed arguing for repeal seems the simplest course to take; goodness knows, its the most sensible one.

The Pittsburgh Press, March 26, 1981:

Whether the Davis-Bacon Act ever did any good is debatable. Certainly it has outlived whatever usefulness it may have had.

The Chicago Tribune, June 1, 1981:

Revising the regulations would save money for as long as this administration is in power, but repealing Davis-Bacon would save money for years to come.

Rocky Mountain News, Denver, Colo., March 30, 1981:

Additional evidence has come to light supporting the proposition that the Federal Davis-Bacon Act should be repealed.

The News, Pensacola, Fla., March 24, 1981:

Rescission of the (Davis-Bacon) act should be high on President Reagan's priority list. Eliminating $20 billion a year from construction costs would be a mighty blow against inflation.

Mr. President, I could go on and on with similar editorial comments from newspapers across the Nation. Let me list just a few of the other newspapers that have called for repeal or at least major revision of Davis-Bacon since President Reagan was inaugurated:

The Portland Press Herald, Maine;
The Denton Chronicle, Texas;
The Daily News, Lebanon, Pa.;
The Washington Post;
The Star-Journal, Pueblo, Colo.;
The Baltimore Sun, Maryland;
The Mississippi Press, Pascagoula, Miss.;
The Mobile Register, Alabama;
The Tulsa World, Oklahoma;
The Richmond Times-Dispatch, Virginia;
The Indianapolis News, Indiana;
The Southwest Times-Record, Fort Smith, Ark.;
The Sentinel, Milwaukee, Wis.;
The Republican, Waterbury, Conn.;
The Press Tribune, Caldwell, Idaho;
The Advocate, Baton Rouge, La.;
The Kentucky Post, Covington, Ky.;
The Alexandria Gazette, Virginia;
The Times, Shreveport, La.;
The Houston Chronicle, Texas;
The Times and Democrat, Orangeburg, S.C.;
The Journal, Martinsburg, W. Va.;
The Cincinnati Post, Ohio;
The Republic, Phoenix, Ariz.;
The Herald News, Joliet, Ill.

Mr. President, how can we continue this blatant waste of the taxpayer's money? It is time to act now to repeal the Davis-Bacon Act.

RECOGNITION OF SENATOR DODD

The PRESIDING OFFICER. The Senator from Connecticut is recognized under the previous order for a period not to exceed 15 minutes.

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

WANTED: A MIDDLE EAST POLICY

Mr. DODD. Mr. President, today, as over the past several weeks, the attention of the world is focused on the Middle East, and, once again, we learn from the morning news that an uncertain peace hangs precariously over the region. The ceasefire announced over the weekend is obviously an improvement over the violence that preceded it. But, let us not kid ourselves, a ceasefire is no substitute for a Middle East policy. And, given the problems that must be overcome in that ancient region—a region tortured by its past, tormented by its present, and troubled by its future—the hope for peace seems all but illusory.

In the latest round of tragic events, the illusion of peace was shattered initially by the Israeli raid on the Iraqi nuclear facility near Baghdad and, more recently, by the renewed Arab-Israeli conflict in Lebanon. The PLO arms buildup in southern Lebanon eventually gave way to Israeli air strikes on PLO positions in that country, accentuated by the attack on the organization's headquarters in Beirut. This, in turn, produced the expected response from Palestinian rocket and artillery batteries located a short distance from Israel's northern settlements. The cycle of violence and counter-violence had begun anew; much as Secretary Haig had warned during his confirmation hearings before the Foreign Relations Committee. He cautioned:

In the Middle East, an uneasy peace continues to be punctuated by raid and reprisal, with each such sequence threatening renewed and wider conflict.

Mr. President, some may look back on the Secretary's assessment and view it as prophetic. Some may be satisfied with that. But, quite frankly, Mr. President, I am not. I am not because I am more concerned about Secretary Haig the policymaker than I am about Secretry Haig the prophet. One is no substitute for the other, as this administration's lack of Middle East policy so clearly demonstrates.

Plain and simple, this administration has no Middle East policy worthy of the name. Or, if it does, it is the best kept secret in Washington. Secretary Haig obviously does not know what it is. His deputy, Mr. Clark, does not know what it is. Secretary of Defense Weinberger does not know what it is. And if President Reagan knows what it is, he is not saying, other than to make it clear that the others do not know and are not speaking for the administration.

Yes, Mr. President, some 7 months into this administration—and counting—we are still waiting for a Middle East policy. A statement from this administration that will serve as a guide to Arabs and Israelis alike, a statement—a policy—that will indicate to them and to the rest of us how this administration intends to use American power and prestige in that part of the world.

To put it mildly, such a policy has been too long in coming. As a result, I believe a good argument can be made that the United States bears a large measure of responsibility for the recent events in the Middle East. Neither friend nor foe there knows what to expect from this administration—despite the fact that the United States is the dominant outside force. This uncertainty, if not confusion, only serves to add, as it has already, to the volatility and instability of a part of the world that daily comes closer and closer to a regional nervous breakdown—with the ever-present danger that the victims of

it will employ some of the most sophisticated weaponry available to the world today.

Indeed, Mr. President, to the extent there is a madness in the Middle East, we are as much a part of it as the Israelis, the Arabs, the Palestinians or the Russians. In pointing the finger—in assessing the blame—we would do well to begin with ourselves.

Our role in that turbulent region is as real as the corpses in Beirut or the bodies in Kiryat Shemona. And to those who say that it is just a matter of degree—I say it is only a matter of degree. I further say that the Reagan administration, because of its inability to develop a consistent, reliable, and balanced foreign policy—as Secretary Haig pledged it would—must now accept a large share of the responsibility for the most recent turmoil and bloodshed in the Middle East.

This is a great responsibility for the Reagan administration to carry. It is a very heavy burden. But of this, President Reagan and company can be sure: The longer this administration delays developing a realistic, forthright, and specific policy for the Middle East, the larger the responsibility and the heavier the burden will be.

One final point, Mr. President. Thus far, the Reagan administration's foreign policy has concentrated on the Soviet Union and on the transfer of arms and other military equipment for the expressed purpose of containing Soviet expansionism. If it persists in this direction—to the exclusion of other foreign policy considerations, as it has done so far—it will record one failure after another on the international scene. The events of the past several weeks in the Middle East are a good example of one such failure, and it has come primarily as a result of this administration's fundamental misreading of the situation.

In the Middle East, as elsewhere around the globe, the emphasis has been on stopping Soviet penetration and on arming anyone who will take the pledge, seemingly regardless of the consequences. But the Middle East has its own dynamic, its own history, its own culture, its own social and political forces—which are not to be denied and which are quite apart from the activities of the Soviet Union. Until the administration recognizes these factors and recognizes the situation for what it is, rather than for what it wishes it to be—in short, until the administration develops a coherent policy toward the Middle East—there will be more and more setbacks in that part of the world. In the long run, this will only redound to the benefit of the Soviet Union—an irony to be sure, but one that we must obviously strive to prevent.

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9 a.m.

THE CAMBODIAN CONFERENCE

Mr. PROXMIRE. Mr. President, the United Nations has convened a special conference on the status of Cambodia. That conference is now going on in New York. The conference is trying to shed an international light on the terrible problems of a nation wracked by warfare and campaigns of mass murder.

Speaking before the conference, Secretary of State Haig denounced the genocide that has occurred so often in Cambodia and declared our support for the Cambodian people. I am glad that the administration has taken this opportunity to recognize that campaigns of genocide are not a specter out of the past but, rather, a problem that we still confront today.

Despite the absence of the Soviet Union, Laos, and Vietnam, this conference carries significance as a symbol of the concern and involvement of the international community. Through its discussion, it may help to generate new approaches to resolving the country's long-term problems.

The Genocide Convention is another such symbol, one worthy of acceptance by the United States. Just as we have respected the role of the international conference on Cambodia, so should we respect the consensus of international opinion represented by the 87 nations who have thus far chosen to ratify the Convention.

Tragedies like the one in Cambodia are unfortunately far from unique. We have a clear moral obligation to oppose such crimes of genocide wherever and whenever they occur.

We certainly have a clear moral obligation to ratify the Genocide Convention, which this country was able to persuade the United Nations to adopt 32 years ago, and which has been pending in the Foreign Relations Committee simply because this body, the Senate of the United States, refuses to act.

Mr. President, the time certainly has come for us to act, as every President we have had since 1949 has urged us to do.

So I plead with my colleagues, once again, to ratify the Genocide Convention as an important part of our opposition to genocide, which has occurred not just in Hitler's Germany but also is occurring today, in Cambodia.

AN OWNERSHIP APPROACH TO PRODUCTIVITY

Mr. LONG. Mr. President, this past Friday the Senate, by a vote of 93 to 1, went on record in support of the employee stock ownership provisions of the Economic Recovery Act of 1981. Those provisions offer a promising new approach to increasing America's productivity.

Expanded ownership is an issue that cuts across party lines in an attempt to bring out the best in our free enterprise system. As the 1980 Republican platform reminds us:

> The widespread distribution of private property ownership is the cornerstone of American liberty. Without it, neither our free enterprise system nor our Republican form of Government could long endure.

Mr. President, let me say that I think most Democrats will agree. I certainly agree with that suggestion of the Republican platform. The Republican platform pledges the Reagan administration "to help millions of Americans * * * to share in the ownership of the wealth of their Nation."

President Nixon included a similar pledge in his 1970 state of the Union address in which he suggested:

> We must adopt reforms which will expand the range of opportunities for all Americans. . . . This means . . . new opportunities for expanded ownership, because in order to be secure in their human rights people need access to property rights.

In a similar vein, Senator Hubert Humphrey explained his support of expanded ownership in a letter to the editor of the Washington Post not long before his death:

> Throughout my career as a public servant, I have viewed full employment as a top priority goal for this country. And I continue to do so. But I recognize that capital, and the question of who owns it and therefore reaps the benefit of its productiveness, is an extremely important issue that is complementary to the issue of full employment.
>
> I see these as twin pillars of our economy: Full employment of our labor resources and widespread ownership of our capital resources. Such twin pillars would go a long way in providing a firm underlying support for future economic growth that would be equitably shared.

The benefits of Government-stimulated economic growth have traditionally trickled down through higher wages, expansion in the number of jobs, and the availability of increased tax revenues to fund expanded social programs.

That approach has produced strains on the economy as the benefits of such growth have resulted in the accumulation of massive amounts of productive capital by a relatively few households while the vast majority have been left with only a meager net worth.

For example, during our bicentennial year, the Joint Economic Committee studied capital ownership in the United States and found that 50 percent of the total value of outstanding stock held by individuals is owned by just 0.5 percent of the U.S. population. Two-thirds, according to a 1976 IRS report, is held by 5.2 percent of the population age 20 and over. Similarly, 1 percent of the population received 47 percent of all dividends.

At the other end of the ownership spectrum, the committee cited a 1972 study indicating that 55 percent of American households have a net worth of less than $10,000; and 12 percent, or 1 in every 8, have a net worth of $1,000 or less.

Perhaps the most disturbing analysis of the present state of our private property system, however, is provided by the National Bureau of Economic Research which reports that for the majority of American families their most important "wealth" is now their entitlements under our social security system.

Thus, for most Americans their most important asset is an assurance that

someone else will be taxed on their behalf. Clearly that is a long way down the wrong road if we intend to have a private property economy to leave to subsequent generations of Americans. Incentives for economic growth need to be combined with incentives that will distribute the long-term benefits of such growth more widely.

CAPITAL OWNERSHIP OPPORTUNITIES

Most of us share President Reagan's concern for incentive economics, for supply-side measures designed to stimulate new capital investment. We are generally in agreement that this package of tax cuts will provide a strong private sector foundation for a revitalized economy.

With that in mind, we are considering legislation that will target an estimated $147.5 billion through 1986 for increased business writeoffs of equipment and facilities—all of which will be owned by someone. The financial press estimates that by the close of this century productive wealth in the United States will increase by $2 to $5 trillion. The bulk of that new wealth will be owned by private individuals.

Within a healthy and growing economy, there will be opportunities not only to work but also to own. The distribution of job opportunities as an outgrowth of Government-stimulated economic growth is a factor that will be evaluated in great detail. Unfortunately, we are unlikely to have an analysis of the distribution of ownership opportunities as well.

In large part, corporate finance will determine who will be owners of these badly needed new capital investments. Corporations finance their growth from three primary sources: Retained earnings, debt, and various tax benefits—primarily equipment writeoffs, such as those which form the bulk of the business tax relief in this bill.

New stock plays only a minor role in the financing of new capital. For example, Federal Reserve Board figures show that corporate equities accounted for only 0.89 percent of the total funds raised in the United States during 1979. For the entire 1970's, stock sales accounted for a mere 3.7 percent of new capital raised in the nonfinancial sector. Even during the rapid growth of the 1960's, new equity issues were the source of only 7 percent of total financing for nonfinancial companies.

Because of the way in which new investments are financed, capital ownership has historically been an opportunity reserved for a relative few. The ownership of new capital wealth is largely a function of existing capital wealth.

After studying the self-perpetuating wealth concentration that the most widely used financial techniques imply, the Joint Economic Committee concluded in its 1976 annual report:

> To provide a realistic opportunity for more U.S. citizens to become owners of capital, and to provide an expanded source of equity financing for corporations, it should be made national policy to pursue the goal of broadened capital ownership.

For the most part, the American people cannot afford capital ownership. Daily economy survival, not savings and investment, is their main concern. And the less our technologically advanced economy needs their labor, the less able they are to save their way to capital ownership. Inflation, of course, penalizes what little savings they are able to set aside.

After passage of this bill, the bulk of America's new productive capital will, I expect, continue to be financed as before—except that more accelerated write-offs will then be available with which to do that financing. It is my hope that the Employee Stock Ownership Plan (ESOP) provisions of this bill will provide an incentive for at least some portion of this new capital to be financed in such a way that more Americans will begin to accumulate a capital estate.

A MODEL OF WORKABILITY

Free enterprise capitalism is losing ground all over the world. We need to be able to demonstrate to other nations how our increasing prosperity spreads out and reaches Americans in all walks of life.

Unless we offer such a model, other nations will continue to see the socialist model as a more attractive alternative. Secretary of State Haig was on target when he recently commented that our economic contradictions here at home make it more difficult for us to lead abroad.

As Ronald Reagan explained in 1975:

> Capitalism hasn't used the best tool of all in its struggle against socialism—and that's capitalism itself.

In a July 1974 speech to the Young Americans for Freedom, Governor Reagan explained the historical precedent for a policy of expanded ownership and endorsed the uniquely American opportunity that such a policy would represent:

> Over one hundred years ago, Abraham Lincoln signed the Homestead Act. There was a wide distribution of land and they didn't confiscate anyone's already owned land. They did not take from those who owned and give to others who did not own. It set the pattern for the American capitalist system. We need an Industrial Homestead Act . . . I know that plans have been suggested in the past and they all had one flaw.
>
> They were based on making present owners give up some of their ownership to the nonowners. Now this isn't true of the ideas that are being talked about today.
>
> Very simply, these business leaders have come to the realization that it is time to formulate a plan to accelerate economic growth and production and at the same time broaden the ownership of productive capital. The American dream has always been to have a piece of the action.

The theme of the employee stockownership provisions of this bill is a theme of widespread participation—participation not only through jobs but through ownership as well. To encourage expanded ownership does not mean to take from those who own in order to give to those who do not. Rather, the intent is to provide incentives for newly created capital to be more broadly owned.

As the private sector expands and the economic pie begins to grow, these ESOP incentives will provide those who make that pie with an opportunity to own a piece of it. Instead of simply sharing in the pie by taking a larger slice, ESOP will provide a chance for more working Americans to own a piece of the pie-making machinery.

Thirty-two Members of the Senate have joined me in cosponsoring the bipartisan measure which I introduced some months ago. About half of those provisions appear in this bill and they have been unanimously recommended by the Committee on Finance.

In addition, it is encouraging to see that just this past month the State of Delaware joined the States of Maryland, Michigan, Minnesota, and New Jersey in establishing as official State policy the encouragement of ESOP's as a means to broaden ownership. Similar legislation is pending in several other States.

As the President reminded us last night in his address to the Nation:

> The best way to have a strong foreign policy abroad is to have a strong economy at home.

As we enact these incentives to restore strength to the American economy, I hope that we will keep in mind the crucial role that private ownership plays in the functioning of a free enterprise system.

TOWARD A POLICY OF ECONOMIC SELF-SUFFICIENCY

If we are to have a self-sustaining economic system, and one in which Government plays only a minor role—as the voting public seems to be telling us it should—then the private sector must itself be encouraged to play a greater role in the functioning of our private enterprise economy.

By producing the economic pie, we necessarily create the problem of how it is to be distributed. Wages and salaries are one way. Under our present system, however, pay tends to outpace productivity.

When an upward drift in income is not matched by a real growth in output, income gains are, of course, largely illusory. It would be shortsighted for us to continue to leave the vast majority of Americans with nothing other than their labor, as the capital with which they provide input into—and derive income from—our capital-intensive economy.

Redistributive taxation is another way to distribute income, although for this purpose it is strictly a hindsight, remedial approach. In addition, the fiscal strains created by this approach are increasing at an alarming rate. For example, over the past 20 years, direct Federal transfer payments to individuals have grown from 26.4 percent of total budget outlays to more than 50 percent; $27 billion was paid out in 1960—by 1980 that had risen to $284 billion, including a growth of more than $200 billion just since 1970. And of course Government can never return as much as it takes, so its costs insure a net loss in the transfer.

We need to bring our outtake system more "in synch" with the realities of our input system. A market economy is based on the premise that each person's outtake from the economy is directly related to that person's productive input—whether that input be through a job or through the ownership of productive capital. Both can generate income.

Rather than break the relationship between effort and reward, the expanded ownership concept suggests that we recognize the increasingly dominant role that nonhuman capital now plays in the productive process, and begin to provide a way for more Americans to economically participate by means more consistent with the existing state of technology.

When capital owners are few, the private property conduits of a market economy reward those few. If there were many owners, the earnings of that productive capital could begin to broadly irrigate the economy with purchasing power.

How efficiently our free enterprise system works in solving our income distribution problem is partly a function of how well our structure of property laws matches the underlying technological and economic realities. If those realities change and our property arrangements fail to keep pace, a conflict is inevitable.

Of the even leading industrial democracies—France, West Germany, Canada, Sweden, the United Kingdom, and Japan the United States now ranks second only to France in its degree of income inequality. In addition, our poorest 20 percent have a lower share of total pretax income than any country, including France. A broader distribution of capital ownership would help to improve our poor ranking internationally.

In some nations, the private ownership of productive capital is forbidden—on the grounds that private property is at the heart of the problem. The solution, however, lies not in destroying the institution of private property, but in making it possible for all to become owners of some of it.

Expanded ownership could help reduce the role that Government plays in redirecting income. But to do that requires that we work to build economic self-sufficiency into the American population at large.

Over the long term, the best way to cut back Government programs is to cut back the need for such programs. If we are to be successful in our attempt to create a self-sustaining economic system, however, we must first begin to share the ability to succeed. The encouragement of expanded ownership would be a step in that direction.

A NONINFLATIONARY BENEFIT

In addition, if we are to win in our battle against inflation, we need incentives for working Americans not only to save but also to moderate their wage demands. The current situation at Continental Airlines provides a good example of the potential that employee stock ownership plans have for moderating wage-push inflation.

The Continental employees are proposing that they forgo a portion of future pay raises and, instead, apply those funds to invest in company stock (through an ESOP). This inflation-fighting approach to compensation should be encouraged.

According to pollster Louis Harris, the American public is generally receptive (that is, 63 percent) to the idea of having their salaries linked to higher productivity—at least if they are convinced that their sacrifices will provide funds for needed investment. Thus the encouragement of employee stock ownership plans may help restrain inflation by helping to channel wage demands into capital investment.

When combined with the labor productivity gains that generally accompany employee stock ownership, widespread ESOP-type financing has the potential to significantly improve our economic situation. Just as the company with employee stock ownership will have a productive advantage over a conventionally owned competitor, so too should the U.S. economy enjoy a competitive edge with a tax policy supportive of expanded ownership.

Employee stock ownership could also serve as a new stabilizing element in labor-management relations—an element that may encourage these traditional foes to act more in the national interest by beginning to operate more in a spirit of cooperation and compromise. Unions must find new, noninflationary ways to deliver victories to their members, and management needs to find new ways to deal with union demands.

A recent Harris poll found that 53 percent of American employees and 61 percent of American business leaders feel that there is too little cooperation between business and labor. Employee stock ownership provides a fruitful new area in which these traditional adversaries can resolve their differences.

INCENTIVE ECONOMICS

What would be the effect of transforming this troubled economy of ours into one in which working Americans have the interest and incentive of ownership? Even a modest stake in the system would bring with it a better understanding of how our free enterprise system works, and a greater awareness of the costs and the tradeoffs of Government programs.

Our tax code should encourage a broad distribution of productive input and a substantial payout of the earnings generated by that input. If we are to have a more equitable and a more workable income distribution—without Government redistribution—we must have incentives for the widespread ownership of productive capital.

Our tax system is a key to linking equity and efficiency. As presently structured, that system not only aggravates the bias toward concentrated ownership and governmental redistribution, in the process it also jams the market's pricing system and its ability to allocate resources in the most productive, market-responsive fashion.

We must begin to strike a better balance between the energy and efficiency of the market and the equity, compassion and equality of democracy. Expanded ownership would bring a democratic new dimension to the investment process, and open new possibilities for economic system we mean to have in the icans.

DEMOCRATIC CAPITALISM

Since 1973, the Congress has approved, and three separate administrations have signed into law, 14 bills promoting the use of employee stock ownership plans as a means to expand the ownership of productive capital. In addition, in the Tax Reduction Act of 1976, Congress made clear its policy of "* * * encouraging employee stock ownership plans (ESOP's) as a bold and innovative method of strengthening the free private enterprise system which will solve the dual problems of securing capital funds for necessary capital growth and of bringing about stock ownership by all corporate employees."

However, the provisions of current law—even when improved by the very modest ESOP-related provisions of this bill—will do very little to expand the base of capital ownership in the United States. Due to the nature of the most commonly used techniques of finance found in the private sector, the great bulk of the new productive capital created due to the investment incentives in this bill will likely flow to that same small group of Americans who are already quite wealthy.

That would show a failure of foresight on our part, and I hope that we will take steps to correct such a trend if we find that is the direction in which we are headed.

Both sides of the aisle are on record in support of expanded capital ownership. Both sides are also on record as opposed to a socialist approach to economic policy, such as is now being considered in France.

This is the richest and the most comprehensive capital formation bill ever considered by the U.S. Congress. By the end of this century we would be well advised to insure that a significant amount of this yet-to-be-created productive capital flows into the hands of a steadily expanding number of American households.

If there is to be an expansion of capital ownership in the United States, certainly these next two decades are an opportune time to make that bipartisan desire a reality. Tax policy alone may not be adequate if expanded ownership is to become a reality. Thus, we should also consider how monetary policy can operate in support of a national policy of expanded capital ownership.

Capitalism's market mechanisms of incentive and reward have brought more and better goods and services to more people here and throughout the world than any other system in history. Yet those mechanisms are not indestructible. If they are to be preserved, we need an institutional framework that operates in their support. That support lies in the direction of a more democratic form of private property capitalism—a type of capitalism that is true to its democratic roots, and true to the American tradition of widespread participation.

The issues raised by this legislation go to the very heart of just what sort of economic participation by more Amer- United States, and just what sort of Nation we intend to leave for succeeding generations of Americans. The ESOP provisions of this bill offer us a blueprint—a guide for future legislation de-

signed to include more Americans as partners in our economic progress.

CLARIFICATION OF ESOP AMENDMENTS

Mr. President, the Economic Recovery Act of 1981 makes a number of changes in the law relating to employee stock ownership plans (ESOP's). Many of these changes are highly technical in nature. Thus, it may prove useful to provide some additional clarification regarding several of the provisions.

An ESOP is a technique of corporate finance. It is also a tax-qualified plan under which employer stock is held for the benefit of employees. The stock, which is held by a tax-exempt trust under the plan, may be acquired through direct employer contributions or with the proceeds of a loan to the trust.

In order to qualify, a plan must, for example, satisfy rules prohibiting discrimination in favor of highly-paid employees, and it must meet standards relating to employee participation, vesting, benefit and contribution levels, the form of the benefits, and the security of the benefits. If a plan meets these requirements, in addition to deferral of employee tax on employer contributions, the income earned on assets held under the plan is generally not taxed until it is distributed or made available. In addition, special 10-year income averaging rules or tax-free rollover treatment apply to distributions made in a lump sum. Also, the Internal Revenue Code provides for deferral of tax on the appreciated value of employer securities and for exclusions from estate and gift tax.

An employee stock ownership plan which borrows to acquire employer stock is referred to as a leveraged ESOP. A leveraged ESOP is a technique of corporate finance designed to build beneficial equity ownership of shares in an employer corporation into its employees.

Under such an ESOP, an employee stock ownership trust generally acquires stock of the employer with the proceeds of a loan made to it by a financial institution. Typically, the loan is guaranteed by the employer. Employer contributions to the trust are applied to retire the loan. Within limitations (based on a percentage of payroll), those contributions are deductible by the employer.

The provisions of this bill raise the deductibility limits for employer contributions applied to the repayment of the principal of an ESOP loan. In addition, employer contributions to repay the interest expense of an ESOP loan will be deductible without regard to the deduction limitations otherwise applicable to contributions to tax-qualified employee benefit plans.

Subject to meeting a nondiscrimination test, a corresponding amendment provides that the limitation on annual additions to employee benefit plans will no longer apply to employer contributions applied by an ESOP to repay interest on an ESOP loan. In addition, those limitations will no longer apply to amounts forfeited under an ESOP loan.

Although the effective date of the Act applying to these revised limitations is generally effective for years after 1981, it is intended that employer contributions applied to pay a loan incurred prior to 1982 will also qualify under the new provisions.

Many of the rules governing the new payroll-based tax credit ESOP are the same as those applicable to the current additional investment tax credit for ESOP contributions. As under present law, for example, a payroll-based tax credit ESOP may be treated as a tax-qualified plan from its effective date even though the plan is not actually established until the date for filing the employer's tax return for its taxable year—including extensions.

As under present law, the allocation of employer contributions to a tax credit ESOP for a year must be made in proportion to the total compensation of all participants sharing in the allocation for the plan year, taking into account only the first $100,000 of compensation for an employee. Integration with benefits provided under social security continues to be prohibited. In addition, amounts allocated must be immediately 100 percent vested, for example, nonforfeitable.

Limited amounts of administrative expenses for establishing a tax credit ESOP may be charged to the plan. The maximum amount which may be charged is 10 percent of the first $100,000 of the amount required to be transferred to the plan for the taxable year in which the plan is established, and 5 percent of any additional amount for such year. In addition, ongoing costs of administration—up to 10 percent of the first $100,000 of the trust's dividend income plus 5 percent of the remaining dividend income—may also be charged to the plan.

This bill also introduces a new nondiscrimination test applicable to leveraged ESOP's and to tax credit ESOP's. The purpose of the test is to insure that rank and file employees are the primary beneficiaries of the additional incentives provided under this bill.

The nondiscrimination test places limitations on the amount of employer contributions that may be allocated to officers, 10 percent shareholders, and the highly compensated. For purposes of this requirement, the term "officers" includes only those persons, regardless of title, who perform substantive duties in the nature of top management. Highly compensated employees are those earning twice the annual addition limitation under section 415—$83,000 for 1981.

THE ALLIED PLYWOOD ESOP

Mr. President, I ask unanimous consent that a profile of an ESOP company that appeared in the current newsletter of the Employee Stock Ownership Association be printed in the RECORD.

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

THE ALLIED PLYWOOD CORPORATION OF ALEXANDRIA, VIRGINIA

Allied Plywood's ESOP is working—for the company, its owners, and its employees.

Allied Plywood Corporation is a plywood distributing firm founded by Ed and Phyllis Sanders in 1951. Spurred by the Washington-area building boom and sound, conservative management practices, the company enjoyed steady growth for 25 years. But like most small business owners, the Sanders' faced enormous obstacles from the Internal Revenue Service when they tried to convert some of the hard-won fruits of their labors to cash for their own enjoyment.

They considered selling some of their stock back to the corporation, but IRS regulations deny capital gains treatment when a family owns more than 50 percent of the common stock. Any such sale is treated as a dividend instead. The result: a confiscatory 70 percent personal tax on proceeds, and no corporate-level deduction for the amounts paid for the stock.

Then, in 1976, Ed Sanders read a Washington Post letter to the editor describing the merits of the Employee Stock Ownership Plan. After studying the plan carefully, Ed concluded that he could use it to solve his tax problems and provide an entirely new system of incentive for his employees at the same time.

THE SOLUTION

Allied Plywood then adopted a non-leveraged ESOP, combining a stock bonus plan with a money-purchase plan to take advantage of the higher contribution levels available when this type of combination is used. Under the money-purchase plan, the firm is required to contribute 10 percent of its covered payroll to the plan each year; the level of contributions under the stock bonus plan is entirely discretionary. Each year since its inception, the ESOP has used cash contributed by the company to purchase shares from Ed and Phyllis Sanders.

From a tax standpoint, the results of the plan have been right on target. The cash that Ed and Phyllis receive for their stock is taxed at capital gains rates, rather than at the much higher dividend rates, because they have taken care to abide by the rules of Revenue Procedure 77-30. The company's contributions to the ESOP have been fully tax-deductible, another big advantage over the stock-redemption alternative.

The ESOP has also solved a problem that had been troubling Ed Sanders for years: how to get the employees more involved with the company, how to get them to identify their own fortunes with the company's fortunes. Previously, he had tried to sell shares directly to the employees, but that approach met with little success. Most workers had no after-tax money to spare for "luxury" items like stock. The ESOP, by providing employees with stock at no out-of-pocket to them, gives each worker a substantial capital stake in the company.

Allied Plywood's ESOP, after last year's contribution and stock purchase, owns just under 50 percent of the total equity outstanding. Next year, the amount will surely surpass the 50 percent level, and in a few years, as Ed and Phyllis continue to sell their equity, it will own substantially all of the stock of Allied Plywood.

COMMUNICATING THE BENEFITS

Like most ESOP companies, Allied Plywood has had to make special efforts to communicate to its employees exactly what the rights and responsibilities of stock ownership are. Each year, the employees' annual ESOP reports are printed by a computer on to a form resembling a stock certificate.

The report lists the value of the individual's accounts in the ESOP, broken down so that he can see the importance of a steady increase in the value of his Allied Plywood stock. Along with the certificate comes a report on company operations written by Ed Sanders, bringing the employee-owners up to date on the "big picture" most workers never see. Once a month there is a meeting of all the employees, to share information with them and to pick their brains about how different aspects of the company's operations might be improved.

Sanders believes, however, that formal meetings are not really the best places for productivity-improving ideas to be worked out. Rather, participation occurs in a more unstructured way: as problems develop in day-to-day operations, or as a new idea pops up, things are discussed right away rather than waiting for a formal meeting.

CASH BONUSES

Sanders firmly believes that the ESOP has made a difference in his employees' productivity, although he says it is difficult to put an exact dollar figure on the productivity value of the ESOP. In the employees' minds, the ESOP benefits are closely intertwined with Allied's outstanding cash bonus program.

Each month, the firm contributes an amount of cash to a bonus pool, the size of the contribution based strictly on the profits accumulated by the firm during the month. The pool is then divided equally among all the employees. For the month preceding the ESOP Association's interview with Ed Sanders, each employee received about $1,200 from the monthly bonus pool.

That's in addition to the employee's take home salary. Admittedly, this was a higher than average month; but the combined effect of the ESOP and the productivity-tied cash bonuses of this magnitude ought to be self-evident. At the end of the year, employees receive an additional bonus, based on a complex formula involving the number of days worked, importance of the job, years of service, and the quality of the individual's performance.

To top it all off, the employees receive a dividend on the stock held in their ESOP accounts. The dividend is "passed through" the ESOP to the employees, providing them with a cash return on their stock. The size of the dividends is very small because dividends are not deductible to the corporation as bonuses are. This combination of long-range ownership benefits and short-range cash benefits has resulted in extraordinarily low rates of absenteeism and turnover for Allied Plywood, and have contributed to the remarkable productivity rates the firm enjoys.

Of course, the "proof of the pudding" as far as the employees are concerned is the stock distribution when they terminate employment. Because Allied Plywood is a small company with dedicated employees, there has only been one such termination since the plan was started in 1976.

Naturally, there was quite a bit of interest from the other employees about the details of this distribution. Sanders took the opportunity at one of the monthly meetings to discuss this payment to the employee, who chose to sell his stock back to the ESOP immediately for a full payment in cash.

The sale was made using a book value formula for pricing the stock. Allied Plywood has used this formula since the inception of the ESOP, without any complaints from the IRS. (That doesn't mean, however, that the IRS would permit a book value formula to be used in other circumstances. See Revenue Ruling 59–60 for the IRS preferred valuation approach.)

THE BASICS

Name: Allied Plywood Employee Stock Ownership Plan.

Year established: 1976.

Type of plan: Stock bonus plan combined with money-purchase plan. Non-leveraged, non-contributory.

Participants: 19.

Vesting schedule: 0 percent for first three years, 30 percent after three years, 40 percent after 4 years, etc. up to 100 percent after 10 years.

Plan investments: 90 percent in Allied Plywood; 10 percent in certificates of deposit.

Percent of employer owned by plan: Just under 50 percent.

Other benefit programs: Monthly and yearly cash bonuses.

ED SANDERS' VIEWPOINT

Ed Sanders is satisfied with his ESOP, and he thinks that Congress ought to encourage more companies to adopt the program. "ESOPs are great for the continuity of corporations," says Sanders. "They enable them to roll along as new owners come in and the old ones go out."

He is particularly irked by what he regards as a tax-code bias in favor of conglomerate takeovers of small companies that could otherwise be purchased by ESOPs similar to Allied Plywood's. The solution, he has argued repeatedly in Congressional testimony and elsewhere, is to provide a "tax-free rollover" for sales of small business stock to ESOPs.

In other words, a person who sold small business stock to an ESOP and reinvested the proceeds in other small business stock within 18 months would not have to pay a tax on his gain—at least until he sold the stock acquired with the proceeds, at which time his tax would be based on the entire gain from the time he acquired the original stock sold to the ESOP. This would put the seller in the same position he would be in had he engaged in a tax-free merger into a conglomerate.

Sanders also opposes mandatory pass-through of voting rights to ESOP participants. "I've invested half a lifetime in building this company," he argues, "so why should I just turn over control to somebody else? I'm not really afraid of doing that, but why should I? Most of them haven't put in a penny of their after-tax dollars as I have, and I don't think it is fair for the government to force a vote pass-through."

SUPPORT FOR SMALL BUSINESS

Mr. STEVENS. Mr. President, recently an editorial appeared in the July 15, 1981 edition of the Washington Star endorsing the Small Business Innovation Research Act of 1981 introduced by the distinguished Senator from New Hampshire, Mr. RUDMAN.

Senator RUDMAN has addressed a very important issue regarding support for small business in this country. If the United States is to remain on the path to economic recovery, it is essential that small businesses throughout the land become healthy and viable. There is no doubt that the strength and stability of the U.S. economy is directly correlated to the survival of small businesses.

The measure sponsored by my able friend from New Hampshire, directs Federal agencies with research and development budgets over $100 million to set aside 1 percent for small businesses. As a result, small businesses would be eligible to submit proposals relating to the research and development objectives of the agency from which the seed money will come. In this way, the efforts of an agency research and development would be complemented by the efforts of small businesses with promising ideas. It must be clear, however, that any commercial application would be resulting from the research and development financed by private capital, not public funds.

I am pleased to join Senator RUDMAN as a cosponsor of the Small Business Innovation Research Act of 1981 and I ask unanimous consent that the text of the editorial referenced above be printed in the RECORD.

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

INVENTION IN THE SENATE

It remains something of a historic scandal that the Wright Brothers waited five years to get federal support, which came grudgingly at that. But the problems facing small innovative businesses haven't changed much. Their contribution to American life and invention far exceeds their size, yet federal support remains minuscule—3 or 4 percent of the federal research and development budget. That could be changed by one of the most ingenious bills of the 97th Congress introduced by freshman Sen. Warren B. Rudman, R-N.H.

Mr. Rudman's "invention" could give small R&D firms as much as $400 million more a year—without adding a cent to the federal budget. His Small Business Innovation Research Act of 1981 simply requires that federal agencies with an R&D budget in excess of $100 million set aside 1 percent for small business. Thus it would counter the federal temptation to turn always to one or two "safe" contractors and open the market to more spirited competition. The government may spend as much as $40 billion on R&D in 1982.

The importance of small business cannot be overstated. An MIT study, for instance found that between 1953 and 1974 some 50 percent of all major innovations came from firms with fewer than 1,000 employees. A National Science Foundation survey showed that small businesses produce up to 24 times more innovation per R&D dollar than larger ones. An MIT Development Foundation Study said that "young" technology companies, with sales equaling only 2 per cent of those in "mature" industry, created 34 percent more jobs than those created by the mature companies. Yet federal R&D grants persistently favor large firms.

Mr. Rudman's bill, introduced jointly with Sen. Lowell Weicker Jr., R-Conn., is simplicity itself. Small businesses would be invited to submit proposals touching on an agency's R&D objectives. Those judged to be more promising could get "seed money"—and more money if the research appears fruitful. Any commercial application would be financed entirely by private capital.

One can anticipate objections. A National Science Foundation program, after which Mr. Rudman's bill is modeled, was widely judged to be successful, but there were some complaints about implementation. There are bound to be difficulties in following through on any program in which more companies participate and more ideas emerge.

Nevertheless, the case for the proposal is powerful indeed, as Mr. Rudman observed when he said that "almost 50 per cent of American economic growth stems from innovation." Similarly, a 1977 Office of Management and Budget study found that small firms have inadequate access to federal R&D money and that "our country will lose significant high technology capabilities" without such support. Mr. Rudman's bill would increase that resource by redistributing a tiny portion of federal money already being spent on R&D.

When final hearings on the bill begin today it should also be noted that it admirably complements President Reagan's wish to stimulate the economy and enhance productivity. For such reasons it has attracted 79 cosponsors, including such traditionally opposing voices as Howard Metzenbaum, Edward Kennedy, Jake Garn and Jesse Helms.

But there have been other attempts to awaken Washington to the importance of American R&D—and most have gotten no-

where. Mr. Rudman's exceptional bill could be an exception to that sorry history, and it ought to be.

THREE MILE ISLAND: NUCLEAR POWER'S TET

Mr. SYMMS. Mr. President, in the wake of the nuclear accident at Three Mile Island, my guess is that if you asked the average American how many people would die in the event of a nuclear melt-down, the answer would be thousands. I suppose that the average American, who depends for his information about nuclear power on the evening television news and an occasional headline in the local paper, would tell you that nuclear power is terribly risky. And that is truly unfortunate, Mr. President, since the truth is just about exactly the opposite.

In order for nuclear power to be as dangerous to the health of Americans as burning coal, for example, we would have to have a melt-down someplace in the country about every 6 months. Actually, this estimate is based on the kind of worst-case figures generated by the Union of Concerned Scientists, not widely thought to be strong supporters of nuclear power. Using official Government figures the frequency of meltdowns would have to be one every 2 weeks to make nuclear power as dangerous as coal.

These facts are provided by Dr. Bernard Cohen, a professor of physics at the University of Pittsburgh, and chairman-elect of the American Nuclear Society's Division of Environmental Sciences. Dr. Cohen notes that in almost no cases would there be any immediate deaths from a meltdown, though such deaths are not impossible. The usual effect would be a very, very modest rise in the number of cancer-related deaths spread over decades. Taking all deaths together, they work out to about 400 for each melt-down. For comparison purposes, Dr. Cohen points out that burning and mining coal is killing about that many people every 2 weeks.

That is not to say that coal burning is particularly dangerous either. I am not against the burning of coal. Nor am I making excuses for any deaths which can be related to one form of energy production over another. Nor am I oblivious to the importance of strong nuclear safety procedures. I merely think it is important to put things in perspective. The public perception of coal burning and nuclear power production are just very much at variance with reality.

Why is the fact so different from the reality, Mr. President? This is an important question, and one that we ought to focus some attention on. Dr. Cohen suggests that it is because nuclear power is the first energy source which has developed in the modern age, when we have had the foresight and capacity to evaluate all the risks up front, ahead of time. Thus we have learned a great deal about the risks of nuclear power.

Coal, and other fossil fuels, by contrast, came into use hundreds of years ago, before we developed our penchant for long-range planning. The risks of burning coal were unknown at the time. We are now able to go back and evaluate those risks, but to the average person, coal is an old friend. We all know it and are comfortable with it. Dr. Cohen suggests that this unequal treatment is damaging to our long-term security and well-being.

He suggests one other explanation for the disparity between image and fact: the news media. To quote him:

> A reporter's job is to get an interesting story, something that will attract the attention of the public. . . . A reporter trying to make an interesting story . . . naturally picks the worst possible accident—45,000 cancers, $15 billion cost—to discuss. His story says that nuclear accident could have these consequences, but readers and those reporting a story seldom make a sharp distinction between could and would. Since media people get most of their information from other media productions, powerful media figures ranging from Dan Rather to Johnny Carson have been convinced that a reactor melt-down is the ultimate disaster. With them preaching the gospel, the public is soon convinced.

Mr. President, Dr. Cohen is right on target with this point, and I found his other insights into the safety of nuclear power equally illuminating. I ask unanimous consent that Dr. Cohen's article, from the June 12 issue of National Review, be printed at this point in the RECORD.

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

KING COAL AND THE MELT-DOWN MYTH

(By Bernard L. Cohen)

Melt-down has become a household word synonymous with the ultimate disaster. That word, referring to a complete melting of the fuel in a nuclear power reactor, was brought to public attention in the movie The China Syndrome, and its implications were underlined by the accident at Three Mile Island. Fear of a melt-down has led several commentators to say that we should depend on coal rather than nuclear power for electricity.

How rational is this? According to estimates by government scientists, for nuclear power to be as dangerous as coal we would have to experience a reactor melt-down every two weeks somewhere in the United States. If one rejects the credibility of government-sponsored studies and goes to the other extreme of accepting the estimates of the Union of Concerned Scientists (UCS), nuclear risks become equal to those of coal if we have a melt-down only every six months.

An average melt-down, according to the government estimates, would result in about four hundred eventual cancers. The UCS estimate is ten times higher. But air pollution from coal-burning is generally estimated to be causing about ten thousand fatalities per year in the United States, a rate of four hundred every two weeks (some estimates of the effects of coal-burning are many times higher).

Since there seems to be a credibility problem with government statements, it should be explained that what we refer to as "government estimates" is actually work by scientists whose research is supported by the Federal Government, which includes well over 90 percent of the involved scientific community. Their scientific work is not subject to political pressure or review, although the official summaries of their documents and the press releases on them are in the political arena. Since science is international, and its findings can be readily checked, incorrect scientific information is ordinarily rapidly exposed in the scientific community, and those responsible pay a heavy price professionally. There is of course some room for honest disagreement in interpretation of data, and that is why UCS can obtain results differing from the government estimates.

The "government estimates" referred to are from the Nuclear Regulatory Commission (NRC) document WASH–1400, better known as the Rasmussen Report. According to some press reports, WASH–1400 was "repudiated" by NRC, but that is an overstatement. Actually NRC accepted the report of a committee headed by H. W. Lewis which said that the uncertainties in WASH–1400 are larger than stated; it did not say that the dangers were greater than estimated in WASH–1400, and, in fact, Lewis himself told a congressional committee that he believed that they were smaller. Moreover, the principal criticisms referred to the WASH–1400 estimate of the probability of a melt-down, and we are not using that estimate here. We consider only a melt-down's consequences.

The report by the Union of Concerned Scientists does not contain as much detail as WASH–1400, but its viewpoint can be roughly represented if all consequences given below are multiplied by ten. The UCS also contends that the probability of a melt-down is ten times larger than the WASH–1400 estimate, but that is not at issue in our discussion.

For nuclear power to be as dangerous as coal-burning we would have to have a melt-down every two weeks. If that statement is shocking, it is because the dangers in a melt-down have been grossly over-sold by the media. A reactor is enclosed in a very powerfully built structure called the "containment" with walls several feet thick made of very heavily reinforced concrete. This gives protection against a wide variety of external threats—the containment would not be breached by an automobile or tree hurled at it by a tornado, by the explosion of a large quantity of TNT placed against its walls, by an airplane flying into it, or by an aerial bomb. In a melt-down, its function is to contain the radioactive dust and gases for as long as possible. Inside the containment there is equipment for removing the airborne radioactive dust by sucking the air through filters as in a vacuum cleaner and by scrubbing it with chemical sprays. Most of the dust would simply settle on the walls, so if the containment maintained its integrity for a few days, the consequences of a melt-down would be minimal. This is what is expected to happen in the majority of melt-downs.

That is definitely what would have been expected in the Three Mile Island accident if the necessary measures had not been taken to prevent a melt-down. According to the Kemeny Commission Report, page 14, "even if a melt-down occurred, there is a high probability that the containment building . . . would have been able to prevent the escape of a large amount of radioactivity." Similarly the Rogovin Report states on page 20: "even with a core melt-down . . . the most likely probability is that the reactor building would have survived . . . and the vast majority of the radioactive material would have been retained within the building, not released to the surrounding environment." Actually, none of the systems designed to preserve the containment integrity in such an accident were out of operation or would have been jeopardized by a melt-down, so there is no reason to have expected containment failure at Three Mile Island.

Great harm will result only if the containment is breached shortly after the fuel melts. This is highly improbable, and expected in only 1 per cent of all melt-downs.

but this low probability factor is somehow ignored in nearly all public discussion. In The China Syndrome, the fear is that when the molten fuel comes in contact with water, a steam explosion can occur that would be powerful enough to blow open the containment. To create enough steam in a short enough time to cause such a powerful explosion, the hundred tons of molten fuel would have to be effectively divided into pieces the size of small necklace beads, and all would have to strike the water within less than half a second—a highly unlikely situation. Even then, there would have to be a heavy object on which all this force is focused to act as a missile. It is much more likely for the fuel to drop into water (if it ever does) in rather large chunks, and over a period of many seconds.

It is implied in the movie that even interaction with ground water could cause such an explosion, but the molten fuel would come into contact with ground water only very gradually. If it did so, the steam formed would exert a pressure keeping the rest of the ground water away, so there would be very little contact until the molten fuel cooled and solidified, many days later. Then it would form a glassy solid mass which could not be easily dissolved in water, so that little or no ground water contamination could be expected. If there were a problem of this type, there would be plenty of time—many months or years—to take action to prevent harm to the public.

In accounts of the Harrisburg accident the impression given was that a hydrogen explosion could have ruptured the containment. This is almost certainly not the case. Even if all the hydrogen that could have been produced in that type of accident had exploded in the worst possible way, the containment probably would not have been broken. Since this hydrogen is produced rather gradually and there are many sources of sparks available (e.g., from motors) one would expect the hydrogen to be consumed in many small fires and explosions, which would be much less forceful. In fact, it is believed that there was a hydrogen explosion in the containment. It increased the pressure briefly to almost double the outside pressure but this is only one-seventh of the pressure rise needed to break the containment. After the first few hours, the hydrogen level in the containment never rose much above 2 per cent, whereas hydrogen is flammable only at concentrations over 4 per cent, and becomes explosive only after reaching 15 per cent.

In most melt-downs the containment is expected to maintain its integrity for a long time, and the expected number of fatalities is zero. That is, most melt-downs would not kill a single person, immediately or eventually. However, as the molten fuel reacts with the concrete floor of the containment, gases would evolve which would slowly build up the pressure inside to the point where gaseous releases may be necessary to avoid cracking the containment. In such cases it is probable that some cancers would be induced. In one out of five melt-downs there would be perhaps a thousand eventual cancer fatalities; in one out of a hundred melt-downs there would be ten thousand—the number of fatalities we now get each year from burning coal; and in one out of 100,000 melt-downs there would be 45,000—the number of fatalities each year on our highways.

In addition to cancers, in one out of a hundred melt-downs there would be a few early fatalities, people dying within a month or two from direct effects of radiation. In one of five hundred melt-downs the number of such fatalities would exceed one hundred; in one out of five thusand melt-downs it would exceed one thousand; and in one out of 100,000 melt-downs it would reach thirty-five hundred.

When all of these various kinds of consequences, the cancers and the early fatalities, are added, it works out to an average of four hundred fatalities per melt-down. the number we get every two weeks from burning coal.

Some people say that it's not the average that counts, but the catastrophic nature of a single event. They point out that the deaths from air pollution go unnoticed and are therefore less frightening. However, the same would be true of the cancers from a nuclear melt-down. Even the 45,000 cancers caused by the worst accident—expected once in 100,000 melt-downs—would be distributed among ten millions people and over a fifty-year time span, with the risk to each individual increased by less than half of 1 percent. The average American's risk of death from cancer is now 17 percent, so an increase to 17.5 percent (for those affected) would not be noticeable. In fact the risk varies in different states, from 19 percent in New England to 14 percent in Kentucky and Tennessee, and nobody seems to notice that. The average loss of life expectancy for those exposed would be about one month, which is equal to the risk incurred by an overweight person who gains one additional pound, or a man who smokes one pack of cigarettes every three months. Don't forget that this is the worst accident, but it is the only one the news media and The China Syndrome elect to discuss.

Let's compare these figures with the worst accidents that could result from using other energy sources that are considered acceptable. There are hydroelectric dams in this country whose failure could kill over 200,000 people. There are potential gas explosions that could kill many hundreds of thousands, and perhaps even wipe out a whole city. There are oil fires possible which could create enough air pollution to kill hundreds of thousands. There have already been air pollution episodes from coal-burning that have killed 3,500 people in a week.

Up to this point we have not mentioned genetic damage, the much publicized effect on future generations. The total number of genetic defects eventually expected from a reactor melt-down is about two-thirds of the number of cancers—the most probable number in a melt-down is zero, but the average number is close to three hundreds. These would occur over a period of 150 years, and would be difficult to pinpoint—about 200,000 U.S. babies are born annually with these types of genetic defects.

Coal-burning, meanwhile, produces a large variety of chemicals called mutagens that induce genetic defects. There is not enough information available to make quantitative estimates, but there is no reason to believe that these effects are less than those from the amount of nuclear radiation we are considering.

And then there is land contamination. We hear repeatedly that a melt-down could contaminate an area the size of Pennsylvania, 45,000 square miles. Of course this depends on one's definition of "contaminate"; it could be said that the whole earth is contaminated, since naturally radioactive elements like uranium, thorium, potasisum, and radon are found everywhere, in all rock and soil, in our bodies, and in the air we breathe. But if one uses the definition adopted by the International Commission on Radiological Protection, or by official national organizations that have ruled on the issue, the worst reactor accident would contaminate an area of 3,300 square miles—a circle with a thirty-mile radius—90 per cent of which could be readily decontaminated by such measures as washing hard surfaces with hoses and deep plowing of open fields. Of course any area can be decontaminated at a cost but it would probably be more practical to evacuate some areas for a period of time. In the worst accident, the evacuated area would probably be about three hundred square miles, equivalent to a circle with a ten-mile radius.

In most melt-downs the cost of such an evacuation—including decontamination costs and lost pay—would be less than $50 million, and in nine out of ten it would be less than $300 million. In 1 per cent of all melt-downs the cost would be over $2 billion, and once in ten thousand melt-downs it would reach $15 billion. Averaging over all situations gives a cost of less than $100 million per melt-down. By comparison, the property damage from coal-burning is estimated to be about $13 billion per year, so for the monetary cost to the public to be as large from nuclear power as it now is from coal-burning we would have to have a melt-down every three days.

Why then have the media given such a different impression of the costs and risks of a nuclear power accident?

For the first time in the history of our civilization, an industry has exerted an intense effort to determine its environmental effects in advance. Thousands of man-years of effort have been expended in dreaming up all the things that could go wrong in nuclear plants and in estimating the possible consequences. (In addition, $2 billion has been spent for research on health effects of radiation, many times more than has been spent studying air pollution, food additives, and other environmental hazards that are generally recognized in the scientific community as being far more dangerous.) With all of this effort, some very damaging scenarios can be developed, although they would have very small probabilities.

A reporter's job is to get an interesting story, something that will attract the attention of the public. If public interest in a nuclear reactor melt-down had not been aroused by the China Syndrome and the Harrisburg accident, the facts recited in this article would have been dull—most people don't understand probabilities. A reporter trying to make an interesting story out of it naturally picks the worst possible accident—45,000 cancers, $15 billion cost—to discuss. His story says that a nuclear accident could have these consequences, but readers and those reporting a story seldom make a sharp distinction between could and would. Since media people get most of their information from other media productions, powerful media figures ranging from Dan Rather to Johnny Carson have been convinced that a reactor melt-down is the ultimate disaster. With them preaching this gospel, the public is soon convinced.

Unfortunately, the consequences are tragic. Surely no one believes that we will have a melt-down every two weeks, or even every six months. There have already been over a thousand reactor-years of experience operating nuclear plants around the world, and there have been twice that in experience with naval reactors; and we have not yet had a single melt-down. There has never been an evacuation, although that would be the first action if there appeared to be even a reasonable chance of a melt-down. The Union of Concerned Scientists estimates that if all our electric power were nuclear we would have a melt-down on an average of once in five years: if that were accurate, we probably should have had one by now.

Nonetheless, as a result of the fear spread by the media, the U.S. is abandoning nuclear power. We are thus being deprived of our cheapest and safest form of energy at a time when we desperately need it. Utilities will build coal-fired rather than nuclear plants. Every time this is done, many hundreds of Americans will be condemned to premature death, and close to a billion dollars in extra property damage will be incurred. That is the price we are paying for the media's exciting story.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

ECONOMIC RECOVERY TAX ACT OF 1981

The PRESIDING OFFICER. The clerk will report the pending business by title.

The legislative clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

UP AMENDMENTS NOS. 296 AND 297
DEPENDENT CARE TAX CREDIT

Mr. HEINZ. Mr. President, I am pleased to be a cosponsor of the amendments offered by my distinguished colleagues from Ohio (Mr. METZENBAUM), Florida (Mrs. HAWKINS), Minnesota (Mr. DURENBERGER), and Oregon (Mr. PACKWOOD), to increase the existing child care tax credit, make it refundable, and provide increased incentives for employers to become involved in providing child care assistance for their employees.

Mr. President, these amendments are both necessary and timely. More mothers are entering the work force today than ever before. Ten years ago, 39 percent of our Nation's children had mothers in the work force. Today, the children of working mothers comprise one-half of all children under the age of 18. And projections show that this trend will continue through the end of this century.

This dramatic growth is taking place for two primary reasons. First, many women are breaking down the barriers that have traditionally kept them from pursuing successful professional careers. The second, and probably most common reason, is that difficult economic circumstances are compelling many women to enter the work force.

For example, one-fourth of all working mothers are single parents, and their incomes are much lower than those of other working families. Even in families with two parents working, if the mother's income were subtracted from the total family income, most of these families would fall below the poverty level.

Mr. President, increases in wages for these lower income families have not kept pace with the increases in inflation. As a result, many working families cannot afford to provide the basic necessities such as food and housing as well as the day care which is necessary for them to work. Today, the greatest single cost for most single parents and for many who are married is day care.

Millions of low-income women face the choice of leaving children without supervision for hours each day, or of dropping out of the work force to join the welfare ranks. In my judgment, neither of these choices are acceptable.

These amendments are designed to assist those who are working to help themselves and their families. They expand and improve the dependent care tax credit available under current law for low-income families.

While the present dependent care tax credit was designed for the dual purposes of recognizing child care as a business expense necessary for earning income and helping lower income working parents afford the day care expenses they incur while trying to maintain a minimal standard of living for their families, it has, in large part, been ineffective.

The current tax credit suffers from three major flaws. First, the tax benefits have favored those families using the credit as a business credit over those using it as a means of affording dependent care. Second, the allotted percentage of costs credited under the current tax credit is not adequate to meet child care costs for many low-income families. And third, the tax credit is meaningless to low-income families who have little or no income tax liability against which the credit can be claimed.

The amendments before us redesign the dependent care tax credit so that the poorest families gain the greatest benefit. The most important provisions in these amendments are that the credit would be refundable; that the amount of credit available to each family would be determined by a sliding scale, and that the total amount of credit available is increased to reflect the true costs of day care.

To summarize these important amendments:

First, the dependent care tax credit is increased to 30 percent for families with incomes of up to $10,000, decreasing by 1 percent for each additional $2,000 in income. For those with incomes above $30,000 the credit remains at 20 percent, the same as present law.

Second, the amount of day care expenses for which the credit may be taken is increased from $2,000 for one dependent and $4,000 for two or more dependents in present law to $2,400 for one dependent and $4,800 for two or more dependents in our amendments.

Third, for those with little or no tax liability, the credit is refundable.

Fourth, dependent care provided by an employer is not taxed as income to the employee; and

Fifth, employers who contract with day care providers receive a credit of 50 percent of the employer's expenses.

This means that, to a family with $10,000 of income and $2,400 of dependent care expenses, the credit increases from $400 in present law to $720 under our amendments. And if that family has little or no income-tax liability, they would receive up to $720 in refund from the Government. A family with $20,000 of income and $2,400 in expenses receives $200 more than under present law.

Mr. President, for thousands of American families, credit proposed by the amendments could mean the difference between work and welfare. It will assist families with the greatest need to compensate for budget reductions and to make ends meet during this time of high inflation and economic uncertainty. The amendments will help working mothers provide their children with the necessary supervision and care so vital to their development. And by targeting lower-income families through a sliding credit scale, we will enable women to participate in meaningful employment and help to raise their families above the poverty line.

I urge my colleagues to adopt these important amendments by supporting the motion before us.

CHILD CARE TAX CREDIT

● Mr. D'AMATO. Mr. President, every time an individual stays out of the labor force because adequate day care is unavailable or unaffordable, valuable productivity is lost. We must make it possible for people to work if we are to restore our economy to economic health. Providing tax credits for dependent care is an important step in this process.

Current law already allows working individuals to take a tax credit for day care costs up to $2,000 a year for a single dependent in day care or $4,000 if two or more dependents are in a day care. Thus, the maximum tax credit is $400 for one dependent and $800 for two or more. This is helpful, but it is simply not enough, especially for workers in low-paying jobs.

The present amendments have several provisions, but I believe that three of these are important enough to be addressed here. The first of these raises the allowable expenses against which the tax credit may be taken to $2,400 for one dependent and $4,800 for two or more. This 20 percent increase is necessary to compensate for recent inflation in day care costs. Anyone who believes that $200 a month for one child or $400 a month for two or more children is an overly generous allowance for day care expenses today has not recently had to secure day care for a child. If we let this credit lag behind day care costs, more and more working parents will decide that it simply is not worth it to work and their valuable contributions to our economy will be lost. It has been 5 years since the allowable expenses for credit were set at their current levels. They are no longer reflective of actual expenses. They must be increased.

The second provision would increase the current 20 percent credit on a sliding scale designed to primarily benefit middle and lower income working parents who need this assistance the most. No family would receive a smaller credit percentage than they do now, but most American families would see their credit percentage increase.

For families with annual incomes of $30,000 or more the credit would remain 20 percent as it is now. However, for every $1,000 less the family earned, their credit would be increased by half of 1 percent. Thus, families with $29,000 would receive a 20.59-percent credit; and so on. This gradual increase in the credit percentage as family income declined would continue down to families with incomes of $10,000 or less. Their credit percentage would be 30 percent.

Thus, the maximum credit for families with $10,000 in income would increase from its current $400 ($800 for two or more dependents in day care) to $720 ($1,400 for two or more dependents in

day care). However, for families with $30,000 in income the increase would only be from $400/$800 to $480/$960. This is as it should be. The Government must make it possible for all Americans to work through inducements such as this tax credit, rather than by becoming the employer of last resort itself.

The final provision of these amendments to which I would like to address myself at this time is the one that would make this tax credit refundable. This credit would be useless to those at the low end of the income scale unless this provision is included. If your income is too low to pay taxes, a tax credit such as this is of no help at all unless it is made refundable. If we want all Americans to work, and that must be our highest priority, we must find a way to get this relief to everyone, and refundability is the best way to do this. It would insure equity in the dependent care tax credit to all Americans, regardless of their income class.

Low- and middle-income families need this tax relief now. So, however, does the American economy as a whole which will benefit from the availability of more people made able to assume productive work upon being relieved of some of the financial burden of providing day care to their dependents. These are bipartisan amendments important to every working American family. I am pleased to be a cosponsor of both of these amendments. I urge their immediate adoption.●

Mr. STEVENS. Mr. President, I move to reconsider the voice vote by which the Metzenbaum-Durenberger-Hawkins-D'Amato day care center amendment was agreed to.

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

Mr. LONG. Mr. President, in order that the vote might reflect an "aye" vote being for the amendment, I move that the motion be laid on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

The Chair requests the Senator from Louisiana to once again restate his motion.

Mr. LONG. Mr. President, I move that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. The Senator from Louisiana is asking for the yeas and nays on the motion?

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

The PRESIDING OFFICER. The yeas have been requested.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The yeas and nays were ordered.

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

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there other Senators in the Chamber who wish to record their vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—94

Abdnor	Glenn	Murkowski
Andrews	Goldwater	Nickles
Armstrong	Gorton	Nunn
Baker	Grassley	Packwood
Baucus	Hart	Pell
Bentsen	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hayakawa	Pryor
Burdick	Heflin	Quayle
Byrd, Harry F., Jr.	Heinz	Randolph
	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Rudman
Chafee	Inouye	Sarbanes
Cochran	Jackson	Sasser
Cohen	Jepsen	Schmitt
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
DeConcini	Laxalt	Stennis
Denton	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Tsongas
Durenberger	Matsunaga	Wallop
Eagleton	Mattingly	Warner
East	Melcher	Weicker
Exon	Metzenbaum	Williams
Ford	Mitchell	Zorinsky
Garn	Moynihan	

NAYS—1

Biden

NOT VOTING—5

Bumpers	Humphrey	McClure
Chiles	Kennedy	

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

● Mr. CHILES. Mr. President, I was unable to be in the Chamber during the vote on the motion to table the motion to reconsider the Metzenbaum amendment on child care. I wish the record to show that had I been here, I would have voted "aye."●

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized to call up an amendment dealing with regulations on imputed interest rates.

Mr. DOLE. Mr. President, the distinguished Senator from Montana has agreed that his amendment might come at about 10:30 a.m. He will be meeting with the Treasury Secretary at 10 o'clock on this amendment. He has agreed to withhold offering the amendment contingent on what may happen at that meeting. Therefore, I ask unanimous consent that that amendment be temporarily set aside.

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

Mr. DOLE. Mr. President, as I understand it, the next amendment will be that of the Senator from Hawaii (Mr. MATSUNAGA).

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I advise the Chair that he is on his way to the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 308 (MODIFIED AMENDMENT NO. 495)

(Purpose: Providing that the at-risk rules not apply to certain energy property)

Mr. MATSUNAGA. Mr. President, I call up amendment No. 495 which has been modified and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA), for himself and others, proposes a modified version of printed amendment 495, which is unprinted amendment numbered 308.

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

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

The amendment is as follows:

On page 102, between lines 2 and 3, insert the following:

"(E) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—

"(i) IN GENERAL.—The provisions of subparagraph (A) shall not apply to amounts borrowed with respect to qualified energy property (other than amounts described in subparagraph (B)).

"(ii) QUALIFIED ENERGY PROPERTY.—The term 'qualified energy property' means energy property to which (but for this subparagraph) subparagraph (A) applies and—

"(I) which is described in clause (iii),

"(II) with respect to which the energy percentage determined under section 46(a)(2)(C) at the time such property is placed in service is greater than zero,

"(III) with respect to which the taxpayer, as of the close of the taxable year in which the property is placed in service, is at risk (within the meaning of section 465(b) without regard to paragraph (5) thereof) in an amount equal to at least 25 percent of the basis of the property, and

"(IV) with respect to which any nonrecourse financing (other than financing described in section 46(c)(8)(B)(ii)) in connection with such property consists of a level payment loan.

For purposes of subclause (II), the energy percentage for property described in clause (iii)(V) shall be treated as being greater than zero during any period the energy percentage for property described in section 48(1)(14) is greater than zero.

"(iii) PROPERTY TO WHICH THIS SUBPARAGRAPH APPLIES.—Energy property is described in this clause if such property is—

"(I) described in clause (ii), (iv), or (vii) of section 48(1)(2),

"(II) described in section 48(1)(15),

"(III) described in section 48(1)(3)(A)(iii) (but only to the extent such property is

used for converting an alternate substance into alcohol for fuel purposes),

"(IV) described in clause (i) of section 48(l)(2)(A) (but only to the extent such property is also described in section 48(l)(3)(A) (viii) or (ix)), or

"(V) property comprising a system for using the same energy source for the sequential generation of electrical power, mechanical shaft power, or both, in combination with steam, heat, or other forms of useful energy.

"(iv) LEVEL PAYMENT LOAN DEFINED.—The term 'level payment loan' means a loan in which each installment is substantially equal, a portion of each installment is attributable to the repayment of principal, and that portion is increased commensurate with decreases in the portion of the payment attributable to interest.

On page 104, line 15, strike out the end quotation marks and the end period.

On page 104, between lines 15 and 16, insert the following:

"(3) SPECIAL RULES FOR CERTAIN ENERGY PROPERTY.—

"(A) IN GENERAL.—In the case of the 2nd taxable year following the taxable year in which any qualified energy property (within the meaning of section 46(c)(8)(E)) is placed in service by the taxpayer and any succeeding taxable year, the taxpayer, for purposes of paragraph (1), shall be treated as ceasing to be at risk with respect to such property for such taxable year in an amount equal to the credit recapture amount (if any);

"(B) CREDIT RECAPTURE AMOUNT.—The term 'credit recapture amount' means an amount equal to the excess (if any) of—

"(i) the toal amount of principal to be paid as of the close of any taxable year under a nonrecourse level payment loan (other than a loan described in section 46(c)(8)(B)(ii)) with respect to such property, over

"(ii) the sum of—

"(I) the amount of principal actually paid as of the close of such taxable year, plus

"(II) the sum of the credit recapture amounts with respect to such property for all preceding taxable years.

"(C) SPECIAL RULES FOR DETERMINING PRINCIPAL TO BE PAID.—For purposes of subparagraph (B)(i), in determining the amount of the principal to be paid under a level payment loan, such determination shall be made as if such loan was to be fully repaid by the end of a period equal to the earlier of—

"(i) the present class life (as defined in section 168(g)(2)) of the property or, if the property has no present class life, a similar period determined by the Secretary, or

"(ii) the period at the end of which full repayment is to occur under the terms of the loan.

"(D) SPECIAL RULE FOR CERTAIN CUMULATIVE DEFICIENCIES.—If the excess of—

"(i) the amount of the total scheduled principal payments under a loan described in subparagraph (B)(i) as of the close of the taxable year, over

"(ii) the total principal actually paid under such loan as of the close of such taxable year,

is equal to or greater than the amount of such total scheduled payments for the 5-taxable year period ending with such taxable year, then, notwithstanding subparagraph (B), the credit recapture amount for such taxable year shall be equal to the principal remaining to be paid as of the close of such taxable year over the sum of the credit recapture amounts with respect to such property for all preceding taxable years.

"(E) SPECIAL RULE FOR CERTAIN DISPOSITIONS.—

"(i) IN GENERAL.—If any property which is held by the taxpayer and to which this paragraph applies is disposed of by the taxpayer, then, for purposes of paragraph (1) and notwithstanding subparagraph (B), the credit recapture amount for the taxpayer shall be an amount equal to the unpaid principal on the loan described in subparagraph (B)(i) as of the date of disposition.

"(ii) ASSUMPTIONS.—Any amount of the loan described in subparagraph (B)(i) which is assumed by any person shall be treated for purposes of clause (i) as not reducing unpaid principal with respect to such loan.

"(F) APPLICATION WITH SUBSECTION (a).—The amount of any increase in tax under subsection (a) with respect to any property to which this paragraph applies shall be determined by reducing the qualified investment with respect to such property by the aggregate credit recapture amounts for all taxable years under this paragraph.

"(G) ADDITIONAL INTEREST.—In the case of any increase in tax under paragraph (1) by reason of the application of this paragraph, there shall be added to such tax interest on such tax (determined under section 6621 as if the increase in tax under paragraph (1) was for the taxable year in which the property was placed in service).

Mr. MATSUNAGA. Mr. President, the amendment is a modified amendment and it is not in printed form, but it is the amendment which has been agreed to by all concerned, including the majority and minority staffs and the Treasury.

Mr. President, the amendment which I am offering is cosponsored by 59 Senators from both sides of the political aisle. In alphabetical order, they are as follows: Senators ARMSTRONG, BAUCUS, BENTSEN, BOREN, BRADLEY, BUMPERS, BURDICK, ROBERT C. BYRD, HARRY F. BYRD, JR., COHEN, CRANSTON, DANFORTH, DECONCINI, DENTON, DIXON, DODD, DURENBERGER, EAGLETON, EXON, FORD, GARN, GLENN, GORTON, GRASSLEY, HART, HATFIELD, HAYAKAWA, HEFLIN, HEINZ, HOLLINGS, HUDDLESTON, INOUYE, JACKSON, JEPSEN, JOHNSTON, KENNEDY, LEAHY, LEVIN, LONG, MELCHER, MITCHELL, MOYNIHAN, MURKOWSKI, PACKWOOD, PELL, PERCY, PRESSLER, PRYOR, RANDOLPH, RIEGLE, RUDMAN, SARBANES, SASSER, TSONGAS, WARNER, WEICKER, WILLIAMS, and ZORINSKY.

Mr. President, the tax bill, House Joint Resolution 266, as reported by the Finance Committee, contains a little-known provision that would deal a devastating blow to the development of alternative energy. In this respect, I wish to remind my colleagues that in 1978 and 1979, the Senate overwhelmingly supported alternative energy production. On the Senate floor most of us here today voted for the amendments that established the present energy tax credits.

These tax credits have encouraged farmers to support gasohol production, southern food processors and textile mills to utilize solar process heating, irrigation districts and towns to develop hydroelectric facilities, and industries throughout the country to develop wind energy and cogeneration. These tax credits have become increasingly vital, because the administration's budget has slashed Federal assistance for renewable fuel projects.

But now, the bill, as drafted, would even remove incentives to commercialization of alternative energy by cutting back on investment and energy tax credits. The Treasury Department does not seek to repeal the energy tax credits directly, but would effectively curtail the energy credits indirectly through its at-risk rule. Under this rule, if equipment is bought with a nonrecourse loan from anyone other than an established financial institution, insurance company or government agency, the tax credit would be denied to the extent of that nonrecourse loan. In effect, the tax incentives available to the private sector under existing law would be repealed by this complex at-risk provision, quietly stuck into this bill, without the benefit of any hearings, without giving those who would be affected the opportunity to be heard.

In all fairness to the Treasury Department which drafted this at-risk rule, I want to explain that its intention is laudable, for it is seeking to strike at a recognized abuse of tax shelters in the lithograph plate and master recording business. In these businesses, sellers have been known to set an artificial, inflated value on the plates or master recording to escalate the buyers' investment tax credit. Under this scheme the buyer would actually pay only a fraction of the price, and the unpaid balance would be covered by a nonrecourse loan from the seller to the buyer. The buyer would thus be allowed to recover his investment in 2 or 3 years from the tax benefits alone. The total inflated investment itself would never pay off economically, because the agreed price would be inflated beyond reality. After 7 years, when the investment-credit recapture period would lapse, the buyer could walk away from the scheme without liability on the unpaid balance of the loan; and the seller would simply foreclose on the master recording or the lithograph plate and discharge the loan.

The at-risk provision in the bill would completely wipe out these nefarious schemes by disallowing any investment tax credit to the extent of the nonrecourse loan, and I would have no quarrel with the Treasury Department, if the proposal were limited to doing away with these abusive practices. But what the provision, as drafted in the bill, would do is to throw out the baby with the dirty bath water. My amendment would throw out the dirty wash but save the baby.

Treasury officials have admitted that their at-risk rule is a bludgeon. It does not differentiate between valid nonrecourse financing and sham nonrecourse financing. Under the Treasury's proposal, legitimate transactions will be shut off with the sham, but the Treasury is willing to close down legitimate deals to reach the bogus tax shelters, until we finally convince them that our position is the right one.

The Treasury's proposal is an in terrorem rule, designed to scare individuals away from artificial tax shelters. To this general rule the Treasury has provided a very narrow exception, under which the investment tax credits would be allowed if the buyer obtains his nonrecourse loan from a regulated financial institution, insurance company, or Gov-

ernment agency. These institutions, the Treasury reasons, exercise sufficient care and review for their own protection to prevent artificially high valuation of the property in question. Nonrecourse financing, from any other source, however, would lose the tax credit to the extent of the loan.

What puzzles me and bothers me is that Treasury officials have taken this narrow position, knowing full well that most alternative energy projects are unable to obtain conventional financing. Banks and insurance companies simply will not lend money for innovative, unproven technology. Developers themselves are not willing to undertake risky alternative energy projects if it means making themselves personally liable beyond the redeemable value of the equipment. Consequently, these projects are funded chiefly through nonrecourse borrowing from the equipment manufacturer or the seller who has an interest and stake in the full development of the new technology and not the regulated loan institutions.

Businessmen realize that the commercial viability of many alternative energy projects is unknown, but the energy tax credits provided by Congress make the risk worth the taking. It is the energy tax credits which prompt Americans to invest in the development and commercialization of alternative energy. Congress, in its wisdom, saw the need for providing such incentives in 1978 and 1979 in the national effort to attain energy independence. The Treasury's at-risk provision, if left unamended, would frustrate this national effort.

Moreover, the at-risk proposal is much more draconian than it appears on its surface. It will, in fact, deny the investment tax credit to a businessman who finances the purchase of a Chevy delivery truck with a nonrecourse loan from the General Motors Acceptance Corp., or to a tool shop operator who buys his electrical generator with a nonrecourse loan from the General Electric Finance Corp. General Electric, General Motors, Ford Motors Acceptance Corp., and Household Finance, provide billions of dollars in loans to businesses. But under the Treasury's proposal, these lenders are not qualified sources. A businessman who buys equipment with nonrecourse loans from any of these sources would lose the investment tax credit to the extent of the loan. The Treasury's provision is so broad that it will not only close off the bogus nonrecourse loan from the lithograph peddler, but it will also close off legitimate nonrecourse loans from General Motors Acceptance Corp. and other well accepted sources.

Be that as it may, our amendment has the simple objective of preserving legitimate transactions in several alternative energy areas—solar, wind, hydroelectric, cogeneration, biomass, geothermal, and ocean thermal energy. Projects in these fields, although financed with nonrecourse loans, would continue to benefit from the full, undiminished energy tax credit and investment tax credit, as they are under present law. To insure that these energy projects involve genuine loans with a real economic value, and are not sham projects, our amendment will establish a financial test. Under this test, the nonrecourse loan must be repaid on a pro rata basis over the midpoint ADR (asset depreciation range) life of the equipment. In other words, the loan must have the indicia of a true repayable loan; otherwise, the buyer must forfeit all investment and energy tax credits, and reimburse the Federal Government for any credits wrongfully taken, with interest.

This special rule provided in our amendment would apply to alternative energy projects so long as the energy tax credit is in effect. When the energy tax credit expires, this special rule would also expire. This sunset provision would insure that the Energy Tax Credit Act is given a fair chance to achieve its objectives and not be surreptitiously foiled by any new at-risk rule.

I believe our amendment provides adequate safeguards to meet the Treasury Department's concern. It presents a fair and most sensible compromise for the implementation of the policy we established in 1978 and 1979 to foster alternative energy development through tax credits. Our amendment would simply retain present law and would not mean any loss in revenues.

I repeat, our amendment would simply retain present law and would not mean any loss in revenues.

Mr. President, I urge the adoption of the amendment which, I repeat, is cosponsored by a bipartisan group of 59 Senators from both sides of the aisle.

The names of the following Senators were added as cosponsors of the amendment: Mr. BRADLEY, Mr. DENTON, Mr. GORTON, Mr. HEINZ, Mr. JOHNSTON, and Mr. MURKOWSKI.

Mr. RANDOLPH. Mr. President, will my able colleague from Hawaii yield?

Mr. MATSUNAGA. I am more than happy to yield to the senior Senator from West Virginia, a cosponsor of the amendment.

Mr. RANDOLPH. Mr. President, with 53 cosponsors, the able Senator from Hawaii, as the sponsor of the amendment, cannot lose. It is not difficult to add the names and note more than one-half of the Senate membership endorses your worthwhile proposal.

The substance of the amendment is well documented. He is very energetic as he offers this energy tax credit.

Mr. MATSUNAGA. The name is "Sparkie."

Mr. RANDOLPH. You do spark good legislation.

Mr. MATSUNAGA. I thank my colleague.

Mr. RANDOLPH. "Sparkie" rather than "energetic"?

Mr. MATSUNAGA. Spark is energetic.

Mr. RANDOLPH. I have listened very carefully to the explanation of the provisions of the amendment. It reflects in a very genuine degree the need, when we can do it, and we can do it, we must foster and assist alternate forms of energy.

The PRESIDING OFFICER (Mr. COCHRAN). The time of the Senator from Hawaii has expired.

The Senator from Kansas has 15 minutes.

Mr. DOLE. Mr. President, I am happy to yield additional time to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I thank our affable floor manager. Many of us in this body have worked in the past on synthetic fuels and other alternatives to the imported petroleum coming from OPEC countries overseas. In this amendment there is the opportunity to give incentives to those forms of energy which sometimes are not mentioned in the discussion of energy alternatives available to us.

Fostering agricultural products to produce ethanol can help to alleviate possible transportation fuel shortages if needed. Biomass fuels can be burned directly to produce heat or converted to gaseous or liquid fuels by a variety of processes, which can serve as gasoline extenders or octane boosters.

It is constructive for the Senate, good for the Congress, and for the country to provide incentives for development of organic fuels, other than fossil, wind power, and direct generation of electricity from the Sun through photovoltaics.

We discussed yesterday, Senator HART, especially, that the so-called glut in petroleum today can be a mirage, it can vanish. We must not turn away from giving incentives to private commercial development of hydroelectric, geothermal and ocean thermal energy at the same time we cut research funds for this program. This is what the Senator is doing here today—seeing that what we do in the alternate energy programs of this country are continued, fostered and encouraged. This amendment does that very well.

Mr. MATSUNAGA. I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Under the committee bill, the amount of basis taken into account in computing the investment tax credit is limited to the amount the taxpayer is at risk.

Under the amendment, the investment tax credit is allowed to certain energy property placed in service by the taxpayer if the taxpayer is at risk at least 25 percent of the basis of the property and if the property is financed with a nonrecourse level payment loan over not longer than the class life of the property. If in any year after the first year after the year the property is placed in service, any principal on the loan is not paid, the investment credit attributable to that amount of principal is recaptured, with interest. If the taxpayer falls substantially in arrears over a 5-year period or if the taxpayer disposes of the property, the entire credit attributable to the unpaid balance of the loan is likewise recaptured. This credit recapture is computed separately from any recapture arising from a disposition during the first 7 years of the life of property, but in no event is any double recapture required.

Mr. President, as always, I appreciate the comments of the distinguished Senator from West Virginia, and also the splendid remarks of the Senator from Hawaii.

He is correct. This is an amendment which does have widespread bipartisan, across-the-board support. There were some minor modifications suggested by the Treasury, and they have been made.

We are willing to accept the amendment.

I understand the Senator from Hawaii would like the yeas and nays on the amendment. I ask unanimous consent—and this has been cleared with both the minority and majority leaders—that the vote on this amendment occur, in addition to any other votes ordered, not before the hour of 2 o'clock.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from Montana. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I understand the request is not yet cleared on this side. Apparently it is not yet cleared, and for the time being I will have to object until the request is made at a later time.

The PRESIDING OFFICER. Objection is heard.

Is there a sufficient second on the request for the yeas and nays of the Senator from Hawaii? Apparently there is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. 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. 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.

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

The PRESIDING OFFICER. All time having been yielded back, the yeas and nays having beeen ordered on the amendment of the Senator from Hawaii, the question is on agreeing to the amendment of the Senator from Hawaii. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. MCCLURE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—97

Abdnor	Byrd, Robert C.	Durenberger
Andrews	Cannon	Eagleton
Armstrong	Chafee	East
Baker	Chiles	Exon
Baucus	Cochran	Ford
Bentsen	Cohen	Garn
Biden	Cranston	Glenn
Boren	D'Amato	Goldwater
Boschwitz	Danforth	Gorton
Bradley	DeConcini	Grassley
Bumpers	Denton	Hart
Burdick	Dixon	Hatch
Byrd, Harry F., Jr.	Dodd	Hatfield
	Dole	Hawkins
Hayakawa	Mathias	Roth
Heflin	Matsunaga	Rudman
Heinz	Mattingly	Sarbanes
Helms	Melcher	Sasser
Hollings	Metzenbaum	Schmitt
Huddleston	Mitchell	Simpson
Humphrey	Moynihan	Specter
Inouye	Murkowski	Stafford
Jackson	Nickles	Stennis
Jepsen	Nunn	Stevens
Johnston	Packwood	Symms
Kassebaum	Pell	Thurmond
Kasten	Percy	Tsongas
Kennedy	Pressler	Wallop
Laxalt	Proxmire	Warner
Leahy	Pryor	Weicker
Levin	Quayle	Williams
Long	Randolph	Zorinsky
Lugar	Riegle	

NOT VOTING—3

Domenici	McClure	Tower

So Mr. MATSUNAGA's amendment (UP No. 308) was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana (Mr. MELCHER) is recognized to call up an amendment dealing with regulations on the imputed interest rate.

Mr. DOLE. Mr. President, at this moment the distinguished Senator from Montana (Mr. MELCHER), Senator JEPSEN, Senator DURENBERGER, and Senator BOSCHWITZ are in conference with the Secretary of the Treasury trying to work out some agreement on that proposal.

I suggest the absence of a quorum and ask that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

MOTION TO TABLE MOTION TO RECONSIDER VOTE ON UP AMENDMENT NO. 300

Mr. DOLE. Mr. President, yesterday, there was accepted an amendment on withholding of tax on sales of real estate by foreign-owned interests. A motion to reconsider that vote was not made. At the suggestion of the distinguished Senator from Louisiana. and I know of no one who has objection to that amendment, I now move to reconsider the vote on that amendment.

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

The motion to lay on the table was agreed to.

WITHHOLDING OF TAX ON DISPOSITIONS OF U.S. REAL ESTATE OWNED BY FOREIGNERS

Mr. DOLE. Mr. President, last year, the Congress adopted legislation requiring that foreign persons who dispose of U.S. real property interests pay tax on any gain realized on the disposition. The intent of the legislation was not to discriminate against foreign investors, but to treat them the same as U.S. persons by removing certain preferential tax treatment previously accorded them. The net result is that, like Americans, foreign sellers of U.S. real estate now must pay U.S. tax on their gain.

WITHHOLDING

A major problem with this legislation is that it can often be easily evaded. Since the tax is not due until a tax return is filed after the end of the year, a foreign person can sell his U.S. real estate, take the proceeds out of the United States and, since he is beyond the legal jurisdiction of the United States, not pay any tax to the United States on the sale. Moreover, through nominees and foreign corporations established in tax havens, he can reinvest these untaxed proceeds back in the United States with impunity.

The Senate version of this legislation sought to deal with this problem by requiring that the purchaser of the U.S. real estate withhold the tax that would be due on the sale. This is the method used to insure collection of tax on other payments of income to foreign persons, and in fact is used by almost all countries.

The conference dropped the withholding provision. The conferees were concerned about protecting withholding agents who might not know that a seller is really a foreign person. The conferees agreed that it would be neecssary to structure withholding provisions carefully to insure that they would not inadvertently disrupt the U.S. real estate market or expose U.S. buyers or U.S. agents of foreign sellers of U.S. real estate to liability where such liability is not appropriate.

Since last year, significant attention has been given to insuring that those entitled to protection are protected. The provision that I am introducing today meets the dual objectives of insuring the collection of U.S. tax due when foreign investors sell U.S. real estate, and protecting U.S. purchasers and their agents.

In lieu of withholding, the provisions of the real estate bill are currently being enforced through information reporting. This reporting can place a significant burden on those who are willing to pay the U.S. tax but who are afraid to identify themselves because of possible prosecutions in their home country. Furthermore, this will eliminate the problem of identifying owners of bearer shares. It will also relieve U.S. persons of significant paperwork. Adoption of withholding will enable some of these reporting requirements to be relaxed or eliminated.

The provision requires withholding by a purchaser, purchaser's agents, or any settlement officer or seller's agent where U.S. real estate is acquired from a foreign person.

The amount to be withheld is the smallest of: first, 20 percent of the sales price; second, the seller's maximum tax liability, discussed below; or third, the fair market value of that portion of the sale proceeds which is within the withholder's control. The seller's maximum tax liability is the maximum amount which the Treasury determines that the seller could owe on his gain on the sale plus any unsatisfied prior withholding tax liabilities of prior foreign owners with respect to that property

that, under the provisions of the amendment, the seller was required to withhold when he bought the property but failed to do so.

The withholding requirement would apply only if the purchaser knows or has received a notice that the seller is a foreign person. The seller is required to notify the purchaser, the purchaser's agent, and settlement officer that the seller is a foreign person. The seller's agent is also required to notify the purchaser that the seller is a foreign person if the agent has reason to believe that the seller may be a foreign person.

The withholding is thus required only if the purchaser has actual knowledge that the seller is foreign or has received notice that the seller is foreign. However, the seller's agent is relieved of any responsibility to give notice to a purchaser if he relies in good faith on a written statement of the seller—or, in the case of a seller's agent retained by another agent of the seller a written statement by that other seller's agent—that the seller is a U.S. person.

No withholding is required if the purchaser is to use the real property as his principal residence and the purchase price is $200,000 or less. Also, withholding is not required if the seller obtains a qualifying statement from the Treasury that he is exempt from tax or has provided adequate security for payment of the tax, or has otherwise made arrangements with Treasury for the payment of the tax. Furthermore, withholding is not required if the property being sold is stock of a corporation and the sale takes place on an established U.S. securities market.

The provision provides that a seller agent who does not carry out his obligation to provide notice will be required to withhold any of the purchaser's consideration he has within his control, including any compensation received by him in connection with the transaction.

Provision is made for the Treasury, upon request of the seller or any withholding agent, to reduce the amount of withholding otherwise required. Any request, as well as a request for a qualifying statement, must be acted upon within 30 days of receipt of the request.

The provision sets forth special rules for withholding by a domestic partnership, a trustee of a domestic trust, or an executor of a domestic estate. These persons will be required to withhold from amounts which such entities have in their custody and which are attributable to the disposition of a U.S. real property interest, but only if the amounts are income of a nonresident alien individual or foreign corporation, partnership, trust, or estate.

Special rules are also provided requiring withholding where a U.S. real property interest is distributed by a foreign corporation or is disposed of in a transaction which, under the general rules in the Code, would be a nonrecognition transaction. For example, it is intended that, where a foreign corporation distributes U.S. real property interest to its shareholders, it would be required to withhold a tax equal to 20 percent of the fair market value of the property reduced by the adjusted basis of the property.

TECHNICAL AMENDMENTS

Certain problems with the legislation have come to our attention. Due to the complexity of the legislation and its interaction with the nonrecognition provisions of the Code, and with U.S. income tax treaties, it can be argued that there are certain loopholes. While most, if not all, of the transactions are already covered by the present statute because of the great latitude given to the Secretary of the Treasury to prescribe regulations to prevent tax avoidance, clarification will help avoid any misunderstandings.

VIRGIN ISLANDS CORPORATIONS

Under present law, gains realized by foreign investors on the sale of U.S. real property are subject to U.S. tax unless the property is held by a Virgin Islands corporation. This arises because section 28(a) of the Revised Organic Act of the Virgin Islands provides that Virgin Islands corporations satisfy their U.S. income tax obligations by paying their tax on worldwide income to the Virgin Islands under the so-called mirror system. The mirror system means that the name "Virgin Islands" is substituted for the name "United States," and vice versa, wherever such names appear in the U.S. income tax laws.

For purposes of the Virgin Islands mirror tax, a Virgin Islands corporation is a domestic corporation and arguably may avoid tax on its capital gains if it sells its U.S. real estate and liquidates under the rules prescribed by section 337. It can be argued that gains realized by the foreign shareholders will also escape Virgin Islands tax, since section 897, as mirrored, can be read to impose a tax on gain from a disposition of a Virgin Islands real property interest, but not from a U.S. real property interest.

This problem does not exist for the other possessions of the United States.

The amendment would provide that a U.S. real property interest includes an interest in real property located in the United States or the Virgin Islands. Under this definition, a foreign shareholder of a Virgin Islands corporation would be subject to tax on gain on the disposition of property under the mirrored section 897.

To prevent double taxation, the amendment provides that a person subject to tax because of section 897 shall pay such tax and file the necessary returns with the United States with respect to real property interests in the United States, and with the Virgin Islands with respect to a real property interest located in the Virgin Islands. Sale of an interest, other than solely as a creditor, in a U.S. real property holding corporation shall be subject to tax in the United States while the tax on the sale of an interest in a Virgin Islands real property holding corporation will be paid to the Virgin Islands.

The source rules are amended to provide that gain on an interest in real property located in the United States is U.S. source income; gain on an interest located in real property in the Virgin Islands is foreign source income. This insures that the gain will be taxed as income that is effectively connected with the conduct of a trade or business in the United States or the Virgin Islands, as the case may be. This amendment will insure that a U.S. person subject to Virgin Island tax on the disposition of Virgin Island property can take a foreign tax credit against his U.S. liability for such tax.

PARTNERSHIP ASSETS

Current taxation applies to the disposition of an interest in a U.S. real property holding corporation, which is a U.S. corporation 50 percent or more of the fair market value of the assets of which consists of U.S. real property. If a corporation is a partner, only the U.S. real property of the partnership is taken into account for purposes of determining whether a corporation is a U.S. real property holding corporation.

The amendment provides that for purposes of determining whether a corporation is a U.S. real property holding corporation, the corporate partner takes into account its proportionate share of all assets of the partnership. Thus, for example, the corporate partner would count its proportionate share of the foreign real estate of the partnership. The same rules apply to trusts and estates in which a corporation has an interest. The amendment also makes clear that the same rules apply to a chain of successive partnerships, trusts or estates.

TAXATION IN CARRYOVER BASIS CASES

Under present law, the Treasury has the authority to override the nonrecognition provisions of the Code in the case of certain transfers of a U.S. real property interest. Some taxpayers have apparently questioned the Treasury's authority to do this where the basis of the property carries over to the new holder. The amendment makes clear the Treasury's authority to provide for recognition of gain where a carryover basis transaction is entered into for the purpose of avoiding Federal income tax on the transaction. Taxation is specifically provided for if, at the time of receipt of the property, the distribution would not be subject to tax on a later disposition of the property by the recipient.

NONDISCRIMINATION

U.S. income tax treaties generally contain a provision that provides for nondiscriminatory tax treatment by the treaty partners of U.S. residents and residents of the treaty partner. A similar provision is contained in some friendship, commerce and navigation treaties. Some taxpayers are of the view that these provisions override the foreign investment in U.S. real estate rules. Present law avoids any possible claim that a foreign corporation is discriminated against by allowing a foreign corporation that has a permanent establishment in the United States to elect to be treated as a domestic corporation, but only if, under a treaty, the permanent establishment may not be treated less favorably than domestic corporations carrying on the same activities. The treaties are overridden by the legislation, but not until 1985.

Despite this provision and the intent of Congress, we understand that some taxpayers may be taking the position that because of technical problems under old treaties, they cannot make the election and therefore are being discriminated against. This enables taxpayers to plan around the provision.

The amendment makes clear that under section 897(i), any foreign corporation may make an election to be treated as a domestic corporation for purposes of section 897 of the Code and the related reporting requirements if the corporation owns a U.S. real property interest, and, under any treaty obligation of the United States, the foreign corporation is entitled to nondiscriminatory treatment with respect to that interest.

The election may be revoked only with consent of the Secretary. The election can be made only if all shareholders of the corporation at the time of the election consent to the election and specifically agree that any gain from the disposition of the interest after June 18, 1980, the effective date of the original legislation, which would be taken into account under the legislation will be taxable even if such taxation would not be allowed under a treaty to which the United States is a party. If a class of interest is traded on an established securities market, then the consent need only be made by a person who held more than 5 percent of that class of interest.

The amendment also makes clear that the election provided by this provision is the exclusive remedy for any person claiming discriminatory treatment because of sections 897 or 6039(C) or both of them.

INDIRECT HOLDINGS

The amendment would make clear that for purposes of determining whether a corporation has substantial U.S. real property investors, and therefore must report, the foreign corporation must look through to the assets of any U.S. corporations in which the foreign corporation has an interest.

CONTRIBUTIONS TO CAPITAL

Under present law, an argument has been made that a foreign investor can avoid paying U.S. tax on their gain from the disposition of a U.S. real property interest through the device of contributing that interest to the capital of a foreign corporation in which he is a shareholder. The amendment clarifies present law by specifically providing that gain will be recognized on such a transaction to the extent of the fair market value of the property transferred over the adjusted bases and any other gain recognized by the transferor.

LIQUIDATION OF FOREIGN CORPORATIONS

Under present law, a foreign corporation is taxed when it sells or exchanges a U.S. real property interest. Taxation applies even if the sale would otherwise be tax-free under the nonrecognition liquidation provisions of the Code. Under the legislation as reported by the Senate Finance Committee on December 15, 1979, and the House Ways and Means Committee on June 18, 1980, a foreign corporation could have taken advantage of the tax-free liquidation provisions, but the foreign shareholders would have been taxed on the exchange of their stock, which was a real property interest, for the property distributed.

In the case of a U.S. person acquiring the stock of a foreign corporation from a foreign person between December 15, 1979, and November 26, 1980, it would have been reasonable to assume that the tax, if any, due with respect to the unrealized appreciation of the U.S. real estate would have been borne by the foreign seller of the corporation's stock. The conference action shifted that burden to the liquidating corporation—effectively the acquiring shareholders. Thus, in the case of an acquiring U.S. corporation, it now owns the stock of a foreign corporation that has a substantial tax liability due on its U.S. real estate. In contrast, if the U.S. corporation had acquired the stock of a U.S. corporation, it could have liquidated the corporation without a tax liability and received a step-up in basis of the U.S. real estate to its fair market value.

The amendment would allow foreign corporations that were acquired during the period that began before November 26, 1980, to elect to be treated as a U.S. corporation for purposes of liquidating under section 334(b)(2) of the Code. This will enable those corporations to liquidate tax-free with a corresponding step-in basis of the U.S. real estate in the hands of the U.S. purchaser corporation. As a corollary, a selling foreign shareholder would be taxable on the sale of stock of an electing foreign corporation if the sale occurs after June 18, 1980. This is the treatment they anticipated before the conference.

A separate problem arises in situations where a U.S. individual has held stock of a foreign corporation which holds U.S. real estate. Under present law, upon a 12-month liquidation of the foreign corporation, there would be a tax at the corporate level on the U.S. real property interest, as well as a tax at the shareholder level. If the acquired corporation had been a U.S. corporation, the liquidation could have been accomplished tax-free at the corporate level with a tax remaining at the shareholder level. The double tax in the case of U.S. shareholders of foreign corporations was not intended.

The amendment relieves this burden by giving U.S. shareholders who acquired their interests prior to the effective date of this legislation a credit against any tax imposed on them on the surrender of their stock in the liquidating foreign corporation. The credit is equal to the tax imposed on the liquidating foreign corporation on the sale of the U.S. real property. This rule would apply only if the U.S. persons continuously held the stock since June 18, 1980, the effective date of the legislation.

APPLICATION OF TREATIES

Public Law 96-499 provided that existing treaties will take precedence over the real estate legislation until January 1, 1985. However, if a new treaty is negotiated to resolve conflicts with this legislation, the provisions of the old treaty will apply for 2 years after the new treaty is signed. The effect of this effective date provision on treaties with countries with which we already signed a treaty is unclear.

The amendment would make clear that, in order for a new treaty to begin the 2-year period, it must have been signed on or after January 1, 1981, and before January 1, 1985. It also makes clear that the old treaty with that country will take precedence over the legislation for 2 years after the new treaty is signed, even if that 2-year period ends after December 31, 1984. If a new treaty was signed before January 1, 1981, the old treaty will continue to apply until December 31, 1984, or, if earlier, until the new treaty is ratified.

EFFECTIVE DATE

These provisions apply to dispositions after June 18, 1980.

REVENUE EFFECT

This provision increases revenue by $73 million in fiscal year 1982, $6 million in 1983, and $9 million in 1984 and thereafter.

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. BENTSEN. 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. BENTSEN. Mr. President, I ask unanimous consent that such amendments now being considered be temporarily laid aside so that I may propose an amendment which I believe has been agreed to by the manager of the joint resolution and I believe will be acceptable to all Members involved.

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

UP AMENDMENT NO. 309

(Purpose: To provide for a 1 percent limit on the percentage limitation on additions to loan loss revenues by banks for 1982)

Mr. BENTSEN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) for himself, Mr. CRANSTON, Mr. PROXMIRE, Mr. BOREN, Mr. SYMMS, Mr. DANFORTH, Mr. D'AMATO, and Mr. ZORINSKY, proposes an unprinted amendment numbered 309.

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

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

The amendment is as follows:

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

SEC. . LIMITATION ON ADDITIONS TO BANK LOAN LOSS RESERVES.

(a) IN GENERAL.—Subsection (b) of section 585 (relating to addition to reserves for bad debts) is amended—

(1) by striking out "but before 1982; and 0.6 percent for taxable years beginning after 1981" in the first sentence after subparagraph (b) of paragraph (2) and inserting in lieu

thereof "but before 1982; 1.0 percent for taxable years beginning in 1982; and 0.6 percent for taxable years beginning after 1982", and

(2) by striking out "but before 1982, the last taxable year beginning before 1976, and for taxable years beginning after 1981, the last taxable year beginning before 1982" in the last sentence of such subsection and inserting in lieu thereof the following: "but before 1983, the last taxable year beginning before 1976, and for taxable years beginning after 1982, the last taxable year beginning before 1983"

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after 1981.

Mr. BENTSEN. Mr. President, this is an amendment to deal with the question of the reserve for loan losses. We have a type of monetary policy that we have not experienced before in the country, and we are treading some water that can be quite deep.

We are seeing an increase in bankruptcies in the country. I frankly do not think it is appropriate at a time like that to reduce the reserve for loan losses. As to the reserve for loan losses, the present procedure for the diminishing of that percentage was started in 1969. It is now at 1.2 percent and at the beginning of next year will go to six-tenths of 1 percent.

We have seen some of the problems with the thrift institutions in this country. I do not want to see in any way their being duplicated by any of the other financial institutions such as banks.

At the present time, the banks have no such problems, but obviously bankruptcies on their loans are going up and I think we are going to see their losses on loans escalate substantially.

I have discussed this matter with the manager of the joint resolution. I have discussed it with Treasury as he has, I believe. There is agreement by all the parties that I have mentioned that we modify the original amendment that I had introduced that would have sustained it at 1.2 percent and that for the next year starting January 1982, instead of going from 1.2 percent it will go to 1 percent. And during that period of time we will see what happens concerning the bankruptcy rate in the country and what effect the monetary policy might have and, of course, if hearings were called during that period of time that also would be of interest, I should think.

I yield to the manager of the joint resolution.

Mr. DANFORTH. Mr. President, under the Tax Reform Act of 1969, the percentage limitation on the amount of the deduction allowable to banks for additions to their reserve for loan losses will drop at the end of 1981 from 1.2 percent to 0.6 percent. In addition. this 0.6-percent limit is scheduled to drop to zero in 1988 at which time the bank loan loss reserve deduction must be computed by the experience method.

Several of my constituents have expressed concern over these scheduled changes. Some have said that they believe the experience method does not accurately reflect bank loan reserve requirements because it is designed to predict only the next year's losses, not losses inherent in a loan portfolio which will occur in subsequent years. Others have pointed out that bank loan losses have been increasing dramatically during the years since the 1969 act was passed.

During the 1970's, Mr. President, the total for the banking system as a whole averaged $2.07 billion per year, compared with an average of about $300 million during 1960–69. In the worst years, 1975 and 1976, net loan losses were well over $3 billion as compared with less than $450 million in 1967, the worst year for loan losses during the three decades preceding the passage of the Tax Reform Act of 1968. Arthur D. Little, Inc., has determined in a March 1981 study that a reserve of 1.3 percent would be necessary to provide an adequate reserve for loan losses.

Mr. President, I believe that the tax law should encourage banks to maintain their reserves for loan losses at adequate levels. I am concerned that the scheduled changes in this area may actually discourage retention of loan loss reserves at prudent levels. I am pleased to join in cosponsoring this amendment which will provide Congress a period of time to examine this question while encouraging banks to maintain their reserves for loan losses at adequate and prudent levels.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from Nebraska (Mr. ZORINSKY) be added as a cosponsor.

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

Mr. DOLE. Mr. President, I wonder if the Senator from Texas would mind if the Senator from Missouri (Senator DANFORTH) joins him in this amendment?

Mr. BENTSEN. I am delighted.

Mr. DOLE. And the Senator from New York, Senator D'AMATO.

Mr. BENTSEN. Of course. I am very pleased to have them as cosponsors.

Mr. DOLE. Mr. President, I so ask unanimous consent.

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

Mr. DOLE. Mr. President, the Senator from Texas is correct in his statement, and we have no objection to the amendment.

He has discussed this, I might add, with Treasury officials a number of times. They have come to an agreement which I think is a good agreement. I think it is needed.

I commend the distinguished Senator from Texas for his efforts on this amendment.

We are willing to accept the amendment.

I assume it has been discussed with the distinguished Senator from Louisiana.

Mr. BENTSEN. I have discussed it with the Senator earlier. He was in one of the meetings where we discussed it.

Mr. President, I yield back the remainder of my time if that is agreeable.

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 309) was agreed to.

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

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, while the Senator is in the Chamber, I think there are two other amendments. Does the Senator plan to call up any other amendments? We wish to complete action today. There is one on stock options, which I understand is contingent upon with respect to what happens to the pending amendment. We are trying to reach some agreement on that. And the other one is on qualified progress.

Mr. BENTSEN. I have no plans to bring up the one on qualified progress payments.

Mr. DOLE. And the other one depends on the disposition of this amendment?

Mr. BENTSEN. The other one depends on what happens to the Senator's amendment.

Mr. DOLE. Does the Senator mind if we remove the other one from our list?

Mr. BENTSEN. I have no objections to that.

Mr. DOLE. I thank the distinguished Senator.

Mr. BENTSEN. Mr. President, I thank the distinguished manager of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 310

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. NUNN, and Mr. BOREN, proposes an unprinted amendment numbered 310.

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

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

The amendment is as follows:

At the end of the bill, add a new section, as follows:

"SEC. . Resolution Regarding the Protection of Small Businesses, Financial Institutions and Farms and the Housing Industry.

Since the intent of Congress in passing this Tax Reduction Act is to promote capital formation and economic growth; and

Since these persistent high interest rates are threatening the continued existence and financial viability of American small thrift institutions, small banks, small businesses and farms, the residential construction industry and not-for-profit institutions which depend on the availability of credit; and

Since there appears to be a substantial threat of small thrift institutions and banks being absorbed into large institutions; and

Since the Congress believes that there

should not be a weakening of anti-trust procedures, which in combination with high interest rates is further promoting the current trend of large firms taking control of small ones, even where there may be no economic benefits; and

Since a massive amount of credit has recently been diverted from use as the source of capital for expanded production to use as the medium for such corporate takeovers, which further concentrates economic power in large firms and further restricts the availability of credit for small concerns;

It is therefore the sense of the Senate that:

(a) the President should adopt policies so as to ensure the continued financial health, independence and availability of credit to small businesses, thrift institutions, small banks, small farms, residential construction and not-for-profit institutions; and that

(b) the Board of Governors of the Federal Reserve System should exercise its regulatory powers to require that loans be made for productive economic purposes, rather than to enable large firms to acquire smaller firms, and to assure that sufficient credit is available to protect the viability of thrift institutions without wholesale mergers or takeovers; and that

(c) the President of the United States, the Board of Governors of the Federal Reserve System and the Congressional Budget Office shall each report to Congress on the actions taken to implement the above policies, and their success or failure, no later than January 1, 1982 and no later than January of each succeeding year."

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside.

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

Mr. CHILES. On behalf of myself, Senator NUNN and Senator BOREN, I present this amendment expressing the sense of the Senate regarding the disastrous effects of high interest rates, and the necessity of providing adequate credit to small businesses, financial institutions and farmers, and to the housing industry.

Mr. President, we have been concerning ourselves for a number of days now with a part of the President's economic program, the tax cut bill. The theory of that tax cut is that it will stimulate economic recovery by promoting capital formation and investment, the so-called supply-side approach.

Right now we are near completion of the conference on the reconciliation bill.

I think that when the conference committee comes back we are going to find that our spending cuts are going to be in excess of the requests that were actually made by the President, approximately $38 billion to $39 billion a year will be cut in the reconciliation process. Even with those cuts we are still operating the budget at a deficit. It means that the tax cut is all going to be written in red ink.

The only rationale for having a tax cut at a time when you are not taking in enough money to pay your bills, it appears to me, is if the tax cut, is designed to generate further industrial capacity, further productivity; that we are going to create additional jobs; that we are going to stimulate the manufacture of additional products; that we are going to further improve the profitmaking potential of industry and help our foreign trade picture. For these reasons, we are talking about a supply-side tax cut that will take care of these problems. But that tax cut is not going to help if high interest costs keep businesses from earning a profit.

There has been much debate as to how this tax cut should be shaped to get these kinds of supply-side investment results. I think we are seeing that there are other factors that are acting in our economy, policies that tend to work against the success of the very theory of the supply-side tax cut that we are talking about. To wit, we are seeing a monetary policy which is restrictive. That is at the direction of the chairman of the Federal Reserve Board, at the direction of the President of the United States, and at the urging, I think, of many in the Congress who have talked about not having a loose monetary policy.

The reason we were talking about restricting that monetary policy was to hold down inflation and thereby do something about interest rates.

But while we are having that tightening of the overall supply of money, we see that we are having a dual system develop in the country as to who is going to get the money that is available—small business, farmers, medium-size business people, couples trying to build their first house who find that the availability of credit is too tight for them. If credit is available, it is available at a very, very high interest rate, 18, 19, 20 percent.

Small businesses that have to finance their inventories and finance the equipment that they are buying have to pay these tremendous interest rates. Therefore, of course, they have to raise their prices if they are able to pay such tremendous interest. That, in turn, goes completely against what we are trying to do to stabilize the economy.

But at the same time that we are having this kind of a credit squeeze for small business we see that there is readily available credit in huge, enormous sums for the largest of the corporations that are now engaged in a program of conglomerate mergers, a program of takeovers, a program of the giants deciding to eat anything that is smaller than they are.

We see that capital is readily made available for them.

We are looking at the proposed takeover of Conoco, the ninth largest oil company in this country, a company that is certainly sound, that has a lot of cash in the bank. Now we are seeing a bidding war going on with a number of our other corporations and even the corporations of Canada entering into that war of who is going to eat Conoco, who is going to buy up Conoco. Each one of the giants engaging in this merger operation are able to have the large banks set aside $5 billion to $10 billion in a line of credit for their takeover. That money, Mr. President, comes out of the flow of funds that should be available for the rest of business borrowing, for small business and the farmer and the housing industry. That further tightens up the monetary supplies.

I cannot find anyone who can tell me that that merger is going to create a single new job; is going to create any new research and development, any new technology, any new productivity, even, when companies of that size are beginning to merge.

At the same time that the administration and Federal Reserve are saying we are going to have a restrictive monetary policy, that we are going to tighten up on the money supply, then we have the giants borrowing this kind of money. We know that any time times get a little tight, the banker is going to lend money to his best customer, he is going to make the surest or safest loan. To anyone else who gets that money, we know that the interest rate is going to be considerably higher. That is exactly what is happening today.

So, Mr. President, at the very time that we are trying to pass a tax bill that we hope is going to add to our economy, we see this other phenomenon taking place.

Mr. President, I frankly think the wrong signals have been sent. I think when the Attorney General has said big is not bad, when he has said that we are going to look at horizontal mergers but we are not going to spend as much time looking at vertical or conglomerate mergers, that, together with some other remarks that have been made, has helped trigger the merger race. The race is on now. So we see Conoco as just the first of what we are seeing as one of many potential merger operations that are going on. We have had these merger waves before and they do not add anything worth while to the economy.

The question is, should we have this kind of concentration of economic power into a few large firms as a national policy? Should we say we are throwing out our antitrust policy and just going to allow the big to take over? Should we say, as again, I am afraid the signal has been sent, if the thrift institutions are in trouble, that is too bad; they can be merged with other healthy thrift institutions and if there are not enough healthy thrift institutions, the banks will come in and merge the rest. Then we will see that the local savings and loan associations as we have known them, as they were created by Congress, to make money available for housing, will simply disappear. And we will have bigger and larger banks, more centralized control.

What do those bigger banks do? They make more money available for bigger corporations. What do the bigger corporations do? They take that money that is available and go buy smaller corporations. So what we are seeing triggered here is a tremendous amalgamation of giant and giant, at the expense of what I think is the base of our overall economy. That is, a healthy, small- and medium-sized business sector.

It is certainly the basis of the economy in my State and, I think, of many States. But we see those people starving for capital, dying at the high interest rates. At the same time, we are seeing the mergers go on.

Mr. President, last week, Mr. Beryl Sprinkel, the Under Secretary of the Treasury for Monetary Affairs, testified before Congress. He said Federal deficits do not affect inflation. Mr. President, Mr. Sprinkel may well believe that, but I do not believe that statement and I do not think the American people believe it, and I do not believe the investors believe it. It seems to me that Federal deficits do affect inflation. If they do, then we have to be concerned where we have our deficits and what that money is going for; and, of course, we have to try to see that we do something about that.

We were told, Mr. President, when we set out on this new economic direction of spending and tax cuts, that if we would make these cuts, we would see both inflation and interest rates go down; and the minute that inflation went down, interest rates would go down. Well, a curious thing has happened, Mr. President. Inflation has gone down. However, Mr. President, it probably occurred not because of any action we have taken to date, although we would like to think that it has, but primarily because of the oil glut and favorable food prices. In spite of the fact that inflation has gone down, and gone down quite appreciably, interest rates have not followed them down. The spread between inflation and interest rates is at an alltime high.

Why has that happened, Mr. President? I think it has happened because of this kind of policy that we see taking shape. The tax cut being enacted are much larger than the cuts in overall Federal spending. When tightened monetary supply is left to offset the inflationary effects of continued deficits, then interest rates have to go up.

The sense-of-the-Senate resolution that we have presented is to state that as these high interest rates are threatening the continued existence and financial viability of American small thrift institutions, small banks, small businesses and farms, the residential construction industry, and not-for-profit institutions which depend on the availability of credit; and since there appears to be a substantial threat that many of these small thrift institutions and banks will be absorbed into large institutions; and since the Congress believes that there should not be a weakening of antitrust procedures—which, if there were, and there appears to be now, in combination with high-interest rates—would be further promoting the current trend of large firms taking control of small ones, even where there may be no economic benefits.

Since a massive amount of credit has recently been diverted from use as the source of capital for expanded production to use as the medium for such corporate takeovers, which further concentrates economic power in large firms, the Senate should therefore go on record as saying that the President should adopt policies to insure the continuation of the financial health, independence, and availability of credit to small businesses, thrift institutions, small banks, small farms, residential construction, and not-for-profit institutions; and that the Board of Governors of the Federal Reserve System should exercise its regulatory powers to require that loans be made for productive economic purposes—I stress productive economic purposes, Mr. President—rather than to enable large firms to acquire smaller firms, and to assure that sufficient credit is available to protect the viability of thrift institutions without wholesale mergers or takeovers; and that the President of the United States, the Board of Governors of the Federal Reserve System, and the Congressional Budget Office shall each report to Congress on the actions taken to implement the above policies, and their success or failure, no later than January 1, 1982 and no later than January of each succeeding year.

Mr. President, what we are saying is that it is time that the President, the Chairman of the Federal Reserve System, and the leadership of Congress should get their heads together and sit down at some kind of domestic economic summit meeting and come to some agreement as to the course and direction they are taking; that we should not have monetary policy going one way and fiscal policy going another; that we should not have a dual monetary policy, with tight money for small businesses, tight money for farmers, tight money for homebuilders and people trying to borrow money, and readily available money for the largest corporations for great big takeovers.

We have written to the President and Chairman of the Federal Reserve Board requesting such a summit, and I ask unanimous consent that a copy of our letter appear in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. CHILES. Mr. President, I think it is important to remember that President Reagan asked us to enact this tax cut bill as part of an overall program for economic recovery, as part of a supply-side recovery that would create jobs by promoting capital formation and productivity. I support that kind of new direction in economic policy. And I support the key elements necessary to bring it about: cutting Federal spending, lowering taxes, and reducing the burden of Federal regulation. But that tax cut is not going to help investment and productivity if high interest rates keep businesses from making a profit. You cannot have good supply side economic effects with a 20-percent prime rate.

As I have watched the economy respond over the last 6 months and compared it to what has happened in past years. I continually reminded how complex the American free enterprise system is. We can never anticipate all the effects of Federal policy, and we have to keep ourselves ready to respond when the expected occurs. I am concerned that the reactions of the administration to changing economic events have moved us away from a policy of fostering free competition and innovation in the economy. It looks to me like the administration is moving us to a dual economic policy, where the giant corporations get big tax breaks and access to bank credit, while small business borrowers and consumers get squeezed out.

When we set out on this new direction last March, we had both high inflation—11 percent—and high interest rates—19-percent prime. We know that we needed tight fiscal and monetary policies to bring down inflation and strengthen the U.S. dollar. We then expected to go in with a tax cut that would stimulate private economic activity to take the place of the public spending which was eliminated. The administration told us that inflation would go down, productivity would go up, and interest rates would fall. Unfortunately, that has not happened. While inflation has gone down, largely due to slack oil prices, interest rates have stayed high. Disastrously high.

The administration's economic experts have publicly stated that they are puzzled by the persistence of high interest rates. The economic experts I have consulted tell me there are several factors involved. For one thing, the Federal Reserve has kept up a tight monetary policy, which is consistent with the administration's announced policy. Second, there remains tremendous uncertainty in the markets. No one knows whether this tax cut will produce a balanced budget or an $80 billion deficit. The money markets are acting like it is the latter. They are led to that conclusion both by the numbers they see, and by the statements of the administration. Last week Mr. Beryl Sprinkel, the Undersecretary of the Treasury for Monetary Affairs, testified that Federal deficits do not affect inflation.

Mr. President, I do not believe that statement, the American public does not believe it, and the Nation's investors do not believe it. If the Federal Reserve accommodates the extra Federal borrowing by printing more money, we will have more inflation. If the Fed does not monetize the deficit when we have a continued high level of private loan demand, then the Federal borrowing has to compete with private demand and interest rates will go up. Undersecretary Sprinkel seems to be forgetting that the laws of supply and demand apply to money in the same way they apply to goods. If the Federal deficit adds to demand for money, and the Federal Reserve does not increase the supply of money, the price has to go up.

This administration also seems to be ignoring the fact that in our fast moving economy, commercial borrowing is an ordinary cost of doing business. With 10-percent inflation and 20-percent interest rates, no one can afford to keep piles of cash on hand to pay for inventory and operating expenses. Every business needs access to credit. When high interest rates drive up the cost of credit, it gets passed on as higher prices. So that is the other way in which the combination of large Federal deficits and tight monetary policy add to inflation.

No one knows how long the oil glut will last, and when OPEC will be able to get another shot at raising oil prices; or whether turmoil in the Middle East will interrupt our supply of oil. No one knows how the U.S. economy will respond to all the different changes it has to go through all at once, finally, the markets have learned that Americans will borrow at

high rates, and they are charging what the market will bear.

The result is a prime rate that is staying around 20 percent, mortgage interest rates over 16 percent and short-term Treasury bill rates that just last week went up from 14 percent to almost 16 percent.

The administration does not seem particularly disturbed by these high interest rates. When the Secretary of the Treasury sees the Nation's thrift institutions running losses because of their high cost of attracting savings, he says that the thrifts should be absorbed into mergers with large banks and other financial institutions. He does not want the Federal guarantee agencies to offer any kind of assistance while we wait for interest rates to all.

Well, Mr. President, I am disturbed when I see the threat of losing our local banks and thrift institutions in a large scale wave of mergers. But I am even more disturbed when I see this threat as part of an overall pattern which threatens the continuation of small businesses in America.

I am all for competition in the free market; that is the core of the American economy. But if interest rates stay artificially high, then small firms are denied the credit they need to stay afloat, to cover their inventory costs as well as expansion. When money is tight, banks want to lend only to their largest, safest customers. Who gets squeezed out? The new small business that is taking a risk by trying a new product or new manufacturing process is the one who gets squeezed.

We all want to see a rebirth of industrial innovation, but that cannot occur without assuring a supply of credit to small firms.

No one suffers more from high interest rates than the housing industry. Housing starts are down to a little more than a million a year, which is only half of the 1978 level, and only half of what we need to keep up with the demand created by the formation of new households each year. Even as short-term interest rates have fluctuated, the mortgage interest rate has climbed steadily to over 16 percent. The average American just can't afford to buy a home at that cost.

Mr. President, the National Association of Home Builders, certainly a representative group of a viable sector of our economy that is drastically affected by this—as are automobile dealers, all of housing is vitally affected, all of our service industries—has written a letter expressing support for this sense of the Senate resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD that letter supporting my amendment.

The letter points out that in addition to hitting the homebuyer, high interest rates are causing a severe rate of failures in the construction industry. This is just one more example of how high interest rates are eliminating small businesses, and only letting the large ones survive.

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

(See exhibit 2.)

Mr. CHILES. Mr. President, I see the administration announcing that it is going to revise the anti-trust guidelines that have been in place since 1968. They want to make conglomerate mergers easier. This comes at the same time that we see the banks making billions of dollars of scarce credit available to huge companies like DuPont to acquire unrelated firms. Yet the administration and the Federal Reserve Board are doing nothing about this diversion of capital away from productive enterprise and into acquisitions.

Attorney General William French Smith announced the administration's intentions to revise antitrust laws in an address to the District of Columbia bar on June 24. While I agree with his statement that big is not necessarily bad, I must add that big is not necessarily good. I also agree with his statement that we must adopt a dual approach to antitrust policies and modify those antitrust provisions that unfairly handicap American firms when they deal in world markets. But I am not convinced that the Attorney General's formulation adequately protects competition in the domestic economy.

Two things disturb me in his formulation. First, he speaks only of enforcing the provisions that limit anticompetitive horizontal mergers, or those mergers designed to acquire a larger share of the market. He rejects the anticompetitive nature of any vertical merger, or merger to assure certain sources of supply at certain prices. Vertical integration is not always anticompetitive, but it often may be, such as where a supplier may discriminate between the parent firm and all others in pricing its products. Even worse, the Attorney General makes no commitment to limit conglomerate mergers, which is what the tens of billions of dollars in bank credit is now being diverted to.

The economics literature seems generally agreed that conglomerate mergers do not add anything of real value. Concluding the evidence from a review of the literature, Dennis C. Mueller quotes T. F. Hogarty, as follows:

> What can fifty years of research tell us about the profitability of mergers? Undoubtedly the most significant result of this research is that no one who has undertaken a major empirical study of mergers has concluded that mergers are profitable. A host of researchers . . . have but one major difference: whether mergers have a neutral or negative impact on profitability.

If mergers do not yield higher profits, then who pays for them? The literature also shows that acquiring firms pay a substantial premium to the stockholders of the firms they buy up. Right now, they are paying 20-percent interest rates to finance their acquisitions. Who pays? The consumer and the taxpayer.

Since interest costs are tax deductible, the taxpayer bears a substantial cost of such borrowing. The remaining cost has got to be passed on as higher prices to the customers of the merged firms. Instead of getting higher productivity and lower inflation out of capital investments, all we get is higher prices. Yet the administration is not concerned.

The second aspect of the Attorney General's speech which concerns me, Mr. President, is that he made his commitment to antitrust enforcement strictly in the simple terms of the Sherman Act of 1890. The Sherman Act is only effective in reaching mergers which would create an undisputed monopoly. By 1914 Congress realized that you could raise prices by reducing competition short of total monopoly, and enacted the Clayton Act. The Clayton Act says that mergers should be prevented if they "substantially lessen competition." I certainly hope the Attorney General intends to enforce the Clayton Act, and not just the Sherman Act, or we are going to find ourselves with a few large firms raising prices in each industry.

Surely, Mr. President, economic revitalization means that we are going to have some shaking out of competing firms, with only the more efficient ones remaining. And I agree that big is not necessarily bad; we need huge corporations to compete in tough world markets. But big is not necessarily good either. We cannot foster a set of conditions where only big businesses have access to the economic lifeblood of credit. Big businesses are not always the most efficient or most innovative. Yet they always have the greatest access to credit.

In summary, Mr. President, I believe that we must recognize that the American economy is going through a difficult transition. We must take whatever steps are necessary to see that our competitive structure of small business and small farms, local banks and small thrift institutions have a fair chance to survive.

I, therefore, hope the Senate will adopt this amendment and put us on record for a truly productive economic policy.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., July 24, 1981

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We have given support to the general direction of the Administration's economic program here in the Senate. We share your belief that a reduction of federal spending, federal taxes, and the federal regulatory burden is essential for increased productivity, reduced inflation, and economic revitalization.

We are vitally concerned, however, with the apparent absence of coordination between the fiscal and monetary policies of our government. The current fiscal and monetary policies of our nation appear to be on a path where significant conflict, if not a head-on collision, is imminent.

The continuation of the high interest rate pattern of the past few months, if allowed to persist, will cause irreparable damage to our economy. We are beginning to have a dual economic policy—a boom to those with available capital—a depression for those who must borrow and for businesses depending on long-term credit.

When giant corporations borrow tens of billions of dollars for corporate takeover purposes that make no contribution to job creation and productivity, and potential home buyers cannot find affordable mortgage money, it is time for a reexamination of national economic and anti-trust policy. We also think it would be appropriate in this context for the Administration to re-examine

recent policy statements which may have encouraged massive borrowing for merger purposes.

Officials of the Administration and the Federal Reserve have repeatedly said that once inflation abates and the public is shown that federal spending will be cut, interest rates would begin to decline. Just recently on May 8, Federal Reserve Board Chairman Paul Volcker said, "interest rates will come down and stay down as we make progress on inflation."

Today inflation is declining but mortgage interest rates are not. While consumer price increases declined from 9.6 percent in the first three months of this year to 7.4 percent in the most recent three months, the mortgage interest rates remain entrenched at 16 percent. Historically the spread between mortgage interest rates and the rate of inflation has been about 2 percent. Now, however, the interest rate/inflation rate spread has ballooned to 6 to 7 percentage points which implies to many that this is a planned and deliberate policy.

The Administration's economic advisers, according to Mr. William Niskanen, a member of the Council of Economic Advisers, are currently both "confused" and "puzzled" by continuing high interest rates. Yet reports from the recent Ottawa summit indicated you endorsed and vigorously defended the high interest rate policy of the Federal Reserve.

Just today the Washington Post reported that Treasury Undersecretary for Monetary affairs Beryl Sprinkel told the House Committee on Banking, Finance and Urban Affairs that there is no technical, and no necessary, connection between budget deficits and money growth, or between deficits and inflation.

We could not disagree more. Either the government finances a deficit by printing money or by competing with and crowding business out of the credit markets. Printing money to finance deficits results directly in more inflation. Increasing federal borrowing affects inflation by forcing up interest rates, and increasing business costs. Eliminating federal deficits and reducing federal borrowing requirements are necessary for both psychological and substantive economic reasons, and must be accomplished at the earliest possible time.

If the high interest rates continue, the Administration's supply side economics cannot work. The survival of our small business and farming community is threatened, many thrift institutions are in serious financial trouble, and the housing industry is near collapse. The majority of businesses, particularly small businesses, will not be able to finance inventories, let alone capital improvements. A tax cut will mean little to small businessmen and farmers who make no profit to be taxed because of exorbitant interest rates.

In summary, Mr. President We urge you to address these serious problems before it is too late to moderate the Administration's fiscal program. As we see it, the question is whether the anticipated stimulative effect of the Administration's fiscal program has so overloaded the system that continued long-term high interest rates are the inevitable result. If your Administration does not advocate a continued high interest rate policy, we hope that it will let its views be known to the financial community and persuade them to take action to moderate interest rates.

In this regard, we respectfully suggest a "domestic economic summit" meeting with a full dialogue between you as President, Chairman Volcker of the Federal Reserve and Congressional leadership. We would hope out of that meeting there would emerge a coordinated cohesive fiscal-monetary policy which can be clearly understood by the American people.

We do not expect an instant cure, but we do believe it is possible to achieve a moderation of interest rates and avoid major credit shortages if our Nation's fiscal and monetary policies are coordinated.

We offer you our bipartisan support in this effort.

Sincerely,

SAM NUNN,
LAWTON CHILES,
DAVID L. BOREN,
J. JAMES EXON,
J. BENNETT JOHNSTON.

EXHIBIT 2

NATIONAL ASSOCIATION OF HOME BUILDERS,
Washington, D.C., July 27, 1981.

Hon. LAWTON CHILES,
United States Senate,
Washington, D.C.

DEAR SENATOR CHILES: On behalf of the more than 123,000 members of the National Association of Home Builders, I am writing to express our support for your amendment to H.J. Res. 266, the Economic Recovery Act of 1981, a resolution regarding the protection of small business, troubled financial institutions, the depressed housing industry and farms.

As you are aware, record high mortgage interest rates are having a devastating impact on the housing industry. Housing starts last month were down to an annual rate of 1.03 million, almost 50 percent below the peak level of 2.02 million in 1978. We are currently in the midst of the longest housing recession since World War II. The NAHB forecast for 1981, which assumes some moderation in interest rates by the end of the year, estimates that fewer than 1.2 million housing units will be started this year. Housing starts in the 1.2 million range are dangerously below the projected need of up to 2 million units a year during this decade. And pent-up demand will only build up inflationary pressures on housing prices in the future.

High interest rates have dramatically increased the failure rate in the construction industry. In February 1981, failures among general building contractors were up 11 percent over the February 1980 rate. Subcontractor failures were more severe, with the number of failures up by 94 percent. This is particularly significant since the comparisons for 1981 are being made with 1980—the worst year for construction failures on record. If interest rates do not fall in the near future, the unfortunate result will be that many more businesses will fail.

The precipitous drop in housing starts has had a significant impact on the overall economy by raising the unemployment rate in the construction trades. The official construction unemployment rate is 16.6 percent and over 835,000 wage and salary workers are out of jobs.

First-time homebuyers in particular have been priced out of the housing market by high interest rates. Each one percent increase in interest rates puts a median-priced home out of the reach of over 800,000 families. At the current mortgage interest rate of 17 percent, a $60,000 mortgage carries a principal and interest payment of $855 per month. Other housing-related expenses bring the monthly housing expenditure to $1,070. This requires an annual income of $38,520 and fewer than 10 percent of all first-time buyers could qualify for this median-priced home.

The Federal Reserve Board policies of almost the last two years, along with the rapid deregulation of financial institutions, have led to near chaos in the financial markets, and in credit-sensitive industries such as homebuilding. We believe that action to lower interest rates would reduce inflation by restoring business and consumer confidence in the economy and by increasing production, employment and competition in the market place. We believe that the Administration and Congress should pursue economic policies that the reward increased productivity, encourage business investment and consumer savings, and reduce unnecessary and costly government regulations.

For those reasons, we support the Chiles amendment which would promote the availability of credit for productive enterprises and would ensure the financial health of small business and financial institutions as well as the housing industry. We urge your colleagues to vote for this amendment when it is considered on the Senate floor this week.

Sincerely yours,

HERMAN J. SMITH,
President.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. CHILES. Mr. President, I ask unanimous consent that the names of Mr. SASSER, Mr. MITCHELL, Mr. RIEGLE, Mr. BENTSEN, and Mr. ZORINSKY, be added as cosponsors of the amendment.

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

Mr. BOREN. Mr. President, I rise in support of this amendment calling on the President to change current administration policies so as to insure the continued financial health of small businesses, thrift institutions, small banks, small farms, residential construction, and not-for-profit institutions.

Mr. President, I have pointed out before that supply-side economics will be undermined if we do not reduce the current high interest rates. We simply cannot have a policy stimulating investment and at the same time deliberately pursue a monetary policy that makes that investment too expensive to undertake.

This amendment calls on the Board of Governors of the Federal Reserve System to exercise their regulatory power in a specific area of wholesale mergers or takeovers. We cannot continue a policy which enables large firms to acquire smaller firms in takeovers that are unproductive.

The capital market must be kept available for productive economic purposes and to insure that firms seeking to increase productivity have the opportunity to do so. The administration and the Federal Reserve must abandon their markup of interest rates.

This tax cut bill will do no good if thousands are already bankrupt and millions are unemployed. That is exactly what will happen unless high interest rates come down. The first step toward that end is a change now, in administration policy.

Mr. DOLE. Mr. President, the Senator from Kansas and the Senator from Louisiana have discussed this amendment. We have suggested some modifications which were acceptable to the principal sponsor of the amendment, the distinguished Senator from Florida (Mr. CHILES).

There is no doubt that interest rates, as stated in the amendment, are threatening the existence and the financial viability of farms and small business.

In fact, last night, after President Reagan spoke, I was in my office and picked up the phone a couple of times, and two of my constituents, calling from

Kansas, said, "Vote with the President." But while they were saying that, they were also expressing their concern about high interest rates. So it is not limited to one part of the country. It is all over the country.

I believe that most people believe and have confidence in the policies of the President, but they should understand that those policies have not been implemented as yet. Congress can pass the budget reduction proposals and the President's tax reduction proposals. Then we will see the tax reduction proposal take effect in October, and some spending proposals will take effect almost immediately. We hope that then we will have the change the Senator from Florida wants—and all of us want—in interest rates, and we will be on the road to economic recovery.

I also share the Senator's concern about some of the actual takeovers and some of the rumored takeovers. Where does it stop? The thing that concerns me is that, if large concerns are out borrowing $3 billion or $4 billion in the marketplace, that is going to drive up the interest rates. The Government may get out of the borrowing business because of the spending reductions, but when a giant corporation that wants to take over another corporation borrows $3 billion, it can affect interest rates.

In my view, the President has adopted policies that will help us insure financial health. The amendment states "should adopt policies." I believe that can be interpreted in any way. I am certain that he will continue to adopt policies that, it is hoped, will insure the availability of credit to small business, to thrift institutions, banks, and farms, as well as for residential construction and nonprofit institutions.

So, considering the basic thrust of the amendment before us, the Senator from Kansas is willing to accept the amendment.

I understand that the Senator wants a rollcall vote.

Mr. CHILES. Yes.

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

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

The yeas and nays were ordered.

Mr. DOLE. Is the Senator from Montana prepared to offer his amendment? Would the Senator from Florida object if we had a vote on his amendment at 12:15?

Mr. CHILES. I have no objection, if the Senator wants to stack them. I want to make sure that is cleared with our side.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, while we are checking.

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.

Mr. DOLE. Mr. President, as I understand there is no objection if we have the vote on the amendment of the Senator from Florida at 12:10 p.m., and it is the hope that between now and 12:10 p.m. we might dispose of the Melcher amendment, and if he wanted a rollcall vote it could follow immediately the vote on this amendment and still make it possible for both sides to attend their 12:30 p.m. policy luncheon, or we could postpone that until 2 p.m.

Mr. President, I ask unanimous consent that the vote on the Chiles amendment occur at 12:10 p.m.

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

Mr. DOLE. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE. 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. 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.

Mr. DOLE. Mr. President, I yield 2 minutes off the bill to the Senator from Georgia.

Mr. NUNN. Mr. President, I congratulate the Senator from Florida for taking the lead in presenting this sense of the Senate resolution, which I am proud to join in with Senator BOREN, the Senator from Oklahoma. It expresses a great concern on the part of Congress as to what is happening with interest rates. It expresses a concern as to the apparent lack of coordination between fiscal and monetary policy.

I am becoming increasingly apprehensive as to whether supply-side economics can work with the kind of interest rates that we have now.

I just do not see how small and medium-sized businesses, and for that matter even some large businesses that do not have a huge amount of capital, are going to be able to go out in financial markets that exist today and borrow the kind of capital that is necessary to really revitalize the economy by investing in new plant and equipment, and by increasing productivity.

I hope that that is an overpessimistic viewpoint, and certainly I plan to support final passage of this tax legislation. Yet I also hope that this sense of the Senate resolution, the statements that are being increasingly made on Wall Street and in Washington, but more importantly throughout the country, by many struggling small business owners and farmers, will bring to the attention of the White House and the Federal Reserve Board, the increasing possibility of a head-on collision between our fiscal policy and our monetary policy. I believe it is important for the American people, for Congress, and for all of us to feel confident that both the Federal Reserve and the administration are moving in the same direction with a cohesive, sensible, and coordinated policy.

Mr. President, I have supported the general direction of the administration's economic program. I believe that reducing Federal spending, Federal taxes, and the Federal regulatory burden is essential for increased productivity, reduced inflation and renewed economic prosperity.

Yet a tax cut will mean little to the small business owners and farmers who make no profit to be taxed because of exceedingly high interest rates.

What is beginning to emerge is a dual economic policy—a boom to those with available capital—a depression for those who must borrow and for business depending on long-term credit.

When giant corporations borrow tens of billions of dollars for takeover purposes that make no contribution to productivity growth, to fighting inflation, and to job creation, and potential homebuyers cannot find affordable mortgage money, it is time for a re-examination of national economic policy.

One has to start asking questions whether last November's mandate for a change, for a balanced budget, and for reduced Government borrowing is really going to be carried out and heeded when we read statements as I read in the Washington Post earlier this week, stating that the Under Secretary of Treasury for Monetary Affairs, told a congressional committee that there is no necessary relationship between the budget deficits and money growth or between deficits and inflation.

I just simply do not agree with that statement. I do not think the American people do.

I hope that this particular high official in the Treasury Department was not speaking for the administration.

Mr. President, many of the concerns we are expressing now were expressed to the President in a letter dated July 24, 1981, signed by Senator CHILES, Senator BOREN, Senator EXON, Senator JOHNSTON, and myself, with a copy to Paul Volcker. That letter points out to the President that there are high officials in this administration making statements which I see as directly contradicting many of the voiced policies of this administration.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, D.C., July 24, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We have given support to the general direction of the Administration's economic program here in the Senate. We share your belief that a reduction of federal spending, federal taxes, and the federal regulatory burden is essential for increased productivity, reduced inflation, and economic revitalization.

We are vitally concerned, however, with the apparent absence of coordination between the fiscal and monetary policies of our government. The current fiscal and monetary policies of our nation appear to be on a path where significant conflict, if not a head-on collision, is imminent.

The continuation of the high interest rate pattern of the past few months, if allowed to

persist, will cause irreparable damage to our economy. We are beginning to have a dual economic policy—a boom to those with available capital—a depression for those who must borrow and for businesses depending on long-term credit.

When giant corporations borrow tens of billions of dollars for corporate takeover purposes that make no contribution to job creation and productivity, and potential home buyers cannot find affordable mortgage money, it is time for a reexamination of national economic and anti-trust policy. We also think it would be appropriate in this context for the Administration to re-examine recent policy statements which may have encouraged massive borrowing for merger purposes.

Officials of the Administration and the Federal Reserve have repeatedly said that once inflation abates and the public is shown that federal spending will be cut, interest rates would begin to decline. Just recently on May 8, Federal Reserve Board Chairman Paul Volcker said, "interest rates will come down and stay down as we make progress on inflation."

Today inflation is declining but mortgage interest rates are not. While consumer price increases declined from 9.6 percent in the first three months of this year to 7.4 percent in the most recent three months, the mortgage interest rates remain enrenched at 16 percent. Historically the spread between mortgage interest rates and the rate of inflation has been about 2 percent. Now, however, the interest rate/inflation rate spread has ballooned to 6 to 7 percentage points which implies to many that this is a planned and deliberate policy.

The Administration's economic advisers, according to Mr. William Niskanen, a member of the Council of Economic Advisers, are currently both "confused" and "puzzled" by continuing high interest rates. Yet reports from the recent Ottawa summit indicated you endorsed and vigorously defended the high interest rate policy of the Federal Reserve.

Just today the "Washington Post" reported that Treasury Undersecretary for Monetary Affairs Beryl Sprinkel told the House Committee on Banking, Finance and Urban Affairs that there is no technical, and no necessary, connection between budget deficits and money growth, or between deficits and inflation.

We could not disagree more. Either the government finances a deficit by printing money or by competing with and crowding business out of the credit markets. Printing money to finance deficits results directly in more inflation. Increasing federal borrowing affects inflation by forcing up interest rates, and increasing business costs. Eliminating federal deficits and reducing federal borrowing requirements are necessary for both psychological and substantive economic reasons, and must be accomplished at the earliest possible time.

If the high interest rates continue, the Administration's supply side economics cannot work. The survival of our small business and farming community is threatened, many thrift institutions are in serious financial trouble, and the housing industry is near collapse. The majority of businesses, particularly small businesses, will not be able to finance inventories, let alone capital improvements. A tax cut will mean little to small businessmen and farmers who make no profit to be taxed because of exorbitant interest rates.

In summary, Mr. President, we urge you to address these serious problems before it is too late to moderate the Administration's fiscal program. As we see it, the question is whether the anticipated stimulative effect of the Administration's fiscal program has so overloaded the system that continued long-term high interest rates are the inevitable result. If your Administration does not advocate a continued high interest rate policy, we hope that it will let its views be known to the financial community and persuade them to take action to moderate interest rates.

In this regard, we respectfully suggest a "domestic economic summit" meeting with a full dialogue between you as President, Chairman Volcker of the Federal Reserve and Congressional leadership. We would hope out of that meeting there would emerge a coordinated cohesive fiscal-monetary policy which can be clearly understood by the American people.

We do not expect an instant cure, but we do believe it is possible to achieve a moderation of interest rates and avoid major credit shortages if our Nation's fiscal and monetary policies are coordinated.

We offer you our bipartisan support in this effort.

Sincerely,

SAM NUNN,
LAWTON CHILES,
DAVID L. BOREN,
J. JAMES EXON,
J. BENNETT JOHNSTON.

Mr. NUNN. Mr. President, Federal deficits, whether caused by excessive spending or reduced Federal revenues, are inflationary. Eliminating Federal deficits and reducing Federal borrowing requirements are necessary for both psychological and substantive economic reasons. The budget must be balanced as soon as possible.

Mr. President, officials of the administration and the Federal Reserve have repeatedly said that once inflation abates and the public is shown that Federal spending will be cut, interest rates would begin to decline. Just recently on May 8, Federal Reserve Board Chairman Paul Volcker said, "interest rates will come down and stay down as we make progress on inflation."

Today, inflation is declining and we are all grateful for that but mortgage interest rates are not. While consumer price increases declined from 9.6 percent in the first 3 months of this year to 7.4 percent in the most recent 3 months, the mortgage interest rates remain entrenched at 16 percent.

Historically, the spread between mortgage interest rates and the rate of inflation has been about 2 percent.

Now, however, the interest rate/inflation rate spread has ballooned to 6 to 7 percentage points which implies to many that this is a planned and deliberate policy.

Yet, an important economic adviser to the President, Mr. William Niskanen of the Council of Economic Advisers, says the administration is puzzled by continuing high interest rates but will continue to support current fiscal and monetary policies out of conviction.

Today, Senators CHILES, BOREN, and I offer this resolution to help assure consistent economic policies. Through urging the President and the Federal Reserve to develop mutually reinforcing economic policies, it seeks to reduce confusion and uncertainty in the financial markets, achieve a moderation of interest rates and avoid a credit crunch.

I believe it puts spotlight on the growing apprehension by many of us as to the seeming conflict between fiscal and monetary policy.

I hope that because of this resolution, because of expressions of opinion throughout Congress, because of the cries of anguish from people who have to borrow money—businessmen, homebuyers, farmers, and consumers—that we will begin to see a much more carefully coordinated policy between the Federal Reserve and the administration.

Mr. CHILES. Mr. President, I thank the Senator from Georgia for his statement and his work on this resolution and the letter that was sent to the President.

I know of his long concern, building and growing concern as to what he sees happening with these high interest rates and how they affect the farmers and businessmen in his State. I certainly associate myself with his remarks and with the thrust of what we are trying to do. In that letter we call for an economic summit among the President of the United States, the Chairman of the Federal Reserve System, and leadership in this Congress, which is essential if we are going to have an economic policy that can work. So I certainly join in support of that thrust.

I thank the Senator for his help and his work in this area.

Mr. NUNN. Mr. President, I congratulate the Senator from Florida and the Senator from Oklahoma for taking this lead, and I hope out of it we will see a dedicated effort to coordinate these policies.

The Federal Reserve System is a mystery to most Americans, but high interest rates are not a mystery. People understand high interest rates very well. They understand what is happening. It is the high interest rates that today are literally strangling our economy.

I simply cannot see how supply-side economics can work when we have a 20-percent prime rate. Something has to give.

I hope that we will see interest rates come down so that we can see a revitalization of the American economy.

Mr. RANDOLPH. Mr. President, does the Senator from Florida have the floor?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, will the Senator from Louisiana yield some time to the Senator from West Virginia as I am about out of time on the bill?

Mr. LONG. Mr. President, I yield to the Senator how much time he requires? How much time does the Senator require?

Mr. RANDOLPH. Two minutes.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the leadership of the Senator from Florida (Mr. CHILES) on economic matters is recognized in this body. The expertise of the Senator from Georgia (Mr. NUNN) is also a matter of record.

The activity of the Senator from Oklahoma (Mr. BOREN) and many others, following his stewardship, in an earlier period—when numerous Democratic Senators—I was privileged to be in the

group—called attention to the damage being wrought in this country and to our economy by the high interest rates.

I recall that last year I had a colloquy on that subject with the Senator from Wisconsin (Mr. PROXMIRE). I was critical of the Federal Reserve then as I have been in statements issued in West Virginia and also comments made in the Senate.

I firmly believe that it will take an all-out effort, an all-out frontal attack by the administration and Congress, backed by the American people, to shake loose the apparently unshakable Federal Reserve policy in reference to high interest rates.

I am not a carping critic. I believe, however, that the economy of America is deteriorating, breaking up. This should not be a partisan or political issue. Those people who wish to borrow cannot borrow. Cars are not being purchased. Houses are not being built. This country is suffering in a way it need not suffer. The Federal Reserve, I believe, is much at fault.

High interest rates impact citizens in all walks of American life. These extreme rates continue to fuel inflation. We are being battered in the economic extreme.

Mr. CHILES. I just wonder if the distinguished Senator from West Virginia happened to see this latest report of the Federal Home Loan Bank Board reported in this morning's papers, which said American savers withdrew $5.6 billion more than they deposited in federally insured savings and loan institutions in June. It also said that the savings loss for the first 6 months of the year was $10.9 billion compared with a gain of $2.4 billion for the same period last year. That is a 6-month period to lose $10.9 billion where a year ago they gained $2.4 billion for the same period last year.

I know the Senator has many savings and loan institutions that have been beneficial in his State to cause houses to be built. It just goes along the line of the Senator saying what the results of these terribly high interest rates are.

We know of his great interest in this subject and the efforts he has made over all the years he has been here to try to see that interest rates were at a level where people could afford to borrow money, small businesses could afford to borrow money, small farmers, and that you did not have to be a giant corporation. I know the Senator has long fought for that.

Mr. RANDOLPH. The further information given by the Senator from Florida, the statistics he has just provided, are ample evidence of a need to help, not only in the State of West Virginia. I know in our State the savings and loan institutions have been very helpful in providing funds for the construction of needed housing. Across America the evil winds of unwarranted high interest rates continue to cause havoc—indeed great havoc.

They are long suffering at times, but now I think they expect some action. It is time for leadership from within the White House in cooperation with Capitol Hill to halt the extreme rates. I am grateful for the leadership again of the two Senators who have spoken today.

Mr. NUNN. I thank my friend and colleague from West Virginia. I have heard him speak on this subject many times. He has expressed his concern, and I want the Senator to know that I am in complete agreement with that concern.

Mr. President, I ask unanimous consent that a letter dated July 27, 1981 from the National Association of Home Builders be printed in the RECORD, wherein they expressed their great concern about these high interest rates.

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

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washington, D.C., July 27, 1981.

Hon. LAWTON CHILES,
U.S. Senator,
Washington, D.C.

DEAR SENATOR CHILES: On behalf of the more than 123,000 members of the National Association of Home Builders, I am writing to express our support for your amendment to H.J. Res. 266, the Economic Recovery Act of 1981, a resolution regarding the protection of small business, troubled financial institutions, the depressed housing industry and farms.

As you are aware, record high mortgage interest rates are having a devastating impact on the housing industry. Housing starts last month were down to an annual rate of 1.03 million, almost 50% below the peak level of 2.02 million in 1978. We are currently in the midst of the longest housing recession since World War II. The NAHB forecast for 1981, which assumes some moderation in interest rates by the end of the year, estimates that fewer than 1.2 million housing units will be started this year. Housing starts in the 1.2 million range are dangerously below the projected need of up to 2 million units a year during this decade. And pent-up demand will only build up inflationary pressures on housing prices in the future.

High interest rates have dramatically increased the failure rate in the construction industry. In February 1981, failures among general building contractors were up 11% over the February 1980 rate. Subcontractor failures, were more severe, with the number of failures up by 94%. This is particularly significant since the comparison for 1981 are being made with 1980—the worst year for construction failures on record. If interest rates do not fall in the near future, the unfortunate result will be that many more businesses will fail.

The precipitious drop in housing starts has had a significant impact on the overall economy by raising the unemployment rate in the construction trades. The official construction unemployment rate is 16.6%, and over 835,000 wage and salary workers are out of jobs.

First-time homebuyers in particular have been priced out of the housing market by high interest rates. Each one percent increase in interest rates puts a median-priced home out of the reach of over 800,000 families. At the current mortgage interest rate of 17%, a $60,000 mortgage carries a principal and interest payment of $855 per month. Other housing-related expenses bring the monthly housing expenditure to $1,070. This requires an annual income of $38,520 and fewer than 10% of all first-time buyers could qualify for this median-priced home.

The Federal Reserve Board policies of almost the last two years, along with the rapid deregulation of financial institutions, have led to near chaos in the financial markets, and in credit-sensitive industries such as homebuilding. We believe that action to lower interest rates would reduce inflation by restoring business and consumer confidence in the economy and by increasing production, employment and competition in the market place. We believe that the Administration and Congress should pursue economic policies that reward increased productivity, encourage business investment and consumer savings, and reduce unnecessary and costly government regulations.

For those reasons, we support the Chiles amendment which would promote the availability of credit for productive enterprises and would ensure the financial health of small business and financial institutions as well as the housing industry. We urge your colleagues to vote for this amendment when it is considered on the Senate floor this week.

Sincerely yours,

HERMAN J. SMITH,
President.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. 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. 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.

STATUS OF AMENDMENTS

Mr. DOLE. Mr. President, I might take just a moment to sort of update the Members who are present and staff members and those Senators who may be listening in their offices or in committee sessions that we are, the Senator from Kansas believes we are, near a point where we can probably finish this bill without too much difficulty before midnight tonight, and I believe that is the intent of the distinguished majority leader to finish the bill today.

If those who have amendments would now tell us that they are not going to call those amendments up, it would be most helpful. There are a number of amendments in negotiation, and I might suggest we have been fairly successful in negotiations. Most of the amendments that have gone that route—maybe half the amendments that have gone that route—have been worked out. Others could not be worked out on this particular bill, but that does not mean they are not without merit and that there will not be another opportunity later on.

But there are still a number of amendments that we hope by 4 or 5 o'clock this afternoon we would be down to the bare minimum of a half dozen that are going to take any time at all.

So if someone has an amendment—I think Senator JEPSEN and Senator LEVIN have an amendment on adoption credits we believe that can be negotiated; Senator LEAHY has an amendment which I believe has been negotiated; Senator MELCHER, Senator DURENBERGER, Senator JEPSEN, Senator GRASSLEY, and Senator BOSCHWITZ, have amendments which I believe we can negotiate.

The Senator from New York (Mr. MOYNIHAN) has an amendment which we cannot accept. I promised the Senator

from New York that I would do the very best I could to get it on the next tax bill. I am not certain the Senator wants to call it up or not.

Mr. MOYNIHAN. Would the distinguished chairman be agreeable to calling up the amendment and having it briefly discussed?

Mr. DOLE. Yes; would the Senator like to do it now?

Mr. MOYNIHAN. Like now?

Mr. DOLE. That is an indication that really there are not that many amendments left that should take a great deal of time, and with the Members' cooperation—and we have had splendid cooperation in the past 11 days, hopefully this will be the last day we will have to ask for such cooperation.

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. 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.

The question is on agreeing to the amendment of the Senator from Florida. All time has been yielded back, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—100

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Weicker
East	McClure	Williams
Exon	Melcher	Zorinsky
Ford	Metzenbaum	

So Mr. CHILES' amendment (UP No. 310) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order? The majority leader has a right to be heard.

The PRESIDING OFFICER (Mr. WEICKER). The Senator will suspend until there is order.

The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair. I thank my good friend from New York for very properly making the point that the Senate was not in order.

ORDER OF PROCEDURE

The purpose for seeking recognition, Mr. President, is to say that it is my hope that the Senate will continue from this hour for the remainder of the afternoon to take up and dispose of amendments, notwithstanding that there are conferences and caucuses on both sides of the aisle, beginning at 12:30 and running until approximately 2 p.m.

In the past, we have not infrequently recessed during that period, but I do not propose now to ask that the Senate recess, because we have a great volume of work yet to do. I urge Members to consider offering their amendments during this period from 12:30 to 2, when the two parties are in caucus. I understand that that is an imposition on Members, but it is necessary, I believe, under the circumstances.

I urge, however, that the distinguished chairman of the committee and the ranking member consider stacking any votes that may be ordered during that period until 2 p.m. I do not make that request at this time, but in the event there is a request for the yeas and nays, if the managers of the bill would go forward with that request, I hope there will be no objection to it.

Mr. President, it is still my hope that we can finish this bill today. I think we can. It will require a high level of dedication and diligence and a willingness on the part of Senators either to offer their amendments or declare that they will not offer their amendments. I believe it is essential that we finish this bill today. I do not propose to ask the Senate to recess early today as long as there is any hope that we can finish. On the contrary, I expect that we may be in late in order to accomplish that purpose.

I thank the Chair.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the pending matter be temporarily laid aside.

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

AMENDMENT NO. 513

(Purpose: To amend the Internal Revenue Code to change certain accounting rules related to inventory)

Mr. MOYNIHAN. Mr. President, I call up printed amendment No. 513.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 513.

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

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

The amendment is as follows:

At the end of subtitle D of title II, add the following:

SEC. 234. EXCESS INVENTORY ITEMS MAY BE WRITTEN DOWN TO SCRAP VALUE.

(a) IN GENERAL.—Section 471 (relating to the general rule for inventories) is amended by adding at the end thereof the following new sentences: "A taxpayer may value his excess inventory at its net realizable value. For purposes of this section, the term 'excess inventory' means that portion of the taxpayer's inventory which the taxpayer reasonably expects will be disposed of at less than full realization of its cost. Such portion shall be determined with respect to each group of articles by age by referring to the taxpayer's most recent 5-year experience with inventories.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after December 25, 1979.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the names of the Senator from New York (Mr. D'AMATO), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Montana (Mr. BAUCUS) be added as cosponsors of the amendment.

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

Mr. MOYNIHAN. Mr. President, this is the amendment concerning the so-called Thor Power Tool ruling which has caused great concern in a wide range of industries in the Nation, but none more than the publishing industry.

As the distinguished chairman of the committee knows, the wholly unanticipated effect of the ruling, which on its face is an equitable one—deductions from earnings should not be made unless there is an actual loss that can be demonstrated, and that was the effect of the ruling—has been to make it extremely difficult for book publishers to carry back lists, as they are called, of books which sell slowly over time and frequently not at all, in terms of the entire printing, but which are essential to any literate and scientific culture such as ours at least once was.

The effect of this ruling is to make it extremely costly for publishers to keep in their warehouses books that have not sold, in the expectation that over time they will do so. This has been for generations. this has been for centuries, the honorable practice of publishers.

As an author, I can think of more than one warehouse where my works are stored, in the increasingly vain expectation that someone might come along and assign them to a reading list. But this is not nearly as important as the medical texts, scientific texts, books of poetry, the encyclopedias. the technical manuals which a vibrant and rich publishing tradition needs, which this Nation needs.

The effect of the Thor Power ruling is already upon us. Books are literally being turned into pulp. I do not want to exaggerate. We are not talking about anyone's ill intent. But it is a fact.

Mr. President, I ask unanimous consent to have printed in the RECORD a brilliant editorial published in the Washington Star on October 8 of last year—on the editorial page superbly edited by Edward M. Yoder, Jr.—entitled "Books Into Pulp," and an editorial published in the New York Times of September 4,

1980, entitled "Taxing Books to Extinction."

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

[From the Washington Star, Oct. 8, 1980]

BOOKS INTO PULP

It is not uncommon for a law to affect human life and commerce far beyond what its sponsors intended. So it may be with the case of the *Thor Power Tool Company vs. Commissioner of Internal Revenue*, decided last year by the U.S. Supreme Court.

The case seemed unexceptional. The Court decided that the valuation of warehouse inventories could not be reduced for tax reasons—unless the stock itself was sold at reduced prices. The logic seems indisputable.

But what are the likely effects?

One is that the cost of doing business will go up—which means higher prices for everyone. Another is that basic inventories may be reduced. It could, for instance, be harder to get the spare parts one may need for a car or refrigerator.

The Internal Revenue Service subsequently made the *Thor Power* decision retroactive to 1979—a ruling now opposed by bills in Congress. And with what appears to be some glee, the IRS applied the ruling to all kinds of companies—including book publishers.

Publishing houses accordingly plan to destroy or "remainder" millions of books in the next few months because they can no longer depreciate their inventories for tax purposes. They are expected to print fewer books in the future, to avoid the chance of overstocking, and to permit titles to go out of print sooner. They are likely to offer fewer contracts for "non-commercial" books.

Some publishers, it has been reported, have already increased their sales to remainder houses (where the wholesale price is often 10 cents on the dollar). A great many books—some estimate millions—will be ground into pulp. Backlists—titles which sell steadily and yield profits over a long period—are in danger.

Yet backlists are vital to publishers who don't rely upon best sellers for profits. For every *Princess Daisy*, which may sell thousands of copies a week, there are hundreds of slower-selling histories and biographies from which the IRS wishes to extract the full tax dollar.

Paradoxically, the tax dollars may not be there. If publishers cannot afford to pay higher taxes on non-depreciated stock, they will get rid of it. There is not much of a tax—at least not yet—on pulp and shredded paper. Yet pulp is what the IRS will encourage if its ruling remains in force.

One must be grateful that such broad rulings were not being made by IRS in the days of Melville, Thoreau and Hawthorne; or Faulkner, Hemingway and Fitzgerald. One must also be grateful that the IRS does not have the final say.

Sen. Daniel P. Moynihan, a writer of note (whose books do not, alas, rival those of Irving Wallace on the best-seller lists) plans to introduce a bill exempting publishers from the *Thor Power* decision when the new Congress convenes in January. He has said it will be the first item on his agenda. We hope he succeeds.

Others may wish to re-examine the original ruling, but Mr. Moynihan recognizes that the immediate danger is to the printed page and the life of the mind in modern America.

[From the New York Times, Sept. 7, 1980]

TAXING BOOKS TO EXTINCTION

Anyone who has looked for a special book lately knows the probable outcome: it is out of print. The changing economics of the book business have sharply raised the cost of holding inventories, and publishers are reluctant to maintain extensive "backlists." As a result, people who want (or need) to read older books must increasingly depend on libraries—which have financial troubles of their own.

There is not a great deal that can be done to reverse this unfortunate publishing reality. But it is certainly possible to decelerate the trend by offering modest tax incentives to publishers who would rather sell books than shred them.

Federal law says that profits should be taxed only when they are realized. An investor, for example, need not pay taxes on the increased value of securities until they are sold. This principle also works in reverse, to the detriment of the book industry. When a book fails to sell as well as expected, its publisher would like to write off the remaining inventory by deducting the loss from current taxable income. But Internal Revenue argues that, to be consistent, such anticipated business losses should not be deductible until the losses are actually realized—that is, when the books are either dumped below cost or destroyed.

This quarrel has been fought in the courts for years. In 1979 the Supreme Court ruled that the Thor Power Tool Company could not carry inventories of its products at a loss. And last February the IRS informed publishers that, for tax purposes, unsold novels were no different from unsold drills.

It is hard to quarrel with the Government's logic or, for that matter, its forbearance in this case. And there may be more than a touch of hyperbole in the comment of George Brockway, the chairman of W. W. Norton, that the IRS ruling "could blow the business apart." But there is little doubt that, uncushioned, the ruling will make it harder to find that special volume of art criticism or monograph on cell biology.

What cushion is possible? Publishers seem to be banking on a bill sponsored by Senator Nelson of Wisconsin and Representative Conable of New York, which would provide a one-year delay in the imposition of the Thor ruling for all affected businesses. That is an unfortunate wagon to which to hitch the future of book industry taxes. There is no good reason to give a costly tax reduction to, say, the auto spare parts business. In any case, such a one-shot delay would in no way improve the long-term incentive to keep good but slow-selling books available.

What publishers really need is legislation that provides special treatment for a truly special situation, allowing them to write off inventories after three or four years without having to dump books. Such legislation, just for publishing, would cost the taxpayers only a few million dollars a year. It would be money well spent.

Mr. MOYNIHAN. Mr. President, I am aware that the Treasury Department feels that they cannot at this point accept this amendment. I have discussed the matter off the floor during the last hour with Mr. Chapoton, who is entirely sympathetic to our concerns. He is not certain whether we have the best remedy.

The remedy we propose is to provide a third method of proving loss of inventory, which is basically a 5-year experience, to be proved out, but statistically valid, and it would not be something that would trouble any firm trying to make judgments. You do samples and you work from experience.

This, of course, applies not only to the book publishing industry but also to industries throughout the country and has to have large consequences in the willingness and capacity to carry inventory of finished products, such as books, or parts that go into an assemblage—in the classic spare parts inventory that goes with machinery.

The judgment of management consultants we have dealt with is that this will be a blow to the creative complexity of American industry, firms that make complex machines and expect them to last a long time and keep parts on hand that allow the machines to be repaired over a long time.

However, given the opposition of the Treasury Department—the cost of this measure running from 1983 out is a not inconsiderable but neither overwhelming $259 million, $276 million, and so forth—I understand that the chairman is willing to take up this matter in detail when the first opportunity appears of a new tax bill, a second tax bill, or the next tax bill. Rather than have it voted on in a body where there may be a feeling that the full facts are not known and the widest range of judgments has not come in, I believe it would be prudent, in the interests of the industries involved, to accept the generous offer, as I understand it, of the distinguished chairman.

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

Mr. MOYNIHAN. I yield.

Mr. DOLE. The Senator is correct. We have discussed this matter. It also has been discussed with the distinguished Senator from Louisiana (Mr. LONG). The Senator from Kansas discussed it with the Treasury Department, to see if they could come up with some other concept that would satisfy and accommodate the serious and just concerns raised by the Senator from New York.

I do pledge that we will address this matter at the earliest possible time in the Senate Finance Committee. It is my understanding, and I believe it is accurate, that another tax bill will be discussed and voted on in the Senate Finance Committee. Although it is not certain to be discussed on the floor this year, we are moving ahead, and it is hoped that by that time we can find some approach that will satisfy the Senator.

Mr. MOYNIHAN. I thank the chairman. If we can leave it with the next bill, whenever that time comes, it will be considered. I appreciate the generosity of the chairman in this matter. I know that at this point in this measure there are things he cannot accept without the support of the Treasury Department. The Treasury Department is not hostile; it is unconvinced.

Mr. DOLE. That is right.

Mr. MOYNIHAN. With that note, and with an expression of appreciation to the chairman, I ask to withdraw the amendment I have at the desk.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. I thank the distinguished Senator from New York.

Mr. MELCHER. Mr. President, is the pending amendment that of the Senator from Kansas?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

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

UP AMENDMENT NO. 311

Mr. MELCHER. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER), for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. KASTEN, Mr. LUGAR, Mr. ZORINSKY, Mr. EXON, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. JEPSEN, Mr. GRASSLEY, and Mr. SASSER proposes an unprinted amendment numbered 311.

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

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

The amendment is as follows:

At the end of subtitle F of title II, insert the following new section:

SEC. . MAXIMUM RATE OF IMPUTED INTEREST.

(a) IN GENERAL.—Section 483 is amended by adding at the end thereof the following new subsection:

"(g) MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS BETWEEN RELATED PARTIES.—

"(1) IN GENERAL.—In the case of a sale or exchange of qualified non-depreciable property to a U.S. person, the maximum interest rate used in determining the total unstated interest under the regulations under subsection (b) shall not exceed 7 percent, compounded semiannually.

"(2) QUALIFIED NON-DEPRECIABLE PROPERTY.—For purposes of this subsection, the term 'qualified nondepreciable property' means any property which is not subject to an allowance for depreciation or amortization in the hands of the person holding the property after the sale or exchange.

"(3) $2,000,000 LIMITATION ON QUALIFIED NON-DEPRECIABLE PROPERTY.—Property shall not be considered qualified non-depreciable property to the extent the sales price of all property sold or exchanged by the parties during a 12-month period exceeds $2,000,000.

"(4) SPECIAL RULE FOR LIQUIDATIONS.—In the case of a sale or exchange of stock in a corporation which is liquidated (in a transaction to which part II of subchapter C applies) within 2 years of the sale or exchange, paragraph (1) shall be applied, by treating the sale or exchange as a sale or exchange of the assets of the corporation. The Secretary shall prescribe regulations for the application of this paragraph."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made after June 30, 1981 pursuant to sales or exchanges occurring after such date.

Mr. MELCHER. Mr. President, this amendment deals with imputed interest rates, which is a term that the Internal Revenue Service uses when they wish to make certain, under section 483 of the Codes, that there will be a proper interest rate on the sale of real property. By "proper" I mean an interest rate that they think is realistic.

Prior to July 1 of this year, the cap on that would be 7 percent. That would be as high as the IRS could impute an interest on the contract for deed. The amendment freezes at that level, at 7 percent, the rate which was in force prior to July 1 of this year on sales of nondepreciable property of $2 million or less.

This, for the most part, involves farms, ranches, and small businesses; and, for the most part, these properties are sold on a contract-for-deed basis. That is, a seller says to the purchaser: "Here are the terms on which I will sell the property. Here is the interest rate. Here is the structure of the whole sale and when I want to be paid off, and so forth." That is the usual form for most of the sales of farms, ranches, and small businesses.

What does that involve in the imputed interest rate? We have been working to put a cap on the imputed interest rate at this level since the increase to 10 percent was first proposed by the Internal Revenue Service last August. Many of us felt that it was none of the Internal Revenue Service's business to be determining what interest rates should apply on the sales of property between individuals and businesses.

Personally, I believe that the Internal Revenue Service gets into too much of the ordinary daily lives of people. There is no reason I can justify in my own mind for the Internal Revenue Service to be involved in every contract for deed of sale of real property.

However, section 483 of the Code adopted in the 1960's directs them to impute an interest rate at a certain level on a contract for deed.

Prior to July 1, it was 7 percent. What we are doing in the amendment is saying that is where it is going to stay, but put a cap on it of $2 million and have it only apply at that rate, 7 percent or up to 7 percent, on those transactions of less than $2 million and apply to sales of nondepreciable property.

Our efforts to cap the rate in this bill are supported by the National Association of Realtors, the National Homebuilders Association, the American Farm Bureau, the National Farmers Organization, the National Farmers Union, the National Cattlemen's Association, the Grange, the National Milk Producers Federation, and the American Agricultural Movement.

At the request of the distinguished chairman of the Finance Committee, I and the other cosponsors of my amendment agreed to meet with the Secretary of the Treasury, Mr. Regan, to decide if we could work out an agreeable solution to this amendment because they first objected to it and we wanted this amendment to become part of this final bill. As a result of these meetings we agreed to limit the size of the transaction to $2 million, and anything below that would qualify for the lower rate and agreed that this should apply only to nondepreciable property.

This keeps the Internal Revenue Service out of a great number of transactions. However, because it is vitally important that we hold these rates down, particularly in the sale of family farms, family ranches, and small businesses, my cosponsors and I agreed to the limitations in order to gain Treasury support for the amendment.

It is my understanding, and I wish to have the chairman of the Finance Committee affirm this, that every effort will be made by the committee members to retain this amendment in conference with the House of Representatives and see that it is part of the final bill.

Before we get done I hope the distinguished chairman of the Finance Committee is back on the floor and maybe we can have a little colloquy on that.

Mr. President, I now yield to the Senator from Minnesota, one of the cosponsors, Senator BOSCHWITZ.

Mr. BOSCHWITZ. Mr. President, I join my colleague from Montana, Senator MELCHER, in speaking about this amendment and I ask unanimous consent to add the following Senators as cosponsors: Senators QUAYLE, COCHRAN, PRESSLER, DANFORTH, ARMSTRONG, SIMPSON, GORTON, DURENBERGER, MCCLURE, and SYMMS.

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

Mr. BOSCHWITZ. Mr. President, I rise to join my distinguished colleague from Montana in sponsoring this amendment and urging its acceptance by the full Senate, and also I will join him in talking to the chairman of the committee to see that this will survive the conference inasmuch as we have sought to achieve these ends over some period of time, and it is my understanding that it is not in the companion bill being considered in the House of Representatives.

We are all familiar with this issue. Over a year ago, the IRS proposed regulations which would have increased the rate of interest which is imputed in contract sales between buyers and sellers. Last Congress, the IRS agreed to delay issuing these regulations until July 1 of this year, so that Congress would have time to act. Within that time period, hearings were held last spring at which the IRS testified. In that testimony, the IRS admitted that the regulations had no revenue-raising effect. Furthermore, the IRS stated that they were merely enforcing the law, and would continue with "business as usual" until Congress acted.

As we all know, the Finance Committee has been concentrating its efforts on the Economic Recovery Tax Act, which we are currently considering. As a result, this is the first time the full Senate has the opportunity to address this important issue. Notwithstanding the short time period, the IRS did issue regulations on July 1.

The regulations issued by the IRS require certain interest rates to be charged in sales between commonly controlled businesses and in sales between individuals. If a contract for sale between individuals calls for an interest rate of less than 9 percent, the IRS will impute a rate of 10 percent. This amendment will keep the maximum imputed interest rate at 7 percent, the rate in effect before the IRS issued the new regulations. I want to emphasize that this amendment only helps individuals—it does not affect the new regulations on sales between commonly controlled businesses.

The IRS is quick to point out that these regulations do not change the amount of payments in a sales contract. Rather, the regulations merely adjust the portion of the payments which is treated as in-

terest income to the seller and as interest deduction to the buyer. The practical effect of the regulations, however, is that sellers and buyers will not have as much room to bargain in the sale. The sellers will no doubt raise the price, forcing buyers to make larger payments, possibly over a longer period of time. As a result, many young buyers of homes, farms, and businesses may very well be priced out of the market. Surely these results are not intended by the economic recovery program. If anything, this amendment will further the goal of our economic recovery program by eliminating the involvement of the IRS in private contractual arrangements.

This amendment is a reasonable compromise to relieve the burdens the regulations impose on family farms and small businesses. This amendment will keep the maximum interest rate that the IRS can impute at 7 percent. For sales of nondepreciable property of up to $2 million in any 12-month period. It will make no difference whether the sale is between family members or neighbors. Thus, the small businessman will be able to sell the stock of his company, and the farmer can sell his land, without undue meddling by the IRS.

Mr. President, I urge the Senate to adopt this amendment.

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

Mr. MELCHER. Mr. President, I yield to the Senator from Iowa, the distinguished subcommittee chairman of the Finance Committee, Senator GRASSLEY.

Mr. GRASSLEY. I thank the Senator from Montana for yielding.

I compliment him for his leadership in this area and I also suggest that he showed early leadership by appearing before our subcommittee when we had hearings on this subject. I am particularly appreciative of the fact that he was willing to work this compromise out so that we could get bipartisan support for this issue of importance to rural America and hopefully get this in a final tax package out of conference.

There is probably not any one issue dealing with survival of the family farm except the estate tax that has had more attention in recent months in the Midwest than the issue of imputed interest. I think we should consider the environment in which this concern is expressed. It is expressed in terms of the ability to pass on from one generation to the next the family farm or small business. One of the tools for assessability of younger generations to continue the family farming operation has been the lower rate of interest that mothers or fathers have been willing to give to their sons and daughters in helping to start this family farm operation or small business.

This intergenerational loan or gift is not ever in the vein of trying to avoid taxes or ever in the vein of trying to pull something fast on the Government. This is a very open approach of one generation willing to forgo some income just because of the desire to see the family farm continue within the family from one generation to the other.

This will eliminate one impediment to this transfer of property from one generation to the other. As I said before, next to the estate tax reform that is probably the most important thing we can do, and one that is going to eliminate a lot of anxiety for people in their sixties and seventies involved in family farms and businesses who worry whether or not their sons and daughters will be able to continue the operation.

I support this amendment and have cosponsored it. I want to thank the Senator from Montana for working out this compromise and express my appreciation for his fine work.

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

Mr. MELCHER. I yield to the Senator from Iowa who has been most active in the amendment over the past several months.

Mr. JEPSEN. Mr. President, I rise in support of the amendment proposed by my distinguished colleague from Montana (Mr. MELCHER). I commend him for pursuing this issue so diligently during the present session and for bringing it now before the Senate for a vote.

For well over a year, Members from both Chambers of the Congress have been urging the Department of the Treasury to reconsider their decision to raise imputed interest rates under section 483. An hour ago we reached a compromise with the Secretary of the Treasury. That compromise is reflected in this amendment. Although it does not go as far as many of us would like, it is a step in the right direction. The arguments in favor of it are overwhelming.

The imputed tax regulations target the most critical sectors of the American economy: Agriculture and small business. Statistics from the Department of Agriculture and the Small Business Administration indicate that these two groups, by themselves, produce almost half of national income, 53 percent of national employment, and as much as 65 percent of all new jobs created in the United States. The new regulations do not just hurt a small group, indirectly, they hurt all Americans.

But, the most important reasons against raising imputed interest rates are not the law or statistics but people. I am talking about the corn grower from Conrad, Iowa, and the grocer from Centerville and millions of other self-employed Americans in Iowa and across the Nation. They work the same land or the same business as their parents did, and their parents' parents before them.

I am talking about people working 16-hour days, 7-day weeks, and 52-week years. I am talking about men and women with calloused hands and sore backs—the individuals who produce our food and the entrepreneurs who take a dream and through years of hard work turn that dream into a business. I am talking about those sectors most responsible for the unparalleled economic growth in America over the past 200 years.

Why do these men and women from Denison, Iowa, New Ulm, Minn., and tens of thousands of other towns in our 50 States labor so hard? In my State I hear the same answer again and again: They do so in order to give their offspring a better life than they had and to leave them something which they in turn will pass on to their children.

The new regulations issued by the Treasury strike at the very heart of this venerable tradition. When the time comes for a child to get started in business or farming, he or she cannot afford 20-percent interest rates and the enormous initial capital expenditures. So, a father and mother give the child a break: A low-interest loan and a deferred payment schedule. This does two things: It helps the young person when such help is critical and allows parents to pass on their property to their offspring without incurring the confiscatory rates of present estate taxation. Raising the imputed interest rates will effectively close off that option to many farmers and small businessmen.

The IRS is venturing where they have absolutely no business to be. This is Government at its worst. While this amendment does not answer all the problems of retaining family farms and family business, it is a major step in the right direction. I support it and urge all Senators to do likewise.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Montana yield?

Mr. MELCHER. I am delighted to yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, is the understanding of the Senator from Virginia correct that the Treasury Department does not oppose this amendment and the Treasury Department in fact worked with the Senator from Montana to develop it and approves the amendment?

Mr. MELCHER. The Senator is correct. We met several times with representatives of the Treasury Department. We met this morning with Secretary of the Treasury Regan to make the final agreement on the terms of the amendment.

Mr. HARRY F. BYRD, JR. If the amendment is not adopted, what would the imputed interest rate be?

Mr. MELCHER. The imputed interest rate would be 10 percent if the amendment is not adopted. The imputed interest rate still will be 10 percent on sales of depreciable property and those sales that involve more than $2 million, $2 million or more.

Mr. HARRY F. BYRD, JR. And the present ceiling on imputed interest rates is 7 percent, and the Senator from Montana would keep that ceiling insofar as nondepreciable property is concerned?

Mr. MELCHER. Up to $2 million. We would roll back the imputed interest rate to 7 percent, what it was on July 1 of this year, just a couple weeks ago, and on nondepreciable property.

Mr. HARRY F. BYRD, JR. On July 1 it went from 7 percent to 10 percent?

Mr. MELCHER. That is correct.

Mr. HARRY F. BYRD, JR. This is on nondepreciable property up to $2 million would be rolled back to 7 percent?

Mr. MELCHER. That is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. MELCHER. Mr. President, the chairman of the Finance Committee is

here now and I wonder if he could engage in a colloquy to the effect that the agreement that has been arrived with the Secretary of the Treasury and the amendment now pending before us is acceptable to the chairman of the Finance Committee.

Mr. DOLE. Mr. President, let me say to the distinguished Senator from Montana it is acceptable. In fact, I commend the Senator from Montana and the others who were in the series of discussions over the past several days trying to work out something that would be acceptable to the administration and the Treasury.

I believe this amendment is acceptable. I do not know of any problem with it. There are some who have indicated some reservations about whether this might drive up the price of farmland, but certainly that is not the intent of the amendment. This Senator is satisfied with the amendment.

Under present law, interest may be imputed on installment sales where no interest or low interest is provided for. Before July 1, 1981, the rate for imputing interest was 7 percent. On July 1, 1981, this rate was increased to 10 percent.

The amendment would keep the rate on sale of nondepreciable property at 7 percent—subject to a $2 million limit on sales.

The amendment by the Senator from Montana has been carefully negotiated with the Treasury Department over the past several days. The amendment will freeze imputed interest rates under section 483 for sales of land and other nondepreciable property in transactions of less than $2 million at the 7-percent level that existed before July 1, 1981.

This amendment appears to solve the problems pointed out by the Senator without opening significant avenues for abuse.

I think we will have success in conference. I know of no opposition to the amendment on the Senate side.

There will be a rollcall vote, I assume, to indicate how strong that support is.

Mr. MELCHER. I say to my friend, the distinguished chairman of the Finance Committee, the able Senator from Kansas, I hope we can, I hope the Senate conferees can, hold it in conference, because I think it works well for thousands upon thousands, scores of thousands, of people who are going to enter into contracts for deeds of farms, ranches, or small businesses.

We are dealing with really a lot in this tax bill that affects every individual and every corporation in this country, every company, every partnership, every venture of any kind. So it is only appropriate that we make some correction here as to how much authority IRS is going to exercise in looking at all contracts for deeds to real property, nondepreciable property.

The fact is that if we are going to do a good job in helping family farmers and family ranchers and family small businesses to survive, this is the one way we can help them.

I point out that during the 7 or 8 months we have been considering this subject we have continually asked the Treasury Department, we have continually asked the joint committee on what revenue would be gained or lost if the imputed interest rates were held at 7 percent, a cap at 7 percent. The only figure in that regard is a figure that was presented to us by the Joint Committee on Taxation, that it would be $10 million or less in loss of revenue.

It would seem to me that the principle is much greater than those few millions of dollars that might be lost to the Treasury, and that principle is this: Is it possible for people in this country to write a contract for deed, to set an interest rate that is agreeable between a willing buyer and a willing seller without too much interference from the Internal Revenue Service?

I think our amendment strives to answer that question in the affirmative with a positive "Yes," and I think we are giving up for that right for individual citizens in this country very little as far as the Treasury is concerned.

Mr. President, I know of no other requests for time and I yield back the remainder of my time.

I do ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. LAXALT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the vote on this amendment occur at 2 o'clock. I might say that has been cleared with the minority and majority leaders.

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

SIXTY ADDITIONAL MINUTES ON THE BILL

Mr. DOLE. Mr. President, I also ask unanimous consent—and this has been cleared with the majority and minority leaders—that the Senator from Kansas be allowed 60 minutes additional time on the bill.

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

Mr. DOLE. I want to commend the distinguished Senator from Montana again. We will, I think, have success in conference. I know the Senator is going to be working with some of the House conferees.

I yield back the remainder of my time.

Mr. MELCHER. I thank the distinguished Senator from Kansas and the chairman of the Finance Committee.

Mr. President, I ask unanimous consent that Senator BENTSEN be added as a cosponsor to the amendment.

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

Mr. DOLE. Mr. President, I think the distinguished Senator from Idaho (Mr. SYMMS) is now prepared to call up two amendments. I would again urge anyone who may be listening, I think we are in the home stretch, so if you have any amendment you would like to bring over now and discuss it I would appreciate it.

The PRESIDING OFFICER. Without objection, amendment 508 will be temporarily set aside.

UP AMENDMENT NO. 312

(Purpose: To eliminate the acceleration of the estate tax in the death of subsequent transferees)

Mr. SYMMS. Mr. President, I call up an unprinted amendment dealing with estate tax acceleration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 312.

Mr. SYMMS. 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 253, between lines 22 and 23, insert the following:

NO DISQUALIFICATION IN CASE OF SUBSEQUENT DEATHS.—Subparagraph (D) of section 6166(g)(1) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of subsequent transfers of the property by reason of the death of such person or of a subsequent transferee.".

On page 255, strike out lines 20 through 22, and insert in lieu thereof the following:

(g) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to the estates of decedents dying after December 31, 1981.

(2) The amendment made by subsection (c)(3) shall apply with respect to transfers of property after December 31, 1981.

Mr. SYMMS. Mr. President, I am offering an amendment today which is both noncontroversial, technical, and an amendment which will clarify the estate tax law. The chairman of the Finance Committee will be pleased that this amendment does not have a revenue loss and there was no objection presented by the Department of the Treasury when the clarification was considered in the House Ways and Means Committee markup. The Treasury just approved it here. Also it has been approved by the ranking minority member of the Finance Committee and by Senator METZENBAUM.

The amendment would achieve one objective. Originally I had offered an amendment which would contain two objectives, but I have dropped one of the objectives. The other objective I still favor. It is in the version in the other body, and I hope we can achieve both of these objectives when we finally come to a conference.

The part we are discussing today will eliminate the acceleration on the death of subsequent transferees.

Section 6166(g)(1) accelerates the payment of estate taxes deferred under section 6166 if one-third or more of an interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of. Section 6166(g)(1)(D) provides that there is no acceleration when a closely held business interest is transferred from the decedent's estate to a person entitled to receive such interest by reason of the decedent's death.

However, this exception for death-related transfers ceases to apply when the person who received his interest from

the decedent dies and the interest is transferred to such person's heirs. For example, where a spouse dies and leaves an interest in a closely held business to the surviving spouse, there is no acceleration of deferred estate taxes. But when the surviving spouse dies and leaves such interest to the children, there is acceleration of the original decedent's deferred estate taxes when the children receive their interest.

Another example would be if the wife died and left a farm to the son. The son worked out an agreement with the IRS to pay the estate tax over a 15-year period. The son then suddenly died and left the farm to his brother. The brother would then be subject to paying the estate tax on the mother's estate immediately. Quite obviously, the brother might have to sell the farm or a portion of the farm to meet the estate tax liability.

There is no justification for requiring acceleration on the death of a subsequent transferee. The rationale underlying the exception for death-related transfers—death does not add to the liquidity of the estate—should apply with equal force at the time of the second death. Accordingly 6166(g)(1)(D) should be expanded to include all subsequent transferees.

I would like to again stress that this amendment is noncontroversial, technical, and does not incur a revenue loss, and in its present form is supported by Treasury. The Department of the Treasury agreed that the second part of my original amendment would be thoroughly reviewed before the conference so that the issue of judicial forum might be included in this tax bill since it is in both the Ways and Means Committee tax bill and the Conable-Hance substitute. Judicial forum is essential if the integrity of our Tax Code is to be maintained.

I am prepared to yield to the chairman.

Mr. DOLE. Mr. President, I understand this has been cleared with the distinguished Senator from Louisiana and with Senator METZENBAUM from Ohio; is that correct?

Mr. SYMMS. That is correct.

Mr. DOLE. I know the staff of the distinguished minority leader are checking that now. I know that to be a fact. In any event we will wait until that word comes back.

It is also accurate, as the Senator from Idaho has pointed out, that this amendment has the approval of Treasury. It is contained, I might say, on the House side in both the Ways and Means Committee bill and the Hance-Conable bill.

Mr. SYMMS. That is correct.

Mr. DOLE. So it is an amendment that has great merit. The Senator from Kansas is prepared to accept it. I do not know of any objection from the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I have no objection. I do not know about Senator LONG.

Mr. SYMMS. I would submit to the Senator from Kansas that this is the amendment I discussed with Senator LONG the other day. As a matter of fact, Senator LONG approved the amendment in its entire form, and I have dropped half of it.

Mr. LONG. I have no objection.

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

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

The PRESIDING OFFICER. All right. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho. (Putting the question.)

Mr. Symms' amendment (UP No. 312) was agreed to.

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

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COST RECOVERY ELECTIONS

Mr. BOSCHWITZ. I would like to ask the distinguished chairman of the Finance Committee to clarify the intent of the committee concerning one aspect of the cost recovery provisions of the bill. Under the bill, taxpayers are given some degree of flexibility by permitting certain elections to recover costs under the straight-line method and for extended periods rather than using the tables prescribing recovery percentages based on accelerated methods. My question is whether the bill would permit each company in an affiliated group of corporations to exercise an election or must the election be made for all depreciable assets placed in service during a taxable year by the affiliated group.

Mr. DOLE. In general, the elections provided under the bill are to be made on an entity-by-entity basis in a manner similar to the present law rules for the asset depreciation range system. Thus, in the case of an affiliated group of corporations, a separate election could be made with respect to each corporation within the group. For example, the parent company of an affiliated group could, for a taxable year, determine its cost recovery allowance for assets in the 5-year class under the prescribed accelerated recovery table although an election is made with respect to a subsidiary company to recover cost for its assets in the same class under a straight-line method over one of the prescribed periods of 5, 12, or 25 years.

Mr. BENTSEN. If the Senator would yield, I would like to know if the separate entity-by-entity elections would be available for component members of an affiliated group if a consolidated income tax return is filed.

Mr. DOLE. As under the present asset depreciation range system and consolidated return regulations, separate elections would be permitted. However, future availability of separate elections for component members during a taxable year would depend upon the applicable consolidated return regulations prescribed by the Treasury Department. As you know, the rules for filing consolidated returns are largely prescribed under Treasury regulations. The provisions of the bill would not in any way curtail Treasury authority to prescribe consolidated return rules, including those relating to cost recovery elections.

Further, appropriate restrictions will be imposed on the cost recovery options available in the case of asset transfers between members of an affiliated corporate group. Thus, intercompany asset transfers cannot be used as a mechanism to freely change the recovery period and method which was chosen when an asset was first placed in service by a member of an affiliated group. For example, if the original purchaser chooses to recover the cost of equipment under the straight-line method, an affiliated company cannot later purchase or acquire that equipment and choose to compute its cost recovery allowance under an accelerated method.

Mr. BENTSEN. I thank my distinguished colleague for clarifying these points.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 313

(Purpose: Extend for one year the transitional rule to the generation-skipping provisions for wills and revocable trusts executed before June 11, 1976)

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 313.

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

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

The amendment is as follows:

On page 256, after line 25, insert the following new section:

"SEC. 408. POSTPONEMENT OF GENERATION-SKIPPING TAX EFFECTIVE DATE.—Section 2003(c) of the Tax Reform Act of 1976 (Pub. L. 94-455) (relating to the effective dates of generation-skipping provisions), as amended by section 702(n)(1) of the Revenue Act of 1978 (Pub. L. 95-600), is amended by striking out 'January 1, 1982' in paragraph (2)(b) of such section and inserting in lieu thereof 'January 1, 1983'."

Mr. SYMMS. Mr. President, the amendment I am offering will extend the grandfather clause on the generation-skipping transfer tax until January 1, 1983.

The generation-skipping transfer tax is extremely complex and costly to administer. It is, in fact, so complex that even the most knowledgeable individual or corporate fiduciaries, insurance people, accountants and attorneys, all of whom are affected by this tax, are finding it extremely difficult to interpret or apply.

The generation-skipping transfer tax

can never be defended on revenue grounds. According to the Joint Tax Committee, this tax is projected to have no revenue effect in its early years and they hope to generate $400 million of revenue to the Treasury in its 20th year. However, the private sector has spent hundreds of thousands of dollars in attempting to understand and implement the law and to no avail. Two volumes, each the size of the yellow pages, have been published in an attempt to comprehend the law. Clearly, the tax is regressive since it does not collect any revenue but is costing the private sector significant sums of money to try and comply with the law.

While the generation-skipping transfer tax cannot be defended on revenue grounds, neither can it be defended on the ground that the statute can be made to work. There are numerous, complicated analytical steps that must be followed in order to determine whether any amounts are held in trust that will be subject the the generation skipping transfer tax. This analytical process often results in an unexpected and inequitable application of the tax. There are at least 14 key defined terms to master under chapter 13, as well as a handful of other terms not actually defined, but, nevertheless, essential to the operation of the statute. As if this were not enough, the generation-skipping tax has no antecedent in prior law, meaning that an estate planner's comprehension of Federal estate and gift tax concepts is of little value when grapping with chapter 13.

Furthermore, significant portions of the relating to generation-skipping transfer taxation are not in the statute and remain to be written. In particular, there are eight places on the face of chapter 13 where important rulemaking authority is delegated to the Secretary and, for good measure, there is a ninth resort to the Secretary, this one for information as opposed to rulemaking. None of these nine delegations has been discharged by issuance of final regulations, even though the first date upon which a taxable generation-skipping transfer may have occurred was June 12, 1976.

There are many complex provisions in the Internal Revenue Code, but perhaps none of such wideranging application as those relating to the generation-skipping transfer tax. Even to the few attorneys who enjoy the status of "expert" in estate planning affairs, chapter 13 presents difficulties which are insurmountable. As an example, according to a survey done recently at an American Bar Association nationwide meeting, only one attorney thought he comprehended most of the statute.

It is important to note that the question of complexity extends far beyond wills and trusts and those who prepare and sign them. Chapter 13 applies also to a broad range of so-called trust equivalents, arrangements which, while not "generation-skipping trusts," are deemed to have "substantially the same effect as a generation-skipping trust." (IRC S2611(d)(1)).

Practitioners were surprised to learn that in recently issued proposed regulations both estates and custodianships under Uniform Gifts to Minors Acts are considered by the Treasury Department to be among the "trust equivalent" arrangements to which chapter 13 applies. These arrangements are so commonplace, so fixed in character, so finite in duration and so far removed from the sort of conduct to which chapter 13 is directed that extension of the generation-skipping transfer tax rules to these devices is sure to result in the uninformed failure to comply with chapter 13 on a grand scale.

The foregoing indicates to many a clear and present danger to this country's voluntary compliance tax system. On the one hand, many will fail to comply with the requirements of chapter 13 out of simple ignorance. On the other hand, some will be encouraged to ignore chapter 13 in the belief that it is impossible for the Government to effectively enforce the tax and that, even in the event that a failure to comply is discovered, a plea of ignorance may appear to have sufficient validity to forestall the application of the penalty provisions.

If the Federal Government is to police the tax effectively, it must devise a system to keep track on all trust beneficiaries and all trustees under the hundreds of thousands of generation-skipping trusts in existence. It must know when each interest or power under each such trust terminates and when each trustee dies or leaves office. It must know when and how much property is added to all pre-existing trusts in order to determine the extent to which existing trusts have become subject to chapter 13. It must know when and in what fashion powers of appointment are exercised under generation-skipping trusts, and when interests or powers under such trusts are disclaimed or assigned.

In addition, the Federal Government must stockpile similar information as to the multiple of "trust equivalent" arrangements subject to the tax. Moreover, the Federal Government must acquire and store gift and estate tax information as to every person classified as a "deemed transferor" with respect to any "generation-skipping transfer" and must be prepared to supply that information to each form 706-B tax return preparer upon request.

The incredible amount of information that is required would seem to be beyond the storage capacity of any known computer. Even with active help from the taxpaying community, the collection and constant updating of the required data is an exercise the magnitude of which boggles the mind. Proper staffing to administer and collect the generation-skipping tax would have to be immense. Given the complexity of chapter 13, the training process alone seems overwhelming, and the number of civil servants needed to receive, analyze, store, sort, and respond to the required chapter 13 information would have to be staggering.

I urge all of my colleagues to support my amendment to simply defer the application of the tax with respect to pre-1976 wills until January 1983 so that the Congress can have time to examine this tax. During that period time, as chairman of the Estate and Gift Tax Subcommittee. I will continue to hold hearings and work out a solution to this problem. My subcommittee has already held 2 days of hearings on this and my conclusion is that this law is unworkable.

I will say that if it is the policy of this administration and this Congress to have an estate and gift tax then it would probably be equitable to have a generation-skipping transfer tax as well. However, the present tax is clearly not the tax to impose.

It clearly represents an idea that the Government wants not only to collect taxes, but to punish the taxpayers in the process. And, in this case no revenues have been collected. The only time that the tax might work is if everyone in the estate plan dies in order. If an individual dies out of order, then the wrong generations might be taxed, et cetera. I know in the years that I have served as a Member of Congress, that the Congress has been able to do many things but there is one thing I am sure of and that is that Congress will never be able to make individuals understand or comply with this law, and more important, I do not believe that we will ever be able to make them die in order.

Mr. President, if the distinguished chairman will voice his approval of this amendment, I will be happy to yield back the remainder of my time.

Mr. DOLE. Mr. President, I know that the distinguished Senator from Idaho has discussed this amendment with Treasury officials and with the Secretary of the Treasury. It is my understanding that it is supported by Treasury.

I also know that the Senator has discussed it with the Senator from Ohio (Mr. METZENBAUM) and with the Senator from Louisiana.

The amendment is acceptable to this Senator. I suggest that we withhold adopting it until we have a chance to check with Senator LONG and Senator METZENBAUM.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. SYMMS. I yield.

Mr. HARRY F. BYRD, JR. As I understand it, this has been worked out with the approval of the Treasury Department.

Mr. SYMMS. That is correct.

This amendment does not go as far as I would wish, but we are going to extend the grandfather clause for 1 year. The Treasury has agreed that they will take a very careful look at the total concept of the law to see what can be done to correct the law that was passed in 1976.

Mr. HARRY F. BYRD, JR. It is satisfactory to the Senator from Virginia. It is satisfactory to this side of the aisle to have the vote now.

Mr. SYMMS. In that case, I yield back the remainder of my time.

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

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

The amendment (UP No. 313) was agreed to.

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

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 314

(Purpose: To extend the same one time capital gains tax exclusion granted to elderly homeowners in 1978 to households in which at least one member is severely handicapped)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 314.

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

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

The amendment is as follows:

At the appropriate place in the Resolution, insert the following section:

(a) section 121(a) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sole or exchange of property if—

"(1) with respect to such property—

"(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or

"(B) the taxpayer or a dependent (as defined in section 152(a)(9)) is handicapped at the time of the sale or exchange of such property, and the principal purpose that such property is sold or exchanged was the handicap of the taxpayer or dependent, and

"(2) during the 5 year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more."

(b) Section 121(d) of such Code is amended—

(1) by striking out "age, holding and use" each place it appears in paragraph (1), and

(2) by adding at the end of paragraph (8) the following new paragraph:

"(9) Handicapped defined. For the purposes of this section, a person is handicapped if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than twelve months, as defined in title II, section 223(d) of the Social Security Act of 1935," as amended and the regulations under that section. An individual shall not be considered to be handicapped unless he furnishes proof of the existence thereof in such form and manner as the Secretary may require.

SEC. 2. (a) The heading for section 121 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 121. EXCLUSION OF GAIN FROM CERTAIN SALES OF A PRINCIPLE RESIDENCE.".

(b) The item relating to section 121 of such Code in the table of sections for part III of subchapter B of chapter 1 of such Code is amended to read as follows:

"SEC. 121. Exclusion of gain from certain sales of a principal resident.".

SEC. 3. (1) Section 1033(h)(3) and 1034 (1) of the Internal Revenue Code of 1954 are each amended to read as follows: "For the exclusion of gain from certain sales of a principal residence, see section 121.".

(b) Sections 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) of such Code are amended by striking out "One-time exclusion of gain from sale of principal residence by individual who has attained age 55" and insert in lieu thereof the following: "exclusion of gain from certain sales of a principal residence".

(c) Section 1250(d)(7)(B) of such Code is amended by striking out "age and ownership".

SEC. 4. The amendment made by this Act shall apply to sales or exchanges made on or after the date of enactment.

Mr. LEAHY. Mr. President, I ask unanimous consent that the names of Senator WEICKER, Senator RANDOLPH, Senator KENNEDY, Senator WILLIAMS, and Senator RIEGLE be added as cosponsors of the amendment.

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

Mr. LEAHY. Mr. President, I am offering today an amendment to the Economic Recovery Act of 1981, House Joint Resolution 266. Senators WEICKER, RANDOLPH, KENNEDY, WILLIAMS, and RIEGLE join me in proposing an amendment to extend to severely handicapped Americans the same opportunity that was granted to elderly Americans under the Tax Reform Act of 1978. Under that act, individuals 55 years of age and older were granted a one-time exclusion from taxation of up to $100,000 in capital gains realized from the sale of their homes. The amendment I am proposing would offer this same exclusion of capital gains to homeowners who must sell their homes because either they or a dependent are handicapped.

This legislation would greatly benefit homeowners who, because of the many problems associated with being handicapped, sell their homes. At the same time its cost is quite low. The Department of the Treasury has estimated this amendment's cost, with expected personal rate reductions, at $12 million in fiscal year 1982, and at comparable figures for fiscal years 1983, 1984, 1985, and 1986. Over 30,000 Americans with severe mental or physical handicaps would benefit from this legislation during these years.

Mr. President, the obstacles that confront handicapped individuals are numerous and often insurmountable. Many are unemployed or underemployed. As a result, the average income for the disabled individual is substantially lower than that of the average American. Another hardship faced by the handicapped is the problem of accessibility. Many find that because of their disability they can no longer move with ease around their own homes. Often the hardships of inaccessibility and a severe reduction in income combine to force handicapped homeowners to sell their homes.

This amendment will not alleviate the harsh conditions which lead handicapped Americans to sell their homes. However, it will lighten the costly burden of relocation after the home has been sold.

A handicapped individual who must sell his or her home faces a bleak future. Most often, these people must relocate in housing specially adapted to the needs of the handicapped. Unfortunately, there is is a 2- to 3-year waiting list for federally subsidized handicapped housing. If, in addition, a handicapped individual must pay capital gains tax, the financial burden is intolerable.

Many organizations familiar with the plight of the handicapped homeowner have endorsed this proposal. They include the National Spinal Cord Injury Foundation, the National Association of Retarded Citizens, the National Multiple Sclerosis Society, the Arthritis Foundation, the Paralyzed Veterans of America, the American Coalition for Citizens With Disabilities, the American Physical Therapy Association, the American Occupational Therapy Association and the Association for the Severely Handicapped.

On behalf of the severely disabled homeowners, I urge my colleagues to adopt this amendment.

Mr. President, I have discussed this amendment with the distinguished chairman of the Finance Committee. I hope it is acceptable to the committee.

Mr. DOLE. Mr. President, I say to the Senator from Vermont that I am very sympathetic to the amendment. I agree with the amendment, and I am willing to accept it. Has the Senator discussed it with the distinguished Senator from Louisiana and the Senator from Ohio? So far as I know, there is no objection to the amendment. I think it is a good amendment. It is directed to a group of people that I believe deserve consideration from time to time, and I am pleased to have the Senator offer this amendment.

Mr. LEAHY. I thank the distinguished Senator from Kansas and his staff for the help they have given me and my staff in working out this matter. I would also like to thank Mike Choukas, Leslie Hayes and Linda Schurman of my staff for their work.

I believe the cost will be minimal to the Treasury, but the benefit to those for whom it is intended will be tremendous.

I am willing to yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, I have no objection to the amendment. I am wondering about the same question put by Senator DOLE: Has this been cleared with Senator METZENBAUM and Senator LONG?

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

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

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

The amendment (UP No. 314) was agreed to.

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

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

Mr. DOLE. Mr. President, is there a vote set for 2 p.m.?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. It has been the hope of the Senator from Kansas to squeeze in one more amendment that we could agree on before that time. It is now 2 p.m. So if it is all right with the Senator from Iowa, we will have the vote and then call up his amendment. Senator LEVIN is on the floor and he has an interest in that amendment. So we will take that up following the rollcall.

UP AMENDMENT NO. 311

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

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

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—100

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Inouye	Sarbanes
Cochran	Jackson	Sasser
Cohen	Jepsen	Schmitt
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
DeConcini	Kennedy	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Tsongas
Durenberger	Mathias	Wallop
Eagleton	Matsunaga	Warner
East	Mattingly	Weicker
Exon	McClure	Williams
Ford	Melcher	Zorinsky
	Metzenbaum	

So Mr. MELCHER's amendment (UP No. 311) was agreed to.

The PRESIDING OFFICER (Mr. ANDREWS). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, it is my understanding that the Senator from Iowa, the Senator from Michigan, and the Senator from Ohio have an amendment that we might be able to accept.

Mr. METZENBAUM. Mr. President, I call up my amendment at the desk.

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

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Kansas?

Mr. METZENBAUM. I have no objection. I assume it is for the purpose of the Senator from Iowa calling up the amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

UP AMENDMENT NO. 315

(Purpose: To provide a deduction for the adoption of a qualified child by the taxpayer)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN), for himself, Mr. HATFIELD, Mr. DURENBERGER, Mrs. HAWKINS, Mr. METZENBAUM, and Mr. LEVIN, proposes an unprinted amendment numbered 315.

Mr. JEPSEN. 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 appropriate place in the joint resolution, insert the following:

SEC. . DEDUCTION FOR ADOPTION EXPENSES PAID BY AN INDIVIDUAL.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 (as redesignated by section 103 of this Act) as section 223 and by inserting after section 221 the following new section:

"SEC. 222. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATION.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowable under subsection (a) for any expense paid from any funds received under any Federal, State, or local program.

"(3) INTERNATIONAL ADOPTION.—No deduction shall be allowed under subsection (a) if the adoption of the child is an international adoption.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a qualified child by the taxpayer and which are not incurred in violation of State or Federal law.

"(2) INTERNATIONAL ADOPTION.—The term 'international adoption' means an adoption—

"(A) occurring under the laws of a foreign country, or

"(B) involving a child who was a citizen of a foreign country who—

"(i) was brought to the United States for the purpose of adoption, or

"(ii) came to the United States under circumstances with respect to which the necessity for the child's placement in adoption proceedings was reasonably foreseeable.

"(3) QUALIFIED CHILD.—The term 'qualified child' means a child who—

"(A) is a member of a minority race or ethnic group, or

"(B) attained the age of 6 before the beginning of the taxable year for which a deduction is claimed under subsection (a), or

"(C) is handicapped (within the meaning of section 190(b)(3)).

"(4) MINORITY RACE OR ETHNIC GROUP.—The term 'minority race or ethnic group' includes Negroes, Hispanics, Mexicans, Puerto Ricans, Chicanos, or Native Americans.

(b) ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 222.".

(c) CONFORMING AMENDMENT.—The table of sections for such part VII, as amended by section 103, is amended by striking out the item relating to section 222 and inserting in lieu thereof the following:

"Sec. 222. Adoption expenses.
"Sec. 223. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date which is 18 months before the date of enactment of this joint resolution.

Mr. JEPSEN. Mr. President, the amendment which I and my distinguished colleagues offer today is designed to provide a one-time, $1,500 maximum deduction during the taxable year for expenses incurred by the taxpayer for the adoption of a qualified child, which under this amendment means a child who is handicapped, or over the age of 6, or who is a member of a minority race or ethnic group.

The amendment is the product of several conferences between myself and the distinguished Senator from Michigan, Mr. LEVIN.

I wish the Senator to know that I appreciate greatly his effort and the effort of his staff in working out the amendment we now have before this body.

Mr. President, I have been informed that the Senator from Oregon (Mr. HATFIELD) will be speaking on this amendment and, therefore, I respectfully inform the Chair so as to protect his interest in this matter.

Mr. President, as I suggested a moment ago, this amendment is part of a more detailed effort by myself and other Senators to address what we believe to be the greatest burden and disincentive to the adoption process; namely, the cost of adoptions.

The facts on the number of adoptions annually in America are at best sketchy. Due to the fact that States are not required to report adoption statistics, precise national figures on the number of children either adopted or available for adoption are unavailable. Therefore, we

can only speculate and make assumptions based on outdated records or generally agreed upon information from the States.

What we do know and all agree upon is that a great deal of money is spent on America's children. The Government alone spends millions on the health, education, and general welfare of children, both at home and abroad.

According to the Senate Finance Committee report to H.R. 3434, the Child Welfare Amendments of 1979, the cost of foster care under aid to families with dependent children (AFDC) was approximately $351,171,877 in 1977. I emphasize again, this figure only represents foster care under AFDC. Unfortunately, figures for 1979–80 are not available on the cost of foster care. Nevertheless, it is expected that foster care in America has exceeded $400 million today.

It is estimated in a study prepared for the Children's Bureau within the Department of Health and Human Services that there are approximately 502,000 children in foster care which includes children in an institutional setting.

Of the estimated 502,000 children in foster care, approximately 102,000 were available for adoption. However, according to the 1977 national study of social services to children and their families, only 50,000 of the 102,000 children free for adoption through public agencies were placed in private homes.

If children are taken out of the foster care setting and placed in homes as adopted children, the cost to State and local governments and the Federal match for foster care will be greatly reduced, and as such, represents a very attractive offset of expenditures to the Federal Treasury.

I would like to note for the RECORD that I am not advocating the elimination or reduction of foster care institutions. It is my strong belief that there is a continued need for foster care institutions for those children and minors who unfortunately are never finally placed.

Mr. President, I emphasized again that precise adoption figures are not readily available. It is believed that there are at least 102,000 children available. It is further estimated that there are not more than 150,000 children available for adoptions.

Within the range of available adoptions, particularly if the low figure of 102,000 is utilized, it is estimated that 62 percent are white, 20 percent are black, 3 percent Hispanic, and 7 percent other. Of that entire total, it is further estimated that nearly 40 percent are nonwhite, 14 percent are mentally retarded, and nearly 50 percent are over age 7.

Mr. President, this amendment is specifically designed to assist hard to place children. It is these children, who are members of a minority race or ethnic group, or over the age of 6, or who are handicapped, which need the support of this amendment.

It is in the child's interest, the prospective parents' interest, and the national interest to help curb the dramatic impact in the initial cost of an adoption. To let the prohibitive initial costs of adoption deny a child an adoptive home and family is an injustice.

Mr. President, I want to make special note of the amendment's reference to the definition of handicapped within the meaning of section 190(B)(3) of the Tax Code. This section reads as follows:

(3) HANDICAPPED INDIVIDUAL.—The term "handicapped individual" means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

One of the criticisms of this definition is that it is too broad and not conducive to situations affecting handicapped adoptions pertaining to tax deductions. The handicapped individuals which this amendment seeks to address are those individuals who are severely handicapped with illnesses such as spina bifida, cerebral palsy, cystic fibrosis, mental retardation, sight and hearing loss, Downs syndrome and severe heart defects.

There are many hidden costs associated with a handicapped child which are not covered as a medical expense, such as special toys, special equipment, such as a braille typewriter, babysitters, structural alterations, et cetera.

In regard to the $1,500 deduction of expenses incurred for each qualified child adopted by the taxpayer during the taxable year, the estimated cost is as follows:

[In millions]

Fiscal year 1982	$2
Fiscal year 1983	11
Fiscal year 1984	12
Fiscal year 1985	13
Fiscal year 1986	14

Finally, Mr. President, I have been greatly concerned about human life and the great and disparate need to protect human life.

The adoption of children, especially children with special needs as described in this amendment is a mere humane and practical alternative to a life of foster care or more tragically, no life at all because of the abortion alternative.

There is no question, that Americans from all walks of life and economic status have adopted special-needs children. I believe they will continue to do so. What we must do here is to help these families, once these children come together. I believe this amendment is a strong beginning. I believe it both enhances the quality of life and gives great incentive to preserve the integrity of human life in future years through the adoption process.

Mr. President, although I have spent a great deal of time explaining this amendment, the amendment speaks for itself. It is straightforward and the issue before us now is whether the Senate is willing and prepared to respond to this issue.

The chairman of the Committee on Finance has further agreed that we will hold hearings on the bills that I have proposed with regard to adoption generally. In this specific amendment, it is in the child's interest, the prospective parents' interest and the national interest, I think, to help curb the dramatic impact of the initial cost of adoption. I make note of this with particular reference to handicapped children.

Mr. President, I have been assisted quite ably in working on this amendment by the Senator from Michigan (Mr. LEVIN), who has had a longstanding interest in this. We have worked together in past months—in fact, in the last session—on this particular subject.

Before concluding my remarks so we may move on, I ask if Senator DOLE will yield for a question with regard to this particular amendment. With regard to holding hearings before his committee on the subject of deductions for adoption generally, the Senator has assured me and others that there will be provision for hearings and he will indeed hold them on adoption, deductions, and exemptions.

Mr. DOLE. The Senator is correct. I had indicated to the Senator in earlier conversations that we would have additional hearings in September. I have said a number of times on this floor, and I mean what I say, that we hope to report a second tax bill from the Finance Committee this year. A number of Members have had hearings on their amendments in subcommittees. They are concerned about whether or not their amendment might be considered at a later time. We believe there are some tax reforms in other areas that could pick up enough revenue to enable us to come to the floor later this year with another tax proposal.

I do pledge to the Senator from Iowa, the Senator from Michigan (Mr. LEVIN), and the Senator from Ohio (Mr. METZENBAUM), who may have an interest in expanding this proposal, that we shall proceed at that time to have hearings. We shall give the matter very careful consideration and I hope that the Senators who have an interest will be testifying before the committee.

Mr. JEPSEN. I thank the Senator from Kansas.

Mr. LEVIN. Mr. President.

The PRESIDING OFFICER. Does the Senator from Michigan seek recognition?

Mr. LEVIN. Yes, Mr. President, I do seek recognition.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LEVIN. Mr. President, I thank my friend from Iowa. I commend him on his sponsorship. It is a pleasure to cosponsor this amendment with him and to note that Senator METZENBAUM has been actively involved in this area and will be a cosponsor of this amendment, as are a number of our colleagues. It is a reform which has been a long time coming. I thank our friend from Kansas for his willingness to work with us on this amendment. It shows the kind of progressive flexibility that is characteristic of the Senator from Kansas. I personally thank him for it.

Mr. President, I noticed that, in the middle of a tax bill, it is sometimes difficult to cope with 43 balls in the air at

one time. This is a particularly significant ball, because it involves the lives of children who are in foster care homes, who have difficulty in getting out of those homes and being adopted because of the expense of adopting them. This amendment will permit the deduction of expenses incurred in the adoption of those special-needs children and, therefore, will result in an increased number of adoptions of those special-needs children.

The amendment defines special needs as qualified children who are members of ethnic groups, minority races, children who have attained the age of 6 before the beginning of the taxable year for which the deduction is claimed—in other words, the older children—and handicapped children. It is the kind of children who have special needs and because of those special needs, are frequently overlooked when it comes to adoption.

Mr. President, we have literally tens of thousands of those children in foster care homes, wherein they cost society about $7,000 per year to maintain. This amendment will provide an incentive for the adoption of these special-needs children.

Mr. President, I am wondering if I could ask a question of the chairman of the Committee on Finance. I understand that there has been a bit of confusion on the form of the amendment. My understanding was that it was acceptable to the chairman, and it was intended to be in this amendment, if I can find my friend from Iowa, that the siblings also be listed as a special-needs situation.

Mr. DOLE. Mr. President, I think the only question the chairman has is whether if siblings are included, we would not be duplicating the $1,500 deduction for three or four children. If that matter could be resolved, I think that would answer the question we posed to the Senator from Iowa. I do not think there would be an intent to pyramid the deductions.

Mr. LEVIN. The Senator is correct. It is not the intent to duplicate that. I wonder if we could have a brief quorum call so we can straighten out that addition.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEPSEN. 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. JEPSEN. Mr. President, I have sent to the desk a revised amendment that I ask unanimous consent to be substituted for the initial amendment. The reason for this is that we inadvertently had submitted an amendment that was incomplete, in that some figures and words were inadvertently omitted. Those changes have been made, and all parties have agreed to it.

The PRESIDING OFFICER. Without objection, the revised amendment is substituted for the Senator's original amendment.

The revised amendment is as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. —. DEDUCTION FOR ADOPTION EXPENSES PAID BY AN INDIVIDUAL.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 (as redesignated by section 103 of this Act) as section 223 and by inserting after section 221 the following new section:

"SEC. 222. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATION.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $1,500.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowable under subsection (a) for any expense paid from any funds received under any Federal, State, or local program.

"(3) INTERNATIONAL ADOPTION.—No deduction shall be allowed under subsection (a) if the adoption of the child is an international adoption.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a qualified child by the taxpayer and which are not incurred in violation of State or Federal law.

"(2) INTERNATIONAL ADOPTION.—The term 'international adoption' means an adoption—

"(A) occurring under the laws of a foreign country, or

"(B) involving a child who was a citizen of a foreign country who—

"(i) was brought to the United States for the purpose of adoption, or

"(ii) came to the United States under circumstances with respect to which the necessity for the child's placement in adoption proceedings was reasonably foreseeable.

"(3) QUALIFIED CHILD.—The term 'qualified child' means a child who—

"(A) is a member of a minority race or ethnic group, or

"(B) attained the age of 6 before the beginning of the taxable year for which a deduction is claimed under subsection (a), or

"(C) each member of a sibling group if the sibling group is adopted.

"(D) is handicapped (within the meaning of section 190(b)(3)).

"(4) MINORITY RACE OR ETHNIC GROUP.—The term 'minority race or ethnic group' includes Blacks, Hispanics, Mexicans, Puerto Ricans, Chicanos, or Native Americans."

(b) ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 222.".

(c) CONFORMING AMENDMENT.—The table of sections for such part VII, as amended by section 103, is amended by striking out the item relating to section 222 and inserting in lieu thereof the following:

"Sec. 222. Adoption expenses.
"Sec. 223. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date which is 18 months before the date of enactment of this joint resolution.

Mr. JEPSEN. Mr. President, I yield to the distinguished Senator from Michigan, who has been helpful in drafting this amendment.

Mr. LEVIN. I thank the Senator from Iowa for his leadership in this matter.

Mr. President, the part of the amendment that was inadvertently omitted has been incorporated into it.

This amendment is a strong beginning down a road which I hope will lead to the adoption of tens of thousands of children who now needlessly are in foster care facilities.

I wish to say for the record, because I noted that the Senator from Kansas is not in the Chamber and that the Senator from Louisiana is, that there is no intention here to permit the duplication of any expense. Even though there was no ready place to write that into the amendment, as I indicated to the Senator from Kansas we would, nonetheless, in terms of legislative history, the intention is that there not be a duplicate deduction allowed here.

Mr. President, for every child adopted, we will be saving about $7,000 a year, which is the cost of maintaining one of these children in a special care or in a foster care facility. This is not only wise, therefore, in terms of encouraging adoptions, a cause in which the Senator from Iowa has been active, but also, it is going to result in some savings to the Treasury, even though at first blush it may appear that there is a price tax of perhaps $20 million a year on the cost of this amendment.

Now that the Senator from Kansas, the chairman, is in the Chamber, I assure him that there is no intent to permit a duplicate deduction by adding the language we added to this amendment.

Mr. DOLE. Mr. President, if the Senator will yield, I believe we can also make that point at the conference—the history we are making now and the history in the conference report.

Mr. LEVIN. I thank the Senator.

I thank the Senator from Louisiana for his cooperation.

I yield to the Senator from Ohio (Mr. METZENBAUM).

Mr. METZENBAUM. Mr. President, this is a major step forward, not as far as I would like to go, but I do join Senators LEVIN and JEPSEN in offering an amendment designed to aid families who will provide homes for children through adoption.

The Senator from Ohio has a pending amendment along the same line that actually goes further, but I recognize that at this point it is a welcome sign to be opening the door somewhat in this area.

There are approximately 120,000 American children who are today in need of families. Although I believe there is virtually universal agreement

as to the need to place these children, the fact remains that the tax laws as currently written actively discourage families who are willing to open their homes and their hearts to these desperately needy children.

Consider, for example, the fact that adopting families, whose median income is $20,400 per year, must pay an average of between $4,000 and $6,000, sometimes as much as $7,000, in various adoption fees. That comes to 20 percent or more of a family's gross annual income—and without 1 penny being spent for feeding, clothing, and raising the child, with all the attendant expenses.

Today, these costs, which include legal bills, adoption fees, and medical expenses for the natural mother, are not deductible.

Adopting families get no help whatsoever. That should not be. As a matter of fact, in many instances, the adopting family does so much more for the total community by taking that child off the public welfare rolls, off the public expense, that we should be doing far more for the adopting family, who not only is cutting back on the expense the community would otherwise have but also, in many instances, is making it possible for that child to grow up in an appropriate home.

Our amendment would give adopting families the encouragement they deserve by allowing them limited tax deductions for the reasonable and necessary expenses which are directly related to adopting a child.

I point out that this amendment does not go as far as it should. This amendment is constrained with some specific limitations as to which kind of child can be adopted and for which you can obtain a tax benefit. I would prefer to go much further. As a matter of fact, in The Stronger American Families Act, which I introduced earlier this year, we would have gone further.

I also have some reservations with respect to the part of this amendment which excludes the adoption of international children. I share that concern with the able Senator from Iowa, and I pointed out to him my reservations along that line, as to why the parents who adopt that child should be entitled to equal consideration. He very appropriately poined out to me that there are so many American children who are crying out to be adopted that it probably does provide an appropriate kind of exclusion not to provide this tax incentive for international children as well as for those who are native born.

This is a good amendment. It is not nearly as good an amendment as I would like it to be. It does have very strict limitations. But I believe it is a major step forward, and I am happy to join my friend from Iowa and my friend from Michigan. I believe this amendment is better than nothing, and I commend them for their efforts in this situation.

Mr. JEPSEN. Mr. President, although I spent a great deal of time explaining this amendment, this amendment speaks for itself. It is straightforward, and the issue before us now is whether the Senate is willing to respond to this issue.

Mr. President, if the Chair will ask the Senator from Kansas, this Senator is ready to yield back any remaining time and move on.

Mr. DOLE. Mr. President, it is also my understanding that the addition of "sibling groups" to this amendment will not create a double deduction of $1,500 for the expenses incurred in adopting the same child. There will be a maximum deduction of $1,500 for expenses incurred in the adoption of each "special needs" child, as defined in the amendment, even though the child is a member of a sibling group and is also handicapped. Furthermore, it is my understanding that if a child falls within two or more of the "special needs" children categories, there will only be one deduction of up to $1,500 for the expenses incurred in the adoption of the child. For instance, if a child is handicapped and also a member of a minority group, there will only be one deduction of up to $1,500 for expenses incurred in adopting the child.

● Mr. HATFIELD. Mr. President, I strongly support Senator JEPSEN's amendment which provides a tax deduction for adoption expenses and commend him for bringing this issue to the Senate's attention. This amendment focuses upon "hard to place" children—those who are handicapped, members of a minority race, or over the age of 6, and will greatly aid both prospective adoptive families and 100,000 available youngsters to cement a permanent and loving home.

Somewhere, I suspect it began in the 1930's and 1940's, we began to get the idea that it was the Government's job to take care of children and, when the churches and private citizens failed to take up the slack, Government stepped in with the best of intentions to provide institutions to care for these children. Today we have an elaborate institutional network that the Federal Government provides for AFDC foster children that costs approximately $400 million a year. It seems that foster care develops an inertia of its own that is expensive and insensitive to the child's right to a permanent and loving home.

Mr. President, the costs of adopting a child are astronomical and generally are not covered by employer health plans. The agency fees, placement costs, post placement studies, medical and legal fees, court costs, travel and assorted fees make a blue ribbon baby adoption cost several thousand dollars. Unfortunately, a "special needs" child's adoptive costs can make it impossible for the average American family to adopt.

Senator JEPSEN's amendment is an important step that we can take to encourage families to adopt these 100,000 available children.

Mr. President, even though I strongly support this amendment I am concerned that international adoptions were excluded from the amendment. For many families, an international adoption is the only alternative, and it is fraught with the risk of significant medical expenses, travel costs, additional agency and legal fees. These costs were estimated by Holt International, a pioneering agency located in Eugene, Oreg., to range from $4,000–$8,000.

Since only 5,000 international adoptions occur each year the revenue loss would not exceed $3 million a year. I fail to see the difference between a needy child in India that is sent to an American family by Mother Teresa and a child that happens to be born in America. While I agree that we have a special responsibility to American-born children, we must remember that existing law, agency practices, and a typical 3-year waiting list for U.S. children make international adoption a last resort for most families. The motto of Holt International puts it very well:

> Every child of whatever nation or race, has the right to grow up with parents of his own. The silent call of homeless children is to all men of good will to see that neither apathy nor prejudice, neither custom nor geographic boundary shall prevent these children from receiving this God-given right.

Mr. President, I strongly endorse the pending amendment but I urge my colleagues to consider including international adoptions in any legislation that is finally adopted.●

Mr. CRANSTON. Mr. President, I am pleased to support the amendment offered by the Senator from Michigan (Mr. LEVIN) and the Senator from Iowa (Mr. JEPSEN) to provide for a tax deduction for families who adopt children with special needs. This amendment will help offset the costs incurred by these families in adopting children with special needs—children who might otherwise linger in foster care at a tremendous cost to the taxpayers and be denied the warmth and stability of an adoptive home.

Mr. President, I have been actively involved for many years in efforts to help free the thousands and thousands of children caught in the foster care system. We have made tremendous progress in the past few years, first with the passage of title II of Public Law 95–266, the Adoption Reform Act, which established various mechanisms for bringing together potential adoptive parents and foster children with special needs, and then last year with the passage of Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980, which provided for an adoption assistance program to facilitate the adoption of children with special needs. This amendment follows the same direction—eliminating the barriers which inhibit the removal of these children from foster care and their placement into adoptive homes. The Senator from Michigan has been actively involved in these earlier efforts and I applaud his dedication and initiative in bringing this amendment before the Senate today.

Mr. President, during hearings I held during the 95th and 96th Congresses as chairman of the former Child and Human Development Subcommittee, I heard from many parents seeking to

adopt children with special needs. They described over and over the tremendous difficulties they faced in trying to remove a child from the foster care system and bring such a child into their homes. One enormous obstacle was often simply initiating and following the sometimes arduous task of legally freeing a child for adoption and completing the adoption. The legal and other costs such as home studies often mount into thousands of dollars. Since most of the families adopting children with special needs have other children, these costs can be overwhelming. This amendment would provide some relief for these families and would operate to encourage, rather than discourage, the adoption of children with special needs. I am delighted to support this amendment as one more step toward our goal of freeing thousands of children from foster care and facilitating their adoptive placement in loving adoptive families.

Mr. DOLE. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 315) was agreed to.

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

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, and I might say before doing that there are a couple of other amendments. I understand the Senator from New Jersey, Senator BRADLEY, is prepared to call up his amendment and at 3:15 p.m. the Senator from Pennsylvania, Senator HEINZ, will be prepared to call up his amendment.

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. Without objection, it is so ordered.

STATUS OF AMENDMENTS

Mr. DOLE. Mr. President, I might give a little report for those Senators who have an interest in trying to get this bill finished today, either early evening or late evening or during the middle of the night.

There are now only three Republican amendments pending, three plus one that is now pending, plus the cash management amendment of the Senator from Kansas which he will offer to balance the books at the appropriate time because we have adopted some amendments which have somewhat distorted the numbers.

I understand the distinguished Senator from New Jersey (Mr. BRADLEY) has an amendment that he will call up. We have a number of colloquies that could be taken care of.

We are working on a couple of amendments that the Senator from Montana (Mr. BAUCUS) has an interest in.

It is my understanding that the Senator from Delaware (Mr. BIDEN) has an amendment that he wishes to offer.

Senator EAGLETON has an amendment we are prepared to accept. We are working on horse depreciation with Senator HUDDLESTON that is in the process of negotiation.

Aside from that, the Senator from Kansas does not know of any amendments, unless everybody starts calling up every amendment on the list for some reason unknown to this Senator, that will be offered.

So it would seem to me we are in striking distance of completing action on this proposal.

I would again say to the staffs or Members who may be listening that we hope you will come to the floor with your amendment so that we might proceed to its early consideration, either early evening or early morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABDNOR). 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.

Mr. DOLE. Mr. President, it has been now 30 or 40 minutes since anybody has come to the floor with an amendment. I do not know whether we are slowing down or there are no more amendments. Certainly, after 11 days, the Senator from Kansas would be willing to go to a vote.

I see the Senator from New Jersey.

Mr. President, I am advised by the Senator from New Jersey that he will be available at 4:30 to introduce an amendment. I understand that Senator BAUCUS and Senator ROTH are trying to work out an agreement on an amendment on structures and that another one by Senator ROTH will not be offered. That leaves the Heinz amendment. I understand he was to offer it at 3:15. I hope we defeat that amendment.

That would leave two amendments by the chairman and the chairman cannot offer one of those amendments until he determines near the end just how much money we need to make up what we have spent in the last several days. Therefore, I again urge my colleagues to find their way to the Senate floor and offer their amendments. There are a number under negotiation. The distinguished Senator from West Virginia, Senator ROBERT C. BYRD, is making progress on that amendment. Senator DECONCINI has an amendment, along with Senator ARMSTRONG on ESOP. That is under discussion. There are amendments by Senator EAGLETON and Senator STENNIS; Senator RIEGLE has an amendment listed, and Senator SASSER. I understand he will not call up that amendment. Senator KENNEDY has eight or nine amendments. I am not certain whether he intends to call all those amendments up.

Mr. President, before suggesting the absence of a quorum, I again urge my colleagues to help us dispose of this bill, either early this evening or early tomorrow morning.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either the Senator from Kansas or the Senator from Louisiana.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 316

(Purpose: To amend section 103 of the Internal Revenue Code of 1954 with respect to the tax treatment of industrial development bonds issued to finance pollution control or waste disposal facilities)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. PACKWOOD, Mr. HART, Mr. BENTSEN, and Mr. RANDOLPH, proposes an unprinted amendment numbered 316.

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

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

The amendment is as follows:

SEC. . INDUSTRIAL DEVELOPMENT BONDS ISSUED TO FINANCE POLLUTION CONTROL OR WASTE DISPOSAL FACILITIES

(a) IN GENERAL.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (i) as subsection (k), and by inserting after subsection (h) the following new subsections:

"(i) AIR OR WATER POLLUTION CONTROL FACILITES.—For purposes of this section—

"(1) IN GENERAL.—The term 'air or water pollution control facility' means land or property of a character subject to depreciation under section 167—

"(A) which is acquired, constructed, reconstructed, or erected to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat,

"(B) which is certified by the Federal certifying authority (as defined in section 169(d)(2)) or the State certifying authority (as defined in section 169(d)(3)) as meeting or furthering Federal or State requirements for abatement or control of water or atmospheric pollution or contamination, and

"(C) all or a portion of the expenditures for the acquisition, construction, reconstruction, or erection of which would not be made except for the purpose of abating, controlling, or preventing pollution.

"(2) Exempt financing to be unavailable for expenditures for purposes other than pollution control.—

"(A) IN GENERAL.—Subsection (b)(4)(F) of this section shall not apply with respect to any issue of obligations (otherwise qualifying under subsection (b)(4)(F)) if the portion of the proceeds of such issue which is used to provide air or water pollution control facilities exceeds (by more than an insubstantial amount) the amount by which—

"(i) the cost of acquiring, constructing, reconstructing, or erecting the facility, exceeds

"(ii) the net profit which may reasonably be expected to be derived through the recovery of wastes or otherwise in the operation of the facility over its actual useful life.

"(B) NET PROFIT.—For purposes of this paragraph, the term 'net profit' means the present value of benefits (using a discount rate of 12½ percent) to be derived from that portion of such cost properly attributable to the purpose of increasing the output or capacity, or extending the useful life, or reducing the total operating costs of the plant or other property (or any unit thereof) in connection with which such facility is to be operated, reduced by the sum of—

"(i) the total cost incurred to acquire, construct, reconstruct, or erect the property (reduced by its estimated salvage value), and

"(ii) the present value (using a discount rate of 12½ percent of) all expenses reasonably expected to be incurred in the operation and maintenance of the property, including utility and labor costs, Federal, State, and local income taxes, the cost of insurance, and interest expense.

"(C) LIMITATION ON EXPENDITURES UNDER SUBSECTION (b)(4)(f)—

"(i) IN GENERAL.—For purposes of subsection (b)(4)(F), the face amount of obligations issued for facilities preventing the creation or emission of pollutants, contaminants, waste, or heat to be installed at any new manufacturing or processing plant shall not exceed the amounts described in clause (ii) of this subparagraph after application of subparagraphs (A) and (B) of this paragraph.

"(ii) INSTALLATIONS AT NEW PLANTS, ETC.—In the case of such facilities described in subsection (b)(4)(F) to be installed at new plants (as defined in clause (iii) of this subparagraph), the aggregate authorized face amount of obligations to be issued therefore shall not exceed the sum of 30 percent of the first $100,000,000 of capital expenditures paid or incurred in connection with such plants, 25 percent of the second $100,000,000 of such capital expenditures, 20 percent of the third $100,000,000 of such capital expenditures and 15 percent of such capital expenditures in excess of $300,000,000 plus the costs and expenses incurred in issuing such obligations.

"(iii) NEW PLANT.—For purposes of this subparagraph the term 'new plant' means any plant or identifiable part thereof, or other location that is or could be a source of pollution, placed in service within the 6-year period beginning 3 years before the date of any issue for the facility and ending 3 years after such date of issuance of the obligations described in clause (i). For purposes of clause (ii), all the capital expenditures during the 6-year period shall be aggregated. A major expansion of the capacity of any plant or identifiable part thereof or a major conversion in the use to which any plant (or identifiable part thereof) is devoted, shall be treated as a new plant. For purposes of this paragraph a major expansion of capacity shall mean an increase in capacity of 35 percent, and a major conversion in use shall mean a change affecting 35 percent of the output of the plant. Any plant or identifiable part thereof not described in the preceding three sentences shall be deemed an existing plant.

"(iv) CAPITAL EXPENDITURES TAKEN INTO ACCOUNT.—The capital expenditures taken into account with respect to any new plant or other source of pollution for purposes of this subparagraph are the expenditures which are properly chargeable to capital account and which are either made within 3 years before the date of the issuance of the issue or can reasonably be expected (at the time of the issuance of the issue) to be made within 3 years after the date of such issuance.

"(j) SOLID WASTE DISPOSAL FACILITIES.—For purposes of this section, the term 'hazardous waste or solid waste disposal facilities' includes land and property of a character subject to depreciation under section 167 which is acquired, constructed, reconstructed, or erected for no significant purpose other than to comply with hazardous or solid waste management requirements imposed by the Solid Waste Disposal Act.".

(b) CONFORMING AMENDMENT.—Subparagraph (E) of section 103(b)(4) is amended by inserting ", hazardous waste," after "sewage".

(c) CLARIFICATION OF REFERENCE.—For purposes of section 103(j) any reference to the Solid Waste Disposal Act means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and as it is, or may be, amended from time to time by other Acts. No inference shall be drawn from the preceding sentence with respect to the presence of absence of the words "as amended", by themselves or in combination with a reference to another Act, whenever reference is made in any other provision of law to an Act by its short title.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to obligations issued after the date of enactment of this Act and with respect to taxable years ending after such date.

SEC. . EXTENSION OF TELEPHONE EXCISE TAX.

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) relating to imposition of tax on communication services is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981 ---------- 2
"During 1982, 1983, 1984, 1985, and 1936 ---------- 1.25"

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 is amended by striking out "January 1, 1983" and inserting in lieu thereof "January 1, 1987.".

Mr. HEINZ. Mr. President, I am today proposing an amendment to the Economic Recovery Tax Act that might well be called the Pollution Control Bond Regulatory Reform Act of 1981.

The adoption of this amendment is not merely justified; it is long overdue. It is overdue because, for years, the Internal Revenue Service, through regulations issued pursuant to section 103 of the code, quite simply, has thwarted the intent of Congress by precluding arbitrarily the use of tax-exempt pollution control bonds for what Congress intended their purposes to be.

Therefore, the adoption of this amendment, in my judgment, is essential if the Economic Recovery Tax Act is to live up to its stated purpose of achieving economic recovery and if we are to rein in the regulatory excesses perpetrated by the bureaucracy at the Internal Revenue Service, which threatens to jeopardize the economic growth we would like to see.

Mr. President, the case for the adoption of my amendment can be summarized as follows:

First, this amendment is not exactly new to this body. It was agreed to for adoption by this body, by unanimous consent, when we were taking up the superfund bill last fall which, as Senators will recall, was passed overwhelmingly by this body, and it was part of the bill.

All parties in the Finance Committee, Senator DOLE and Senator LONG; all parties in the Environment and Public Works Committee, Senator RANDOLPH and Senator STAFFORD; all the people who were going to be conferees on S. 1480 had signed off on this proposal.

It is the identical proposal that was in S. 1480, which I asked the Senate to strike by unanimous request for the sole reason that we wanted to get S. 1480 passed in the House without it having to be referred to the Ways and Means Committee, where it would have been removed because of this particular provision.

Since then, what have we done? In addition to nearly passing it, we have had an additional day of hearings on the bill. We had the hearings the day after we marked up the Tax Reduction Act which is before the Senate. The fact that we did it on the very day after we marked up this bill, I believe, is an indication of the urgency, that we really need to enact these pollution control bond regulatory reforms that are contained in this amendment.

Second, Mr. President, the fact is that the compliance costs that Federal and State pollution control mandates are so high and so burdensome that they do jeopardize the success of the economic recovery program with respect to many of this Nation's basic industries, and that will continue to be the case unless this amendment is adopted.

Third—I referred to this a moment ago—I suspect that for anybody who cares about the integrity of the legislative process, the fact is, quite simply, that the Internal Revenue Service, through regulations that are not all consistent with the legislative record or with the legislative words in the underlying legislation, has thwarted the intent of Congress as reflected in section 103 of the Internal Revenue Code and in the passage of various environmental control laws.

Fourth, my amendment would allow section 103 pollution control bonds to be used for the legislated, intended purposes—namely, compliance with air and water pollution control and solid and hazardous waste management requirements; and we would do so with minimizing the loss to the Treasury.

When I say "minimizing the loss to the Treasury," what I am saying is that if we simply enacted the section 103 proposal as it would have passed the Senate last year, the revenue loss would have been $100 million each in 1983 and 1984 fiscal years and $200 million revenue loss each in fiscal years 1985 and 1986.

However, this amendment pays for itself, and then something more, because we have an offset in this amendment

that will cause it to raise money. The amendment, as a whole, will raise $94 million in fiscal 1982, an additional $67 million in 1983, an additional $91 million in 1984, and an additional $15 million in 1985. It is not until 1986 that it goes into the red.

In sum, through 1986, it picks up $154 million for the Treasury. So this amendment is better than revenue neutral; it is a responsible amendment; and we achieve this simply by phasing out the telephone excise tax a little more slowly.

Let me briefly expand on each of those points.

FINANCE HEARINGS HELD AFTER TAX BILL MARK-UP DEMONSTRATED URGENCY OF POLLUTION CONTROL BOND REGULATORY REFORMS

For the benefit of my distinguished colleagues who do not serve on the Finance Committee, let me explain that hearings on this proposal were not held until June 26, the day after markup of the tax reduction bill had been completed.

But the expert witnesses who testified that day presented compelling arguments for immediate passage of the legislation on which this amendment is based—S. 169, cosponsored by Senators RANDOLPH, GLENN, LUGAR, GARN, DIXON, and ANDREWS.

To recap the testimony presented to the Finance Committee:

Wayne Nichols, director of the Ohio Environmental Protection Agency, said, that this proposal—

Would do more to help eliminate sulfur dioxide and other forms of air pollution than any other measure. It would enable Ohio to assist its utilities and industries, which are now heavily burdened by the cost of complying with pollution control laws, by increasing the availability of the single most important weapon in the fight against pollution—financing at reasonable rates.

In its testimony, the National Association of Manufacturers cited the report of the National Commission on Air Quality issued in March 1981, which cited as obstacles to improved air quality the very IRS regulations my amendment would reform. The NAM observed that in view of the combination of advanced implementation of pollution control laws and the current IRS restrictions it is difficult to see how many small companies will be able to weather increasing environmental regulation.

Observing the strategic importance of minerals, the American Mining Congress cited a House Committee on Interior and Insular Affairs report, "U.S. Minerals Vulnerability: National Policy Implications," which concluded:

The very nature of mineral operations requires large capital and operating expenditures for pollution control, health and safety equipment, and mined land reclamation. Funding for achieving these worthwhile objectives has placed a heavy burden upon the already strained mining industry. McGraw-Hill studies have found that pollution control expenditures during the last nine years by the entire mining industry averaged 8 percent of their total capital expenditures (and a staggering 19 percent for the nonferrous metal industry) compared to only 6 percent for all industries.

William B. Holmberg, vice president, Kidder, Peabody & Co., Inc., said:

Kidder, Peabody strongly endorse S. 169. . . . As the Committee knows from prior testimony, Kidder does not customarily take the role of an advocate but prefers to note factors Congress should consider when considering legislation. Our reversal is due to the fact that Kidder belives that it is inappropriate for the IRS to override the statute through regulations.

On behalf of the Council of Pollution Control Financing Agencies, its president, Ronald Bean, executive director of the Illinois Environmental Facilities Financing Authority, noted:

The Council's member agencies operate at the intersection of environmental goals and economic development goals.

The Council has endorsed this amendment because the proposal—

Would make it clear that the Congress did not and does not intend to have this inequitable implementation of Section 103 by the Treasury.

The Institute of Chemical Waste Management, National Solid Wates Management Association, testified—

We hope that you will speed approval of S. 169 to direct the Secretary of the Treasury to extend IDB financing eligibility to hazardous waste management projects and, thus, accelerate the pace of bringing these new projects into existence so that existing facilities receiving hazardous industrial wastes can be measured strictly against the yardstock of the new Federal hazardous waste management regulations.

COSTS OF POLLUTION CONTROL COMPLIANCE JEOPARDIZE SUCCESS OF ECONOMIC RECOVERY PROGRAM

Without dwelling further on the testimony the Finance Committee heard on June 25, let me summarize the case for swift adoption of the regulatory reforms contained in my amendment: Unless section 103 regulations are revised, the massive capital expenditures mandated by Federal and State pollution control laws threaten the ability of American industry to make the job-creating investments that would otherwise be encouraged by the Economic Recovery Tax Act.

As socially desirable and necessary as many Federal and State pollution control mandates may be, the investments required for compliance generally are not productive investments in the sense of improving efficiency of operations or increasing output. In 1978, pollution abatement expenditures accounted for the following percentage of all investment in the following basic industries: steelmaking—16.6 percent; chemicals—7.1 percent; petroleum—8.3 percent; and utilities—10 percent. As we approach the compliance deadlines for many environmental control acts, these costs can be expected to increase.

In fact, in the case of the steel industry, a report completed by Arthur D. Little, Inc., for the American Iron and Steel Institute, concluded that environmental control expenditures for the next decade may reach $7 billion. Similarly, the chemical industry and related industries face the "double whammy" of complying with the 600-plus pages of hazardous waste control regulations promulgated by the Environmental Protection Agency under the Resource Conservation and Recovery Act—and paying a billion-plus dollars in additional taxes into the "Superfund" over the next 5 years. Other industries face similar mounting cost burdens for compliance.

IRS SECTION 103 REGULATIONS THWART CONGRESSIONAL INTENT

In adopting sections 103 and 169 of the Internal Revenue Code, Congress recognized that mandated pollution control investments warrant tax treatment different from that provided most other capital investments. Both of these provisions—section 103, dealing with tax-exempt industrial development bonds used for pollution control and waste disposal, and section 169, dealing with amortization of certified pollution control equipment—reflect a recognition that investment in pollution control and waste disposal facilities is necessary to attain desirable social goals and fulfill the mandates of environmental laws.

If faithfully implemented, these provisions of the tax code would provide industry with powerful economic incentives to reduce pollution in the most cost-effective way technically feasible—rather than to delay compliance, oppose standards, and litigate Federal and State requirements.

But in July 1975, the Treasury Department issued proposed regulations—which have since been employed by the IRS as if final—that do not reflect the intent of Congress as represented by section 103 of the Internal Revenue Code, the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act. The deficiencies and inconsistencies in these regulations have repeatedly been brought to the attention of the IRS by the Environmental Protection Agency, by the industries affected, and by many of us in the Congress. The IRS has not responded to these concerns.

Instead, the IRS has persisted in employing section 103 regulations that thwart the intent of Congress with respect to pollution control bond financing. It has done so in the following ways:

First, the IRS through its "realized pollution" test has limited eligible financing for air and water pollution control expenditures to end-of-the-pipe, "black box" technologies, ignoring the fact that current environmental law recognizes and indeed encourages the use of process changes in abating pollution.

Second, the IRS has ignored the fact that Congress has amended the Solid Waste Disposal Act with the Resource Conservation and Recovery Act to regulate hazardous waste; instead, the IRS has kept the definition of solid waste contained in the original 1965 act.

Third, the IRS has adopted a "gross savings" test by which the amount of eligible tax-exempt financing is reduced by the extent to which pollution control expenditures result in economic benefit—but measuring economic benefit in gross rather than net terms.

AMENDMENT ALLOWS USE OF POLLUTION CONTROL BONDS FOR INTENDED PURPOSES WHILE MINIMIZING LOSS TO FEDERAL TREASURY

So that IRS regulations with respect to section 103 pollution control bonds do

not continue to thwart congressional intent, my amendment would make by statute the following changes to section 103.

First, it would state explicitly that process changes that reduce air or water pollution—and that have been adopted as a result of Federal or State pollution control mandates—qualify for pollution control bond financing.

Second, it would make clear that in amending the Solid Waste Disposal Act with the Resource Conservation and Recovery Act, Congress intended that nonnuclear hazardous waste management facilities should also qualify for section 103 financing.

Third, it would provide safeguards insuring that tax-exempt pollution control bond financing is used only for legitimate pollution control expenditures.

Because of concern expressed in the past by Treasury Department officials about the revenue loss associated with the changes proposed to allow process changes and hazardous waste management expenditures to qualify, I want to spend a few minutes emphasizing the safeguards contained in the legislation.

The first safeguard is a list of the types of process changes and facilities that would be expected to qualify for pollution control bond financing under the provisions of this amendment. I ask unanimous consent that this list be printed in the RECORD.

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

Facilities and process changes to be included as report language to accompany legislation proposed by Senator John Heinz dealing with IRS definitions of pollution control facilities eligible for tax-exempt industrial development bond financing pursuant to section 103(b) of the Internal Revenue Code.

Eligible facilities and process changes shall include, but not be limited to, the following:

COAL MINING AND COMBUSTION

Coal washing and preparation to reduce sulphur emissions;

Fluidized bed boilers;

In mining operations, water diversion ditches that prevent natural water run-off from mingling with mining operations, becoming contaminated, and exiting as run-off pollution;

Cooling equipment, pipes, and pumps to recycle cooled flue gas in coal-fired boilers to reduce nitrogen oxide.

METALS

In metal "pickling" processes, equipment to convert sulphuric acid to hydrochloric acid, permitting acid regeneration and avoidance of waste treatment and sludge disposal expenses.

INDUSTRIAL PRINTING

Equipment to convert water-based paints, thereby avoiding air pollution that occurs from dried solvents dispersing through stacks.

PAPER INDUSTRY

Recovery boilers and their associated precipitators, black liquor oxidation systems, and black liquor evaporation systems.

BREWING INDUSTRY

Dust control equipment;

Spent grain liquor evaporators.

SOLID WASTE MANAGEMENT

Landfills;

Landfarms;

Transfer stations;

Incinerators without heat or energy recovery facilities;

Incinerators with heat or energy recovery facilities;

Compaction equipment (shredders, balers, and compaction equipment);

Transportation vehicles used to implement the collection and disposal functions.

HAZARDOUS WASTE MANAGEMENT

Same list as solid waste management, but also:

Deep injection wells;

Storage facilities;

Treatment facilities;

Limestone flue gas desulphurization systems using feeders, storage bins, conveyors, dryers, and grinding and briquetting machines to produce gypsum.

PETROLEUM INDUSTRY

Facilities to strip sulphur from gas streams to be combusted at the refinery;

Facilities to transport waste water to regional waste control facilities;

Floating roof storage tanks.

Mr. HEINZ. Mr. President, although this list is by no means exhaustive—we must avoid locking in potentially obsolete technologies by statute—it is illustrative of the intent of Congress and should provide needed guidance for the IRS.

The second safeguard is a requirement that tax-exempt financing be available only for expenditures that the Environmental Protection Agency or its State equivalent has certified would not have been made, but for Federal or State pollution control requirements.

The third safeguard is a formula for reducing the amount of pollution control expenditures eligible for tax-exempt financing by the extent to which a portion of the cost of a certified pollution control facility is recoverable in the form of net economic benefit. This formula is set forth in the statutory language of the amendment.

The fourth and final safeguard is a limitation on the amount of expenditures for process changes that can qualify for section 103 financing in the case of new plant construction or major expansion of existing facilities, defined as a 35-percent increase in capacity or output. Specifically, the amount of tax-exempt financing for certified pollution control expenditures—reduced to the extent that a net economic benefit results—would be further limited to: 30 percent of the first $100 million of capital expenditures for the entire plant or site; 25 percent of the second $100 million; 20 percent of the third $100 million; and 15 percent thereafter; capital expenditures subject to the limitation would include those made 3 years before and 3 years after the date on which the bonds were issued.

Taken together, these four safeguards address concerns raised in the past that allocating the portion of process changes attributable to pollution control is not feasible and that allowing process changes to qualify would allow the entire cost of new plant construction to be financed using section 103 pollution control bonds.

Because of the safeguards contained in my amendment, the Joint Committee on Taxation estimates the revenue loss to the Treasury of this proposal as indicated in the table which I ask unanimous consent to have printed in the RECORD.

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

Fiscal year:	Millions
1981	
1982	
1983	$10
1984	10
1985	20
1986	20
	0

Mr. HEINZ. However, Mr. President, during the June 26 hearings, a number of witnesses suggested that even this modest estimate may be too much.

For example, Ron Bean, president of the Council of Pollution Control Financing Agencies, testified:

I want to caution the committee about what is not included in estimates of revenue loss. The Congressional Budget Office and the Treasury have consistently refused to recognize that a company which is able to finance a pollution control facility on a tax-exempt basis is therefore relieved of interest expenditures amounting to some 3 percent of the cost of financing, or $30,000 per $1,000,000 for each year for the life of financing. This money is, of course, subject to taxation, and at current rates, the Treasury would increase its revenues by 46 percent of that $30,000, or nearly $14,000 per million, each year, for the life of financing. The remainder of that $30,000 is put to work by the industry, and presumably generates a profit in later years, which is also taxed. If it is distributed to shareholders, it is also taxed. These are all revenues which do not find their way into calculations of tax expenditures to the Treasury from tax-exempt pollution control financing.

Also, we are distressed to see the assumptions of Treasury revenues on the other side of the equation, from taxable bonds. This ignores the fact that most holdings of taxable bonds are by entities which themselves are tax-exempt or which manage to effectively shield taxable bond holdings from taxation.

In addition, several witnesses agreed that the revenue loss estimates should be revised downward to reflect the marginal tax rate reductions contained in the Economic Recovery Tax Act.

To summarize, Mr. President, the overwhelming body of evidence suggests that the regulatory changes made by my amendment are essential for the overall success of the Economic Recovery Tax Act. We need not make an either-or choice between economic growth and environmental quality—we can have both.

In short, Mr. President, the only people who are not in favor of this bill insofar as we can determine it are some bureaucrats down at the Internal Revenue Service, who a few years ago having decided to take the law into their own hands recast the law in their own image or as they would wish it and have been thwarting the intent of Congress ever since, and that is to the best of my understanding why the administration does not at this point support this amendment.

I thank my distinguished colleagues for their time and strongly urge their support.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 13½ minutes remaining.

Mr. HEINZ. Mr. President, I reserve

the remainder of my time but simply ask my colleagues to support this amendment. It is a good amendment. It is a responsible amendment, and I do believe that we would serve our constituents well by passing it today.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. HEINZ. Mr. President, how much time does the Senator from West Virginia wish?

Mr. RANDOLPH. Approximately 5, not more than 7 minutes.

Mr. HEINZ. I yield 7 minutes to my good friend and colleague from West Virginia.

Mr. RANDOLPH. Thank you very much.

Mr. President, I am appreciative of the cooperation of the able Senator from Pennsylvania (Mr. HEINZ) and also I am appreciative to the minority manager, Senator HARRY F. BYRD, JR., of Virginia. Their understanding of my desire to speak on this amendment and their help in arranging a comfortable atmosphere for me to convince those who will perhaps listen attentively to what I have to say.

I support the amendment of the Senator from the Commonwealth of Pennsylvania.

I am a cosponsor of this amendment.

The adoption of this proposal will be helpful to many of the industries throughout America as they strive to comply with the air and water pollution and hazardous waste control requirements enacted over the past 10 years.

I want to stress today another reason, and that is that the value of this amendment goes to something that is often overlooked, and that is to the solid and hazardous waste management industry in this country.

Among other effects, this amendment makes it clear that solid waste management facilities include all hazardous wastes and recoverable resources as defined in the most recent amendment to the Solid Waste Disposal Act, with which I was associated in handling.

Mr. President, I have worked on solid waste legislation since the first Federal efforts in this area of national concern, and that was in 1965. In 1970 I authored the Resource Recovery Act establishing a major Federal role in promoting the recycling and the proper handling of solid wastes. Recycling is something very important, recycling not only of waste materials of one type or another, but I think now of the recycling of paper throughout this country, and the recycling of aluminum.

The 1976 amendments to the Solid Waste Disposal Act, which I also sponsored and helped to shape, with the help of others in the Committee on Environment and Public Works, has recognized hazardous wastes as a large part of our solid waste management problem.

The 1976 act, I think—I must stress it—enhances our ability to recover and conserve our resources, and the definitions of the act were expanded and they were modernized.

The Internal Revenue Service, however, I think, has mistakenly continued to use the old 1970 definition of solid waste and that, of course, is the position of the Senator from Pennsylvania, because we believe it is an incorrect interpretation of the provisions of section 103. This has meant that many worthy solid waste facilities involving hazardous waste or resource recovery could not make use of that section on financing which we designate as 103.

Adoption of the pending amendment, I say to my colleagues, will clarify that solid waste and hazardous materials facilities of all types qualify for this necessary financing.

I think the amendment is a good amendment. It is a necessary amendment.

Mr. HEINZ. Mr. President, I thank my most respected colleague for his remarks. He is a man who has been time and again in the forefront of the efforts to clean up our air, our water, our land. I can think of few others in the Senate whose record exceeds, let alone matches, his outstanding understanding and record in this area. So to have him speak on behalf of this amendment is very welcome, and I thank my friend most sincerely.

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

The PRESIDING OFFICER (Mr. SIMPSON). Who yields time?

Mr. SYMMS. I yield the Senator from Virginia 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, this would extend the use of tax-exempt industrial development bonds. My understanding is that the administration and the Treasury Department oppose the expansion of such tax-exempt bonds.

I have felt for some time that the use of these tax-exempt issues has gotten out of hand, and it would be unwise to further expand the use of these bonds.

I know it is a good purpose involved in the amendment offered by the distinguished Senator from Pennsylvania. But, as one who for some time has been concerned about the tax-exempt status of bonds, I shall oppose the amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Virginia be good enough to yield me time?

Mr. HARRY F. BYRD, JR. What time do I have remaining?

The PRESIDING OFFICER. I believe Senator SYMMS, the Senator from Idaho——

Mr. HARRY F. BYRD, JR. He yielded me 5 minutes. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 2½ minutes.

Mr. HARRY F. BYRD, JR. I yield 2½ minutes to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the Senator from Pennsylvania answer a question? Is the Senator a prime sponsor of the amendment?

Mr. HEINZ. The Senator is correct.

Mr. METZENBAUM. Would he be good enough to advise what the cost of this amendment will be?

Mr. HEINZ. I have already made that statement for the RECORD. I will be happy to do so again.

The cost of this amendment would be, it would gain $94 million of revenue in 1981; it would gain $67 million in revenue—I am sorry, I was mistaken. It will gain $94 million in revenue in 1982. It would gain $67 million in revenue in fiscal year 1983; it will gain $91 million in fiscal 1984; and again $15 million in fiscal year 1985.

Mr. METZENBAUM. Mr. President, will the Senator from Pennsylvania be good enough to explain how by having industrial revenue bonds in an area in which they were not previously used, will help the Treasury?

Mr. HEINZ. Yes; as I also explained in my opening remarks, the actual revenue losses that are incurred by the change in the section 103 definition, which is $100 million each in fiscal 1983 and 1984, and $200 million in fiscal 1985 are offset to yield the net gains that I just described by phasing out the telephone excise tax somewhat more slowly.

Mr. METZENBAUM. Phasing out what?

Mr. HEINZ. Phasing out the telephone excise tax somewhat more slowly than in contemplated by law.

Mr. METZENBAUM. Is the phasing out of the telephone excise tax contemplated, is that provided for, in this tax bill?

Mr. HEINZ. Yes.

Mr. METZENBAUM. What the Senator is doing is he is extending——

Mr. HEINZ. No; this Senator is not extending the tax. That was already done in an earlier amendment.

Mr. METZENBAUM. So that we do not mix apples and oranges, how much will the Treasury lose by reason of the industrial revenue bond part of this legislation itself?

Mr. HEINZ. Exactly the number I gave the Senator a moment ago.

Mr. METZENBAUM. The Senator from Pennsylvania will have to agree that he is only saying that we are going to pick up that additional money by reason of a longer phaseout of the telephone excise tax.

Mr. HEINZ. The Senator gave you the revenue phaseout of section 103, which is what the Senator did, and I quoted numbers of revenue losses of $100 million a year in 1983 and 1984, and $200 million in 1985.

Mr. METZENBAUM. Did the Senator say $100 million, $200 million, and——

Mr. HEINZ. $100 million, $100 million, and $200 million in fiscal years 1983, 1984, and 1985, which is more than offset by the telephone excise tax slow phaseout.

Mr. METZENBAUM. And the total amount between now and 1986 would be

something in the area of $600 million, $700 million?

Mr. HEINZ. For the fiscal years 1983, 1984, and 1985 $400 million which is offset by a much more substantial amount of revenue gained.

Mr. METZENBAUM. Is the telephone excise tax a tax paid by the individual users of telephones throughout the country?

The PRESIDING OFFICER. The time yielded to the Senator from Ohio has expired.

Mr. METZENBAUM. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senator from Kansas has control of the time.

Mr. METZENBAUM. Will the Senator from Kansas yield me an additional 3 minutes, please?

Mr. DOLE. I yield 3 minutes.

Mr. METZENBAUM. I thank the Senator from Kansas.

Mr. HEINZ. The Senator is correct.

Mr. METZENBAUM. Let me then say to the Members of this body that what we are really talking about here is another instance of where we are shifting the tax burden from some of the major corporations in this country that will be issuing industrial revenue bonds for the purpose of pollution control, and in order to pick up the revenue we are putting it on the backs of the people who use telephones or businesses that use telephones.

This is the kind of inequity we have been running into in this legislation. In instance after instance, we find that the average individual in this country is going to pay the bill. The corporations are going to find more and more ways to keep from paying taxes.

Industrial revenue bonds started off as a worthwhile objective, but they have been changed and they have been used for everything under the Sun to the point where there has been an abuse.

I cannot say for certainty that using industrial revenue bonds for the purpose of pollution controls is an abuse. But as I understand this amendment, and I looked at it only briefly, I gather that if the pollution control portion of a company is a part of the total expenditure, and that is the way I seem to read that which is found in installations and new plants, then talking about not exceeding 30 percent of the first $100 million of capital expenditures paid or incurred in connection with such plants, 25 percent of the second $100 million, 20 percent of the third, and 15 percent of everything—as I understand that, does that mean that you have an industrial revenue bond for a part of the facility, or that you could have an industrial revenue bond for the total facility? Why have the second provision?

Mr. HEINZ. There is a series of provisions in the amendment to limit that which will be obtained from the use of industrial development bonds for the very reason that the Senator suggests. We do not want to see industrial development bonds used for a questionable purpose. One of the key provisions of the legislation is that we offset the use of the bond through a savings test. You cannot use the bond to finance an entire factory. You can only use the bond for a process change, for example, which was mandated by a State pollution control agency, and you can only use it to the extent that there is a net cost to the installer.

If I may, Mr. President, if the Senator——

The PRESIDING OFFICER. The time yielded to the Senator from Ohio has expired.

Mr. DOLE. I yield 3 additional minutes.

Mr. HEINZ. I think the Senator has made some good points as to what is the purpose of this legislation.

What we are trying to do is to bring about the most cost effective means of overcoming pollution. The problem is that right now we have an IRS regulation that Congress never passed. The IRS has never actually finalized this proposed regulation. It has been a proposed regulation since 1975.

There are two problems. Problem No. 1 is that it treats hazardous waste differently from air and water pollution. It should not, but it treats it differently.

Problem No. 2 is that it forces black box technology on every single industry, end of the pipe technology, in many instances the wrong way to go about it.

The director of the Ohio Protection Agency, who is a professional—he has been in the field for a long time and I suspect the Senator knows him, Mike Nichols—very respected throughout the United States—said he believed this proposal would do more to eliminate sulfur dioxide and other forms of pollution than any other measure. It would still enable Ohio to assist its utilities and industries now heavily burdened by the cost of the pollution control laws.

I choose that not because the man, Mike Nichols, is from Ohio, but because he mentions it will lower the cost of installing in utilities. If there is one thing that people across the country are mad about, it is their high utility bills. This will bring them down. I thank the Senator for yielding.

Mr. METZENBAUM. I did not intend for the Senator from Pennsylvania to use my entire 3 minutes. I will ask for an additional 3 minutes. I did not even open my mouth.

Mr. HEINZ. I thank the Senator for being so understanding.

Mr. METZENBAUM. What is this about exempt financing to be unavailable for expenditures or purposes other than pollution control? Then it gets into the whole question of net profit and how you determine net profit.

Without taking too long, can the Senator give me a 30-second answer on what that is about?

Mr. HEINZ. In 30 seconds? I will try.

What we are talking about is that we are not going to permit these pollution control laws to be used for any other purpose than pollution control. That is answer No. 1.

Mr. METZENBAUM. Why do we need a definition of net profit for that?

Mr. HEINZ. Because since we are talking about permitting process changes and process changes can be more efficient, we want to make sure that a manufacturer or a utility that is putting in a process change does not slip into the tax exempt bond some of the other reasons, the capital costs, that he is applying for this bond for. What we are trying to do is to limit the industrial development bond just to that portion that is involved with pollution control.

Mr. METZENBAUM. Let me ask one last question. Would this amendment result in the telephone users of this country paying additional excise taxes on their telephone use which otherwise would have been phased out in the approximate amount of $100 million—no. I guess more than that. I guess it would be $160 million a year and going up to about $350 million, if my recollection of the Senator's mathematics is correct. Will the consumers end up paying those additional amounts by reason of this amendment?

Mr. HEINZ. I do not want to quarrel with the fact that there is one-quarter of a percent——

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. METZENBAUM. Who else has time?

Mr. DOLE. I will be happy to yield. Since the Senator is against the amendment I am happy to yield.

Mr. METZENBAUM. There will be an additional one-quarter percent tax on telephone users over and above that which it presently is?

Mr. HEINZ. I am certainly not going to quarrel with that. The Senator is correct, and it is this Senator's belief that this will be more than offset, several times over, by lower utility bills. Let me add further that setting the tax at 1¼ percent will still save consumers $175 million a year more than the tax at the current level, which is 2 percent.

Mr. METZENBAUM. I have been so persuaded by the President's emphasis on cutting taxes that I certainly could not find myself voting for increased taxes. I am a little bit surprised that my good friend from Pennsylvania wants to increase the taxes on the people of this country. Is it anticipated that there will be a rollcall vote on this amendment?

Mr. HEINZ. I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me say first of all I do not take pleasure in opposing amendments from colleagues on either side, particularly on my own side. I have discussed this matter with the Treasury and the Senator from Pennsylvania has discussed it, I assume, with the Treasury. We have been able to accommodate the Senator on a number of amendments, two that I think of offhand. The Treasury is flatly opposed to this amendment. I think they would also be flatly opposed to raising the excise tax on all telephone users to pay for this amendment.

The other day we did that in an effort to pay for the so-called targeted jobs credit. That may impact on a lot of people who are out of work.

We are doing enough for the steel industry in the country now under ACRS.

There has to be a limit on how much we can do for big business in this tax bill, and this is a big business amendment. It is going to cost some money.

It just seems to me that if it has merit, and I am certain it has or the Senator from Pennsylvania would not be offering it here, we are going to have another tax bill and we do not have to load this bill up with everything. It is almost ready to drop now from the weight of amendments that we have been able to work out and negotiate. Some of those the Senator from Pennsylvania had a deep interest in and they were accommodated.

But on this amendment the Treasury says no and I feel some obligation to support the Treasury and the President. They have sent us an extremely attractive tax package.

I do not quarrel with anybody who offers amendments but I would hope that by early evening we will be ready to vote on final passage.

I would promise the Senator from Pennsylvania we are going to have other tax bills, at least one I know of this year. There will be a second tax bill. It was my intent that this amendment, if defeated, and other amendments that have not been offered by Senators who have restrained themselves, would be looked at, considered, and, in some cases, end up in the second tax proposal.

It is one thing to say it does not cost anything, but it does cost something. It costs $100 million in 1982, $100 million in 1983, $200 million in 1984, $200 million in 1985, and $300 million in 1986. You can lower that cost if you go on a fiscal year basis.

Again, I am not an IRS expert, but we are told it would add a lot of complexity to the law. For example, there would be the definitional problem of determining what would qualify as a pollution control facility and how such a facility could be differentiated from a manufacturing facility. It is going to result in increased administrative burdens on the IRS.

I just think the administration made it rather clear that it is firmly committed to reducing the Federal interference with business decisions as well as to reduce the burden of needlessly costly Federal regulations on business. To the extent that pollution control regulations and rules concerning hazardous materials imposes costs on businesses beyond those commensurate with benefits they can confer on society, these regulations should be corrected or, where possible, repealed or terminated.

I hope that we can defeat this amendment and get on with the final few amendments we have in this entire package—it has taken 11 days—so that we can let the President know and, more importantly, the country know that we have a good tax package.

There is the imprint of the Senator from Pennsylvania all through the package. He has done some outstanding work.

In this case, Mr. President, I cannot support the Senator's amendment.

Mr. HEINZ. Will the Senator from Kansas yield for a question?

Mr. DOLE. Yes.

Mr. HEINZ. Would the Senator from Kansas agree that big business could borrow below the prime rate by selling commercial paper, but small business cannot?

Mr. DOLE. I agree to that.

Mr. HEINZ. Would the Senator not agree that this amendment is really more likely to benefit the small businessman, who cannot go to the commercial paper market, particularly in these tough times, or does he really feel to the contrary?

Mr. DOLE. I would agree with that, but I am not certain that is precisely what the amendment does.

Mr. HEINZ. No, what the amendment does—the Senator is correct—it does lower the cost of making these investments.

Will the Senator yield for one more question?

Mr. DOLE. Yes.

Mr. HEINZ. Is it correct that the Senator is principally opposing this amendment to this tax bill at this time and that he is not necessarily opposed to the amendment per se? Is that correct?

Mr. DOLE. That is correct, Mr. President.

Mr. HEINZ. I thought that was correct, because, as I recall, the Senator was extremely supportive of this amendment last year, when we took up S. 1480.

If I may make just one additional observation, Mr. President, I did discuss this amendment with the Under Secretary of the Treasury for Tax Policy, Norman Ture, about 2 weeks ago. What he said was that they had looked very closely at this amendment, they had decided that they could not support it, as the Senator from Kansas has made quite clear, but—and these are his very words—that they had a split decision on it and they felt that it was probably the kind of decision that Congress ought to make.

Of course, that is all the Senator from Pennsylvania is trying to do, get us to make a decision. We do offset the cost of this amendment, as the Senator from Kansas knows, so we are trying to make it a no-cost decision.

Nonetheless, Mr. President, I respect the views of the Senator from Kansas in the matter. I appreciate his yielding.

Mr. DOLE. Mr. President, I just want to say we are paying for this amendment by raising the telephone tax on everybody in the country. I also want to say that I appreciate the Senator from Pennsylvania at least bringing it to us in that form. He is at least willing to pay for it. We have had a lot of amendments that are just dumped on us, saying, take it out of something else. The Senator has had the courtesy of coming to us with an amendment that he pays for by increasing the excise tax, or getting it back up to——

Mr. HEINZ. One-quarter of 1 percent.

Mr. DOLE. One-quarter of 1 percent.

Mr. President, I hope we can persuade the Senator—I know he feels strongly about the amendment—that we could reserve judgment on this amendment and how we finance it in the second tax bill. The Senator is a member of the Committee on Finance. He has had a great deal of input in this bill. We have had amendments—the Heinz amendment on the targeted jobs credit, the Heinz-Dodd amendment on section 189,

We have had a lot of amendments that we have been able to work out, not only on the floor but in the committee. I hope that the Senator might understand the problem—I know he does—of those of us who want to complete this proposal within the numbers of the administration without raising taxes. We did it the other day on the targeted jobs credit. Perhaps he will reconsider offering the amendment at this time. I hope, if that is not the case, we can defeat the amendment.

Mr. HARRY F. BYRD, JR. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I join the Senator from Kansas in opposition to this amendment. What it does is transfer the tax from a business to the consumers. I think that that is not what we want to do in this tax bill. I think the Senator from Kansas has made a good suggestion, that this amendment be held to a later date and be considered by the Committee on Finance on some subsequent tax bill.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I am prepared to yield back the remainder of my time.

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. WILLIAMS) is necessarily absent.

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

The result was announced—yeas 15, nays 84, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—15

Bentsen	Durenberger	Moynihan
Boschwitz	Ford	Randolph
Bradley	Hart	Simpson
Chafee	Heinz	Specter
D'Amato	Mathias	Tower

NAYS—84

Abdnor	Byrd, Robert C.	Dole
Andrews	Cannon	Domenici
Armstrong	Chiles	Eagleton
Baker	Cochran	East
Baucus	Cohen	Exon
Biden	Cranston	Garn
Boren	Danforth	Glenn
Bumpers	DeConcini	Goldwater
Burdick	Denton	Gorton
Byrd, Harry F., Jr.	Dixon	Grassley
	Dodd	Hatch

Hatfield	Long	Riegle
Hawkins	Lugar	Roth
Hayakawa	Matsunaga	Rudman
Heflin	Mattingly	Sarbanes
Helms	McClure	Sasser
Hollings	Melcher	Schmitt
Huddleston	Metzenbaum	Stafford
Humphrey	Mitchell	Stennis
Inouye	Murkowski	Stevens
Jackson	Nickles	Symms
Jepsen	Nunn	Thurmond
Johnston	Packwood	Tsongas
Kassebaum	Pell	Wallop
Kasten	Percy	Warner
Kennedy	Pressler	Weicker
Laxalt	Proxmire	Zorinsky
Leahy	Pryor	
Levin	Quayle	

NOT VOTING—1

Williams

So the amendment (UP No. 316) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, my understanding is that the distinguished Senator from New York (Mr. D'AMATO) wishes to engage in a colloquy and then the Senator from New Jersey (Mr. BRADLEY) will have an amendment.

Mr. RANDOLPH. Mr. President, a point of order. We are trying to hear what the manager of the bill is saying.

The PRESIDING OFFICER. The point is well taken. The Chamber will be in order. Senators conversing please retire to the cloakroom so the Senator from Kansas may be heard.

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

The PRESIDING OFFICER. We appreciate the courtesy of the Members present in the Chamber. The Senator from Kansas has the floor. Senators conversing please retire to the cloakroom.

Mr. BAKER. Mr. President, I suggest the asbsence of a quorum.

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.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Maine (Mr. COHEN).

THE ECONOMIC RECOVERY TAX ACT OF 1981

Mr. COHEN. Mr. President, I wish to express my support for the Economic Recovery Tax Act of 1981. I believe that the bill is an effective combination of individual and business tax reforms, which will encourage greater investment and productivity and provide significant tax relief to working Americans.

The tax reforms included in this bill will provide significant relief to all Americans who have had to bear the burden of rising taxes. The proportion of household income that goes to individual income taxes is greater now than at any other time in the last two decades. Inflation alone has continued to push individuals into higher and higher tax brackets. For example, a family of four which earned $16,000 in 1971 had to pay 19 percent of its income in taxes. Today that same family would have to pay over 27 percent of its income to taxes. Such large tax bills prohibit individuals and families from saving or improving their everyday standard of living.

The 25-percent tax cut is designed to alleviate this tax burden for all Americans. It cannot be dismissed as a tax cut for the rich. Instead, this tax cut provides relief to taxpayers at all levels of income. Further, the tax cut provides a greater percentage of relief to those taxpayers in the lower- and middle-income levels who have found the steady increases in taxes over the past years most difficult to bear.

There are those voices which oppose the individual tax cut as providing fuel for inflation. This argument basically charges that if consumption is proportionate to the amount of disposable income which a person has, then by keeping more money in the taxpayer's pocket, the taxpayer will spend more, thus aggravating inflation. These critics, however, have been unable to adequately explain why it would be inflationary for people to spend their own money, but not inflationary for the Government to take a person's money and spend it for him. If there is such a choice as to who should decide how to spend this money, I believe that the individual taxpayer, who has worked long and hard for his earnings, should be able to retain more of his or her earnings and he or she should be able to choose where the money will go.

The fact is, however, that a tax cut will not fuel inflation. Rather, the primary objective of this tax cut is not to stimulate demand, but to increase incentives to earn more taxable income. I believe that lower marginal tax rates will encourage work and increase savings and investment. In addition, the reduction in tax rates on investment income will encourage more productive types of investment, and make the use of tax shelters and loopholes less attractive in the long run.

There are also many opponents of the bill who argue that a 3-year tax cut is unwise based on the uncertainty over what the budget, interest rates, and inflation will be in 1983. I think that this is precisely one of the reasons why we should have a multiyear tax cut at this time. Over the past decade, our economy has experienced many setbacks from unexpected fluctuations in oil prices and in agricultural prices, adverse exchange rate adjustments, and political factors. With such uncertainty, it is difficult to plan effectively. Such uncertainty affects planning at all levels of the economy: Families do not know what they will be able to afford next year, small businesses do not know whether they should expand, and Government policies have no fixed direction.

A multiyear tax cut will restore certainty so that individuals, businesses, and the Government will be able to once again engage in long-range fiscal planning. It is only with such predictability that taxpayers will be able to increase investment and productivity.

The bill contains many individual tax reforms which I have supported for some time. The deduction for two-earner couples will effectively reduce the so-called marriage tax penalty which was inadvertently created by the tax changes made in 1969. Indeed, this is an inequity which exists in the current Tax Code, and, thus, is properly a problem which should be remedied immediately.

The bill, as amended, will allow all individuals to deduct a portion of their contributions to charities, regardless of whether or not they itemize their deductions. I believe that this reform will insure that all taxpayers, regardless of their income, will have their contributions treated equally. It will also provide immeasurable benefit to nonprofit organizations whose work is even more important in light of the budget reductions in some social services.

The bill will expand individual retirement accounts to increase maximum deductible contributions, and to make these retirement accounts available to many more persons. For example, under the bill, nonearning spouses can continue making payments to an IRA if his or her spouse dies or decides to stop contributing, or if there is a divorce. It will also allow persons who are now covered by employer-sponsored plans to deduct qualified contributions to an IRA or to their employer-sponsored plan. I view these provisions as welcome reforms which will stimulate savings for retirement.

There are many other reforms which will aid the overall economy and my State of Maine in particular. For example, small businesses will benefit from the reduction of corporate tax rates on the first $50,000 of taxable income, the reduction in the accumulated earnings tax, and the accelerated depreciation reforms included in the bill. By making fewer estates subject to estate and gift taxes and eliminating taxes imposed on transfers between spouses, many family-owned farms and businesses will no longer have to sell out simply to pay burdensome estate taxes.

Moreover, indexing the tax code, beginning in 1985, will prevent automatic increases in taxes caused by inflation alone. I was an early supporter of indexing, and I am very pleased that it finally has been approved by the Senate as an amendment to this tax bill. I wholeheartedly endorse all of these reforms.

There are, of course, some provisions in the bill with which I disagree. And there are many additional measures which "in the best of all possible worlds" I would embrace as welcome reforms. Unfortunately, our present economic state is not "the best of all possible worlds." Many additional targeted tax reforms will have to wait until we have a more favorable economic climate.

I believe that the Economic Recovery Tax Act of 1981 will, in conjunction with the budget reductions passed by the Congress, put us on the road to economic recovery. The road is not an easy one to travel, and it is more difficult for some to travel than for others. Nevertheless, I believe that, overall, this tax reduction package is necessary at the present time,

and is an effective element in reaching our goal of economic revival.

The PRESIDING OFFICER. The Senator from New York is recognized.

ALL-SAVERS CERTIFICATES

Mr. D'AMATO. Mr. President, I have a statement in regard to the present tax bill, House Joint Resolution 266.

President Reagan and the Members of this Chamber have promised the American people that we will produce a tax reduction bill fair and equitable to taxpayers of all income classes. I believe very strongly that we must keep this commitment. Therefore, I support most of the provisions of House Joint Resolution 266, the tax bill reported by the Finance Committee.

There is one glaring exception, however. Perhaps it is a mistake; or perhaps an oversight. I refer, of course, to sections 301 and 302 which comprise subtitle A of title III of the bill, the provisions relating to the exclusion of interest from taxpayers' income. Section 301 creates a new savings instrument—the all-savers certificate—and allows taxpayers who purchase these certificates to exclude up to $1,000 ($2,000 for a joint return) of interest on them from their taxable income. Anyone can buy these certificates, but they only make financial sense for those with marginal tax rates greater than 30 percent—a very small proportion of the American public. The vast majority could invest their money more wisely elsewhere. They would be downright silly to purchase an all-savers certificate. Single taxpayers making less than $21,500 and families of four making less than $27,600 receive no more benefits from the all-savers certificates than they are entitled to under current law.

At the same time, however, we are allowing the 21 percent of the taxpayers in the upper income brackets to exclude $1,000 or $2,000 of their income from taxation that was not previously excludable. This entails a revenue loss to the Federal Treasury of over $2.1 billion in just 1 year.

So what are we doing for the little guy—the middle and lower income families struggling to make ends meet in an inflationary economy and the retired forced to survive on social security and what little they have managed to put away in savings during their many hard years of work? Well, I will tell you what section 302, as currently written, does in 1982 and 1983. In order to allow the new tax break created in section 301, the present interest exclusion of $200/$400 is dropped starting in 1982. Every single dollar of interest earned by the little guy will be taxed while section 301 allows the well-to-do to avoid taxes on the first $1,000 or $2,000 of their interest income only if they invest in all-savers certificates.

Admittedly, beginning in 1984, section 302 allows the small saver to exclude 15 percent of his or her interest income from taxation. But this means that a family of four with $400 in interest income, all of which could be excluded from taxes under current law, would receive no exclusion in 1982 or 1983 and would be able to exclude only a paltry $60 in 1984. In other words, this family with an income too low to justify the purchase of an all savers certificate would be taxed at full ordinary income tax rates on $340 of interest income in 1984 that would be totally exempt from taxation today.

This is simply not acceptable. It is diametrically opposed to the spirit of this whole tax package. We are supposed to be cutting taxes across the board, not just for one favored income class. The little guy must be protected.

Current law allows every American taxpayer to earn $200 (or $400 on a joint return) in interest and dividends and pay no Federal taxes on that amount. This is a necessary encouragement to foster savings by Americans. However, the bill we are now considering repeals this provision and replaces it with three new provisions: A $100/$200 exclusion on dividends alone to apply to every taxpayer, a $1,000/$2,000 exclusion on interest on all savers certificates which will benefit only one-fifth of all taxpayers, that is, those with marginal tax rates greater than 30 percent; and a 15-percent exclusion on interest income up to $3,000/$6,000 which will not begin until 1984. We have literally robbed the little guy in order to finance a new tax break for the rich.

Last Thursday I came before you and urged reconsideration of this misguided decision. My proposal was modest. I asked merely that we restore provisions of current law which would allow all taxpayers to exclude $200 or $400 of their dividends and interest from their taxable income. I did not propose elimination of all-savers certificates. I did not even request simple parity between those above and below the 30-percent marginal tax bracket. I proposed only that we do not increase the taxes on savings for the little guy.

The distinguished chairman of the Senate Finance Committee, however, has informed me that he agrees that this inequity must be examined. I was prepared to bring before the Senate today a new and even less generous proposal than my original amendment.

This proposal would keep the exclusion at $100/$200 as it is in the Finance Committee bill. The only difference is that this tax-exempt amount would apply to either dividends or interest or to some combination of the two. This still represents a cut by 50 percent of the 1982 tax exclusion already existent in current law. In 1984 the exclusion would change to $100/$200 plus 15 percent of interest or dividends earned over this amount up to a maximum exclusion of $450 for a single taxpayer or $900 for a joint return. This incorporates the excellent amendment previously proposed by my colleague, the distinguished Senator from New Mexico, and adopted by this body. The 15-percent exclusion above the $100/$200 base amount would provide an excellent incentive for increased savings by American taxpayers.

In the spirit of cooperation and to assist the passage of the Reagan program, I have withdrawn this amendment, since my colleague from Kansas, Mr. DOLE, chairman of the Senate Finance Committee has indicated to me that he will examine my proposal before the expiration of the present interest exclusion, with a view toward eliminating the inequity in the current bill.

Mr. President, I am wondering if I might ask the Senator from Kansas what his intentions are in regard to attempting to deal with what I consider to be an exclusion that it is necessary to bring back, that is, equalizing the tax rate and encouraging savings and not penalizing the small taxpayers?

Mr. DOLE. Mr. President, the Senator from New York is to be applauded for his persistent efforts on behalf of small savers. We had that demonstrated on the Senate floor in a very close vote. The thrift industry and the mutual savings banks, I know, were a bit dismayed when we sacrificed the $200/$400 exclusion to pay for the all-savers provision. I know they like all-savers better but, as I am sure the Senator from New York is aware, they would prefer to have both, one to get them over their hopefully short-term, present troubles and the other to give a benefit to the small-saver customers who have for so long been the backbone of the thrift and mutual savings industries. I just suggest that we were not able to do both because of the budget constraints.

The majority of the members of the Finance Committee, from both sides of the aisle, were willing to repeal the $200/$400 exclusion, however, because we were told by a variety of witnesses that this provision did little or nothing to create new savings or new investment. In fact, we had experts, I might add expert economists, nonpartisan, academicians, who told us that this was not a way to encourage Americans to save. Since new or increased savings is an essential element of our economic recovery program we chose to abandon the $200/$400 provision. By the time the bill reached the floor I, and other members of the Finance Committee, had decided to back Senator SCHMITT's 15 percent net interest exclusion as the best incentive for new savings.

As a matter of equity, however, and as a benefit for the small saver who has no more than a few hundred dollars in savings, the $200/$400 provision, or the more modest $100/$200 interest exclusion that the Senator from New York argues so earnestly for, may make sense. I am certain it does or the Senator from New York would not be advocating it.

I will just suggest to the Senator from New York that there will be another bill before the Senate, I hope this year or early next year, another tax bill. The Senator from Kansas is still convinced we have not found the best savings incentive.

This Senator has asked everyone he can find to give us the right recipe to encourage savings in America, whether it is $100/$200, $200/$400 or the provision we adopted or the all-savers certificate, all seem to have a number of drawbacks. But I am just going to assure the Senator from New York, because of his persistence, his leadership and his continued interest in this particular provision, when we have the hearings, I would hope in September–October, I will be asking the Senator from New York

to come before our committee with his friends and supporters and those who can, in effect, give us advice on how to proceed. I am willing to make that pledge, if that is satisfactory to the Senator from New York.

Mr. D'AMATO. I believe under the leadership of the Senator from Kansas and with so many colleagues who feel similarly disposed, we can indeed restore this provision before 1982, at least the $100/$200 in interest income so that people will not be penalized for saving.

I believe we can have pass it in time so that the American people will not be penalized for saving.

If I might, I would like to yield to the Senator from Florida (Mrs. HAWKINS) who would like to comment on this matter.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, I want to associate myself with the remarks of the Senator from New York and pledge to work with him and with the Senator from Kansas to encourage reward for the thrift of the small savers.

America is filled with senior citizens who have been raised to save their money, balance their own budgets and live within their means. I think it is the wrong signal to be sending today when we are supposed to be rewarding incentive, rewarding savings, no matter how small. Some of the press that I read and that others are reading in this country today, claim that this is a tax bill for the rich. I know that to be incorrect. But, at the same time, I do not want to penalize those small savers who have a history of being very prudent with their money.

I will work with the Senators present here today, especially with the Senator from New York and the Senator from Kansas to restore those incentives that we had in the previous bill.

Mr. D'AMATO. Mr. President, I would like to thank the Senator from Florida who has worked with me and also to thank the distinguished Senator from Kansas for his understanding and his patience.

I pledge to him that we will work together, and I predict that our senior citizens will be proud of the package we will fashion later on in this session of the Congress.

Mr. DOLE. Mr. President, I understand the Senator from Michigan, Senator LEVIN, has the same interest expressed by the Senator from New York and would like to participate in this colloquy. I think it would be a good idea if he would.

Mr. LEVIN. I thank the Senator.

Mr. President, first, let me commend the Senators from New York, Florida, and Kansas, and other Senators who participated in this colloquy.

The Finance Committee bill as amended provides a 15-percent exclusion of net interest income up to a maximum of $3,000 for a single taxpayer, while it eliminates the current $200 exclusion of joint dividend-interest income. For many savers, the net result of this change will mean higher taxes on interest income.

The all-savers certificate adopted by the Senate presents similar problems for small savers. Many small savers will discover no advantage in investing in these certificates, given the rate of return being only 70 percent of the Treasury bill rate; indeed, they may not be able to meet the minimum investment for the certificates. It is also a fact that in 1984, when the 15-percent net exclusion is in effect, more interest income will be subject to taxes than under current law for those taxpayers with less than $13,000 in an account yielding 10 percent.

In other words, many taxpayers are going to be worse off in 1984 in terms of the handling of interest income than they are now, despite this bill.

It bothers me that this tax bill increases taxes on interest income for many individuals in spite of the savings incentives generated by the all-savers certificate and the 15-percent exclusion.

Mr. President, at this point I ask unanimous consent to have a table printed in the RECORD which explains what I have said.

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

INTEREST EXCLUSION PROPOSAL

	1982 current law exempt 1st $200/$400	1984 Finance Committee bill as amended to date	1984 proposed interest exclusion
Single person with $10,000 in savings at 12 percent:			
Interest income	$1,200	$1,200	$1,200
Exclusion	200	180	[1] 265

[1] 1st $100 excluded plus 15 percent of $1,100.

Mr. LEVIN. I understand that the chairman of the Finance Committee has expressed some concern about this also to the Senator from New York. I commend the actions of the Senator from Kansas and the Senator from Louisiana with whom I have also spoken. I do hope that promptly they will take up this matter, because I do not think anybody in this Senate wants to adopt a bill that is going to result in small savers actually being worse off in 1984 than they are now. Yet, that is exactly the effect of this bill.

I thank my friend from Kansas. Again I commend the Senator from New York and the Senator from Florida for their leadership in this matter.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, is there any time remaining on the amendment?

The PRESIDING OFFICER. No matter is now pending. The time is being charged to the bill.

Mr. DOLE. Is the pending amendment the amendment of the Senator from Kansas?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I ask unanimous consent that that be temporarily laid aside so the Senator from New Jersey may bring up an amendment.

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

The Senator from New Jersey.

UP AMENDMENT NO. 317

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 317.

Mr. BRADLEY. 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:

Add at the end of the bill the following amendment:

SECTION 1. The Internal Revenue Code of 1954 is amended by adding at the appropriate place the following new section:

§ 44F. Credit for Increased Saving

(a) GENERAL RULE.—In the case of an individual there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20% of the net increase in savings (as defined in subsection (c)(1)) by such individual during the taxable year.

(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section other than credits allowable by sections 31, 39, and 43.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) NET INCREASE IN SAVINGS.—The term "net increase in savings" means the excess of the amount determined in subparagraph (A) over the amount determined in subparagraph (B).

(A) The sum of

(i) the excess of the taxpayer's adjusted basis of investment in qualifying assets at the close of the taxpayer year over the adjusted basis of such investment at the close of the preceeding taxable year and

(ii) the decrease in indebtedness for the taxable year.

(B) The sum of

(i) the amount determined under paragraph (4) (relating to carryover from the prior taxable year) and

(ii) The increase in indebtedness for the taxable year.

(2) QUALIFYING ASSETS.—Qualifying assets means—

(A) Assets used by the taxpayer in a trade or business

(B) Real property and

(C) Intangible personal property held for investment.

(3) INCREASES IN INDEBTEDNESS FOR THE TAXABLE YEAR.—

(A) The term "increase in indebtedness" means the excess of all indebtedness of the taxpayer at the close of the taxable year over the amount of such indebtedness at the close of the preceding year.

(B) The term "decrease in indebtedness" means the excess of all indebtedness of the taxpayer at the close of the preceeding year over the amount of such indebtedness at the close of the taxable year.

(4) CARRYOVER FOR NET DECREASE IN SAVINGS.—If for any taxable year beginning after December 31, 1980, the amount determined under subparagraph (B) of subsection (c)

(1) exceeds the amount determined under subparagraph (A), such amount shall be carried forward and taken into account under clause (i) of such subparagraph (B) in the succeeding taxable year.

(d) DOLLAR LIMIT ON AMOUNT CREDITABLE.—The amount of the qualifying increase in net savings for the taxable year which may be taken into account under subsection (a) shall not exceed $2,000 ($4,000 in the case of a joint return under section 6013).

(e) SPECIAL RULES FOR GIFTS AND BEQUESTS.—

(1) In the case of the transferor—

(A) for purposes of subparagraph (c)(1)(A)(i) of the section the adjusted basis of investments in qualifying assets at the close of the preceeding taxable year shall be reduced by the adjusted basis of assets transferred by gift or bequest.

(B) For purposes of paragraph (c)(3) the amount of indebtedness at the close of the preceeding year shall be reduced by indebtedness assumed by the transferee of assets transferred by a gift or bequest or which such assets are subject to.

(2) In the case of the transferee—

(A) For purposes of subparagraph (c)(1)(A)(i) of this section the adjusted basis of investment in qualifying assets at the close of the taxable year shall be reduced by the adjusted basis (as determined under section 1014 or 1015) of assets received by gift or bequest during the taxable year.

(B) For purposes of paragraph (c)(3) the amount of indebtedness at the close of the taxable year shall not include any indebtedness assumed by the taxpayer in connection with assets received by gift or bequest or which such assets are subject to.

SEC. 2. EFFECTIVE DATE.—The amendment made by Section 1 shall be effective for taxable years beginning after December 31, 1981.

Mr. BRADLEY. Mr. President, this amendment is intended to stimulate saving and investment. It achieves its purpose by providing a 20-percent tax credit for net savings up to $2,000 for single taxpayers and $4,000 for joint returns.

A major goal of the current tax policy is to use tax cuts to stimulate individual savings. The administration asserts that a 25-percent across-the-board cut in marginal tax rates will raise savings sharply. But there is no hard evidence to suggest that taxpayers would, except perhaps temporarily, save much more than 5 to 8 percent of their disposable income. Indeed, since this is the proportion of their income that Americans have saved since 1950, the evidence strongly suugests that they will not increase savings above this level.

The problem with the so-called savings incentives we have adopted so far in the bill is that they reward people who borrow money or switch prior savings into tax-favored assets without doing any new saving.

If we are serious about increasing total national saving, not merely private saving, we must move toward a surplus in the Federal budget. The reason is that for each extra dollar the Government reduces its borrowing, a dollar more of lendable funds is available for private investment. In contrast, each extra dollar of Federal deficit drains a dollar from the private lending sector, while only a small part of the tax cut dollar received by individuals will be saved.

Mr. President, if we decide that we also want to use tax cuts to get people to save more, the best approach would be to give them a tax credit for their savings and let them decide how to invest it. This approach neither promotes consumption, as the across-the-board tax cuts do, nor distorts savings patterns by encouraging borrowing or substitution of one type of savings for another.

The savings amendment that I am proposing today is both fair and simple. It provides a credit for net savings, calculated on a cashflow method. It works as follows. Taxpayers would list on a separate schedule all their purchases of financial and business assets, their payments on the principal of a home mortgage, and their increases in bank and savings deposits during a year. All of those assets would be listed on one side of the ledger.

On the other side, they would deduct sales of financial or business assets, reductions in bank and savings deposits, and increases in borrowing. The difference between these two sets of figures is net savings.

Let me repeat that, Mr. President. Taxpayers would compute two schedules. One schedule would be a list of their purchases of financial and business assets, bonds, equipment, whatever. They would add to that their payments on the principal of a home mortgage, and increases in bank and savings deposits during the taxable year.

From that list of assets, the taxpayer would subtract sales of financial or business assets, such as bonds, equipment, and such like, reductions in bank and savings deposits and increases in borrowing. The difference between these two sets of figures is net savings.

Mr. President, as I said earlier in my remarks, the real fear is that across-the-board tax cuts will not stimulate savings, and the kind of savings incentives that we have in the bill will simply take one form of savings and convert it into another. Yet what we need to do is create new savings.

Under my amendment, taxpayers would get a 20-percent credit on this net saving. The credit is presently limited to $2,000, or $4,000 for joint returns. But I would hope to see this amount substantially increased in future years.

Although this provision's precise effect on savings cannot be estimated, it is likely to be significant.

For example, if 10 million people in the United States saved $1,000 more than they otherwise would, total saving would rise by $10 billion, an 11-percent increase in personal savings.

Today, total personal saving, as I have defined it, is about $95 billion. If you increased it by $10 billion simply by having 10 million people save $1,000 more, you would then have $105 billion of personal saving.

Mr. President, without the radical change my amendment embodies, I think we will be hard pressed to get investment to the level we need to rival our international competitors. At the same time, we must not let our zeal to promote savings distort investment decisions or interfere with the efficient working of the capital markets.

My amendment avoids these pitfalls. By rewarding only net saving, it is more likely to generate new investment than the other tax provisions that we have considered in this bill.

By not favoring one type of saving institution over another it does not interfere with the market allocation of capital nor does it shift investment out of productive activities into tax favored assets. Because increased capital formation is so important for our economic well being, I would urge my colleagues to support the amendment.

Again, I would draw my colleagues attention to the experience of our international competitors.

Let us make an assumption: That is, to the extent that income from investment is taxed, the incentive to invest will be somewhat eroded. Thus, it seems plausible to assume that different tax burdens on dividends, interest, and capital gains income have an effect on the decision to save.

I would call the Senate's attention to the relative personal saving and individual tax rates in the countries of our competitors in the international markets. For the period 1975–79 the French personal saving rate was about 17.2 percent of disposable income. The French individual tax burden on a dollar of investment income was about 7 cents.

For West Germany the saving rate was about 15 percent and the tax was roughly 11.8 cents on the dollar.

During this period, the Japanese had a personal savings rate of 21.5 percent, while the tax on $1 worth of investment income was a little over 14 cents.

Mr. President compare those figures with the United States where we have a personal savings rate of roughly 6 percent of disposable income and a tax of 33.5 cents on each $1 of investment. It is no wonder that savings are much lower in this country than in other countries in the world, particularly our competitors.

What this amendment says in summary is let us stimulate saving, but let us stimulate new saving. Let us not simply take money out of the commercial banks and put it into the savings and loans, or take it out of the savings and loans and put it into money markets, or take it out of investment in equities and put it in antiques. Let us create new savings and let us reward people who genuinely save.

Mr. President, this is a very important point. It is from new savings that the bulk of our investment will come to rebuild America. We do not now have the personal savings to finance the huge amount of investment in plant and equipment we are supposed to get from 10–5–3.

If we do not have the savings, it is possible the investment will not be made or if it is, that it will push up interest rates as investors compete for limited capital. There is no reason to continue tinkering around with savings incentives. We have to put a big carrot out there if we are serious about getting the American public to save more.

I happen to believe that it might take even more than carrots. Any time you can turn a television set on and see a $30,000 camper advertised for sale with nothing down, you have to pause and say, "Well, maybe this incentive will not be enough to transform U.S. 6-percent savers into Japanese 20- and 22-percent savers."

But at least it is a beginning, Mr. President. At least it recognizes that if you save, if you create new savings, that you get a 20-percent tax credit up to $2.000.

The concept of this amendment is not significantly different from the concept of the amendment offered by Senator SCHMITT in the debate on the all-savers certificate. What he said was he would provide a 15-percent credit for net interest.

Mr. President, what this says is that we provide a 20-percent credit for net savings, which is more inclusive than interest.

So, Mr. President, I offer the amendment in the belief that increased saving is important for America. I offer the amendment in the belief that you cannot give just a small incentive, as this bill does, nor can you give incentives to simply shift from one asset to another. You have to give a big incentive and it has to be for net saving.

That is what we have attempted to do in this amendment. I think it is completely consistent with the theory behind the administration bill. It is completely consistent with the amendment offered by Senator SCHMITT on the all-savers certificate. It argues strongly, and I argue strongly, that it is time we got serious about saving and about savings incentives; it is time we assured that there is capital out there for investment to rebuild America.

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

Mr. BRADLEY. I yield.

Mr. MATSUNAGA. Is the Senator proposing to supplement or amend the all-savers certificate provision?

Mr. BRADLEY. I am not seeking to amend the all-savers certificate. I am simply saying that in the Senate we should go on record approving a significant carrot for new savings. Let the conference decide—which, both, or if only one prevails.

I am not striking out anything we have done in the bill. I am simply adding to the bill another amendment that provides a significant incentive to stimulate saving.

Mr. MATSUNAGA. What revenue loss, if any, will there be by the adoption of the amendment of the Senator?

Mr. BRADLEY. We estimate that there would be a revenue loss of $3 billion if there is no new savings.

On the across-the-board cuts, the theory is that you will have an increase in investment and work activity and you will then have an increase in reveneue. I would argue that this would have a positive revenue effect. I would argue that if you get, as I suggested, 10 million Americans saving $1,000 more a year, you would have a significant revenue increase.

Mr. MATSUNAGA. I thank the Senator for his responses.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Does the Senator yield the floor?

Mr. BRADLEY. I reserve the remainder of my time. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute, 26 seconds.

Mr. ROTH. Mr. President, I think we can all agree on the importance of saving to our economy.

I think we can all agree that it is important to provide incentives to the American people to save.

I can say what the Senator from New Jersey proposes is, at least in theory, a good idea. One of the problems is that there have been no hearings, no review of the proposal, and, for that reason, as well as for the others I will enumerate, I must oppose this proposal.

I have long supported the expanded use of IRA's for housing and education. In a sense, what we have here is an idea that is like a universal IRA, but it is a monumental expansion of the IRA idea, even though, essentially, it is the same concept.

As I said, this proposal has not been considered in committee. There have been no hearings upon it. Technically, it represents a critically difficult and complex provision. For example, a taxpayer would have to keep precise accounting of all—I emphasize the word "all"—of his investments, savings, purchases, debts, and sales, from his stocks and bonds to his car loan, then let the IRS audit this accounting. Every aspect—and I think this should be emphasized—of a taxpayer's financial life would have to be documented, exposed to the IRS, and defended. I believe that this is an impossible burden for the taxpayer as well as for the IRS. Rather than auditing a single form 1040, the IRS would, under this provision, have to audit—and, I might point out, the taxpayer compile—a complex account of all transactions during the year.

What is being proposed here is a credit for all increases in bases of all real property, including personal residence. I might point out that all principal payments on mortgages would qualify for the credit. As a matter of fact, home improvements not financed by borrowing would qualify for the credit. So we would find ourselves in the incongruous position that the building of a swimming pool or a recreation room would qualify for this credit. I do not think many of us seeking incentives to promote personal savings have this kind of improvement in mind.

In any event, Mr. President, as I said, this whole proposal is extraordinarily complex and it would be difficult, both for the individual taxpayer as well as the IRS, to administer the provision.

In closing, Mr. President, let me say I must oppose this amendment. I share in and agree with the goal and the objective, but I point out that we have a number of incentives built into this bill. While none of them goes as far as we would like, the Senate has passed a sense-of-the-Senate resolution limiting the revenue loss. According to the Joint Committee on Taxation, Mr. President, the revenue loss on this proposal would be very significant, as much as $5 billion to $10 billion a year. So, if we are going to keep within the limitations adopted by the Senate, it would mean that there would have to be an elimination or reduction in other proposals on which the Senate has already acted.

For these reasons, Mr. President—the complexity of the proposal and the potential revenue loss—I oppose this amendment. I yield back the floor.

Mr. BRADLEY. Will the Senator yield for one question?

Mr. ROTH. I would be happy to yield on the Senator's time.

Mr. BRADLEY. I only have 1 minute, Mr. President.

Mr. ROTH. I yield for a question, yes.

Mr. BRADLEY. Mr. President, the Senator has stood on the floor a number of times while I have been here and argued very strongly for the feedback effect of individual income tax cuts. I think he has argued in other forums as well for the feedback effect of reduction of taxes on investment income. Would not, in effect, this provide a real carrot for savings and if we increased savings, would we really have a revenue loss that the Joint Taxation Committee has suggested might be as high as $5 billion?

Mr. ROTH. The Senator is correct that I have come to the floor on many occasions to promote the concept of a reduction in the marginal rate of taxes. I am happy to see that the Senate has strongly endorsed that concept by approving a 25-percent, 3-year across-the-board tax cut.

As far as additional incentives for savings, I would say that I can think of a great number of ideas and concepts that I would like to propose or support. My problem here, Mr. President, is that we can only do so much and that we have a major tax bill that was developed in the Finance Committee and on the Senate floor. but unfortunately, we cannot keep adding to it.

Mr. President, I feel very strongly that the first step as far as individuals are concerned is to permit the working people to retain more of their hard earnings. That is the reason for the 25 percent across-the-board tax cut, plus indexing. We have added, as the Senator knows, a number of savings incentives which I think will have a beneficial impact.

Very frankly, Mr. President, if I thought we could afford to do more at this stage, I would be happy to add additional savings. But even if I were of the school of thought that we could do that today, I think, in adopting additional incentives to save, a principal goal must be simplification, both in understanding as far as the taxpayer is concerned and in its administration. As I said, one of my concerns about the proposal of the distinguished Senator from New Jersey is its complexity. I think the concept is worth exploring, worth investigating, Mr. President, but I think in doing so, we ought to do it in committee.

As I said, I find it, from the standpoint

of revenue loss and from the standpoint of complexity, unsatisfactory and for that reason, would oppose it.

I yield the floor, Mr. President.

Mr. BRADLEY. Mr. President, I appreciate the comments of the Senator from Delaware. I hope if this amendment does not prevail today, we can, in the committee process in the coming year, take a look at this proposal in greater depth. I urge my colleagues to act now and support this amendment, Mr. President, because in the bill as constituted, we have no certainty that we will be creating new savings. All we have is a reasonable probability that we shall be shifting savings from one kind of asset to another. The result will be not to increase the percent of every dollar that the American public saves.

I believe that the argument that this is too complex is somewhat ironic, given the fact that in the past 48 hours we have adopted at least five or six tax shelter amendments that clearly complicate the tax code infinitely more.

So I argue, finally, with respect to the fact that there have not been hearings on this matter, that there were no hearings on many of the other amendments we have added to this bill, not on the amendment by Senator SCHMITT which established the principle of net interest. This simply establishes the principle of net savings, of net new savings, from which we will get the investment to rebuild America.

So I argue that this amendment is the only amendment we will consider that guarantees any significant increase in personal saving. It is the only amendment we will consider that simply does not transfer savings from one asset to another. It is the only amendment we will consider that will give the American people a sufficient carrot to save more of their income.

Mr. President, I yield back the remainder of my time, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Delaware yield back the remainder of his time?

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

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. WILLIAMS) is necessarily absent.

The PRESIDING OFFICER (Mr. HAYAKAWA). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 15, nays 84, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—15

Biden	Hart	Matsunaga
Bradley	Hollings	Melcher
Cranston	Huddleston	Moynihan
DeConcini	Kennedy	Sarbanes
Dodd	Levin	Tsongas

NAYS—84

Abdnor	Garn	Nickles
Andrews	Glenn	Nunn
Armstrong	Goldwater	Packwood
Baker	Gorton	Pell
Baucus	Grassley	Percy
Bentsen	Hatch	Pressler
Boren	Hatfield	Proxmire
Boschwitz	Hawkins	Pryor
Bumpers	Hayakawa	Quayle
Burdick	Heflin	Randolph
Byrd, Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Helms	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mathias	Wallop
Eagleton	Mattingly	Warner
East	McClure	Weicker
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	
	Murkowski	

NOT VOTING—1

Williams

So Mr. BRADLEY's amendment (UP No. 317) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

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

Mr. DOLE. I yield to the distinguished majority leader.

ORDER OF PROCEDURE THIS EVENING

Mr. BAKER. Mr. President, I thank the Senator for yielding to me. If we could have order in the Senate, I would like to try to describe the situation as I see it at this moment.

It looks like we are not going to be able to go out at an early hour tonight. I had thought for a while it might be possible to run to a fairly reasonable hour and then set a time certain tomorrow earlier than we originally planned to try to finish this bill. But, you know, even given a willingness to do that, and I believe both the majority and minority leaders were willing to consider that, if you take a look at the list of amendments, it simply is impractical.

There are five amendments remaining on this side of the aisle, there probably will be only three offered, maybe just two. But on the other side of the aisle, Mr. President, we have 22 amendments, according to my list. So even if we go until the 3 o'clock hour tomorrow, we are going to probably end up with what I called on the first day the final passage stampede because we will be hard put to dispose of 27 amendments in the time we have remaining.

So, Mr. President, I think we are going to have to remain in session tonight. I do not know how late we will go, I will consult with the distinguished minority leader and, of course, with the managers of the bill on both sides.

But I would urge Senators to consider that we will be in for some little while yet working our way through amendments. I have not totally abandoned the idea that we will finish tonight. But, based on what I have just told you, with 27 amendments remaining, it would appear more likely that we will work fairly late tonight and still not be able to finish it.

I felt constrained to advise Senators so that they can make appropriate plans.

Mr. DOLE. Mr. President, I hope, as one who has been here for some time, that we would get all these dogs out of the way tonight, and the horses, too. But we will just keep working our way down the list. I think most of them will fall by the wayside. We have got two coming up right now we have have an agreement on. We are still working with the distinguished minority leader on an amendment. I think we have worked one out for the Senator from Kentucky (Mr. HUDDLESTON). I have just been advised by the Senator from Delaware that he is willing to bring up an amendment any time we wish, so we are really making good progress.

I should think in a couple of hours we will have disposed of a number of amendments, if they have been cleared all the way around. We have one, as I say, now pending involving Senators BAUCUS and ROTH. We have one involving Senator DECONCINI and Senator ARMSTRONG, and they are prepared to take 5 minutes. So how many amendments are left?

Mr. BAKER. Twenty-seven.

Mr. DOLE. I have just taken care of seven.

Mr. METZENBAUM. May I point out to the Senator from Kansas that the horse amendment of Senator HUDDLESTON is still a matter of just how much it is going to cost, the way it is going.

Mr. DOLE. They are at the gate, in any event.

[Laughter.]

Mr. BAKER. Mr. President, in view of the remarks by the distinguished chairman of the committee and others, it is clear we are going to be in for a good while tonight just working our way through amendments. We will take another look at 8 o'clock and see how it is then. But I would advise Senators that we are here for a while tonight.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

UP AMENDMENT NO. 318

Mr. DOLE. Mr. President, I send a number of technical amendments to the desk and ask for their immediate consideration. I ask unanimous consent that I may do so.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 318.

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 16, beginning with line 23, strike out all through page 17, line 2, and insert in lieu thereof the following:

(B) Paragraph (1) of section 3(a) (relating to imposition of tax table tax) is amended by inserting before the last sentence thereof the following new sentence: "The tables so prescribed may be based on tax table income or taxable income.".

On page 22, line 24, after "regulations" insert "prescribed".

On page 31, line 3, strike out "appropriate" and insert in lieu thereof "applicable".

On page 32, line 16, insert "applicable" before "period".

On page 34, line 2, insert "applicable" before "period".

Section 168(b)(2)(C) of the Internal Revenue Code of 1954, as added by section 201(a), is amended by striking out "low-income rental housing (within the meaning of section 167(k)(3)(B))" and inserting in lieu thereof "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B)".

On page 49, line 3, strike out "paragraph (1)" and insert in lieu thereof "subparagraph (A)".

On page 58, beginning with line 22, strike out all through page 59, line 4, and insert in lieu thereof the following:

"(E) CERTAIN LIQUIDATIONS.—For purposes of this paragraph, a person is not a related person to the taxpayer if such person is a distributing corporation in a complete or partial liquidation to which section 331 applies and the stock of such corporation with respect to which the distribution described in section 331 is being made was acquired by purchase by the taxpayer (or a person related to the taxpayer) after December 31, 1980.

On page 60, line 6, beginning with "the deduction", strike out all through page 60, line 9, and insert in lieu thereof the following: "the deduction allowable under subsection (a) shall be computed—

"(I) in the case of a transaction described in subparagraph (C), under rules similar to the rules described in section 381(c)(6); and

"(II) in the case of a transaction otherwise described in this paragraph, under the recovery period and method (including rates prescribed under subsection (b)(1)) used by the person from whom the taxpayer acquired such property (or, where such person had no recovery method and period for such property, under the recovery period and method (including rates prescribed under subsection (b)(1)) used by the person which transferred such property to such person).

On page 63, lines 9 through 11, strike out "(taking into account the last sentence of subsection (b)(2)(A))" and insert in lieu thereof "(taking into account the half-year convention)".

On page 64, strike out lines 9 through 14, and insert in lieu thereof the following:

"(II) assign percentages (taking into account the last sentence of subsection (b)(2)(A)) determined in accordance with use of the method of depreciation described in section 167(j)(1)(B), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

On page 65, in the matter following line 2, insert "present" before "class" each place it appears.

On page 65, beginning with line 4, strike out all through page 66, line 7, and insert in lieu thereof the following:

"(I) PERIOD ELECTED BY TAXPAYER.—Except as provided in subclause (II), the taxpayer may elect under clause (i) for any taxable year only a single recovery period (not less than the present class life) for recovery property described in this paragraph which is placed in service during such taxable year, which has the same present class life, and which is in the same class under subsection (c)(2).

"(II) REAL PROPERTY.—In the case of 15-year real property, the election under clause (i) shall be made on a property-by-property basis.

On page 67, lines 15 and 16, strike out "with regard to" and insert "taking into account".

On page 69, line 12, insert "the" after "amount of".

On page 70, strike out lines 4 through 9, and insert in lieu thereof the following:

"(7) SPECIAL RULE FOR ACQUISITIONS AND DISPOSITIONS IN NONRECOGNITION TRANSACTIONS.—Notwithstanding any other provision of this section, the deduction allowed under this section in the taxable year in which recovery property is acquired or disposed of in a transaction in which gain or loss is not recognized in whole or in part shall be determined in accordance with regulations prescribed by the Secretary.

On page 70, strike out lines 19 through 24, and insert in lieu thereof the following:

"(i) such agreement shall be treated as a lease entered into by the parties in the course of carrying on a trade or business, and

"(ii) the lessor shall be treated as the owner of the property."

On page 71, strike out lines 5 through 7, and insert in lieu thereof the following:

"(I) a corporation (other than an electing small business corporation within the meaning of section 1371 (b) or a personal holding company within the meaning of section 542 (a)),

On page 71, line 10, insert "or" after the end comma.

On page 71, between lines 10 and 11, insert the following:

"(III) a grantor trust with respect to which the grantor and all beneficiaries of the trust are described in subclause (I) or (II),

On page 71, strike out lines 20 through 22, and insert in lieu thereof the following:

"(iii) the term of the lease (including any extensions) does not exceed—

"(I) 90 percent of the useful life of such property for purposes of section 167, or

"(II) 150 percent of the present class life of such property."

On page 72, line 8, insert "or lessee" after "lessor".

On page 72, line 9, strike out "of ownership".

On page 72, line 17, strike out "or".

On page 72, line 19, strike out the end period and insert ", or".

On page 72, between lines 19 and 20, insert the following:

"(vi) subject to the provisions of subparagraph (G), the obligation of any person is subject to a contingency or an offset agreement."

On page 72, line 23, insert "(other than a qualified rehabilitated building within the meaning of section 48 (g) (1))" after "property".

On page 72, line 25, strike out "taxpayer" and insert "lessor".

On page 73, line 9, strike out "of the time the" and insert in lieu thereof "after such".

On page 73, between lines 16 and 17, insert the following new sentence flush with the margin of subparagraph (D):

In the case of property placed in service after December 31, 1980, and before the date of the enactment of this subparagraph, this subparagraph shall be applied by substituting 'the date of the enactment of this subparagraph' for 'such property was placed in service'.

On page 74, line 10, insert "or lessee" after "lessor".

On page 74, between lines 13 and 14, insert the following:

"(G) SPECIAL RULES FOR CONTINGENT PAYMENTS AND OFFSETS.—

"(i) IN GENERAL.—In the case of an agreement under subparagraph (A) which provides that the parties are obligated to make payments to each other, such agreement may provide that a party's obligation under the agreement is contingent upon, or may be satisfied by being offset (to the extent of the same amount) by, the payment by another party of such party's obligation.

"(ii) INCOME AND BASIS ADJUSTMENTS.—In the case of an agreement described in clause (i) to which this paragraph applies, for purposes of this subtitle—

"(I) the basis of the lessor in the qualified leased property shall include the amount of any obligation of the lessor which is contingent or offset, and

"(II) there shall be included in the gross income of the lessor (and allowed as a deduction to the other party) the amount, regardless of whether or not paid or received, the lessor is to receive under a schedule of payments under the agreement under subparagraph (A) under the obligation of another party which offsets the lessor's obligation."

On page 74, line 14, strike out "(G)" and insert in lieu thereof "(H)".

On page 74, in the matter between lines 14 and 15, strike out "47(e)" and insert in lieu thereof "47(d)".

On page 75, between lines 9 and 10, insert the following:

"(11) TRANSFEREE BOUND BY TRANSFEROR'S PERIOD AND METHOD IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of recovery property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSFERS COVERED.—The transactions described in this subpargraph are—

"(i) a transaction described in section 332 (other than a transaction with respect to which the basis is determined under section 334(b)(2), 351, 361, 371(a), 374(a), 721, or 731);

"(ii) an acquisition (other than described in clause (i)) from a related person (as defined in subparagraph (D) of subsection (e)(4)); and

"(iii) an acquisition followed by a leaseback to the person from whom the property is acquired.

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations prescribed by the Secretary, recovery property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

"(D) EXCEPTION.—This paragraph shall not apply to any transaction to which subsection (e)(4) applies.

"(12) SPECIAL RULES FOR COOPERATIVES.—In the case of a cooperative organization described in section 1381(a), the Secretary may by regulations provide—

"(A) for allowing allocation units to make separate elections under this section with respect to recovery property, and

"(B) for the allocation of the deduction allowable under subsection (a) among allocation units."

On page 84, line 7, strike out "in lieu of the deduction" and insert in lieu thereof "be deemed to constitute the reasonable allowance".

On page 85, line 5, strike out "code" and insert in lieu thereof "Code".

On page 85, between lines 16 and 17, insert the following:

(e) CERTAIN DEPRECIATION CALCULATIONS.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not required (unless specifically required by law) to apply any provision of the Internal Revenue Code of 1954 in calculating deprecia-

tion for the purpose of determining any cost under a program administered by the Secretary.

On page 87, line 20, strike out "(5)" and insert in lieu thereof "(6)".

On page 90, beginning with line 11, strike out all through line 18 and the matter between lines 18 and 19 and insert in lieu thereof the following:

"(3) EXCEPTION FOR RECOVERY AND SECTION 179 PROPERTY.—

"(A) RECOVERY PROPERTY.—In the case of recovery property (within the meaning of section 168), the adjustment to earnings and profits for depreciation for any taxable year shall be the amount determined under the straight-line method (using a half year convention in the case of property other than the 15-year real property and without regard to salvage value) and using a recovery period determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	5 years.
5-year property	12 years.
10-year property	25 years.
15-year real property	35 years.
15-year public utility property	35 years.

For purposes of this subparagraph, no adjustment shall be allowed in the year of disposition (except with respect to 15-year real property), and rules similar to the rules under the last sentence of section 168(b)(2)(A) and section 168(b)(2)(B) shall apply.

"(B) Treatment of amounts deductible under 168 of such Code if—

(1) the applicable rate order expires by its terms without extension, and

(2) by the terms of its first rate order that becomes effective after the date of enactment of this joint resolution, such regulated public utility uses a normalization method of accounting with respect to the recovery deduction allowed by this section.

This provision shall not apply to any rate order which, under the rules in effect before the date of the enactment of section 168 of such Code, required a regulated public utility to use a method of accounting with respect to the deduction allowable by section 167 of such Code which under section 167(1) of such Code it was not permitted to use.

On page 100, line 2, strike out "to which section 465 applies" and insert "with respect to which any loss is subject to limitation under section 465".

On page 101, line 13, strike out "subparagraph (A), (B), or (C)" and insert in lieu thereof "clause (i), (ii), or (iii) of subparagraph (A) or subparagraph (B)".

On page 101, line 15, strike out the end period and insert in lieu thereof a comma.

On page 101, line 21, strike out "and".

On page 102, line 2, strike out the end period and insert ", and".

On page 102, between lines 2 and 3, insert the following:

"(v) which is not a person from which the taxpayer acquired the property described in subparagraph (A) or a related person to such person.

On page 104, line 5, after "transfers" insert "not".

On page 107, between lines 19 and 20, insert the following:

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(8) REHABILITATION INVESTMENT CREDIT.—The term 'rehabilitation investment credit' means that portion of the credit allowable by section 38 which is attributable to the rehabilitation percentage.".

On page 127, line 17, insert "any" before "Federal".

On page 130, lines 22 and 23, strike out "with the taxpayer".

On page 136, line 14, "beginning with and after the first taxable year" after "taxable years".

On page 141, lines 4 and 5, strike out "of the Internal Revenue Code of 1954".

On page 146, line 13, insert "of paragraph (1)" after "(A)".

On page 146, line 16, insert "of paragraph (1)" after "(B)".

On page 146, line 19, insert "of paragraph (1)" after "(C)".

On page 146, line 22, insert "of paragraph (1)" after "(D)".

On page 149, between lines 20 and 21, insert the following:

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On page 153, line 10, insert "(c)" before "(6)".

Paragraph (2) of section 128(b) of the Internal Revenue Code of 1954, as added by section 301(a), is amended by inserting "by each spouse" after "received".

Subparagraph (A) of section 128(d)(1) and section 128(e)(2) of the Internal Revenue Code of 1954, as added by section 301(a), are each amended by inserting "savings" after "tax-exempt".

Subparagraph (B) of section 128(b)(1) of the Internal Revenue Code of 1954, as amended by section 302, is amended by inserting "(less the amount of any deduction under section 62(12))" after "such taxable year".

Subparagraph (B) of section 128(c)(1) of the Internal Revenue Code of 1954, as amended by section 302(a), is amended to read as follows:

"(B) amounts (whether or not designated as interest) paid, in respect to deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) an institution which is—

"(I) a mutual savings banks, cooperative bank, domestic building and loan association, or credit union, or

"(II) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law, or

"(ii) an industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution,

Subsection (b) of section 302 of the joint resolution is amended to read as follows:

(b) REPEAL OF PARTIAL EXCLUSION OF INTEREST.—

(1) IN GENERAL.—Subsection (c) of section 404 of the Crude Oil Windfall Profit Tax Act of 1980 is amended by striking out "1983" and inserting in lieu thereof "1982".

(2) CONFORMING AMENDMENT.—Section 116(a) (relating to partial exclusion of dividends) is amended to read as follows:

"(a) EXCLUSION FROM INCOME.—

"(1) IN GENERAL.—Gross income does not include amounts received by an individual as dividends from domestic corporations.

"(2) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

Section 302 of the joint resolution is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1, as amended by section 301(b)(1), is amended by striking out the item relating to section 128 and inserting in lieu thereof the following new item:

"Sec. 128. Partial exclusion of interest.".

(2) Section 265 (relating to expenses and interest relating to tax-exempt income), as amended by section 301(b), is amended by striking out "or to purchase or carry any certificate to the extent the interest on such certificate is excludable under section 128" and insert in lieu thereof "or to purchase or carry obligations or shares, or to make other deposits of investments, the interest on which is described in section 128(c)(1) to the extent such interest is excludable from gross income under section 128".

(3) Section 46(c)(8) (relating to limitation to amount at risk) is amended by striking out "clause (i), (ii), or (iii) of subparagraph (A) of subparagraph (B) of section 128(c)(2)" and inserting in lieu thereof "subparagraph (A) or (B) of section 128(c)(1)".

Section 302(d) of the joint resolution, as redesignated by the preceding amendment, is amended to read as follows:

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1983.

(2) DIVIDEND EXCLUSION.—The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1981.

On page 180, line 9, strike out "any" and insert "a".

On page 180, line 18, insert "lesser of $2,000 or the" after "the".

On page 182, line 23, after "plan" insert "which elects to allow an employee to make contributions which may be treated as qualified voluntary employee contributions under this section".

On page 184, strike out line 1 and insert in lieu thereof "after the last date on which such designation or notification may be made, shall".

On page 184, line 12, strike out "any" and insert in lieu thereof "a".

On page 185, lines 23 and 24, strike out "retirement" and insert in lieu thereof "voluntary".

On page 186, line 20, strike out "after the application of subsection (b), (c), or (d)"

On page 190, line 6, after "is" insert "not".

On page 190, strike out lines 13 through 16, and insert in lieu thereof "includible in gross income. For purposes of this title, any tax imposed by this".

On page 190, line 25, strike out "a plan" and insert in lieu thereof "an employee".

On page 191, line 10, strike out "the" and insert in lieu thereof "such accumulated".

On page 191, strike out lines 20 and 21, and insert in lieu thereof "made after December 31, 1981, in a taxable year beginning after such date and allowable as a deduction under section 219(a) for such taxable year.".

On page 192, lines 1 and 2, strike out "taken into account under section 219".

On page 192, line 3, strike out "net" and insert in lieu thereof "income and".

On page 192, line 6, strike out "net loss" and insert in lieu thereof "loss and expense".

On page 192, line 14, strike out the end quotation marks and the end period.

On page 192, between lines 14 and 15, insert the following:

"(6) ORDERING RULES.—Unless the plan specifies otherwise, any distribution from such plan shall not be treated as being made from the accumulated deductible employee contributions until all other amounts to the credit of the employee have been distributed.".

On page 192, beginning with line 15, strike out all through page 193, line 2, and insert in lieu thereof the following:

(2) 10-YEAR AVERAGING AND CAPITAL GAINS NOT TO APPLY.—Subparagraph (A) of section

402(e)(4) (defining lump sum distribution) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 403, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72 (o) (5))."

On page 193, lines 18 and 19, strike out "distributions" and insert in lieu thereof "a distribution".

On page 194, strike out lines 13 through 19, and insert in lieu thereof the following:

(2) UNREALIZED APPRECIATION OF EMPLOYER SECURITIES.—

(A) Paragraph (1) of section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out in the second sentence thereof "by the employee" and inserting in lieu thereof "by the employee (other than deductible employee contributions within the meaning of section 72 (o)(5))."

(9) Subparagraph (J) of section 402(e) (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5))."

On page 194, line 25, and page 195, line 1, strike out "as determined under" and insert in lieu thereof "within the meaning of".

On page 195, lines 1 and 2, strike out "as of the date of the decedent's death".

On page 195, lines 8 and 9, strike out "as determined under" and insert in lieu thereof "within the meaning of".

On page 195, lines 9 and 10, strike out "as of the date of the transfer".

On page 197, line 3, strike out "distribution" and insert "contribution".

On page 197, line 14 insert "described in section 408 (k)" after "pension".

On page 197, line 16, strike out "account,".

On page 198, line 12, insert "allowable as a deduction under section 219(a)" after "pension,".

On page 198, line 13, insert "(within the meaning of section 72(o)(5))" after "contributions".

On page 200, between lines 24 and 25, insert the following:

(i) ROLLOVERS UNDER BOND PURCHASE PLANS.—

(1) GENERAL RULE.—Subsection (d) of section 405 (relating to taxability of beneficiary of qualified bond purchase plan) is amended by adding at the end thereof the following new paragraph:

"(3) ROLLOVER INTO AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—

"(A) IN GENERAL.—If—

"(i) any qualified bond is redeemed,

"(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, and

"(iii) such transfer is made on or before the 60th day after the day on which the individual received the proceeds of such redemption,

then, gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).

"(B) QUALIFIED BOND.—For purposes of this paragraph, the term 'qualified bond' means any bond described in subsection (b) which is distributed under a qualified bond purchase plan or from a trust described in section 401(a) which is exempt from tax under section 501(a)."

(2) TECHNICAL AMENDMENTS.—

(A) The second sentence of paragraph (1) of section 405(d) is amended by striking out "the proceeds" and inserting "except as provided in paragraph (3), the proceeds".

(B) Sections 219(d)(1), 408(a)(1), and 4973(b)(1)(A) are each amended by inserting "405(d)(3)," after "403(b)(8),".

(C) Subsection (e) of section 2039 is amended by inserting "405(d)(3)," after "a contract described in subsection (c)(3)),".

On page 200, line 25, strike out "(i)" and insert in lieu theerof "(j)".

On page 201, between lines 21 and 22, insert the following:

(6) BOND PURCHASE PLANS.—The amendments made by subsection (i) shall apply to redemptions after the date of the enactment of this joint resolution in taxable years ending after such date.

On page 201, line 22, strike out "OWNER-EMPLOYEE" and insert in lieu thereof "SELF-EMPLOYED INDIVIDUAL'S".

On page 203, lines 11 and 12, strike out "the plan" and insert in lieu thereof "a simplified employee pension".

On page 203, line 12, strike out "such plan" and insert in lieu thereof "the simplified employee pension".

On page 204, strike out lines 20 through 24, and insert in lieu thereof the following:

(1) by adding at the end of paragraph (6) the following new sentence: "For purposes of this subsection (other than paragraph (5)), the term 'owner-employee' includes an employee described in section 401(c)(1).", and

On page 208, line 6, insert "of corporations" after "controlled group".

On page 208, line 12, insert "of corporations" after "controlled group".

On page 216, line 22, strike out "claim" and insert in lieu thereof "claimed".

On page 223, line 24, strike out "either".

On page 233, line 13, strike out the comma.

On page 233, line 20, strike out "such gift" and insert in lieu thereof "a gift resulting from the exercise of such power of appointment".

On page 236, strike out lines 13 through 23, and insert in lieu thereof the following:

"(A) within the period beginning on the date of the decedent's death and ending on the later of the date which is 10 years after—

"(i) the date of the decedent's death, or

"(ii) the date occurring within 1 year of the decedent's death on which the qualified heir commences using the qualified real property which was acquired (or passed) from the decedent for the qualified use,

On page 238, line 1, strike out "the 10-year period under" and insert in lieu thereof ", the period described in".

On page 243, line 22, insert "annual" after "average".

On page 244, line 8, insert "cash" after "gross".

On page 244, line 9, insert "annual" after "average".

On page 244, line 12, insert "annual" after "average" both places it appears.

Section 409 of the joint resolution is amended to read as follows:

SEC. 409. INCREASE IN SPECIAL USE VALUATION LIMIT TO $600,000.

(a) INCREASE.—Paragraph (2) of section 2032A(a) (relating to limitation) is amended by striking out "$500,000" and inserting in lieu thereof "$600,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estates of decedents dying after December 31, 1981.

On page 261, between lines 22 and 23, insert the following:

"(C) SPECIAL RULE FOR IDENTIFIED STRADDLES.—In the case of any position which is not part of an identified straddle (within the meaning of subsection (a)(3)(B)), such position shall not be treated as offsetting with respect to any position which is part of an identified straddle.

On page 265, line 14, strike out "not elected" and insert in lieu thereof "elected not".

On page 271, strike out lines 3 through 10, and insert in lieu thereof the following:

"(1) ELECTION.—The taxpayer may elect to have this section not to apply to all regulated futures contracts which are part of all mixed straddles.

On page 273, line 6, insert "or for" after "by".

On page 273, beginning with line 8, strike out all through page 274, line 14, and insert in lieu thereof the following:

"(B) SYNDICATE DEFINED.—For purposes of subparagraph (A), the term 'syndicate' means any partnership or other entity (other than a corporation which is not an electing small business corporation within the meaning of section 1371(b)) if more than 35 percent of the losses of such entity during the taxable year are allocable to limited partners or limited entrepreneurs (within the meaning of section 464(e)(2)).

"(C) HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.—For purposes of subparagraph (B), an interest in an entity shall not be treated as held by a limited partner or a limited entrepreneur (within the meaning of section 464(e)(2))—

"(i) for any period if during such period such interest is held by an individual who actively participates at all times during such period in the management of such entity,

"(ii) for any period if during such period such interest is held by the spouse, children, grandchildren, and parents of an individual who actively participates at all times during such period in the management of such entity,

"(iii) if such interest is held by an individual who actively participated in the management of such entity for a period of not less than 5 years,

"(iv) if such interest is held by the estate of an individual who actively participated in the management of such entity or is held by the estate of an individual if with respect to such individual such interest was at any time described in clause (ii), and

"(v) if the Secretary determines that such interest should be treated as held by an individual who actively participates in the management of such entity, and that such entity and such interest are not used (or to be used) for tax-avoidance purposes.

For purposes of this subparagraph, a legally adopted child of an individual shall be treated as a child of such individual by blood.

On page 274, between lines 14 and 15, insert the following:

"(4) SPECIAL RULE FOR BANKS.—In the case of a bank (as defined in section 581), subparagraph (A) of paragraph (2) shall be applied without regard to clause (i) or (ii) thereof.

On page 274, line 21, after "time" insert "personal property (as defined in section 1092 (d)(1))".

On page 279, line 11 through 13, strike out "Such term includes any position treated as a regulated futures contract under section 1256(d)(1).".

Section 509(a)(4) of the joint resolution is amended by adding at the end thereof the following new subparagraph:

(C) If an election is made under this subsection, interest shall be imposed under rules similar to the rules under section 6601(h) of the Internal Revenue Code of 1954.

Section 706 of the joint resolution is amended to read as follows:

SEC. 706. INDIVIDUALS ELIGIBLE FOR EARNED INCOME CREDIT.—

(a) IN GENERAL.—Paragraph (1) of section 43(c) (defining eligible individual) is amended by inserting "who, on the last day of the taxable year, is a citizen of the United States or an alien individual who has been admitted to the United States as a permanent resident, and" after "means an individual",

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

Mr. DOLE. Mr. President, let me assure all Senators that they are technical in nature. They have been approved by the distinguished Senator from Louisiana (Mr. LONG) and by the Senator from Ohio; is that correct, Senator METZENBAUM? I ask unanimous consent that all of these technical amendments be considered even though they may touch the bill in places that have already been amended.

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

Mr. DOLE. Mr. President, I know of no reason to debate the amendments.

I yield back my time. The Senator from Louisiana has no problem with the technical amendments?

Mr. LONG. No problem.

Mr. METZENBAUM. Mr. President, will the Senator yield for just one question? Would the Senator be good enough to represent for the RECORD that which I know has already been represented to me privately, that these, indeed, are technical amendments and include no substantive changes.

Mr. DOLE. The Senator is correct. I have been assured of that by the Joint Tax Committee. The answer is, "Yes."

Mr. METZENBAUM. I thank the Senator.

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

Mr. DOLE. Yes.

The PRESIDING OFFICER. All time is yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

(Putting the question.)

The amendment (UP No. 318) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the pending amendment is the amendment of the Senator from Kansas?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I ask unanimous consent that that be temporarily laid aside so that we may now consider the amendment of the Senator from Delaware and the Senator from Montana, followed by the amendment of the Senator from Arizona and the Senator from Colorado.

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

UP AMENDMENT NO. 319

(Purpose: To restore declining balance rate on structures to 175 percent on a phased-in basis)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself and Mr. BAUCUS, proposes an unprinted amendment numbered 319.

Mr. ROTH. 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 47, substitute a comma for the period at the end of line 11 and after line 11 insert the following new clause (iii):

"(iii) In applying the method of depreciation described in section 167(b)(2)—

"(I) the rate shall be 150 percent of the straight-line rate in the case of nonresidential real property placed in service prior to 1985,

"(II) the rate shall be 175 percent of the straight-line rate in the case of nonresidential real property placed in service in 1985, 1986, 1987, 1988, 1989 and 1990, and

"(III) the rate shall be 150 percent of the straight-line rate in the case of nonresidential real property placed in service after 1990."

Mr. ROTH. Mr. President, this amendment would simply restore a portion of the accelerated depreciation schedule for buildings that was deleted from the Finance Committee bill last week.

Under this amendment, nonresidential real property in the 15-year cost recovery class may be depreciated at declining balance rates of up to 175 percent of the straight-line method beginning in 1985, and continuing through 1990. In 1991 the rate would drop back to 150 percent. This is the year in which taxpayers will be permitted to expense construction period interest payments and taxes on nonresidential structures.

Since the changes contained in this amendment do not take effect until 1985, there is no revenue differential between it and the Finance Committee bill for the period 1981 through 1984. The Joint Tax Committee estimates the revenue loss in fiscal year 1985 to be $106 million and $238 million in fiscal year 1986. This is the revenue loss differential between this amendment and the committee bill as it currently stands.

Mr. President, the original bill that was reported by the Finance Committee would have permitted all real property to be depreciated over a 15-year period at rates based on the 200-percent declining balance method, that is, a rate equivalent to 200 percent of the straight-line method.

Under present law, buildings are depreciated over a range of 40 to 60 years. According to the Treasury Department, the average lives claimed by taxpayers for new buildings range from 32 years for apartment buildings to 43 years for bank buildings. The shorter average range reflects the use of the component method of depreciation under which a taxpayer allocates the cost of a building to its component parts such as the plumbing, heating and wiring systems. Different depreciation periods are then assigned to each component.

Currently, new commercial real estate may be depreciated at declining balance rates of up to 150 of the straight-line method. New residential real property may be depreciated at rates up to 200 percent.

The beauty of the Finance Committee bill is its simplicity. It would place all real property into one cost recovery category of 15 years. The original bill would have allowed all real property to be depreciated using the 200-percent declining balance method. This is what the original bill would have done.

However, last week, the distinguished chairman of the Finance Committee was forced, due to budgetary pressures, to offer an amendment to the bill which reduced the depreciation benefits for buildings. The chairman's amendment cut back the recovery rate from 200 percent to a 150 declining balance rate.

I understand the chairman's motives for offering this amendment. He simply had no choice following the adoption of the Packwood-Moynihan amendment on charitable deductions and the Weicker-Durenberger-Nunn amendment on small business. He could have either allowed the bill to break the bank or cut back in some other area in order to bring it back into balance. He had to cut back.

I believe my amendment is a reasonable compromise between the need to balance the budget by 1984 and the need to provide incentives in the bill to increase productivity and industrial growth.

My amendment would restore some of the bill's original recovery rates for nonresidential buildings beginning in 1985. It would have no revenue effect before that time.

It would place nonresidential real property depreciation on a phase-in track similar to that of equipment depreciation. Under the bill equipment may be depreciated under the 150 declining method. This increases to 175 in 1985 and to 200 percent in 1986.

I realize that even without my amendment the depreciation benefits afforded real property under the finance bill are far superior than under current law. But the purpose of this tax bill is to provide the greatest possible incentives to our Nation's businesses to enable them to increase their productivity and create new jobs for our youth and unemployed. Other provisions of the bill are aimed at reducing the individual tax burden and encouraging increased individual savings.

Clearly, the business side of this measure must provide the incentives to create investment capital without which our economy will continue to stagnate.

The accelerated cost recovery system proposed by the administration on June 9—and reported by the Finance Committee—provided two writeoff options for buildings used in manufacturing, wholesaling, and retailing. The first option provided for a 15-year depreciation period using the 200 percent declining balance writeoff method, subject to full section 1245 recapture, which means that all depreciation which a taxpayer has claimed and deducted is taxed at ordinary income rates in the year a building is sold.

Under a second option in the bill, taxpayers could elect a 15-year, straight-line writeoff method, also over a 15-year period, subject to section 1250 recapture rules—which means that no depreciation

claimed is subject to recapture when a building is sold.

My amendment is designed to provide for active users of buildings the same kind of investment incentive which ACRS provides for equipment and vehicles. But to understand why my amendment is necessary, it is important to understand the difference between active and passive users of buildings and their respective business objectives.

Active users of buildings who produce or distribute goods and are primarily benefited by accelerated depreciation rather than by freedom from "recapture." The manufacturers, wholesalers, and retailers for whom the 200 percent declining balance method was designed plan to own and do business in their buildings indefinitely.

This is especially true of retailing, where buildings are the primary form of equipment. Retailers can no more expect to do business without buildings than a newspaper can expect to do business without electronic or mechanical printing presses, or a steel company can expect to make steel without furnaces.

It is impossible to overstate the equivalent economic benefits which are produced by retail buildings on the one hand and manufacturing equipment on the other. Increased capital investment in more efficient retail structures, which lowers the distribution cost of a product, will stimulate demand and economic growth in exactly the same way as will increased capital investment in more efficient machinery in the manufacturing sector. Because retailing is highly competitive, lower costs achieved through efficiency result in lower prices to consumers.

An efficient distribution system creates a market and exerts a strong pullthrough effect on manufacturing. Without efficient distribution, there could be no mass production or mass consumption. Conversely, an inefficient distribution system has a dampening effect, by increasing costs and impeding product flows that may more than offset incentives granted to the manufacturing sector. The full benefits of capital cost recovery will not be realized if products manufactured at lower cost as a result of enactment of ACRS cannot be delivered and marketed to consumers in the most efficient possible manner.

The second building depreciation option which would be available under the ACRS system is intended to benefit passive investors and syndicators who own buildings simply as investments which may appreciate in value.

For active building users such as retailers, rapid depreciation is the important spur to productive investment. For passive building users, the most important aspect of ACRS is freedom from recapture—or the ability to convert ordinary income—now taxed at up to 70 percent—into capital gains—now taxed at no more than 28 percent.

Full recapture of depreciation under the accelerated writeoff method is essential and integral to the 200 percent declining balance method. Full recapture applies to the depreciation claimed on all equipment and all vehicles. Full recapture is an appropriate tradeoff for fast and highly accelerated depreciation. Moreover, with regard to buildings, full recapture is frankly and explicitly intended to discourage speculative investment by passive users in the kinds of real estate to which it applies. My amendment is designed to give back to active building users the incentive of rapid depreciation—the same incentive which ACRS provides for equipment and vehicles.

Specifically, under my amendment, between 1981 and 1984, business buildings, other than residential rental property, would qualify for a 15-year writeoff period using the 150 percent declining balance method of depreciation, switching to straight line. Similarly, equipment placed in service from 1981 through 1984 would be depreciated over a 5-year period also using the 150 percent declining balance method of depreciation switching to straight line. In 1985, under my amendment, acceleration on both buildings and equipment would be increased from 150 to 175 percent.

It is important to note that we are not proposing to provide precisely the same tax treatment for buildings and equipment. The writeoff period for buildings under any proposed method of acceleration would be 15 years, while the writeoff period for equipment would be 5 years. In addition, except for rehabilitation costs, no buildings would qualify for an investment tax credit. By contrast, virtually all equipment would qualify for a 10-percent investment tax credit.

Most important, for the calendar years 1981 through 1984, this amendment would entail no additional revenue loss. In 1985, the additional revenue cost would be $106 million.

Buildings used by manufacturers, wholesalers, and retailers are an integral part of the central economic system of this Nation. For precisely this reason, we should provide at least comparable—if not precisely equivalent—tax treatment for active and productive buildings, as we are contemplating providing for equipment and vehicles. My amendment, by phasing in more rapid depreciation, will accomplish this end.

At this time, I am happy to yield to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I first wish to thank the Senator from Delaware (Mr. ROTH) for his tireless efforts in working for this amendment. In the last couple of weeks, there have been many different approaches to solving this problem. Of course, also, the Senator from Pennsylvania (Mr. HEINZ) is also to be commended, but particularly the Senator from Delaware I think is to be commended for his help here.

There is no question that we in this tax bill are helping to increase productivity generally, and more particularly we are trying to provide the incentives for a manufacturing productivity increase, an area that deserves and needs specific help in our Nation's economy.

But, in addition to manufacturing, we also need to provide the stimulus for promoting the greater efficiency in commercial and retail structures.

Commercial real estate plays a vital role in creating new jobs and promoting greater efficiency in the use of capital resources. To build new efficient commercial structures and to renovate and retrofit old commercial structures is, in my judgment, one of the most significant things we can do to improve America's economy.

America is moving, increasingly, into a postindustrial age where the service sector we are providing is one of our most significant worldwide economic assets. This is one of the most viable parts of our economy, and we cannot forget it when we work to expand greater investment in the private sector.

To increase the accelerated depreciation to 175 percent is a small step toward achieving greater investment—productive investment—in our Nation's economy.

This amendment helps our country move in that area and helps our country move, I think, at a pace that is going to be needed in future years.

To give you an idea of how significant retailing is becoming to areas remote as Montana, I will ask to have printed in the RECORD an article which appeared in a recent edition of the Wall Street Journal. This article details at length the burgeoning retail market in Billings, Mont. It is my considered judgment that this kind of activity could occur throughout the country with the proper type of tax incentive. The Roth-Baucus amendment, if enacted, should provide the minimum incentive needed to achieve greater productivity in the commercial structure field. Indeed, it is my hope that my colleagues can see their way to expanding the depreciation level to 200 percent.

I ask unanimous consent to have the article from the Wall Street Journal printed in the RECORD.

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

BILLINGS PROSPERS FROM BOOM AND AVOIDS MOST SIDE-EFFECTS

(By William E. Blundell)

No place is reaping more benefits from rapid energy development, at less cost, than Billings, Mont. Spreading out under the rimrock by the Yellowstone River, it has managed to become a prosperous boom town—without having to put up with any of the noise, mess and crowding of a boom.

The Magic City, as it's called, used to be a farm center and cow town where a man could let off steam. Those who did often regretted it after a visit to the doctor or an encounter with Ollie Warren, madam at the Lucky Diamond; she had the alarming habit of poking her head out the window upon spotting clients in the street and bellowing: "Hello, you old -----. When you comin' up again?" An Army medical officer once declared that 12 hours in town was enough to ruin any recruit for duty.

The town cleaned up prostitution, but it is still very much in the service business. Though it has no energy development of its own, it is getting filthy rich on those who do, selling everything from nose jobs to designer jeans to the people in remote towns gripped by oil and coal development. Mike Skaggs, economic development director for the chamber of commerce, says cheerfully:

"We get the money, and the small towns get the impact."

In the past decade Billings has grown from 69,000 to nearly 100,000 people. It is the largest town in thinly populated Montana and the unquestioned trade and services hub of the Big Empty, the tens of thousands of square miles of prairie and tableland that stretch from the Dakotas to the Rockies, from Canada deep into Wyoming. This stretch is Billings' natural trade area, perhaps the biggest any U.S. city can claim.

The tiny, once-depressed towns scattered over it are full of energy money. To the east, a roaring oil boom is under way in the Williston Basin, and all around Billings are the richest coal seams in a state that is the Saudi Arabia of coal. Production in the trade area has risen from 2.5 million tons in 1970 to about 38 million tons last year, and is expected to more than double by 1990.

That means even more cash funneling into Billings. A strip miner or oil roustabout 200 miles from town may make $25,000 to $40,000 a year but can't dispose of it locally. Entertainment in such places may amount to watching a clerk stock the shelves at the K mart, or drinking too many beers at the only bar in town. If a boomer wants a pair of Calvin Kleins, a decent restaurant meal, or a chance to see a first-run movie, he has to go to Billings. And he does. Some fly in from Canada or Wyoming for shopping sprees, others drive in by the thousands. The influx is expected to push retail sales in the Billings area to almost $720 million this year, compared with $332 million in 1975.

If a customer can't get to Billings, the town goes to him. Every Monday morning, hundreds of traveling salesmen for more than 350 wholesale houses in town drive off for a week of peddling in the remote reaches of the trade area. They rack up well over $1 billion in sales yearly, accounting for about a third of all the wholesale trade in the state.

Locked into the energy boom, the town seems almost immune to the economic cycle outside its market zone. Recessions pass by almost unnoticed. The unemployment rate is about 4.5 percent year after year. Attractive three- or four-bedroom homes can be had for under $100,000 and a ride on a new diesel bus cost 35 cents. "We're an island of prosperity in a sea of despair," says a merchant.

It's an island with a grotesquely lopsided economy. Few people in Billings actually make anything; of some 57,000 jobs, less than 10 percent are in manufacturing. Everyone else sells, services or just pushes paper. This imbalance worries some. "There are just an awful lot of people here taking in each other's laundry," says Ray Hart, president of Hart-Albin Co., Billings' major department store. "There is too much retail space being added, and there's been an actual reduction in manufacturing jobs."

It's also true that the energy-inspired prosperity may have hurt city government as much as helped it. Montana has no sales tax, which towns elsewhere depend on heavily, so Billings must lean on local property taxes. But assessment and collection lag far behind inflation and the costs for services needed by new residents and visitors. Last year Billings had to eliminate 55 of its 740 jobs.

To most, however, these are but tiny clouds on a bright horizon; within its economy Billings offers practically everthing a plainsman could want. Is he flush? Nearly a dozen brokerage firms vie for his trade where only three operated before. Is he sick? With some 200 physicians in every major speciality and most minor ones, and two huge hospitals employing 1,800 people, the Magic City makes sure it's the place he goes to. (Some fraying film stars go too; a lift here and a tuck there from the city's well-regarded plastic surgeons and the star can resurface in Beverly Hills with no one the wiser.)

Always a refining center, the town is regaining white-collar oil jobs it lost in the 1960s when an earlier boom in the Williston Basin fizzled. Also, some miners and construction workers working 100 miles away choose to live in Billings—so the town enjoys their property taxes and payrolls without having an ugly mess in its backyard.

The new prosperity has made Billings a more sophisticated and desirable place to live. Some managers of chain retail outlets have quit rather than accept transfer out. Headhunters in Denver used to demand bonuses to induce young geologists to go to Billings, says Langdon Williams, a consulting geologist who has hired for client firms. When they ask now, he replies: "Hell no. Denver is the town people want to move out of."

Mr. BAUCUS. Suffice it to say, the amendment is needed and promotes the retail industry and service industry, an area that we need to promote, in addition to the manufacturing industry that the main tax bill generally pays attention to.

Mr. President, I thank the Senator for yielding and urge the adoption of this amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I would like to ask the sponsor of the amendment a question.

Mr. President, as I understand the depreciation schedules that have been agreed to as modified here last week, we go to 150 percent. Am I not correct that it is 150 percent of all buildings? Is that not right?

Mr. ROTH. That is correct.

Mr. CHAFEE. In other words, previously we were at 200 percent but that was changed last week?

Mr. ROTH. That is correct.

Mr. CHAFEE. What are we doing here? What is this 175 percent for retail buildings?

Mr. ROTH. For nonresidential buildings beginning in 1985 through 1990 it will permit 175 percent.

Mr. CHAFEE. In other words, we go to 175 percent. This would apply to all nonresidential buildings—manufacturing, warehouses, whatever it is?

Mr. ROTH. That is correct.

Mr. CHAFEE. So this is a compromise between the 200 percent that we came out of the committee with?

Mr. ROTH. That is right.

Mr. CHAFEE. And the 150 percent that we agreed to the other day? But this would not start until 1985?

Mr. ROTH. The Senator from Rhode Island is correct.

Mr. CHAFEE. I do not think in the original measure that we dealt with residential buildings. We did not have 200 percent of the residential; did we?

Mr. ROTH. They had 200 percent on residential in the committee bill.

Mr. CHAFEE. Getting to the point I want to make here, it is my understanding from talking with various real estate operators, it seemed to me that the plea was for a uniform depreciation schedule. For example, when the Senator talks about residential, what does that do to, say, apartment houses?

Mr. ROTH. They have changed residential to permit expensing.

Mr. CHAFEE. Who is "they"? What field?

Mr. ROTH. The legislation on the floor, as it is currently, permits expensing of residential buildings phased in over a period of time. It permits the expensing of the construction interests.

Mr. CHAFEE. But that is just a portion of it. I am talking about the value in an apartment building. The depreciation schedule for that would remain at 150 percent, am I correct, under this amendment?

Mr. ROTH. That is correct.

Mr. CHAFEE. What is the Senator's reason for treating residential buildings separate from all others?

Mr. ROTH. Because it gets the benefit of the early repeal of 189.

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. ROTH. 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. ROTH. Mr. President, I would ask the distinguished Senator from Louisiana this question: Is my understanding correct that this amendment that I have offered is satisfactory to the minority manager as well as to the chairman of the Finance Committee?

Mr. LONG. That is correct.

Mr. ROTH. For that reason, Mr. President, I am ready to yield back my time.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. LONG. I yield back the remainder of my time, yes.

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

The amendment (UP No. 319) was agreed to.

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

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

The motion to lay on the table was agreed to.

IN SUPPORT OF THE ECONOMIC RECOVERY TAX ACT OF 1981

Mr. ROTH. Mr. President, I have listened patiently to the arguments from both sides of the aisle during the debate on the Economic Recovery Act. The opponents of this legislation, the most far-reaching tax reduction program in the history of our Nation, argue that it is a welfare program for the rich and well-to-do. They say the President's tax program is inflationary, tilted toward the wealth, nonresponsive to the needs of the poor and middle class, and destined to bankrupt the Federal Treasury.

I believe this aptly summarizes the inflamatory arguments of the opposition. Now let us look at the facts.

The legislation before us today is clearly the largest and probably the most innovative tax reduction program ever conceived in this country. I commend the distinguished chairman of the Finance Committee for his able and

strong leadership in fashioning this truly imaginative tax package. And I might add I am proud to have played a part in its development.

This package will reduce individual taxes by more than $250 billion over the next 3 years. It provides for a 25 percent across-the-board reduction in individual tax rates, a substantial reduction in the so-called marriage tax penalty for working couples, new incentives for savings and retirement, major reforms in the Federal estate and gift tax laws for farms and family-owned businesses, a complete revision of the business depreciation system, incentives for research and development, and significant new tax incentives for small and innovative businesses. In addition, all working Americans would be allowed to deduct contributions that they make to charity, whether or not they itemize. And, finally, 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.

If anyone had said to me 4 years ago when JACK KEMP and I introduced our proposal for a 3-year across-the-board tax cut that the Senate would pass a legislative package such as the one before us today, I would have thought he had been standing out in the sun too long.

And, let me say today that anyone who categorizes this package as inflationary or irresponsible or unfair to the needs of the poor and middle class has definitely been standing out in the sun too long.

The Economic Tax Recovery Act is a well balanced and comprehensive plan designed to promote an expand economy which will insure new jobs for the young and unemployed.

This program is not tilted toward the wealthy. It is targeted toward developing a national policy of renewed economic growth which will benefit all Americans and particularly the working men and women of the often forgotten middle-class.

I am referring to the average middle-income citizen who has held true to the American dream that if you work hard you will be able to keep more and create a better life for yourself and your children.

Unfortunately, for these Americans just the opposite has been true over the last 15 years. Rising inflation and higher and higher taxes have taken away the incentives to work and save and invest in America. Today, it has become more attractive not to work simply because each additional dollar of income is either eaten up by inflation or taxed away by the Government.

The time has come to reverse this debilitating trend in our national economy. I think I speak for most of the working men and women of this country when I say that I am tired of the old, worn-out policies that have led our Nation down the road of economic decline, skyrocketing inflation, unemployment, and competitive weakness in international markets.

The American dream of working hard to advance one's career, to provide a home for the family, and to provide educational opportunities for one's children is in serious jeopardy.

The tax package before the Senate will restore and renew that dream by relieving the massive tax burden the American people have been forced to bear—a tax burden which has restricted our Nation's productivity, growth, and competitiveness.

As long as we maintain our current high rate of taxation, there can be no real growth in our economy, no new jobs created, and no improvement in our international competitiveness.

But, in order to provide new jobs and increase productivity, our Nation's businesses need something that is in very short supply—investment capital. Capital creates jobs, and more jobs equal an expanded and productive economy.

One of the largest sources of investment capital is increased individual savings.

However, our national savings rate currently averages between 4 and 6 percent a year. This compares to an average savings rate of between 20 and 24 percent in Japan, a country which has enjoyed enormous economic growth during the last decade.

Why the difference? In Japan, capital investment and savings are taxed at much lower rates than in the United States. As a result, Japan's businesses have available substantial and adequate sources of capital formation for growth, expansion, and modernization of plant and equipment. Indeed, in Japan, industrial plants are replaced every 15 years on average. In the United States, we replace our plants every 30 years. The reason it takes us twice as long to replace our plants is because we do not have the necessary capital.

How can we expect to compete with Japan or our other Western trading partners? The answer is simple—we cannot. We cannot competitively produce and sell products here and abroad as long as we operate with outdated plant and equipment.

This is all the more reason for the enactment of the tax package before us. This tax cut will provide the investment capital so vital to business expansion and industrial modernization. It will also help offset the social security tax increases and the automatic tax increases caused by inflation which virtually every American taxpayer faces next year.

I believe we need a real tax cut to offset these huge increases and reduce the total tax burden on the working men and women of this country. The Economic Recovery Act is just such a tax cut—one that can restore incentive to our stagnant economy, creating real economic growth and meaningful new jobs.

If this tax reduction program is not enacted, the working people of this country are going to get hit, and hit hard, with higher and higher taxes. Even with the 25 percent across-the-board tax cut in the bill, these individuals will be hard-pressed.

I believe it is time to enact a tax cut that will benefit every segment of our economy, a tax cut that will lead to dynamic growth and greater productivity, not the tired, old stuff we have seen over the past 20 years which merely seeks to redistribute wealth and income.

The across-the-board tax reduction concept is not aimed at redistributing the wealth of our country. It is instead a fair tax cut which will benefit all Americans because the benefits from the reductions will be in proportion to the taxes one pays. By reducing tax rates in this way, the President's program recognizes that all taxpayers deserve to share in the tax reduction just as they shared in the past tax increases.

Just who will benefit most from this cut in tax rates? Middle-income taxpayers, defined not in the statistician's image of $20,000 per year in median family income, but in their own image of $10,000 to $60,000 a year. These families pay 72 percent of all Federal individual income taxes and would receive 73 percent of the tax cut. These are families that save, with the amount of savings rising sharply as income levels rise. They are the people who have saved in the past and now hold the promise of increasing their savings in the future as a result of this tax cut.

When we help these Americans we help all Americans. As John Kennedy so eloquently said in the 1960's, "a rising tide lifts all boats." Middle-income Americans will use the benefits from this tax cut to increase their savings rate. This increased rate of savings will provide investment capital for business expansion and new jobs.

Every individual taxpayer will get a 25-percent marginal tax rate cut. Combined with other elements of this bipartisan tax cut plan, the savings to every American will be even more dramatic.

Take-home pay will increase and the reward for savings, investment, and harder work will be predictable and substantial.

The family of four making around $15,000 in 1982 with both spouses working will receive a 53-percent cut when all available cuts, incentives, and the marriage tax penalty relief are included.

The family of four making about $30,000 in 1982, the estimated median income level, will receive a 22-percent cut on the same basis.

In simple dollar terms, the family earning $25,000 today would as a result of cost-of-living raises earn $33,675 in 1984. It will pay $1,056 less that year than it would under present law. These are substantial tax savings indeed.

What will happen to the average American without these tax cuts? The answer in dollar terms is also simple.

Just in the last 10 years, Federal taxes have increased 177 percent.

Federal taxes will have increased 390 percent by 1984 at present rates without this tax cut. In fact, due to bracket creep and demands for higher taxes to fuel the big spenders' give-away programs, nearly 50 percent of all American taxpayers now face 50 percent marginal tax rate brackets, And, it has been estimated that without this tax cut, all current taxpayers will be in the 50 percent tax bracket by the year 2000, less than 20 years away.

The average family's actual buying power has steadily declined. The family earning $120 a week in 1970 is now making $250 but its dollars buy 8 percent less than 10 years ago. As taxes have gone up, Federal spending has skyrocketed from $196 billion in 1970 to $660 this year.

Taxpayers had to work until May 10 of this year just to earn enough to pay all of their direct and indirect taxes. That means the average worker spends 2 hours and 49 minutes of each working day funding the Federal Government. Spiraling taxes and inflation have robbed Americans' savings of its value. Savings worth $1,000 in 1977 are now worth only $851.

But the big spenders among us love high taxes. The big spenders do not want tax cuts. They want to keep revenues high to fund more of their big spending programs.

Now it is time for a change. It is time to change the policies which have virtually bankrupted our Nation.

And that, in a nutshell, is the basic philosophical difference between the supporters of this tax bill and its opponents, between those who want change and those who adhere to worn-out policies.

The supporters of the President's program believe that the growth of government must be flattened out so that the private sector may grow and expand and provide more jobs for the working men and women of this country.

The bill's opponents are those among us who want an expanded government not an expanded economy. They realize the American people want less spending and less government. But they are hopeing against hope that this is only a temporary phenomenon.

So the big spenders believe they can conduct a strategic withdrawal for as long as it takes to revert back to their worn-out approach of spending and spending in a vain attempt to cure our Nation's ills with new and even bigger social programs.

Unless taxes are cut and new incentives created, the American people will continue to face a future of high inflation, rising joblessness and high-interest rates.

The greatest unfairness of all would be for the Congress to deny the American people the tax relief they need.

I therefore urge my colleagues in the Senate to join with me and the distinguished chairman of the Finance Committee in supporting and voting for this measure. It is time to put aside partisanship and join in a united effort to get our Nation moving again. We have the chance. We must not let it pass us by.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Will the Senator from Delaware yield for an amendment?

Mr. ROTH. I yield the floor.

UP AMENDMENT NO. 320

(Purpose: To clarify employee stock ownership)

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

The PRESIDING OFFICER. Is there objection to temporarily laying aside the amendment of the Senator from Kansas? Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself, Mr. HART, and Mr. ARMSTRONG, proposes an unprinted amendment numbered 320.

Mr. DECONCINI. 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:

"After Section 328 of subtitle C of title 3, insert the following new section:"

PREEMPTION OF STATE LAWS

(a) IN GENERAL.—Subparagraph (A) of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 is amended by striking out "securities." and inserting in lieu thereof "securities, except that subsection (a) of this section shall apply so as to supercede any and all State laws regulating securities insofar as such State laws relate to (i) the establishment before December 31, 1981 or maintenance of an employee stock ownership plan by a qualified employer; (ii) the issuance of any qualifying employer security and sale or other transfer thereof by a qualified employer to an employee stock ownership plan if the issuance of such security was authorized on or before June 30, 1980 in accordance with the law of the State which issued the employer's corporate charter; (iii) the guarantee by a qualified employer of a loan to a trust forming a part of an employee stock ownership plan maintained by such employer if the proceeds of the loan are applied by the trust to acquire qualifying employer securities and such securities are acquired by the trust before December 31, 1981; or (iv) the distribution of any qualifying employer security from an employee stock ownership plan maintained by a qualified employer to any participant or beneficiary, for the purposes of this subparagraph, the term 'qualifying employer security' has the meaning assigned by section 407(d)(5), the term 'employee stock ownership plan' has the meaning assigned by section 407(d)(6), and an employer is a qualified employer if between January 1, 1980 and June 30, 1980 it increased its authorized shares of common stock from 20,000,000 to 50,000,000.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply upon the date of enactment of this Act.

Mr. DECONCINI. Mr. President, this amendment has been cleared with the managers of the bill on both sides. I thank Senator LONG, Senator DOLE, and other Senators involved, for their cooperation in working out a solution agreeable to all parties concerned.

Mr. President, this amendment is intended to protect employee stock ownership plans, or ESOP's form being subjected to additional, unwarranted requirements beyond those currently required under the comprehensive regulatory framework enacted by the Congress in the Employee Retirement Income Security Act of 1974 (ERISA). This amendment particularly addresses the problem of the misuse of State securities laws to restrict or impede ESOP's, through duplicative and overlapping regulation.

For the past 8 years, the ESOP concept has been strongly supported by the Congress, in spite of occasional attempts by various agencies to impede ESOP implementation. The Trade Act of 1974, for example, provided preferential treatment under certain circumstances to corporations having ESOP's in the case of government guaranteed loans. The Employee Retirement Income Security Act of 1974, otherwise known as ERISA, expressly exempted ESOP's from certain restrictions and prohibitions imposed under other types of qualified plans.

Under the 1975 Tax Reduction Act, a qualifying ESOP ("TRASOP") enables the employer to claim an 11 percent (instead of 10 percent) investment credit if the employer contributes to the TRASOP an amount equal to the additional 1 percent credit. The Tax Reform Act of 1976 increased the contribution limits for TRASOPS to 1½ percent from 1 percent under certain circumstances.

The Chrysler financial relief bill required a substantial amount of stock of the corporation to be transferred to employees through an ESOP as a condition of the government assistance provided. A similar requirement accompanied the most recent funding authorization for Conrail. Pending legislation will provide further encouragement for implementation of ESOP's.

ERISA placed the implementation and maintenance of ESOP's within the jurisdiction of the Departments of Labor and the Treasury. ERISA, which was signed into law by President Ford on Labor Day 1974, was the end result of a 1965 report to President Johnson which was commissioned in 1962 by President Kennedy.

In enacting ERISA, the Congress undertook an elaborate process of interweaving the jurisdictions of the Departments of Labor and Treasury for the purpose of regulating the employee pension plan area. In considering that legislation, Congress carefully designed a regulatory scheme specifically tailored to protect the beneficiaries of pension plans, including ESOP's. Congress also quite clearly determined that regulation of such plans under ERISA by both Treasury and Labor was sufficient. Congress considered additional layers of Federal and State regulation to be wasteful redtape that could undermine the goal of providing a uniform system for governing this area.

The disclosure required by ERISA in connection with providing employee benefits is substantial. ERISA requires that a summary plan description be furnished to all participants and beneficiaries. This description must "be written in a manner calculated to be understood by the average plan participant," and "be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan." Disclosure must be made in the summary plan description of such matters as eligibility requirements and circumstances which may result in disqualification or denial of benefits, a description of relevant provisions of any applicable collective bargaining agreement, the sources of the plan's financing, claims, procedures, and remedies available for the redress of claims which are denied.

In addition, each plan must publish a complete annual report which is to be filed with the Secretary of Labor and made available to any participant who wishes to inspect it. A summary of this annual report must be furnished to plan participants. The annual report must include a comprehensive financial statement, an actuarial statement indicating the present value of assets and liabilities, and a statement by the plan's administrator indicating the number of employees covered, the names of all persons who rendered services to the plan and the compensation they received, and an explanation for any changes in the management personnel of the plan. ERISA also requires that plan participants be provided upon request with a statement of their total accrued benefits.

By comparison, the information available under State and Federal securities laws is not specifically geared toward protection of plan participants. In general, the information provided to the individual plan participant would omit much of the information that ERISA provides, and supply him or her with other data which is unnecessary and may divert the plan participant's attention from the more specifically applicable documents required by ERISA.

Furthermore, the additional costs imposed on an employer by subjecting plan interests to securities regulation would upset the balance between benefits to employees and costs to employers that Congress sought to achieve through specific pension legislation.

The U.S. Supreme Court, in 1979 has held that securities law regulation of pension plans is generally unwarranted in light of ERISA:

Unlike the Securities Acts, ERISA deals expressly and in detail with pension plans. ERISA requires pension plans to disclose specified information to employees in a specified manner. See 29 USC §§ 1021–1030 29 USCS §§ 1021–1030, in contrast to the indefinite and uncertain disclosure obligations imposed by the antifraud provisions of the Securities Acts . . .

The existence of this comprehensive legislation governing the use and terms of employee pension plans severely undercuts all arguments for extending the Securities Acts to non-contributory, compulsory pension plans. Congress believed that it was filling a regulatory void when it enacted ERISA, a belief which the SEC actively encouraged. *Not only is the extension of the Securities Acts by the court below unsupported by the language and history of those Acts, but in light of ERISA it serves no general purpose. See Califano v. Sanders*, 430 US 99, 104–107, 51 L Ed 2d 192, 97 S. Ct. 980 (1977). *Cf. Boys Markets, Inc. v. Retail Clerks*, 398 US 235, 250, 26 L Ed 2d 199, 90 S. Ct. 1583 (1970). Whatever benefits employees might derive from the effect of the Securities Acts are now provided in more definite form through ERISA. (Emphasis added.)

International Brotherhood of Teamsters, Chaufeurs, Warehouseman and Helpers of America v. Daniel, 439 US 511, 569–70 (1979).

This amendment will help to effectuate the intent of Congress to promote the use of ESOP's and to regulate pensions by more clearly restraining the application of State securities laws to circumvent this legislative intent. This amendment will bar State securities regulators from imposing conditions on certain ESOP's which are regulated under ERISA.

This amendment is drafted so as to apply to the situation now facing the employees of Continental Airlines. These employees have met with one bureaucratic barrier after another in their ongoing effort to become the Nation's largest employee-owned company.

Most recently, the California department of corporations has ruled that the airline cannot issue the shares for acquisition by the ESOP without a vote by shareholders and by employees.

This ruling was a great victory for an airline company that is now engaged in a hostile attempt to take over Continental Airlines. The ruling also follows the example set by the New York Stock Exchange last month when it ruled that the vote was necessary and that it would act to delist Continental if the airline persisted in issuing the new shares.

On the facts as I understand them, these regulatory agencies were ill advised in ruling as they did. This amendment preempts State action as it applies to this matter. Thus, this amendment should enable Continental Airlines to go forward with its ESOP.

As the statement makes clear, the purpose of the amendment is simply to facilitate the issuance of stock under certain conditions, particularly recently formed employee stock ownership plans.

I am very pleased that the distinguished Senator from Colorado (Mr. ARMSTRONG), a member of the Finance Committee, has taken a leadership role in obtaining approval of this very important amendment.

I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator from Arizona for his remarks. The fact of the matter is that it is he who has taken the lead and made it possible to offer this amendment. I am pleased to cosponsor it.

The effect of this amendment in its simplest terms is to permit the employees of Continental Airlines to go forward with plans they have for an ESOP. I think many of my colleagues are familiar with the highly publicized issues in this effort by the employees of that airline to obtain ownership and management of that business enterprise.

I send to the desk, and ask unanimous consent that there be printed in the RECORD at this point, a statement which has been prepared by employees of the airline and which is a general explanation of the principle of this amendment.

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

STATEMENT OF WILLIAM L. ARMSTRONG

The amendment to this bill is intended to protect employee stock ownership plans, or ESOP's, from being subjected to additional, unwarranted requirements beyond those required under the comprehensive regulatory framework already enacted by the Congress in the Employee Retirement Income Security Act of 1974 (ERISA). This amendment particularly addresses the problem of the misuse of state securities laws to restrict or impede ESOP's, through duplicative and overlapping regulation.

For the past eight years, the ESOP concept has been strongly supported by the Congress. The Trade Act of 1974 provided preferential treatment under certain circumstances to corporations having ESOP's in the case of government guaranteed loans. The Employee Retirement Income Security Act of 1974, otherwise known as ERISA, expressly exempted ESOP's from certain restrictions and prohibitions imposed upon other types of qualified plans.

Under the 1975 Tax Reduction Act, a qualifying ESOP ("TRASOP") enables the employer to claim an 11 percent (instead of 10 percent) investment credit if the employer contributes to the TRASOP an amount equal to the additional 1 percent credit. The Tax Reform Act of 1976 increased the contribution limits for TRASOP's to 1½ percent from 1 percent under certain circumstances. The Revenue Act of 1978 provided for voting pass-through to employees in certain ESOP's and provided for favorable income and estate tax treatment upon a payment of ESOP benefits. The Chrysler Financial Relief Bill required substantial ownership of the corporation to be transferred to employees through an ESOP as a requirement for the government assistance provided. Pending legislation is expected to provide further encouragement for implementation of ESOP's.

ERISA placed the implementation and maintenance of ESOP's within the jurisdiction of the Departments of Labor and the Treasury. ERISA, which was signed into law by President Ford in 1974, was the end result of a 1965 report to President Johnson which was commissioned in 1962 by President Kennedy. In enacting ERISA, the Congress went through an elaborate process of interweaving the jurisdictions of the Departments of Labor and the Treasury for the purpose of regulating the employee pension plan area. Congress thereby carefully designed a regulatory scheme specifically tailored to protect the worker beneficiaries of pension plans, including ESOP's. Congress also quite clearly determined that regulation of such plans under ERISA by Treasury and Labor was sufficient. Congress considered additional layers of Federal and state regulation to be wasteful red tape that could undermine its goal of expanding employee income security and stock ownership.

The disclosure required by ERISA is substantial, including, interalia, "summary plan description," annual reports, and an actuarial statement indicating the present value of assets and liabilities.

By comparison, the information available under state and Federal securities laws is not specifically geared toward protection of plan participants. In fact, the United States Supreme Court, in 1979 has held that securities law regulation of pension plans is unwarranted in light of ERISA.

This amendment will help to effectuate the intent of Congress to promote the use of ESOP's and to regulate pensions by more clearly restraining the abuse of state securities laws to circumvent this legislative intent. The amendment will bar state securities regulators from imposing unreasonable conditions on certain pensions and ESOP's regulated under ERISA that go beyond or contradict ERISA. This legislation is required to specifically alleviate an unwarranted interference by a state official with the implementation of an ESOP plan that has previously been approved on a preliminary basis by the IRS, SEC, Department of Labor, appropriate state officials in 47 states, two Federal court tests and two state court tests. States will be prohibited from blocking the implementation or maintenance of an ESOP or other pension plan designed, in conformity with ERISA requirements, to invest primarily in qualifying employer securities by an ESOP or similar pension plan, such as through threats to prohibit trading in all securities if an ESOP in a corporation is implemented.

Mr. ARMSTRONG. To illustrate the purpose and effect of the amendment in one specific case, the Continental case, I ask unanimous consent to have printed in the RECORD a second statement by the employees of Continental which explains the background of their attempt to create and exercise the power of ownership under the ESOP.

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

THE CONTINENTAL EMPLOYEES ATTEMPT TO CREATE AN ESOP

In February 1981, Texas International Airlines applied to the Civil Aeronautics Board (CAB) for authorization to purchase up to 48.5 percent of the outstanding shares of Continental Airlines common stock. The stated purpose of the purchase was to block the Continental Airlines—Western Airlines merger which was pending before the CAB.

Approximately 30 minutes after the CAB approved the Continental Western merger, the full CAB voted to allow Texas International to purchase up to 48.5 percent of Continental's stock to block the merger that they had just approved.

Three days later, Continental went back to the CAB, and requested that the CAB delay for ten days the Texas International offer pending the employee group's obtaining the necessary financing to make a counter tender offer to the public shareholders. This petition was denied as being "too little, and too late", even though such a counter offer would have given the public shareholders more money per share for their stock.

The employees then went out into the financial markets and acquired the necessary financial commitments from lending institutions to purchase up to 15.4 million shares of authorized but unissued shares of Continental's common stock in a tax exempt Employee Stock Ownership Plan (ESOP) in accordance with the Employee Retirement Security Act of 1974 (ERISA). The Continental employees voted on the proposed plan in April 1981. Of Continental's 11,000 employees, over 89 percent participated in the vote. Over 96 percent of those participating voted in favor of the proposed ESOP.

The proposed ESOP was brought before Continental's Board of Directors, along with Texas International's acquisition offer. The Continental Board voted unanimously to approve the employees offer and reject the Texas International offer. They noted the employees offer would infuse approximately $185,000,000 in new capital into the corporation, thereby dramatically reducing Continental's long term debt, while the acquisition plan of Texas International would leave the corporation with an untenable debt load of approximately $642,000,000. (That figure was essentially validated by the CAB Administrative Law Judge in his findings).

Continental subsequently received preliminary SEC, IRS, Department of Labor and state exemption approval from 47 states to authorize and implement the proposed ESOP. Texas International attempted to impede the implementation by throwing every conceivable legal and regulatory roadblock in the path of the proposed ESOP. This has denied management the exercise of the free market place choice of competing bids to buy a majority interest in the airline. In Texas International's suit, Judge Lawrence Lydick of the Federal District Court for Central California refused to grant injunctive relief to Texas International, whose contention was that the stockholders' 1980 stock issuance authorization vote was illegal, stating the Texas, International case was without merit to warrant a finding in their favor. The United States Federal Court of Appeals upheld Judge Lydick's decision.

Two dissident stockholders filed suit in California against implementation of the proposed Continental ESOP. Twice their suit was thrown out. Texas International filed a motion with the CAB demanding that the employees file an application for acquisition of control of Continental. That motion was rejected by the CAB.

Since the stock to be issued required an exemption from the state securities law as an ERISA exempt transaction, and since over 5,500 Continental employees were based in California, an application was made to the California Commissioner of Corporations for the required ERISA exemption. Although the California Commissioner of Corporations did not hold an evidentary hearing on the matter, and although 47 states had already approved the required exemption, the California Commissioner of Corporations denied the Continental application for the exemption. Her motion of denial contained such inaccuracies and distortion of fact that Continental deemed it worthy of filing suit against the Commissioner.

The Commissioner suggested that she would approve the required exemption provided Continental held a shareholders' vote and an employees' vote on the proposed ESOP. The Commissioner ignored the fact that the required votes had already been held, and that the CAB was required by federal statute to make a decision in the Texas International acquisition case no later than 31 August 1981.

It appears that the CAB decision could come as early as the second week in August. The reality of the situation is that such a vote of the shareholders would take approximately two months or longer. Complicating the issue is the fact that over 50 percent of Continental's shareholders are listed in the name of their brokerage houses only. Thus, the ballots would have to be mailed to the brokerage houses after they were printed, broken down into individual accounts, and remailed. In addition, in view of all the obstacles that Texas International has placed in the path of the proposed ESOP, it is expected a bitter proxy battle would ensue.

Time is of the essence in this matter. It is unlikely that the suit against the California Commissioner of Corporations could be heard, pending legislation in the California state legislature could be passed, or a stockholder vote could be held in sufficient time to deter the Texas International takeover attempt and implement the proposed ESOP. The Continental employees have decided that in view of the court decisions in their favor, and the exemptions granted for the proposed ESOP by 47 states, federal legislation to bypass the obstructive state roadblock in California could solve the problem caused by the California Commissioner of Corporations.

A legislative amendment, pertaining specifically to the Continental ESOP has been formulated. It has been informally approved by key senators. It would provide a one time amendment to the ERISA Act of 1974 to allow the qualifying employer (worded so specifically that it would apply only to Continental Airlines) to implement an ESOP that has been qualified under existing federal law, allowing such proposed ESOP to supercede any conflicting California state law or unilateral administrative decision on the part of the California commissioner.

This legislation would not cost the taxpayers any money, would allow the implementation of the proposed ESOP, and would infuse millions of dollars of new capital into the airline, thereby reducing corporate debt. This, in fact, should enhance profitability by reducing corporate loan interest burden possibly even increasing federal corporate tax revenues from Continental. Certainly it is a good example of supply side economics in action. The employees of Continental hope that this experiment in enlightened capitalism will be a beacon for other troubled companies to follow in the future.

Mr. ARMSTRONG. Mr. President, in nontechnical terms what this will do is to permit them to go forward notwithstanding the objections of the Department of Corporations of the State of California.

I would ordinarily be very reluctant to vote for, let alone join in sponsoring, an amendment the effect of which would be to overrule State law. I am a States righter. I consider myself to be such. It seems to me that in far too many instances the Federal Government has preempted State and local jurisdictions.

In this particular case, because of the unique facts and circumstances of this instance, and because of the very limited nature of the preemption involved, I am disposed to do so. Nonetheless, I would not have been willing to go forward on this amendment without first discussing the matter with California interests, since theirs is the State which is affected. I am advised by Senators from California that they are sympathetic to this amendment, that they have no objection to it being offered at this time.

Even so, in view of the very short notice which has been available to Senators to consider this matter, including the Senator from Arizona and myself, I must say to my colleagues that there are some aspects of this amendment which I am not as conversant with as I would like to be. I have discussed with members of the Finance Committee, who I expect to be members of the conference on this bill, what these concerns are and the reasons for them. It will be my purpose during the next couple of days to explore more fully the legal ramifications of this amendment to be sure that we are acting wisely and prudently.

It is my belief that the Senate is well justified in adopting this amendment, but I am concerned about the fact that it has come to my attention only within the last few hours and it has not given us time which ordinarily would be available to study it.

I am assured by the conferees that they will give it further study. It is the kind of thing that if there is a technical glitch in it this would be a fully conferencable item. If the amendment has consequences not foreseen by the Senator from Arizona or myself, those could be rectified at that time.

It is an unusual step for me to join in an amendment to preempt the State, but under this unusual circumstance, in view of the very timely and urgent nature of the problem which is addressed, and on the assurances that conferees will take another look at this issue, and in a thoughtful manner ask their legal advisers to do so, that I am very pleased to join my colleague from Colorado (Mr. HART) and the Senator from Arizona (Mr. DECONCINI) in presenting this amendment.

Mr. LONG. Will the Senator yield?

Mr. ARMSTRONG. I yield.

Mr. LONG. I favor the amendment but at the same time I want everybody to know what is involved here. There has been a continuing struggle on behalf of Continental Airlines and its employees to prevent another airline from taking their company. Some would call that a corporate raid, when one company tries to take over another. Continental Airlines' management proposed that there should be an employee stockownership plan with 51 percent of the stock held in trust for the employees and the employees would pay for the stock. They would pay for it by foregoing increased pay to which they are entitled.

Many of us, including this Senator from Louisiana, think that that is a better deal both for the company and for the public. In addition, we like the idea that the employees are committed to owning stock in the company, rather than have the company taken over by a cooperate raid from another corporation.

Continental Airlines has used its ESOP very properly to try to keep Texas International Airlines from acquiring their company. They have also tried to prevent the State of California from acting unfavorably toward this employee stockownership plan.

This amendment, as I understand it, is an amendment to the Employee Retirement Income Security Act (ERISA).

Mr. ARMSTRONG. The Senator is correct.

Mr. LONG. The Senator would amend ERISA and by amending the ERISA, it would have the effect of asserting Federal supremacy in this area. Basically, this is an amendment tailored to this type of situation and would permit this employee stockownership plan to go into effect where the employees could use an ESOP to acquire a 51-percent interest in that company.

So, Mr. President, may I say to the Senator, I have been one of the cosponsors of a resolution before the Committee on Commerce for some time, seeking to use the influence of Congress to help see that the employee stockownership plan would have its day in court and that it would have a chance to prevail in this area. We have not been able to report that bill from the committee because the Committee on Commerce was busy with other matters.

This is a somewhat different approach. This simply proposes to amend ERISA with regard to which the Committe on Finance has jurisdiction. The Committee on Labor also has jurisdiction. I ask the Senator, are the chairman of the Labor Committee and the ranking member of that committee familiar with the fact that this amendment is being offered?

Mr. ARMSTRONG. I appreciate the Senator's raising that question. I have discussed this with the chairman of the Labor Committee, the Senator from Utah (Mr. HATCH), and he is in agreement with it being offered. I have not discussed it with the ranking member. It is possible another Senator has.

We have been moving very quickly and it is a last-minute amendment, but we did want to touch base with the committee that has an interest in this matter.

In fact, if the Senator will yield a moment further, we have also discussed with the chairman of the Banking Committee (Mr. GARN) offering this amendment for the same reason, that some aspects of this bearing on the general question of securities law fall, at least to some degree, within the jurisdiction of the Banking Committee. So I undertook to discuss that with our colleague from Utah, again to let him know that this would be offered so that he would not be caught without notice. We have attempted, even in this short period of time, to put people on notice as to what is happening.

Mr. LONG. Mr. President, we have several new employee stockownership provisions in the bill. While those provisions had no particular reference to the Continental employee effort to acquire stock in their company, the inclusion of those provisions indicated a strong feeling in the U.S. Senate in favor of employee stockownership. I believe the sentiment in the Senate is overwhelmingly in favor of employees being permitted to acquire stock in a company, especially where the management of the company would like to have it that way. The Senator's amendment would seek to help bring that about.

You cannot be on both sides of an issue like this. You cannot be for the people who run the airline, the people who work for the airline, the employees, and also for the other company which wants to take the airline over against the wishes of the employees and against the wishes of the existing management.

This Senator, while he feels he has friends on both sides—at least he did—feels he should take the side of the employees and with the management, which would like to make the employees stockholders to a very major degree. I do believe that the States that are affected, as well as the employees and the management of the airline, all feel that this would be in the national interest. I know they feel it would be in their interest. I, therefore, shall vote for the Senator's amendment, Mr. President.

CONTINENTAL ESOP AMENDMENT

Mr. CRANSTON. Mr. President, I support the proposed amendment because I am in agreement with its practical purpose. It will permit the employee stock ownership plan of the Continental Airlines employees to go forward, notwithstanding the "blue sky" laws of California.

I believe the overwhelming public interest of California is best served by approval of the stock issuance sought by the Continental Airlines ESOP.

It is true that one result of this amendment will be a reduction in the property value of those who hold Continental stock. But the possibility of losing is always a risk for those who acquire large blocks of stock for the purpose of hostile takeovers must assume. Those who seek to play a form of "monopoly" game with the jobs, careers and economic futures of others, and the communities in which they live, should not be able to do so free of all risk. I think the corporations commissioner of California over-protected speculators who knowingly assumed risks and failed to protect employees who sought to assert their right to control their economic destiny through an employee ownership plan.

It is my view that the principle contained in the proposed amendment should be extended and made of universal application.

It is time that citizens and workers have a voice in their economic futures. ESOPs are a major factor in affording workers and communities an opportunity to protect their interests against hostile takeovers. I look forward to working with the distinguished Senators on such legislation in the future.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from California (Mr. HAYAKAWA) be added as cosponsors of the amendment.

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

Mr. DECONCINI. Mr. President, I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. Mr. President, does anyone desire to speak for or against? I shall be happy to yield time.

I see no request for time, Mr. President; therefore, I yield back whatever time I have on the amendment.

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

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

Mr. DECONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

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

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

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Kansas is laid aside temporarily for consideration of the amendment of the Senator from Delaware.

Mr. BIDEN. I apologize, Mr. President. I did not hear the question of the Chair.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Kansas is laid aside and the Senator from Delaware may proceed.

UP AMENDMENT NO. 321

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN) proposes unprinted amendment numbered 321. At the end of the bill, add the following:

LIMITATION ON CREDIT FOR CERTAIN HOUSEHOLD AND DEPENDENT CARE SERVICES

SEC. . Notwithstanding anything else in this Act, no credit shall be allowed under the provisions of Section 44A of the Internal Revenue Code of 1954 (relating to expenses for household and dependent care services necessary for gainful employment) to any taxpayer where both spouses have earned income and the total of their adjusted gross income is in excess of $30,000.

Mr. BIDEN. Mr. President, the reason I let the clerk read the whole amendment is because I believe the amendment is self-explanatory. I do not plan to speak long on this amendment. But I will take as long as the opposition wants me to so that Senators opposing this amendment can have an opportunity to get to the floor.

Let me proceed as dispassionately as I can in order to explain what I am attempting to do here.

Mr. President, my amendment is fairly simple.

Last Friday, the Senate agreed to do something that I thought was very laudable and worthwhile. We decided that we would increase the amount of the child care tax credit a single parent or a couple would be able to receive if they placed their child in a day care center so that the parent or parents could earn enough to maintain their family and to keep the family off welfare.

We know a single mother, divorced or a widow, making even $30,000 a year has great difficulty bringing up her child unless she has a mother or mother-in-law willing to take care of the child or a father or father-in-law willing to take care of the child. The cost of child day care is considerable if she decides to seek employment in order to make a living.

Unfortunately, a number of us in this body have learned from personal experience that getting competent help to care for a child while the parent is working is a very expensive proposition.

For full-time help it costs in excess of $15,000 a year. So the efforts of Senators METZENBAUM, DURENBERGER, PACKWOOD, and others, to increase the amount of the credit for families and/or single parents is good, necessary, worthwhile, and savings to the taxpayer in the long run.

Now, comes the fly in the ointment. Current law, says that not only are we going to give a tax credit to single parents, raising children by themselves, not only are we going to give a tax credit to married couples who are in such serious financial condition that both parents must work; not only are we going to give that tax credit to persons with health impairments which physically prevent them from working and taking care of their children at the same time; but will give that credit to married couples who make any income whatsoever, regardless of need.

The result is that we have mothers and fathers, both pursuing careers, which is their right to do, making combined incomes of $50,000, $70,000, and $90,000. I am sure there are a number of people on all our staffs where the husband or wife on the staff may be making $30,000, $40,000, or $50,000, and the spouse works somewhere else in the city, either for a Federal agency, or a law firm downtown making another $40,000 or $50,000 a year. In order to be able to pursue their careers or for their convenience they get a tax credit if they put their child in a Government-funded or a privately operated or a corporate-operated day care center,

The result is that we have built into the tax code a social policy that says middle- and low-income taxpayers pay a tax to allow people who have neither the financial nor the physical need to put their child in a day-care center.

Mr. RIEGLE. Mr. President, will the Senator yield at that point?

Mr. BIDEN. I yield.

Mr. RIEGLE. As I understand the Senator he picked $30,000 combined income as the cutoff, and so the question I want to get to in a second is why that magic number rather than $35,000 or $25,000 or whatever? But my reason I ask the question is that I can conceive of, in fact I know of, families where both husband and wife would be working and there are extraordinary expenses in that family, where, for example, the family is not only tending to their own immediate family needs with children but have elderly parents with high medical costs and so forth, so that the amount of money that they need to hold their larger family unit together would be greater than $30,000. I am just wondering, if we are going to try to set a limit, and I question whether we can do that, I mean how do we pick $30,000 and then how does any arbitrary limit apply to those whose combined income may be $40,000 but they might need every penny because they are not only caring for themselves and their children, but for parents and other family members for whom they may be responsible.

Mr. BIDEN. Good question, and the answer is we establish the limit in the same way we set any other arbitrary limit in Federal law. Why do we set an arbitrary limit that says people who have reached the age of 18 have the reason and capacity to vote? Why do we establish an age limit to obtain a driver's license in every State? Why do we establish an age limit for drinking? The reason I picked $30,000 is that $30,000 was the magic figure used in the Metzenbaum amendment on Friday. It was judged by the sponsors of the admendment that poorer people should get a bigger tax credit than those above $30,000 and we phased out this increase at $30,000. So if a family is at the low end of the scale they can receive up to a 30-percent credit but once they hit $30,000 they receive no greater tax credit than someone making $32,000, or no more than someone making $40,000, or $50,000, or $60,000.

So I picked $30,000 because that was the cut-off used in the Metzenbaum amendment last Friday. But what is "good for the goose is good for the gander." If it made sense to establish the $30,000 cut-off and it was not arbitrary, then it seems to me that $30,000 makes sense and is not arbitrary now.

But the essential principle should not be lost here. I think it is bad social policy, and that is what we are doing here in the tax code, setting social policy, for us to say that the Federal Government is encouraging, at the expense of all other taxpayers, married couples who neither have the financial nor physical need to put their child in a day care center.

To be personal for a moment, I make a good salary, I am paid some $60,000 to be a Senator. My wife is a school teacher, and she makes around $15,000. She is a career woman. She is very devoted to her career, and very concerned about it, and she has good reason to be, and I am proud of the fact that she has such a career.

But it is outrageous to make my father, who makes less than $20,000 a year to pay a tax to see to it that I can put my child in a day care center. I think that is preposterous.

If my wife and I want to do that, no one should be able to stop us. We should be able to do that. That is our right because that is how we want our family unit to operate.

Well, that is fine. But my father should not pay for that. My next door neighbor should not pay for that, and other folks in low-paying jobs should not pay for that. We should be using that money to give more of a tax credit to those folks who have no choice.

But many single parents and two-earner households are working not because they want a new patio, not because they want to go to the mountains for a vacation, not because they want to be able to see Pavarotti the next time he sings. They are not doing it for that reason. They are doing it because they have no choice, no alternative.

All you have to do is to be a single parent for a couple of days and find out that you have no choice, you have to do something. You either stop working and take care of that 2-year-old child full time or you find someone in your family to take care of your child or you pay somebody to take care of your child. There is no choice. These are the people we should be giving money to because a $500 or $700 credit hardly makes a dent in the cost of day care for their children.

Why should a family with a combined income of $40,000, or $60,000, or $100,000, or $200,000 have their accountant say, "By the way, you get a tax credit here, Jack. Did you forget this? Check it off." It is preposterous.

Besides, it is not good social policy. The Government should not be in the business of saying that we encourage families to make the decision to entrust the primary care of their infant, of their young children, to a day care center. That should be available for people who do not have a choice.

Every social science study we receive, whether we are talking about the Judiciary Committee and juvenile delinquency or popular theories concerning raising children talk about how it is almost impossible for a parent to love a child too much, almost impossible to hug him and kiss him and touch him and be with him too much.

But here we are in the code saying

"Hey, look, for 8 hours a day let somebody else take care of your child when you do not have to, and you will get a tax break."

My generation has enough trouble figuring out whether or not to have any kids. When I was a public defender, you would show up in places where you held forums with the prosecutor, and you would stand there before a group, and one of the things the prosecutor liked to say was, "Do you know where your children are at this very moment?" The implication would be, if you did not know, then you are a bad parent.

We have a whole generation of Americans who are deciding that, "Well, let us get interested in the community. Let us make sure that we belong to everything from the PTA to the Ladies' Garden Club to the Men's Hunt Club."

There are some people who seem to think it may not be bad not to spend time with their child.

There are those who will say that this amendment will hurt women's opportunities to work, that it discriminates against women, well, I will stack my voting record on women's issues in the 9 years that I have served here in this body against anybody else in this body. I have been willing to fight for women's rights from the ERA to equal opportunity for women in any area.

But that is not the issue. I have no objection to the fact that if a mother and a father want to get together and say, "Hey, by the way, Joe, you take care of the child and I am going to pursue my career," that is fine. That is a personal decision, and I am all for it. But do not say to the taxpayers, "I am going to have a baby, and we are both going to pursue our careers, and even though we do not need the money financially in order to be able to take care of the child, you will pay for it. You pay for me to be able to pursue what I view to be in my interest." That is not necessary.

I look at the Senator from Iowa here on the floor and others who have very strong "pro-family" credentials and sometimes I take great issue with them and with their approach to the problems of the family, because I do not believe that the Moral Majority is always that moral. In many ways I consider this new wave to be a somewhat repressive movement on everything from civil liberties, to the way they believe we should be required to say certain prayers in school.

Yet my colleagues who are considered moderate to liberal sit back in the cloakroom and we scratch our heads and say, "Why is it that the moral majority seems to have gained some kind of credibility?" Guess what, folks. They are not all wrong.

The PRESIDING OFFICER (Mr. WARNER). The Chair wishes to advise the Senator from Delaware that all time has expired.

Mr. BIDEN. I thank the chair for the information and I yield the floor.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, I rise in opposition to the amendment by the Senator from Delaware. Earlier today the Senate adopted an amendment 94 to 1 which provided a tax credit for day care expenses. That amendment was sponsored by the Senator from Ohio, by the Senator from Florida, and many other cosponsors.

One of my motivations in cosponsoring that amendment was to restore some equity to the day care support programs of the Federal Government. Ninety percent of the current day care support is channeled through Head Start, title XX, and similar programs and for which middle-income families who work do not qualify.

It is important that we not unfairly discriminate against the middle class which pays most of the taxes to support all Government programs.

The amendment is ultimately self-defeating that the Senator from Delaware supports. It is based squarely on the argument that we have a legitimate right to take money away from those who have earned it and give it to those who have not.

Most people are willing to tolerate a little of that philosophy. We all recognize, I think, that we have obligations to one another, and we are perfectly willing to use the Government as a mechanism for effecting those transfers that we regard as legitimate.

But there are limits to how much we will tolerate. There are very clearly millions of people who think that Government is redistributing beyond what is justified by our moral sense. There is a strong feeling that we are approaching the condition of legal robin hooding, where the rich are fair game so long as the booty is given to the poor.

The evidence that we have exceeded the limit is the growth in the underground economy. There are differences of opinion about how large the underground economy is, but there is no dispute about its existence. It is there, and it is growing. Thousands and thousands of people are moving their economic transactions of the budget. It is a technique they probably learned from the Federal Government.

They know that if they pay and are paid in cash that there is no accounting for the income and no tax to be paid on it. It is less convenient, but it is some level of taxation. It pays them to think that way, and they are doing it.

Our day care amendment that passed this morning makes provisions for the elderly—the mothers and fathers of all of us—who need care in the daytime. Indeed, I am for rewarding those people that work.

I cannot understand any grown person's belief that the very poor have the right, if you will, to have exceptional care and even superior care while those that are in the middle class, those bearing the full burden for the total cost of society by contributing to the tax system of this country yet will not receive a tax credit.

I suggest that the amendment of the Senator from Delaware is antifamily. It is antimother and antifather. If a couple decides to stay together and they earn $20,000 each, they basically do not consider themselves as wealthy. If they have four children, for instance, and any one of them has to have help of any kind, they, indeed, are very, very poor.

In a society that has made us each an island unto himself, there are many lonely families out there. Indeed, a single parent, as I understand the amendment of the Senator from Delaware, would have no limit on the amount of income. A single parent can make up to a million dollars, if I understand it, and still collect the day care credit. So you are really encouraging single parents.

We just had a long discussion over the past few days on a marriage penalty, getting rid of a marriage penalty. I suggest that you are further inflicting penalties on couples that will stay together and bear this tremendous responsibility of raising children to be good members of society and reknitting the fabric that we need so desparately in our society of having a strong family unit.

Those parents that contribute, work hard, pick up their children in the evening, have great conversations with them and can exchange the experiences for the day should not be penalized by having to let those children tend one another.

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

Mrs. HAWKINS. I would like to finish by telling you that I feel captive as a working parent by the amount of my mortgage, by the amount of my electricity payment, by the things that we obligated for earlier in our lifetime that now have become exorbitant sums of money.

Indeed, we are forcing, by high interest rates, by tremendously high mortgage payments, by inflation that is beyond all expectation, forcing what we used to call the middle class into the poverty class. I cannot find within the dollar framework the rich that the Senator from Delaware has so ably defined for himself. I cannot support a credit where a single parent can qualify but couples cannot.

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

Mrs. HAWKINS. Yes.

Mr. BIDEN. The Senator appears to be suggesting that for fear of losing a $400 tax credit a family with a combined income of $60,000 might find it necessary to split up in order to take advantage of the $400 that they would get from that tax credit. Is that what the Senator suggests?

Mrs. HAWKINS. I suggest that there have been excuses flimsier than that for getting a divorce.

Mr. BIDEN. I thank the Senator.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield 7 minutes to the Senator from Louisiana.

Mr. METZENBAUM. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Chair wishes to advise that the Senator from Iowa has 10 minutes remaining.

Mr. LONG. Will the Senator yield 5 minutes?

Mr. GRASSLEY. Yes.

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

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, it seems to me that we ought to recognize certain facts. One of them is that it should be a woman's right to join the work force if she desires to do so.

When a mother joins the work force, if she has small children, she has a problem. She needs to hire someone to look after those children while she is working to help provide income for the family.

Mr. President, I was very much impressed by a young professional woman who came before the Senate Finance Committee. She put it this way. She said, "David Rockefeller can hire himself a secretary to make his appointments, to arrange meetings, to answer telephone calls, to answer mail, and do all kinds of things for him. And he can deduct that."

She said, "I'm an author. I can write novels but I cannot write them without that babysitter. If I have to look after that baby, I cannot write the books." She said, "I need that babysitter every bit as much as David Rockefeller needs that secretary to answer the telephone calls, make his appointments and arrange his business for him." She said, "It is unfair and it is discriminatory."

And I think it is, Mr. President. And ever since I heard that type of testimony before the Senate Finance Committee, I have taken the view that a mother who joins the work force ought to be able to deduct the cost of hiring a babysitter, no matter what her tax bracket might be or what it costs to hire the babysitter. I predict, in time, that is where we are going to be, because it is discriminatory to do otherwise.

Now, the Senator would say at the $30,000 level the mother cannot get a deduction for hiring a babysitter. And he would make that the income cutoff for the income the mother and father together.

Mr. President, I have had many fine women work for me. Most of them, taken together with their husband's income, have incomes of more than $30,000. I would think any married woman working on Capitol Hill whose husband is also working would be left out, if you just take the people you know in your own offices.

Now, I would point out to the Senator that this tax credit would help not only the working mother to hire somebody to look after her child, but it also helps the person who gets hired by that mother and who may thus be moved off welfare and into employment. All tend to benefit from it. Therefore, Mr. President, I honestly believe that the Senator's amendment would mean that where we do recognize that a woman is entitled to join the work force, we would say on the other hand that if she is in the middle-income brackets or above, then she is not entitled to the same consideration as others.

I do not think that one can explain that to the middle-income women of America. I think they would resent it. I honestly think we would be better off to have nothing in the bill about day care than we would to have something where you go up to a $30,000 level for a couple and then cut it off, because I think that to do it that way, Mr. President, would create so much resentment that the resentment we would have on the one hand would more than offset any applause or approval that we had from those who might be favorably affected.

So I would hope, Mr. President, if we are going to go forward with the day care proposal, that we try to arrange it as much as possible so that everyone could participate.

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

Mr. LONG. If I have time remaining.

Mr. BIDEN. The Senator is aware, is he not, that this amendment would not preclude a working mother, no matter what her income was, from taking this tax deduction, unless there was both a working mother and working father in the family that exceeded an income of $30,000?

Mr. LONG. I say to the Senator that he is the best expert on his amendment. The way I read it, is says $30,000. And there is a handwritten provision in this, and I assume it is written by your hand: where both spouses have earned income and the total of their adjusted gross income is in excess of $30,000.

Mr. BIDEN. But a poor working mother would not be in that category.

Mr. LONG. At $30,000 she would be out, right?

Mr. BIDEN. No, a single working mother could make $100,000 and still be included.

Mr. LONG. The amendment is most generous on this point. I regret the Senator could not carry this kindness uniformly across.

Mr. GRASSLEY. How much time remains on this side, Mr. President?

The PRESIDING OFFICER. The Senator from Iowa has 5 minutes and 8 seconds left.

Mr. GRASSLEY. Mr. President, on this side of the aisle we felt when we adopted the amendment on Friday, and again with the vote this morning, that this body had expressed its opinion that there has been a very delicate compromise worked out on this issue and that it should not be upset.

We would see this amendment as upsetting that compromise to some degree.

More importantly, I think a good reason for opposing this amendment is its arbitrariness. A hard and fast rule at $30,000, causes hardship since families below that, earning $29,999, might qualify for the tax credit and those above, earning $30,001, might not qualify.

It seems to me if this sort of principle is good it should be phased out rather than having an arbitrary cutoff point.

I would say there would be ample evidence that the Senator from Delaware is being unfair to couples with a median income, since two members of a household each earning $15,000 or thereabouts would be eliminated from this sort of help. They may be the family that would need it the most. As already suggested here, you could have one member of a household with an inordinately high salary and the family would not be cut off from this tax credit.

I think the point I would like to make to the Senator who authors the amendment, and he is absolutely right in saying that the whole point of tax legislation to a great degree is the passage of social policy, is that often we can look at the other side of the coin with respect to expenditure. I only use this to ask the Senator to think about this point of view. He raises the point, should people in this income category get this sort of help? I think when it comes to the whole question he used his own salary as an example, the salary of Members of this body, $60,000 plus, as to what extent we should have help by tax credits or anything else.

I can raise the point that probably he would support the school lunch program. Our children benefit from that subsidy.

I would suggest that maybe he voted for the middle-income college assistance program in 1978. People that fall into our income category can take the benefit of that program.

There may be some point where, legitimately, the questions the Senator raises can be raised, but I think they need to be raised as well on the expenditure side, where maybe the Senator is a little more reluctant to raise those questions than he is on the tax credit issue. I do not know whether there is an amazing difference of philosophy there. I would suggest perhaps there is.

Mr. BIDEN. Will the Senator yield?

Mr. GRASSLEY. I yield because I would like to hear his justification if he supports some of these programs that have a subsidy for people above $30,000 but he does not support tax credits for individuals in that bracket.

Mr. BIDEN. A very valid question. The Senator is right. The Senator from Delaware is consistent. I do not support subsidies for upper-income children in the school lunch program. I do not support subsidies for people who are making incomes that are considered almost any standard as reasonable to get along.

Mr. GRASSLEY. Did the Senator vote against the Middle-Income College Assistance Act of 1978?

Mr. BIDEN. No; the Senator did not vote against the Middle-Income College Assistance Act because the social policy it is promoting is something that I think is worthwhile.

What surprises me is that the Senator from Iowa is suggesting that by voting against this legislation that he thinks it is better for a child to be raised in a day care center than it is in the home with a mother and father there, when there is no financial need to do otherwise. It surprises me. that the Senator supports an idea like that.

The PRESIDING OFFICER. The Chair wishes to advise that all time has expired on both sides. The yeas and nays have been ordered.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I yield the Senator from Ohio 4 minutes on the bill.

The PRESIDING OFFICER. The Senator from Louisiana has 9 minutes remaining on the bill and the Senator from Kansas 16 minutes.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to say a short word about the subject. I appreciate the strong views and concerns that have been expressed by the author of the amendment. I know that he feels very deeply about the question of family life and the need to preserve it. I think he reflects the views of 100 Members of this body when addressing himself to that question.

I also understand his concern that somehow this law as it presently reads providing for tax credit for day care centers for mothers, or families that put their children in day care centers, somehow does not redound to the benefit or continuation of the family life.

But I also want to point out that this amendment would cut back on those who really should deserve the greatest amount of attention and deserve from those of us in the Congress at the present time. We have been talking on both sides of the aisle about concern for middle-income Americans. Those who earn between $30,000 and $50,000 a year do not have a golden opportunity. They are not living off the land. They are having difficulty making ends meet. When they have to take out of their family budget after taxes about $2,500 for day care centers, it makes their problems that much more difficult.

In this amendment we would be taking it away not only from those who are the most well off, but from the middle-income family between $30,000 and $50,000 a year. Frankly, that would be inconsistent with the entire thrust of this tax bill, which allegedly is attempting to protect those in the middle-income areas, although some of us feel very strongly it provides much better protection for those who earn substantially in excess of $50,000.

The tax bill does, in fact, recognize the discrimination that presently exists against two-earner families and does something about the marriage tax.

I have difficulty accepting the concept that a single wage earner making, as the distinguished Senator from Florida pointed out, $1 million a year, would get the credit, but a two-earner family, both members of the family working, struggling, maybe one making as little as $8,000 a year and the other $22,000 a year, or $23,000—it has to be over $30,000—would not get any help in trying to better themselves.

I very strongly urge the Members of this body not to accept this amendment. I think the Senate spoke loudly and clearly this morning as to its views with respect to day care centers and the need to provide some tax credits for working families. I hope we will not turn the clock back in less than a 12-hour period by accepting the amendment, notwithstanding the strong feelings of the Senator and the merit that the proponent feels the amendment has.

Mr. BIDEN. Will the Senator from Louisiana yield me 1 minute?

Mr. LONG. Yes, Mr. President.

Mr. BIDEN. Mr. President, let me sum up quickly and say that it seems to me the single biggest problem facing us today is our desire to avoid individual responsibility. We go out of our way in this country to find reasons to avoid it. Responsibility starts with blood. Blood is thick. If you have a mother, father, son, or daughter, it is your responsibility to make whatever sacrifices are necessary to provide for the care of those folks unless there is a financial or a physical inability for you to do so. We as a nation had better establish that we have an individual responsibility to take care of our own family.

That means bringing mom into your home when dad dies. That means taking care of your child instead of putting him in a day care center when the only reason to put him there is for convenience.

We go out of our way to avoid our responsibility as individuals and until we recognize that fact we are going to continue to see the disintegration of the American family and the prevalence of the "me" generation.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce the Senator from Arizona (Mr. GOLDWATER) and the Senator from Nevada (Mr. LAXALT), are necessarily absent.

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

The result was announced—yeas 8, nays 90, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—8

Biden	Dodd	Matsunaga
Boschwitz	Dole	McClure
Denton	Inouye	

NAYS—90

Abdnor	Gorton	Nunn
Andrews	Grassley	Packwood
Armstrong	Hart	Pell
Baker	Hatch	Percy
Baucus	Hatfield	Pressler
Bentsen	Hawkins	Proxmire
Boren	Hayakawa	Pryor
Bradley	Heflin	Quayle
Bumpers	Heinz	Randolph
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
	Huddleston	Rudman
Byrd, Robert C.	Humphrey	Sarbanes
Cannon	Jackson	Sasser
Chafee	Jepsen	Schmitt
Chiles	Johnston	Simpson
Cochran	Kassebaum	Specter
Cohen	Kasten	Stafford
Cranston	Kennedy	Stennis
D'Amato	Leahy	Stevens
Danforth	Levin	Symms
DeConcini	Long	Thurmond
Dixon	Lugar	Tower
Domenici	Mathias	Tsongas
Durenberger	Mattingly	Wallop
Eagleton	Melcher	Warner
East	Metzenbaum	Weicker
Exon	Mitchell	Williams
Ford	Moynihan	Zorinsky
Garn	Murkowski	
Glenn	Nickles	

NOT VOTING—2

Goldwater Laxalt

So the amendment (UP No. 321) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, may we have order? I wish to set that aside.

Mr. ROBERT C. BYRD. Mr. President, I ask for the majority leader to state the program for the remainder of the evening.

Mr. BAKER. Mr. President, if the Senator will yield to me, I will answer the inquiry of the distinguished minority leader.

The PRESIDING OFFICER. The majority leader is recognized.

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

The PRESIDING OFFICER. Senators be kind enough to cease their conversations and take their seats.

Mr. BAKER. Mr. President, I thank the minority leader for his inquiry.

I think we are making good progress and I am advised by the distinguished manager of the bill for the majority, and I believe he has conferred with the minority manager as well, that it appears that we can continue to make good progress. I expect at least two more rollcall votes tonight and the Senate to be in until 9:30 or 10 p.m.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

What time will the Senate likely resume consideration of this joint resolution on tomorrow?

Mr. BAKER. Yes. Mr. President, what I had anticipated was that we would come in early enough to accommodate any request for special orders and to be able to get on this joint resolution at 9 a.m. in the morning.

Mr. DOLE. Or earlier.

Mr. BAKER. So if we have four special order requests, which I understand we do, I estimate that we will be in at 8 a.m. tomorrow and on this joint resolution about 9 a.m. or a few minutes after.

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

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

Mr. BAKER. I yield.

Mr. DOLE. In response to the question of the Senator from West Virginia, I really believe there are not that many amendments remaining. I know we are not going to have any final vote or any form of final vote. But it would be very helpful to this Senator, because we are also engaged in a couple of items presently in conference, and I am holding up the whole conference. I guess, if we could dispose of a lot of these amendments. I think we are almost in agreement with two or three Senators. I have

just indicated to the distinguished Senator from New Hampshire and the Senator from Massachusetts what we might do, and if Senators could indicate to us that they are not going to call up their amendments, that is just the same to us. As long as it is pending, we are worried about whether it is going to come up.

The Senator from Missouri has an amendment which we will take, along with the amendment of the Senator from Mississippi.

There are no further amendments on this side except the so-called cash management amendment which I need to offer to make up the revenue shortfall we will be facing at the conclusion of floor action, and so we are almost at the point of wrapping this up. I think we can by 9:30 p.m., hopefully; if not, maybe by 10 p.m. or 10:30 p.m.

Mr. BAKER. Mr. President, if the Senator will yield to me, I do not plan at this time to ask for an order for the Senate to convene in the morning. Why do we not wait then and see how we get along tonight before we set the time for convening tomorrow?

Mr. ROBERT C. BYRD. I thank the distinguished majority leader and the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside and that the Senator from New Hampshire be recognized.

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

The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, I thank the chairman of the Finance Committee for yielding.

Mr. KENNEDY. Mr. President, will the Senate be in order? The Senator from New Hampshire deserves to be heard. The Senate is not in order.

The PRESIDING OFFICER. The remark of the Senator from Massachusetts is well taken.

Senators are requested to take their seats, vacate the aisles, and kindly hold such conversations as necessary in the appropriate cloakroom.

The Senate still remains not in order.

Will the Sergeant at Arms restore order in the corner?

The Senator from New Hampshire may proceed.

Mr. RUDMAN. I thank the President.

UP AMENDMENT NO. 322

(Purpose: To provide a credit against tax for certain home heating costs)

Mr. RUDMAN. Mr. President, I send to the desk an unprinted amendment in behalf of myself, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Pennslyvania (Mr. HEINZ), the Senator from New York (Mr. D'AMATO), and the Senator from Florida (Mrs. HAWKINS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. RUDMAN) for himself and Mr. KENNEDY, Mr. PELL, Mr. DURENBERGER, Mr. HEINZ, Mr. D'AMATO, and Mrs. HAWKINS, proposes an unprinted amendment numbered 322.

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

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

The amendment is as follows:

At the end of title I, insert the following new subtitle:

Subtitle C—Residential Heating Credit

SEC. . HOME HEATING CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately before section 45 the following new section:

"SEC. 44H. CREDIT FOR RESIDENTIAL USERS OF ENERGY.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the amount paid or incurred during such taxable year for all qualified home heating energy sources, multiplied by

"(2) a per centum equal to 40 percent of the percent change in the price index (within the meaning of section 8331(15) of title 5) for December of the calendar year preceding the calendar year in which the taxable year begins over such index for December of the second preceding calendar year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT. — The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $200, over

"(B) 3 percent of so much of the adjusted gross income of the taxpayer for the taxable year as exceeds $15,000.

"(2) REDUCTION FOR GRANTS.—The amount of the credit allowed to a taxpayer under subsection (a) (after application of paragraph (1)) shall be reduced by any amount received by the taxpayer for any qualified home heating energy source under any Federal, State, or local program.

"(3) ONE INDIVIDUAL ELIGIBLE PER HOUSEHOLD.—

"(A) IN GENERAL.—In the case of any household, the credit under subsection (a) shall be allowed only to the individual residing in such household who furnishes the largest portion (whether or not more than one-half) of the cost of maintaining such household.

"(B) DETERMINATION OF AMOUNT.—In the case of an individual described in subparagraph (A), such individual shall, for purposes of determining the amount of the credit allowed under subsection (a), be treated as having paid or incurred during such taxable year for qualified home heating energy sources an amount equal to the sum of the amounts paid or incurred for such sources by all individuals residing in such household (including any amount allocable to any such individual under subsection (d)).

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return of tax, the provisions of subsection (b) of this section shall be applied—

"(A) by substituting '$150' for '$300', and

"(B) by substituting '$12,500' for '$25,000'.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HOME HEATING ENERGY SOURCE.—The term 'qualified home heating energy source' means any energy source used for a qualified use, including wood.

"(2) QUALIFIED USE.—The term 'qualified use' means use in connection with any principal residence of the taxpayer located in the United States for purposes of heating such residence.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as in section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the principal residence must be used by the taxpayer as his residence during the taxable year.

"(d) ALLOCATIONS.—

"(1) TENANTS.—

"(A) IN GENERAL.—In the case of a tenant (other than a tenant-stockholder in a cooperative housing association) residing in a dwelling unit which is heated by a qualified home heating energy source and with respect to which the amount paid for such source is not separately stated, the amount determined under subsection (a)(1) for any taxable year for any qualified home heating energy source used for a qualified use shall be equal to the product of—

"(i) the per centum determined under subsection (a)(1)(B) for the taxable year, multiplied by

"(ii) an amount equal to that portion of rent paid by the taxpayer during such taxable year as is equal to the qualified rental portion.

"(B) QUALIFIED RENTAL PORTION.—For purposes of this paragraph, the term 'qualified rental portion' means that percentage of rental amounts paid for principal residences during a calendar year which the Secretary determines, after consultation with the Secretary of Housing and Urban Development or his delegate and after taking into account regional differences in climate and heating costs, to be the average percentage of rental amounts paid in a region of the United States attributable to the payment of the costs of the qualified home heating energy source so used for a qualified use in connection with the principal residence.

"(2) CONDOMINIUMS AND COOPERATIVES.—The Secretary shall provide by regulation for the application of this section to condominium management associations (as defined in section 528(c)(1)) or members of such associations, and tenant-stockholders in cooperative housing corporations (as defined in section 216), in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the individuals paying, directly or indirectly, for the qualified home heating fuel so used.".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the line relating to section 44E the following new item:

"Sec. 44H. Credit for residential users of energy.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting "44G, and 44H".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the taxable year 1981.

Mr. RUDMAN. Mr. President, the first thing I wish to do is to express my appreciation to the distinguished chairman of the Finance Committee, Senator DOLE, and to the ranking minority mem-

ber of that committee, Senator LONG, and to our majority leader for their assistance in this day of some negotiations on this matter.

Mr. President, yesterday Senator KENNEDY and I proposed an amendment that was somewhat similar which failed to carry this Chamber in a 48-to-47 vote.

We felt very deeply about it then and we feel very deeply about it now that the people of the Frost Belt of this country, an integral part of the dynamic nature of this country, are suffering a very special burden suffered by no one else in America.

We all understand that inflation has gone up 77 percent in the last 10 years, but in our region of the country in New England, in particular, we have suffered a 550-percent increase in the cost of energy.

This amendment addresses that problem in a modest way for those individuals in what we would categorize as the lower middle income of America who receive no Federal grants for low energy income assistance but who are having a very difficult time in making it through the winter.

This amendment will recognize 40 percent of the inflation rate energy expenditures for all kinds of home heating with a cap of $200.

It will not be a great deal of money, Mr. President, but I can assure you those people come February and March of these long and cold winters in these regions of our country will find this modest amount of money very helpful to making it possible for them to feed their families.

Mr. President, I also say to the Senator from Massachusetts that I appreciate the help that his staff has given me in working through this day. I thank many Members who have agreed to cosponsor this with me.

Mr. President, I ask unanimous consent that the names of Senators D'AMATO, of New York, and HAWKINS, of Florida, be added as cosponsors.

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

Mr. RUDMAN. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I do not intend to take much time on this amendment, but I do wish to emphasize the importance of it to many people not only in Massachusetts and New England but all across this Nation who suffered from the increasing amount of their scarce resources being taken to pay for the soaring cost of energy.

The Senator from New Hampshire has explained this amendment well.

We were asked during the debate yesterday why we should be sensitive to the energy costs in this country. The reason is this. The cost of energy and in particular energy which is used to heat the homes of families in the colder areas of this country has increased two to three times faster than the cost of living.

This amendment is designed to help working families in this country. The benefits of the amendment are phased out for upper income groups. The working families in this country suffer heavily. By and large, they are not eligible for the low-income energy assistance program. That program is a valuable program, but it is primarily targeted toward the elderly and other needy people in our society.

Mr. President, this is a limited program, but the limited aid it provides will give important assistance to those who today are making the harsh and cruel choice between food on their tables, or heat for their homes, or a telephone that can reach out to their neighbors and their friends, and which, in many instances, is a lifeline, particularly for elderly people in many parts of this country.

Harsh and difficult decisions are being made by families in the colder climates of this Nation. This amendment will provide some modest but important help and hope to many hundreds of thousands of families.

So I want to commend the Senator from New Hampshire (Mr. RUDMAN) for the work he has done, my colleague from New England, Senator PELL, who has long sponsored this type of legislation. I also want to thank the members of the Finance Committee and the majority leader, as well as the Democratic leader for their attention and assistance in bringing us to this position this evening.

I yield the floor.

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

Mr. DOLE. I am happy to yield time, 1 minute.

Mr. PELL. I wanted to say how grateful all of us are in my part of the country to the Senator from Massachusetts and the Senator from New Hampshire and the Senator from Kansas for the negotiations that have been going on that may provide an agreement on this amendment. It means a great deal to us and, as the Senator from Massachusetts pointed out, many of our people have to make the cruel choice between heating or eating, and this will permit them to spend a tiny bit less for heating and a little bit more for eating.

In any case it is a good amendment and I congratulate my colleagues for the work they have done in this regard.

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

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

The yeas and nays were ordered.

Mr. KENNEDY. As we prepare to vote, I want to point out there have been a number of issues which have divided the Senate along partisan lines on this bill. But this is one issue where there has been clear bipartisan support. I think the people ought to understand this. I certainly appreciate the very strong support that we have had from both Republicans and Democrats alike. We have worked well together, and I think that bodes well for the future.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield myself 2 minutes on this bill.

Mr. President, this is a substantially different amendment dollarwise than was offered yesterday. It does not reduce the revenue to the degree that the one yesterday did.

However, the philosophy of it is still the same.

The argument is made that there has been a substantial increase in the price of heating oil, and certainly there has. But there has been a substantial increase in the cost of food, there has been a substantial increase in the cost of housing, there has been a substantial increase in the interest rates, and yet this proposal deals with only one segment in the tremendous increase in the cost of living.

I do not feel justified in voting for an amendment which gives a tax credit for the increasing cost of home fuel when none of these other problems in the increasing cost of living is being addressed.

I shall oppose the amendment.

Mr. RUDMAN. Mr. President, do I have any time?

The PRESIDING OFFICER. The Senator from New Hampshire has 9 minutes and 22 seconds.

Mr. RUDMAN. I simply want to say to my good friend, the senior Senator from Virginia, that normally I would agree with that logic, and that point would be well taken. But the indisputable facts in our region are as follows: the inflation rate for the United States of America for all the facts that the Senator mentioned and others was 77 percent in the period we are talking about.

In our region of the country the increase in energy costs to heat our homes is 550 percent, and I will tell you for people earning $12,000 and $14,000 a year, as difficult as it is to buy food and to buy bread, to get into the month of January and the month of February with small children in their homes and have to pay $1.29 a gallon for fuel oil with the dealer wanting the money in advance, I say to you, sir, that we do have special problems in New England.

I hope my colleagues in the Senate will recognize these are human problems that need humanity when we deal with them.

I thank the Chair.

Mr. DOLE. Mr. President, how much time does the Senator from Kansas have?

The PRESIDING OFFICER. Thirteen minutes and 22 seconds.

Mr. DOLE. How much time do I have on the bill?

The PRESIDING OFFICER. Approximately 16 minutes.

Mr. DOLE. Mr. President, I am only going to take a moment or two. I understand there are a number of Senators who want to get back to this vote, and I am not going to use much time, but we have notified those Senators who are not in the building at the present time that the vote will come very quickly.

I have discussed this amendment, as both Senators know, at length, most of this week, either with them, their staff, or with Treasury or with other Members who had an interest in the amendment.

I think it is well to point out that this amendment yesterday was defeated—not this amendment exactly but an amendment very much like it, a 3-year amend-

ment, yesterday, was defeated—by a margin of one vote. There was no motion made to reconsider and it was agreed by all Senators directly involved that that motion would not be made in the absence of the other Senators, and I appreciate that because this Senator had to be away from the floor at the time in a conference.

The Senator from Kansas does not believe this amendment is good tax policy. It seems to me we ought to find some better way to accomplish these goals. So I explained this to the Senator from New Hampshire, and he conveyed my remarks to the Senator from Massachusetts and I further suggested that maybe the best way to proceed is to adopt this for 1 year and see if we can find some fair measure that treats all parts of the country the same, and that really provides some relief. I think taking 40 percent of the CPI times whatever the costs may be, together with the income limitations involved, and the provision does not provide a great deal of relief.

But even in this more modest version is it good tax policy? I have been told as recently as 20 minutes ago that it is not by the Treasury. But with the Treasury sometimes anything is bad tax policy unless it raises revenue, and this loses some revenue.

So I suggested and I appreciate the Senator's accepting the suggestion made in good faith by the Senator from Kansas, that we limit it to 1 year. Let us have a vote on it. I assume the vote will be in the affirmative. The Senator from Kansas cannot vote for the amendment, but that does not mean as chairman of the conference, if the amendment is adopted, that I am going to do anything about the amendment but try to keep it in the bill.

I am willing to give that assurance to all the Senators involved.

I wish to thank those Senators for their patience and understanding. I want to try to stay neutral on the amendment at this point—if the 3-year amendment was not good, maybe a 1-year amendment is more acceptable. I think that is a positive way to approach it.

I think perhaps we have reached an agreement and accord that will satisfy half of this body, maybe more. We will find out in the vote and that will be helpful to us in the conference.

Mr. President, while the Senator has time, I am wondering if I might ask the distinguished Senator from Massachusetts, if it is all right to do that at this point, how many of his amendments we might expect to be called up.

Mr. KENNEDY. I expect one more, possibly two; but certainly one.

Mr. DOLE. Will the Senator be prepared to offer another amendment following the disposition of this amendment?

Mr. KENNEDY. I would rather not do it immediately following, though I do not exclude that if we are here a little while longer.

Mr. DOLE. Again, let me say to Senators who may be listening or staff members who may be listening that we are getting to the bottom of the heap or the bottom of the barrel, depending on how you perceive your amendment.

Mr. KENNEDY. The top of the barrel.

Mr. DOLE. Or the top of the barrel. Come to think of it, I have an amendment myself, so we are heading for the top of the barrel. If Senators could come to the floor with their amendments, we would be glad to defeat them. If we cannot defeat them, we will negotiate them. But the point being we would like to conclude nearly everything on this bill so that tomorrow morning we will be able to vote. I think everybody is about ready for that.

Mr. President, I suggest the absence of a quorum while I check to see whether all Senators are back. I ask that the time for the quorum call be charged to the bill.

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. Without objection, it is so ordered.

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

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire (Mr. RUDMAN). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and Senator from Nevada (Mr. LAXALT) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

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

The result was announced—yeas 71, nays 25, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—71

Abdnor	Grassley	Pell
Andrews	Hart	Percy
Baker	Hatch	Pressler
Baucus	Hatfield	Proxmire
Biden	Hawkins	Pryor
Boren	Heflin	Quayle
Bradley	Heinz	Randolph
Bumpers	Helms	Riegle
Burdick	Huddleston	Roth
Byrd, Robert C.	Humphrey	Rudman
Cannon	Jackson	Sarbanes
Chafee	Jepsen	Sasser
Cohen	Kassebaum	Schmitt
D'Amato	Kasten	Simpson
Denton	Kennedy	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Stevens
Durenberger	Lugar	Thurmond
Eagleton	Mathias	Tsongas
East	Matsunaga	Warner
Exon	Metzenbaum	Weicker
Ford	Mitchell	Williams
Glenn	Moynihan	Zorinsky
Gorton	Murkowski	

NAYS—25

Armstrong	DeConcini	McClure
Bentsen	Dole	Nickles
Boschwitz	Domenici	Nunn
Byrd, Harry F., Jr.	Garn	Packwood
Chiles	Hayakawa	Stennis
Cochran	Hollings	Symms
Cranston	Johnston	Tower
Danforth	Long	Wallop
	Mattingly	

NOT VOTING—4

Goldwater	Laxalt	Melcher
Inouye		

So Mr. RUDMAN's amendment (UP No. 322) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas.

UP AMENDMENT NO. 322, AS MODIFIED

Mr. DOLE. Mr. President, I ask unanimous consent—this has been cleared with both principal sponsors of the amendment—that I may offer a technical amendment.

On page 2 of the amendment just offered by the distinguished Senator from New Hampshire and the distinguished Senator from Massachusetts, on line 16, after the "B" which is in brackets, rather than 3 percent, it should read 2 percent.

The PRESIDING OFFICER. The Senator from Kansas is still on his amendment.

Mr. DOLE. I ask unanimous consent that that be temporarily laid aside.

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

We now proceed with the request of the Senator from Kansas to modify the previous amendment (UP No. 322). Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title I, insert the following new subtitle:

Subtitle C—Residential Heating Credit

SEC. . HOME HEATING CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting immediately before section 45 the following new section:

"SEC. 44H. CREDIT FOR RESIDENTIAL USERS OF ENERGY.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the amount paid or incurred during such taxable year for all qualified home heating energy sources, multiplied by

"(2) a per centum equal to 40 percent of the percent change in the price index (within the meaning of section 8331(15) of title 5) for December of the calendar year preceding the calendar in which the taxable year begins over such index for December of the second preceding calendar year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) $200, over

"(B) 2 percent of so much of the adjusted gross income of the taxpayer for the taxable year as exceeds $15,000.

"(2) REDUCTION FOR GRANTS.—The amount of the credit allowed to a taxpayer under subsection (a) (after application of paragraph (1)) shall be reduced by any amount received by the taxpayer for any qualified home heating energy source under any Federal, State, or local program.

"(3) ONE INDIVIDUAL ELIGIBLE PER HOUSEHOLD.—

"(A) IN GENERAL.—In the case of any household, the credit under subsection (a) shall be allowed only to the individual residing in such household who furnishes the largest portion (whether or not more than one-half) of the cost of maintaining such household.

"(B) DETERMINATION OF AMOUNT.—In the case of an individual described in subparagraph (A), such individual shall, for purposes of determining the amount of the credit allowed under subsection (a), be treated as having paid or incurred during such taxable year for qualified home heating energy sources an amount equal to the sum of the amounts paid or incurred for such sources by all individuals residing in such household (including any amount allocable to any such individual under subsection (d)).

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return of tax, the provisions of subsection (b) of this section shall be applied—

"(A) by substituting '$150' for '$300', and

"(B) by substituting '$12,500' for $25,000'

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HOME HEATING ENERGY SOURCE.—The term 'qualified home heating energy source' means any energy source used for a qualified use, including wood.

"(2) QUALIFIED USE.—The term 'qualified use' means use in connection with any principal residence of the taxpayer located in the United States for purposes of heating such residence.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as in section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the principal residence must be used by the taxpayer as his residence during the taxable year.

"(d) ALLOCATIONS.—

"(1) TENANTS.—

"(A) IN GENERAL.—In the case of a tenant (other than a tenant-stockholder in a cooperative housing association) residing in a dwelling unit which is heated by a qualified home heating energy source and with respect to which the amount paid for such source is not separately stated, the amount determined under subsection (a) (1) for any taxable year for any qualified home heating energy source used for a qualified use shall be equal to the product of—

"(i) the per centum determined under subsection (a) (1) (B) for the taxable year, multiplied by

"(ii) an amount equal to that portion of rent paid by the taxpayer during such taxable year as is equal to the qualified rental portion.

"(B) QUALIFIED RENTAL PORTION.—For purposes of this paragraph, the term 'qualified rental portion' means that percentage of rental amounts paid for principal residences during a calendar year which the Secretary determines, after consultation with the Secretary of Housing and Urban Development or his delegate and after taking into account regional differences in climate and heating costs, to be the average percentage of rental amounts paid in a region of the United States attributable to the payment of the costs of the qualified home heating energy source so used for a qualified use in connection with the principal residence.

"(2) CONDOMINIUMS AND COOPERATIVES.—The Secretary shall provide by regulation for the application of this section to condominium management associations (as defined in section 528(c)(1)) or members of such associations, and tenant-stockholders in cooperative housing corporations (as defined in section 216), in such a fashion that the amount allowed by subsection (a) is allowed, whether by allocation, apportionment, or otherwise, to the individuals paying, directly or indirectly, for the qualified home heating fuel so used.".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the line relating to section 44E the following new item:

"Sec. 44H. Credit for residential users of energy.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting "44G, and 44H".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the taxable year 1981.

Mr. DOLE. Mr. President, the pending amendment is again the amendment of the Senator from Kansas?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I ask unanimous consent that that be temporarily laid aside.

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

Mr. DOLE. The Senator from Ohio would like to speak for about 10 minutes. Then, hopefully, the Senator from Massachusetts will be prepared to call up an amendment and the Senator from Delaware will be prepared to offer an amendment, which I hope we can agree upon. Then the Senator from Kentucky and the Senator from Missouri can bring up their amendments, which we hope will be agreed upon.

Perhaps then the Senator from Massachusetts will be prepared to call up his amendment. I wonder if that will be a rollcall.

How much time does the Senator from Kansas have on the bill, Mr. President?

The PRESIDING OFFICER. The Senator from Kansas has 11 minutes on the bill. The Senator from Louisiana has 84 minutes.

Mr. DOLE. Mr. President, I wonder if the Senator from Virginia would yield to the Senator from Ohio whatever time he needs on the bill?

Mr. HARRY F. BYRD, JR. How much will the Senator need?

Mr. METZENBAUM. Ten minutes, possibly 5.

Mr. HARRY F. BYRD, JR. Mr. President, I yield 10 minutes to the distinguished Senator off the bill.

Mr. DOLE. Mr. President, I wonder whether the Senator from Virginia will yield to the Senator from Ohio whatever time he needs, from the bill.

Mr. HARRY F. BYRD, JR. How much time does the Senator from Ohio need?

Mr. METZENBAUM. Ten minutes, and possibly an additional 5.

Mr. HARRY F. BYRD, JR. I yield 10 minutes from the bill to the Senator from Ohio.

Mr. DOLE. Mr. President, will the Senator permit me to ask the distinguished Senator from Massachusetts whether there will be a rollcall vote on the next amendment?

Mr. KENNEDY. There is a good likelihood that there will be one. I will try to get back in a half hour or so.

The PRESIDING OFFICER. The Senator from Ohio is recognized for not to exceed 10 minutes, granted by the Senator from Virginia.

Mr. METZENBAUM. Mr. President, at this point in the evening I believe it is important that we address ourselves to what is developing on the other side of Congress; because I have great concern that some of the problems to which we have addressed ourselves concerning how we will treat the oil industry have now become a subject in the House of Representatives whereby one side is bidding against the other to see which is going to do more for the oil industry.

The measure we have before us this evening does a great deal for the oil industry. It provides $20 billion in tax reductions for the oil industry between now and 1990. But the oil industry thought that was not enough, so when they took the matter up with the Democrats, the Democrats were prevailed upon to increase that amount to $22 billion.

But, within the last 24 to 48 hours, we have heard that the President is so anxious to get votes on the House side that he is prepared to cut the taxes of the oil companies $40 billion to $50 billion between now and 1990.

As Members of this body well know, this is not a new issue for the Senate. This is an issue to which the Senate addressed itself for a number of hours during the past week. And after extended debate the Senate voted, and by a vote of 49 to 47—with those of us in the minority being on the 47 side—the Senate indicated that enough is enough.

An amendment to give the oil industry an additional $20 billion was taken down and an understanding was reached that two other amendments, as well, would not be offered. And those two amendments were not offered.

But the oil companies are not to be deterred. They are at work in the House, morning, noon, and night. They want more and more and more. The issue is not how much more we are going to do for the people of the country. The issue is not how much more we are going to give to kids who want to go to college. The issue is not how much more we are going to give for people on food stamps, for school lunch programs, for school milk programs, for youth employment programs. No. We do not care about what is going to happen to senior citizens. The only question is: What are we

going to do for the oil companies of this country?

I know that one of the subjects that is being discussed here this evening, and it will be discussed tomorrow and the next day, is: When are we going to go home? Well, if the bill comes back from the House of Representatives and has that $40 billion to $50 billion extra in it, the Senator from Ohio wants to place the Senate on notice to be prepared to stick around a bit, because I believe that the people of this country are entitled to know what is taking place. I hope that $40 billion tax break will not come our way.

I hope our conferees will say to the House, if they come forward with that kind of proposal, that enough is enough. I hope they will recognize that they have thrown too much on the table over in the House.

Frankly, the Senate Finance Committee bill is bad enough, and the additions that have been made by the House Ways and Means Committee increase the ante to $22 billion.

It provides a 500-barrel-a-day exemption on tier 3 oil in 1982 and thereafter. It provides a 100-barrel-a-day exemption on tier 1 oil in 1983 and 1984. The exemption increases to 200 barrels a day in 1985 and 350 barrels a day in 1986 and thereafter.

The Senate bill has a $2,500 tax credit for royalty owners, and so does the House Ways and Means bill.

Then there are additional tax write-offs of certain expenses. That bill is $22 billion, $2 billion more than the Senate bill.

Then comes the administration's package. The Conable-Hance bill is an incredible give-away, costing $40 billion and $50 billion, according to the Joint Tax Committee.

Some of us have stood on the floor of the Senate; we have been in the Budget Committee; we have been in the conference committees; and we fought for nickels and dimes for people-oriented programs—$200 million, $300 million. We cannot find the money, we have been told. We have to balance the budget. But when it comes to the oil companies this administration, apparently, is willing to pay whatever price it takes to buy a few votes in the House of Representatives.

The administration bill would match the Senate's plan to cut the windfall profit tax on new oil from 30 percent to 15 percent. It would exempt all independents from the windfall profit tax on all stripper wells. The independents include such people as Hunt Oil Co. and the Louisiana Land and Exploration Co., which have annual sales in the billions of dollars.

In all fairness, I have heard that some of the independents are truly in trouble, and I am concerned about those that are in trouble.

Word has come to me this evening that half the independents do not even own a corporate jet. That means it is a problem for them to exist in this economy. I certainly would not want to keep any independent oil company from having its own jetliner, and I recognize the need to provide some sustenance and assistance for those poor independents who cannot afford to have a jet. So maybe there is some merit to giving a little extra consideration to those independents. However, the fact is that the independents are doing billions of dollars of business, and they want to be exempted. The Reagan administration is prepared to exempt them from the entire windfall profit tax on stripper wells.

Their proposal would also freeze the oil depletion allowance at 22 percent. We fought for years around here to try to bring that issue to a head and finally did bring it to a head in 1978. The Congress decided to phase it down to 15 percent. But the administration's bill would stop the phasedown at 22 percent. That proposal amounts to giving them a bonanza, an absolute bonanza, of tax-free dollars amounting to billions.

Finally, the bill would exempt the first two barrels a day of production from the windfall profit tax for royalty owners from 1982 to 1984, with the exemption rising to four barrels a day from 1985 on.

Mr. President, we would all like to go home. We would like to be out of here Friday night or Saturday night. But before we can go home, we have to get this tax bill brought to a conclusion. The purpose of my standing on the floor this evening is to say to those who will be the Senate conferees—and I will not be one of them—that if you bring back a bill from the conference that has billions of dollars of extra tax goodies for the oil industry of this country, then I believe that the people of this country should know what the issue is all about. I do not believe they will learn it in 1 day or 1 hour or one Senate speech. I believe they will learn it only if they know that the tax bill is bogged down, and I do not believe that is the way we ought to go.

I hope that those who will be the Senate conferees will understand the message this Senator is sending them. I do not believe we should go beyond the point the Senate Finance Committee has already gone with respect to the windfall profit tax. A number of us took the floor to address ourselves to that issue in the past week.

Now we find that the issue is no longer in the Senate. The issue is now in the House of Representatives. And the administration is willing to pay whatsoever price is necessary in order to get some votes to help out the oil companies of this country.

Too much harm has already been done. There are too many problems that already exist. Frankly I do not believe that the oil companies need any more assistance.

The vice president of the Phillips Petroleum Co. was recently quoted in the New York Times as saying, "Energy prices are going high as a kite, and we are going to make tons of money."

And I agree with the vice president of the Phillips Oil Co., because they are indeed making tons of money and there is no one who is proposing to take some of those profits away from them. Some of us, however, believe that enough is enough is enough. The $20 billion in this committee bill that is before us this evening is beyond the point where it should be, but the $40 to $50 billion that the House of Representatives is talking about is just the straw that breaks the camel's back.

I thank you, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. What is the pending business?

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas.

Mr. HARRY F. BYRD, JR. I ask unanimous consent that it be temporarily set aside.

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

UP AMENDMENT NO. 323

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) for himself and Mr. FORD, Mr. MATSUNAGA, Mrs. HAWKINS, Mr. MATHIAS, Mr. BOREN, Mr. CHAFEE, and Mr. WARNER, proposes an unprinted amendment numbered 323.

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

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

The amendment is as follows:

On page 60, insert after line 9 the following:

"(5) RACE HORSES AND HORSES OVER AGE 11.—The term 'recovery property' does not include horses used for racing and horses over 11 years of age at the time the horses were placed in service. Horses described in the preceding sentence shall be depreciated in the same manner as under section 167 as in effect for property placed in service on December 31, 1980, and the useful lives of such horses may be determined under section 167 as in effect on such date.

Mr. HUDDLESTON. Mr. President, the purpose of the amendment is to insure that the new depreciation rules will not be more detrimental for certain categories of horses than is the case under present law.

In the Finance Committee bill, older breeding horses and racehorses would have to be depreciated over a longer period than is presently required under the useful life method of depreciation.

While there may be a few other types of property that will be pushed into a slightly longer writeoff period, the slight detriment is offset by a greater investment tax credit. Horses get no investment

tax credit—even though other livestock is eligible for the credit.

The proposal should have no significant revenue loss over present law since the amendment seeks to put them in the same situation horses are in today.

This amendment has been cleared on both sides of the aisle and I ask for its passage.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. I ask the Senator from Kentucky to yield 2 minutes to me.

Mr. HUDDLESTON. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, this subject was before the Senate several nights ago. At that time there was some question about the amendment as it was originally drawn.

The matter has been discussed and rediscussed. Apparently the bill that came out of the Finance Committee instead of helping the breeders as well as those who own racehorses would have been hurting them and changing the depreciation schedule in a negative way so that it would have increased their taxes.

This amendment restores the situation as it presently exists and I commend the Senator from Kentucky for his leadership in this effort and I certainly have no objection to it.

Mr. HUDDLESTON. I thank the Senator from Ohio.

Mr. HARRY F. BYRD, JR. As I understand it, the Treasury Department approves of this amendment?

Mr. HUDDLESTON. The Treasury Department has other preferences, but this amendment is acceptable to the other side of the aisle and to this side of the aisle as far as I know.

Mr. HARRY F. BYRD, JR. But while the Treasury Department is not enthusiastic about it, the Treasury Department is not opposing it.

Mr. HUDDLESTON. That is correct.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. I yield back the remainder of our time.

Mr. HARRY F. BYRD, JR. I yield back our time.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 323) was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I understand there are only 11 minutes or thereabouts remaining on this side of the aisle on the joint resolution.

I ask unanimous consent that I may suggest the absence of a quorum without the time charged at all.

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

Mr. BAKER. Mr. President, I suggest the absence of a quorum under those conditions.

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.

AMENDMENT NO. 500

Mr. DOLE. Mr. President, at an earlier time in the debate about 10 days ago the Senator from Maryland offered an amendment, and it was laid aside, the Senator from Maryland agreeing to lay it aside.

As I understand, that amendment is still pending, amendment No. 500.

The PRESIDING OFFICER. The amendment submitted by the Senator from Maryland was temporarily laid aside with the provision that he could call it back up.

Mr. DOLE. Right.

I understand the Senator from Maryland is now, after consideration and discussions, willing to withdraw the amendment; is that correct?

Mr. MATHIAS. Mr. President, amendment No. 500 is an amendment which has no cost to the Treasury. Therefore, it would be an appropriate amendment to be discussed in the second tax bill which the distinguished chairman of the Finance Committee has promised to bring to the Senate, it being the understanding that that second tax bill will probably be one which will have to balance out in gain or loss of revenue to the Treasury.

I understand that the questions that have been raised by the Treasury about this provision for allowing taxpayers to dedicate a part of their refund to contributions to the arts and the humanities would require some change in the tax form and would require a certain amount of accounting activity that the Treasury would like to inquire into.

In view of the fact that amendment No. 500 does appear to be appropriate for the second tax bill, and in view of the fact that the chairman of the Finance Committee has agreed to let us have hearings on this bill, I believe the chairman said in September, am I correct——

Mr. DOLE. The Senator from Maryland is correct. It is the hope of the Senator from Kansas that in mid-September we will be putting together what we consider to be the second tax package and we will hopefully have that completed, if not ready to report to the Senate, late this year, early next year, but we are going to start putting it together in September.

Mr. MATHIAS. I appreciate that offer on the part of the distinguished chairman.

I have discussed that suggestion with the cosponsors of the bill, the Senator from Montana (Mr. BAUCUS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Arkansas (Mr. PRYOR), and we have all agreed that it would be a reasonable procedure to follow the suggestion of the chairman of the Finance Committee and, therefore, in reliance upon his assurances, Mr. President, I hereby withdraw amendment No. 500.

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

Mr. DOLE. Mr. President, I wish to thank the distinguished Senator from Maryland. He does have my assurance that this matter will be seriously considered and, hopefully, we can do that as indicated in the RECORD sometime in September.

Mr. President, I understand the distinguished Senator from Delaware will be prepared to offer an amendment in just a few moments, one that has been cleared again by Treasury and by both sides; is that correct, have you talked with Senator LONG?

Mr. ROTH. Yes, I have, and it has been cleared by Treasury. Are you ready for me to proceed?

Mr. DOLE. Yes, whenever you are ready.

UP AMENDMENT NO. 324

(Purpose: To modify the investment tax rules applicable to railroad rolling stock)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) for himself, Mr. PACKWOOD, Mr. PERCY, Mr. TOWER, Mr. BENTSEN, Mr. BIDEN, Mr. DIXON, Mrs. HAWKINS, and Mr. HAYAKAWA proposes an unprinted amendment numbered 324.

Mr. ROTH. 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 97, after line 26, insert the following:

"(d) RAILROAD ROLLING STOCK.—Clause (ii) of section 48(a)(2)(B) (defining property used outside the United States) is amended to read as follows:

"(ii) railroad rolling stock, of a United States person (as defined in section 7701(a)(30)), which is used to and from the United States;"

On page 105, after line 4, insert the following:

"(4) RAILROAD ROLLING STOCK.—The amendment made by subsection (d) shall apply to taxable years beginning after December 31, 1980."

Mr. ROTH. Mr. President, this amendment is sought in an effort to achieve equality of treatment under the investment credit and cost recovery rules between railroad-owned and nonrailroad-owned rolling stock, where rolling stock is used in both the United States and Canada and Mexico.

I am aware that the amendment as it is proposed will modify the present law rule as it applies to railroad-owned rolling stocks. This modification may not be workable for the railroad industry, and, therefore, I am only proposing the amendment in this form so that further discussion can occur on the proper language for the amendment in connection with a Senate-House conference on this tax reduction legislation.

It is my intent, and the intent of Senators PACKWOOD, BENTSEN, and LONG, to recede to the House position on this issue

if appropriate modifications can be worked out in the conference.

This amendment is not meant to cover situations whereby U.S. persons enter into long-term leasing arrangements with foreign railroads which are intended to allow railroad rolling stock to be used largely outside the United States.

I would like to have the agreement of the chairman of the Finance Committee on this course of action.

Mr. DOLE. Mr. President, I understand the question of the Senator from Delaware, and I agree with his position to recede if appropriate language cannot be worked out in the conference. I know the Senator has had long discussions with Mr. Chapin of the Treasury Department.

Mr. ROTH. That is correct.

Mr. DOLE. As I understand it, there are a number of Senators who have an interest in this amendment, half a dozen or more. I think it is a fair solution.

I want to make certain that the Senator from Delaware has discussed this with the distinguished Senator from Louisiana. If he has no question, that is agreeable with the Senator from Kansas.

Mr. ROTH. The amendment has been discussed with the distinguished Senator from Louisiana, and he is agreeable to the proposal.

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware (Mr. ROTH).

The amendment (UP No. 324) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, it is my understanding that Senator GARN has an amendment which has been agreed to by the Senator from Ohio and the Senator from Louisiana and also by the distinguished minority leader and the distinguished majority leader to make it in order to offer it at this time because of extenuating circumstances.

I ask unanimous consent that the Senator from Utah may be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

UP AMENDMENT NO. 325

(Purpose: To amend section 274(b)(1)(C) of the Internal Revenue Code of 1954 with respect to the deductibility of gifts by employers to employees in recognition of length of service or achievement)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 325.

Mr. GARN. 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 title II insert:

That (a) subparagraph (C) of section 274(b)(1) of the Internal Revenue Code of 1954 (relating to limitation on deductibility of gifts) is amended to read as follows:

"(C) an item of tangible person property which is awarded to an employee by reason of length of service, productivity, or safety achievement, but only to the extent that—

"(i) the cost of such item to the taxpayer does not exceed $400, or

"(ii) such item is awarded as part of a permanent, written plan or program that does not discriminate in favor of officers, shareholders, or highly compensated employees as to eligibility or benefits, and the average cost of all such items awarded under such plan during the taxable year does not exceed $400, except that no deduction may be claimed for any portion of an item awarded under such a plan or program to the extent the cost exceeds $1,600.".

(b) The amendment made by subsection (a) shall apply to taxable years ending on or after the date of the enactment of this Act.

Mr. GARN. Mr. President, I ask unanimous consent that Senator HATCH be added as a cosponsor.

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

Mr. GARN. Mr. President, this is an amendment that recognizes the employee safety award programs, retirement gifts, and incentive awards for production. The limit has been at $100 for many, many years. Simply, with the rising price of gold, it discourages employers from having safety incentive programs or gold watches for retirement.

So this would raise that amount to $400. The estimated revenue cost is between $5 million and the maximum of $10 million per year. I believe it is agreed to on both sides and will be accepted.

Mr. DOLE. Mr. President, under present law an employer can deduct the cost of a gift or award made to an employee in recognition of his or her length of service as long as the cost does not exceed $100. The amendment would increase the $100 amount to $400. That is, in essence, what it does.

It is a simple amendment. I think it is a good amendment. It has been cleared by the Senator from Louisiana and the Senator from Kansas and I would hope we would accept the amendment.

Mr. GARN. Mr. President, I ask unanimous consent that Senator CHAFEE be added as a cosponsor to my amendment.

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

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah (Mr. GARN).

The amendment (UP No. 325) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. DOLE. Yes.

THE ECONOMIC RECOVERY TAX ACT OF 1981

Mr. PERCY. Mr. President, in these final 2 weeks of July, the focus in Congress is on the economic recovery program and its two most vital components. Both have my fullest support.

On the one hand, Senators and Congressmen are meeting this week to iron out their differences on the omnibus budget reconciliation bill that will save over $140 billion in the next 4 years. Nearly $40 billion in savings will be realized in 1982 alone. It is a landmark measure and one that I have supported every step of the way. I was an original cosponsor of the reconciliation instructions—which directed committees to come up with these cuts—and I, of course, supported the actual spending reductions contained in the reconciliation bill itself. Spending reduction has been the first part of the President's program that we have considered and I believe we can send the final version to President Reagan by August 1.

On July 15, the Senate took up the other major part of the economic recovery program: the Economic Recovery Tax Act. Like the spending reductions, this measure is vital to the success of the anti-inflation program. Together, these two measures will lay the groundwork for a true and sustained economic revival in this country that will not only reduce inflation and interest rates, but also generate new, productive jobs in the private sector. In short, they will put an end to the twin problems of inflation and unemployment—called stagflation by economists—that have haunted our economy for the past decade.

Perhaps one of the most eloquent statements on the importance of putting this economic recovery in place came to me from an Illinois constituent. A couple from Downers Grove, Ill., wrote me last winter that they supported this program, even though it "will affect us adversely."

The letter concludes with the following paragraph:

College aid and pork-barrel benefits are great, but neither are free. A substantial reduction in the rate of inflation will enable us as individuals and as citizens of Illinois to finance such programs ourselves. We believe the President's program is a beginning in the battle against inflation.

Mr. President, I ask that the entirety of this letter be printed in the RECORD at the close of my statement.

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

(See exhibit 1.)

Mr. PERCY. Two fundamental principles have guided the shaping of this tax cut and I would like to touch briefly on each of them.

First, this tax bill will cut individual rates substantially. We have experienced tax increases in the magnitude of $100 billion a year for the past several years, attributable to social security tax increases and bracket creep—the impact of inflation on take-home pay. By far the largest component of the tax cut is

for individuals. Of the $36 billion worth of taxes that will be cut in 1982, nearly $27 billion will go to individuals. The following chart gives an excellent picture of the distribution of tax reduction between individuals and business:

REVENUE EFFECTS OF THE ECONOMIC RECOVERY TAX ACT OF 1981

[In billions of dollars]

Provisions	Fiscal year—			
	1981	1982	1983	1984
Individual income tax	−0.04	−26.8	−70.6	−114.1
Business tax incentives	−1.6	−11.2	−19.6	−29.3
Savings incentives	0	−.09	−1.1	−3.5
Estate and gift tax	0	−.1	−1.7	−2.6
Commodity tax straddles	.1	1.3	0	0
Total revenue effect	−1.4	−39.9	−93.1	−149.5

Note.—Figures may not add due to rounding.

Source: Committee on Finance.

Mr. President, this chart shows clearly that individual taxes will be reduced far and away more than business taxes. This is a tax cut designed for middle-income Americans, a 25-percent reduction over 3 years. Under the committee's proposal, tax rates will be reduced as follows: 5 percent effective October 1, 1981; 10 percent in 1982 and an additional 10 percent in 1983.

These marginal rate reductions will provide relief for steadily rising tax burdens under present law and will also reduce the disincentives that result from the current high tax levels. Expressed as a percentage of income, the average tax burden is now higher than at any time in the past 20 years.

The distribution of the tax cut will be across the board so that all taxpayers share in relief in proportion to their tax liability. About two-thirds of the individual tax reduction will go to the 67 percent of taxpayers who earn less than $50,000 a year. The reductions—by cutting marginal tax rates—will boost the incentives for savings and work effort.

When these cuts in the marginal rates are coupled with the targeted tax cuts for savings in the bill, it becomes clear that this part of the legislation will give high priority to earners and savers. The impact that tax reduction will have on the average American family was succinctly put forth recently in a letter I received from a constituent in Cicero, Ill. His letter begins in this way:

Again as I approach the end of a month, it is necessary for me to go to the bank again and take out some money from my savings in order to help pay some of my bills for this month—not all, just some.

The gentleman who wrote me is 60 years old and has worked for 35 years. He continues in his letter:

I have very little savings. All we have to look forward to is Social Security and Medicare. I can't go out and get a second job; I work hard enough on my regular job. I'm having trouble keeping up with my job now at my age. I don't know where the working man can go from here . . . Help can only come from being able to keep more of the money we earn. We don't want any government "hand-outs" or new programs. Just let us keep the money we earn.

Mr. President, that is a heartfelt description of what we hope to accomplish with this legislation: Allow Americans to keep more of their own hard-earned money. I ask unanimous consent that my constitutent's letter be printed in full at the close of my remarks.

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

(See exhibit 2.)

Mr. PERCY. In addition to the individual tax rate reductions, the second basic principle underlying this bill are the investment incentives.

These tax reductions will move us toward a lower rate of inflation by spurring savings and investment in plant and equipment. They are solid proposals that have been proposed by Senate Republicans for years. Like the individual rate reductions, these business-related cuts have my full support.

Years of high inflation and lack of investment incentives have eaten away at our industrial base. U.S. productivity lags far behind that of our major competitors. Even the British do better than we do when it comes to productivity rate increases.

To deal with these problems, this tax bill restructures the present depreciation system. Our present tax laws on depreciation are excedingly complex and do not provide adequate cost recovery of investments. The committee proposal adopts the accelerated cost recovery system—ACRS—which allows investments to be written off over a period of 15, 10, 5, and 3 years, depending on the type of investment made. ACRS, originally recommended by President Reagan, will not only provide added incentives for the investment but it will also greatly simplify an overly complex tax system.

In addition to the landmark streamlining of the depreciation system, this legislation includes two other significant tax incentives for business. There is a 25-percent tax credit for incremental research and development wage expenditures and a graduated credit for rehabilitation of structures. This latter provision will be important to older industrial areas, of which we have a great many in the Midwest.

For small businesses, the tax bill contains special provisions, too. Obviously, all types of business will benefit from the general business provisions I mentioned earlier. These targeted measures include tax incentives for stock options, an increase to $150,000 in the investment credit for used property and an increase in the $150,000 cap on the credit against the accumulated earnings tax. The bill also cuts small business tax rates by 1 percent in each of the next 2 years.

Mr. President, in addition to these important incentives to get the economy on the move, this legislation contains two measures that will make the tax system fairer: estate and gift tax reform and tax indexing. I have supported these items for many years and am pleased to see that the Finance Committee has embraced them.

The estate and gift tax changes will mean that by 1986, estates of $600,000 or less will not have to pay an estate tax. This nearly abolishes the estate tax, for only three-tenths of 1 percent of all estates will be liable for any tax by then. This is an important milestone for small businesses and farmers, who have been so severely affected by the nearly-confiscatory estate taxes in recent years. In addition, this legislation will allow for the tax-free transfer of estates between spouses. It updates the gift tax—last addressed in 1943—so that up to $10,000 can be transferred tax free, instead of the present $3,000. These provisions have been extracted from legislation Senator WALLOP and I introduced earlier this year—S. 395—and I am pleased to see them in this legislation.

The Senate's indexing proposal, which the full Senate adopted by a vote of 57 to 40, has had my full support for many years. I believe the first vote I cast for this was in 1978 and I have supported indexing legislation in subsequent years. Under the Senate-passed plan, individual income tax brackets will be indexed to the Consumer Price Index beginning on January 1, 1985. This will help reduce one of the most expensive items in a family budget: Federal tax payments. For every 1 percent rise in inflation, Federal tax receipts rise by $1.7 billion. Although Congress has periodically cut taxes, these reductions have not compensenated all taxpayers equally and the tax cuts have not kept pace with inflation. The 1978 tax cut was erased by high inflation almost immediately. This simple and equitable proposal received my support on the floor.

Mr. President, I commend my good friend Senator DOLE for moving this key part of the economic recovery program ahead so quickly. It is my hope that this bill can be sent to the President's desk before Congress recesses in August. The economy demands that we give it our highest priority.

EXHIBIT 1

DEAR SENATOR PERCY: We are writing in regard to the President's economic package. Several features of the proposal will affect us adversely.

Since we pay very little in federal taxes, our tax reduction will be negligible. The wealthy, however, will receive substantial reductions.

We do pay substantial amounts into the Social Security fund, yet no reductions are planned in Social Security taxes.

Our oldest child will enter college next fall. (Two others will follow in the next three years.) We had looked forward to low interest federal college loans to make this dream possible. It appears funding for such loans is to be slashed.

It is also likely that Illinois will lose certain "pork-barrel" funding—another blow to us.

None-the-less, we ask you to wholeheartedly support the President's program.

Yes, our taxes will be reduced little, but how else can they be reduced since we pay in little? Certainly the wealthy will receive bigger reductions, but they will be able to invest a larger proportion of the tax-cut than the not-so-wealthy.

Social Security payments are not being cut, but continue to increase. Since the program will soon be unable to make payments (according to a study placed on President Carter's desk a few weeks before the elec-

tion) this is no time to hasten the bankruptcy of that fund. Rather, support whatever structural revisions will strengthen it.

College aid and pork-barrel benefits are great, but neither are free. A substantial reduction in the rate of inflation will enable us as individuals and as citizens of Illinois to finance such programs ourselves. We believe the President's program is a beginning in the battle against inflation.

Again, we urge you to support it.

Sincerely,

Mr. and Mrs. RONALD P. ZAHN.

EXHIBIT 2

DEAR SENATOR PERCY: Again as I approach the end of a month, it is necessary for me to go to the bank again and take out some money from my savings in order to help pay some of my bills for this month—not all, just some. Others I shall stall until the next check.

This same procedure has gone on for many, many months. I am speaking now of ordinary living expenses—no luxuries, no liquor, no tobacco, no clubs, no restaurants, no vacation trips, no movies, no sports, no entertainment. It sounds very dull but it happens to be a fact of the American working man's life.

The lives of many families have been disturbed by the necessity of the wife and mother going to work to help make ends meet. We are unable to do this in our family—we must live on my income only.

I am approaching 60 years of age and after working for over 35 years, I have very little savings. All we have to look forward to is Social Security and Medicare. I can't go out and get a second job; I work hard enough on my regular job. I'm having trouble keeping up with my job now at my age. I don't know where the working man can go from here.

Help can only come from being able to keep more of the money we earn. We don't want any government "hand-outs" or new programs. Just let us keep the money we earn.

I have a simple and direct solution. I wish to offer you a suggestion that would give the working man some immediate relief: for incomes of $25,000 or less, reduce income tax in half, which would give immediate help because the "withholding" would be cut in half and we would feel the improvement with the first check.

Then to help the working man catch up, refund to him one-half of the income tax he paid for the past two years with the stipulation that 50 percent of what was received must be put into a savings account. We will be able to have some money in the bank to fall back on and more money will be available for mortgages and maybe I will once again be able to pay my bills without borrowing.

I know this will cut down the income of the Federal government, but they will have to begin to live within their income just as the average American.

I know we are told time and time and time again that if the people have more money the inflation will get worse—but the people do not have more money and the inflation gets worse and worse and worse.

Lowering the income tax is the only thing that has not been tried. So let's try it. It may be the answer. Let the working man keep more of the money he earns.

A very important point that must be emphasized is that people of my generation need desperately to be able to catch up.

There must be some relief for the working people of America, the working middle class that makes America different from all other countries—that middle class is being destroyed by inflation.

I felt compelled to write to you because you and your colleagues in Congress are our only hope.

Month by month we are going deeper in debt or just plain broke.

Much has been said by Members of Congress since the President's State of the Union Address that is very discouraging. Some of them don't seem to realize that it is very difficult to get along on the $20,000 that is the national average income.

We need your help, we turn to you for help now.

(Name withheld by request.)

● Mr. HOLLINGS. Mr. President, I know that during the past couple of weeks Members of this body and Members of the U.S. House of Representatives have argued in earnest for tax cuts. Unfortunately, most of the tax cut has been debated by tweedle-dee and tweedle-dum.

President Reagan and his "supply-siders" have sought a deficit-financed tax cut which will produce deficits of $60 billion in each of the next 3 years. The House Democrats and several in this body want to only skew the individual portion of that tax cut so more dollars go into the pockets of families in the $15,000-to-$50,000 income range. But in the end, will we be any better off under either of these plans? I doubt it.

We started on the right course. We said we needed fiscal discipline, accountability and responsibility and we found some $37 billion in spending cuts. Some of us may have disagreed on specifics but by and large, Democrat and Republican alike, we agreed that we should control Federal spending in order to get a better handle on the Federal budget. So, though the first step was difficult, we did it.

With regard to tax cuts we also started on the right course. We talked of tax cuts that would spur productivity, investment and savings and the President promised us that such a program could lead to a balanced budget by 1984. Well, that is where we have detoured from the course. We do not have a tax package limited to the needs of the economy. We are not only attempting to spur productivity, investment and savings; we are trying to gear up for the 1982 elections. Every politician loves tax cuts. Taxpayers vote. Politicians are reelected. It is easy and it is cozy. But it is not responsible.

Instead of arguing about who gets what, we should be asking why, how much, will it help the economy and will it get us to a balanced budget by 1984. Despite the day's political rhetoric there is nothing new about tax cuts. Since 1964, whether it was done for election day favor or done in the name of "Keynesian economics," income taxes were cut eight times—increasing the Federal debt and adding to the very economic ills we seek to cure today.

Sooner or later we will have to face up to the fact of what we accomplished in 1981. Some people are already pointing up the facts. In an editorial piece for the San Diego Union, June 14, 1981, James Cary of Copley News Service was right on target:

Both the Reagan—that is, Republican—proposal and the Democratic alternative, to be provided by the House Ways and Means Committee, have much more in common than in dispute.

Mr. President, I ask that Mr. Cary's article entitled "The Tax Cut Question: Where Will Economic Gorilla Sleep?" be printed in the RECORD.

The article follows:

THE TAX CUT QUESTION: WHERE WILL ECONOMIC GORILLA SLEEP?

(By James Cary)

WASHINGTON.—The great gathering storm on Capitol Hill over President Reagan's tax cut plan may appear a little strange to future historians of American politics.

Both the Reagan—that is, Republican—proposal and the Democratic alternative, to be provided by the House Ways and Means Committee, have much more in common than in dispute.

Both call for major tax cuts for individuals, for faster depreciation allowances to spur business investment, modification of the so-called marriage penalty and larger exemptions for gift and estate taxes.

Their major differences are in size, distribution and duration of the cuts. Neither side has had the audacity to suggest perhaps there should not be any tax cut at all, a proposal that would open a real philosophical debate on the merits of the issue, providing voters with a clear choice.

Mr. Reagan is calling for a 25 percent reduction in individual income tax rates, beginning with a 5 percent cut this Oct. 1 and additional 10 percent cuts on July 1, 1982, and July 1, 1983. The Democrats are proposing a 15 percent reduction—5 percent this year and 10 percent next.

On the business side, there is still some Republican shifting around on the final increase in depreciation allowances to be proposed, but both parties presumably will come up with plans close to the so-called 10–5–3 formula of writing of real estate investment over 10 years, plant equipment in five and transportation in three.

The Democrats see the essential difference between the two tax cut concepts as being the two-year versus the three-year duration of the income tax reduction and in their efforts to provide more tax savings for lower and middle income families, particularly those in the $20,000 to $50,000 annual income bracket.

But to President Reagan and the supply-side tax planners who have helped shape his program, the critical difference is the failure of the Democrats to cut deeply enough over a long enough period of time and to reduce individual tax rates across the board.

The philosophy behind this is that the Reagan plan will provide sufficient additional income in the higher brackets to free large amounts of capital for investment to renew the American industrial plant, money they say is now being siphoned off into tax shelters.

An even more critical difference, perhaps, is what the Reagan plan will cost the Treasury in decreased revenue at a time when the budget is out of balance, has no certain prospects of returning to balance, and inflation is still strong although recent statistics indicate it could be abating somewhat.

The Reagan proposals will take an estimated $37.4 billion from the Treasury in 1982, another $92.1 billion in 1983 and $144.5 billion in 1984. Of this total $224.8 billion would be from the reduction in individual taxes and perhaps $49.2 billion from business depreciation reductions. However, the business revenue loss could go up about $4.5

billion under one version of the Reagan proposals, bringing the total revenue loss to about $278.5 billion.

Assuming both the Democrats and Republicans end up with nearly identical business depreciation plans, the main difference would be the $144.5 billion cut in personal taxes in fiscal 1984, a sizable amount, to be sure, but one that still leaves both parties heavily committed to the stimulative side of budget policy at a time when a reasonable argument could be made it might be much more responsible not to cut taxes at all, at least until the nation is certain where the economy is headed.

In one sense, the U.S. economy is like an 800-pound gorilla. It can sleep anyplace it wants to. In other words, it does as it pleases, pushed and molded by forces much more powerful than any the Republicans or Democrats could apply through tax policy.

Given their track record of recent years, it is also reasonable to question whether any economists can accurately forecast what the economy is going to do. Rather than devise policies to shape it, it might be prudent to let the gorilla tell us first by its actions where it is going to sleep, and then policies could be tailored to that situation.

The uncertainties embedded in the tax cut plans of both parties go much further than this. Very ltitle study has been given to the potentially inflationary effects of the massive outlays for defense now planned.

They are scheduled to expand from $158.6 billion annually to $336 billion over the next five years. That is an annual surge of 11.1 percent a year between fiscal 1982 and 1986, even greater than the 10 percent annual increase clocked during the Vietnam war, when the current inflation became rooted in the economy. It comes close to doubling the 6 percent annual defense growth envisioned by former President Jimmy Carter.

There is some evidence that this alone could place considerable strain on production capacity. A House Armed Services Committee report last December even questioned whether the Pentagon could spend the money economically.

If two such potentially inflationary forces are turned loose on the economy simultaneously—the defense build-up and the tax cuts—President Reagan's theory that his tax plan will produce non-inflationary economic growth will have to work well indeed to avoid an inflationary conflagration.

There is some documentation for Mr. Reagan's belief. A Republican staff study released May 1 by the Joint Economic Committee of Congress concluded: "Employment, real output, real wages, real saving, real investment and income velocity are all predicted to rise; nominal interest rates and the rate of price inflation are predicted to fall."

But the White House has already modified the plan twice, both to reduce the size of the deficits it was creating and to gain more conservative votes. The original plan called for a 10 percent, not 5 percent, cut the first year. The business depreciation plan has also been curbed in an attempt to balance the 1984 budget and thus attract more conservative Democrats.

Still, it remains essentially intact, with administration spokesmen repeatedly insisting it must not be dismembered if the major investment and economic benefits are to be realized. The argument is constantly made that similar cuts in the 1920s and again under President John F. Kennedy in the early 1960s did restore non-inflationary growth.

Against such arguments, it can be pointed out that the two periods cited differed considerably from the present, and Walter Heller, who was chairman of Kennedy's Council of Economic Advisers, also disagrees. He calls the Reagan tax cut too soon, too simple and too big.

A significant number of Wall Street analysts, including Henry Kaufman of Solomon Brothers, have expressed similar concern about the size of the cut. And Brookings Institution economists, in their annual study of the budget, have warned that the administration's economic forecasts for inflation and growth depend on a huge increase in the velocity of money—that is, the speed with which a dollar is put back into the economic system—if they are not to conflict with the tight money policy advocated by the President and being pursued by the Federal Reserve Board. If budget policy does collide with monetary policy in this way, interest rates could be sent soaring again.

With such uncertainties, it might be reasonably responsible to ask why there isn't a more sharply defined debate under way—instead of an argument by both major parties from the same side of the fence.●

TECHNICAL AMENDMENTS ON TAX STRADDLES

● Mr. MOYNIHAN. Mr. President, may I simply call attention to two of the technical amendments on straddles and ask the distinguished floor manager a question.

The committee bill contains a fairly broad exemption for hedging transactions. This exemption covers most ordinary uses of the commodity markets by farmers, grain dealers, banks, and other businessmen; however, the exemption does not cover banks when they purchase and sell foreign currency and foreign currency contracts, for example, which are both offsetting and entered into with customers in the normal course of business without a special intention to reduce risk. In the Finance Committee, we stated that the hedging exemption was supposed to cover such transactions.

Also, many U.S. corporations hedge the stock of their foreign subsidiaries and the net worth of the foreign branches which contain a variety of assets. Having property abroad is risky because the property is denominated in foreign currencies; its value changes as the dollar moves up or down against other currencies. The hedging exemption was supposed to cover U.S. taxpayers when they enter into forward exchange contracts to hedge such foreign property without changing the tax nature of such property; that was also our intention in the Finance Committee.

However, we could not figure out a way to phrase the exemption so that such taxpayers could be properly covered before the vote in Committee. When I introduced the committee bill on June 25, I called attention to this. I said there were technical matters that we would deal with on the Senate floor; two of the technical amendments were addressed to this problem.

One amendment would change the way the term "hedging transaction" is defined. Under the bill now, a hedging transaction is a transaction that meets three substantive tests. It must have been entered into in the ordinary course of the taxpayer's trade or business. It must have been done primarily to reduce price risk. And it must yield ordinary income.

The amendment introduces a special rule for banks. Banks would have to meet only two of the three tests. Their transactions are hedges if the transactions are entered into in the ordinary course of business and they yield ordinary income. There need be no showing that a bank's primary purpose was to reduce price risk.

Another amendment is related to this. Under the bill now, no property that is at any time part of a hedging transaction can later produce capital or loss. The amendment would change this to read no personal property that is at any time part of a hedging transaction can produce capital gain or loss.

The aim here is to allow corporations to hedge the foreign exchange risk associated with owning section 1248 stock and section 1321(b) assets, without changing the capital gains treatment of that stock or those assets in later years.

This leads to my question for the distinguished chairman of the Finance Committee. May I say to the chairman it is my understanding that section 1248 stock and section 1231(b) assets are not personal property, as we use that term.

Section 1248 stock is not personal property because personal property is defined by the committee bill specifically to exclude stock.

Section 1231(b) assets owned abroad are not personal property because the committee bill defines personal property as "personal property which is actively traded." the words "actively traded" are the key. Even though there is a market for leases in real estate, in our view, that market does not make real estate leases actively traded. Nor are mimeograph machines, desks and the other contents of office buildings actively traded.

Therefore, if a bank enters into forward contracts to hedge against the foreign exchange risk associated with such assets, the forward contracts would be covered by the hedging exemption, and any assets against which the bank is hedging would not be converted from capital assets into ordinary income property.

This is my understanding of what we are doing. May I ask the chairman: Is it his understanding also?

Mr. DOLE. The distinguished Senator from New York is correct in his understanding.

Mr. MOYNIHAN. I would ask the Senator from Kansas to clarify the intent of the committee with respect to the operation of the Secretary's authority to allocate unidentified offsetting positions for purposes of the loss deferral, holding period and capitalization of interest rules. Am I correct in my understanding that the Secretary will have the authority to allocate a single commodities position to as many as three separate positions to defer a loss, terminate holding period and require capitalization of interest?

Mr. DOLE. The Senator is entirely correct in his analysis of the operation of this bill. Of course, with respect to such three positions offset, the holding period terminated loss deferred, and interest capitalized will relate only to a single position.

Mr. MOYNIHAN. I would ask the distinguished chairman of the Finance Committee to clarify the intent of the committee with respect to the treatment of regulated futures contracts that offset a commodities position that is not

marked to market. Is my understanding correct that a regulated futures contract that offsets another commodities position that is not marked to market may terminate the holding period of such position and may require capitalization of interest and carrying charges on such position (or another position), but may not defer losses recognized on an offsetting position?

Mr. DOLE. The Senator is, of course, correct. I might note, however, that the result he describes will arise only if the mixed straddle he describes is not identified. If identified, the gain on the regulated futures contract may defer loss on the offsetting leg.

Mr. MOYNIHAN. I would like to ask the chairman of the Finance Committee to clarify the intent of the committee concerning one aspect of the loss deferral rules. Section 1092(b) of the bill provides that rules similar to those of section 1233 (b) and (d) are to be promulgated by regulation. Am I correct in my understanding that the rules of paralleling section 1233(b) will be applied to provide that a position in commodities that is not marked to market will terminate the holding period of any other offsetting position that has not been held for more than 12 months?

Mr. DOLE. The distinguished Senator from New York is indeed correct in his application of the provisions of section 1092(b). Of course, such principle is only to be implemented by the regulations which the Secretary is required to promulgate.●

LESSEE IS OWNER OF INTANGIBLE ASSET AND THE CONSEQUENCES IF HE DISPOSES OF THAT INTEREST TO SATISFY DEBT OR OTHERWISE

● Mr. DANFORTH. We are dealing with revisions of the leasing rules that would be contained in new section 168(f)(8), and further dealing with some technical amendments to that provision. It is my understanding that the statute would provide that the characterization by the parties to the agreement of one of them as the lessor-owner and the other as the lessor-user will control for all Federal income tax purposes.

Even though the lessee has legal title, the lessor is for Federal income tax purposes treated as the owner. Let us assume a sale and leaseback transaction where the lessee acquires the property, makes a nominal sale to the lessor but for State law purposes retains title, and then leases the property back from the lessor. What is the tax result if the lessee, who has title, sells the property? Suppose the lessee has financed the property with a bank and the bank forecloses.

Mr. DOLE. The Senator is correct. The lessor will for all Federal tax purposes be the owner even though the lessee has legal title for State law purposes. The lessee is just that—a lessee with a right to use the property for the term of the lease. If the lessee sells the property, in a mortgage foreclosure or otherwise, for Federal income tax purposes he has merely transferred an intangible asset which is his interest in the lease. The lessee would realize a gain in the amount by which the selling price or foreclosure price exceeds his tax basis in the lease.

The purchaser—the bank, for example—would have acquired an intangible asset for which no investment credit is allowed and which is not depreciable. The purchaser can, however, amortize his cost over the remaining term of the lease. The regular tax rules related to the purchase and sale of contractual or intangible rights apply.

In the transaction we just described there would be no tax effect on the lessor-owner. He has not transferred anything. If the lessor did transfer his interest under the agreement, then since he is for tax purposes treated as the owner, the regular tax consequences of transfer of ownership such as potential recapture of depreciation and the investment tax credit would apply.

HOW THE OFFSET RULE WORKS

Mr. DANFORTH. We are now adding a new section 168(f)(8)(G) to the leasing rules which relates to contingent payments and offset agreements. It is my understanding, for example, that in a typical sale and leaseback, the lessee-user could receive a down payment of cash. Thereafter the schedule of principal and interest payments to be made by the lessor-owner in any year could exactly match the schedule of rental payments the lessee-user would make to him—so it is a wash. The offset rule would eliminate the necessity of the parties actually going through the process of making the offsetting payments and all the tax consequences of basis, income, and deductions would be the same.

Mr. DOLE. That is correct. Current case law and Internal Revenue Service rulings are unclear whether a taxpayer, who acquires property under an obligation unduly burdened with contingencies, has created a basis for the full purchase price of the property. The addition of section 168(G) to the safe harbor leasing rules is intended to permit a lessor who acquires leased property to have a basis equal to the purchase price of the property even though the "agreement" required under section 168(f)(8) permits contingent payments or offsets, for example, the lessor can elect to offset its obligation to pay for the property by the scheduled rental payments due from the lessee. Also, section 168(f)(8)(C)(vi) was added to remove any doubt that an agreement which contains a provision for contingent payments or offsets qualifies for treatment as a lease under the section 168 safe harbor rules.

Section 168(G) sets forth the effects on taxable income for both the lessor and lessee in the event an offset provision becomes operative. Under that subsection, the lessor will be required to include in income the rental income scheduled to be received from the lessee and may deduct the interest scheduled to be paid to the lessee and the depreciation deductions in the same amounts and over the same number of years as agreed to by the lessee and lessor prior to the offset. The lessee may deduct its scheduled rental payments to the lessor and must include in income the "deemed" interest income from the lessor.

The purpose of this amendment is to provide a means whereby the lessor will receive all the depreciation deductions and investment tax credits it bargained for. Therefore, even though the lessee may be unable to meet its obligations, the lessor can be assured of realizing its tax benefits and thereby "neutralizing" credit worthiness as a consideration for using the safe harbor-leasing rules. This permits companies which are in a weak financial condition to participate in the leasing rules on an equal basis.

Mr. DANFORTH. It is my understanding that the amendments make it clear that the policy of facilitating use of the investment tax credit through leasing pursuant to the safe harbor rules applies equally to so-called credit pass-through leases. In these instances, property is leased to a lessee who then subleases the property back for the same term to the original lessor or an affilitate. The credit is passed pursuant to a section 48(d) election to the lessee-sublessor, who would be treated as the lessee for purposes of the Code. The original lessor or an affiliate obtains the benefit through the relative rentals under the lease and sublease.

Mr. DOLE. The understanding of the Senator is correct.●

INTEREST ON INSURANCE COMPANY DEPOSITS

● Mr. BENTSEN. Mr. President, last year when, as part of the Windfall Profit Tax Act, we enacted an exclusion from income for $200 of interest—$400 for taxpayers filing joint returns—we provided that interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public, other than those specifically enumerated in the statute, could, by regulation, also be excluded from income. At the time, I confirmed with the then-chairman of the Finance Committee on the floor of the Senate that one type of interest that could be excluded from income under Treasury regulations under this provision was the interest earned on amounts held by an insurance company under an agreement to pay interest on the amounts held.

In the present bill, we exclude from incomes starting in 1984, 15 percent of net interest received on savings, up to a ceiling of $450—$900 for taxpayers filing a joint return. This new provision, like the provision for the exclusion of $200 of interest last year, provides that interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public could, by regulation, also be eligible for the 15-percent exclusion.

I wish to reconfirm the understanding with respect to the new 15-percent exclusion that one type of interest that could be included in Treasury regulations is the interest earned on certain amounts held by an insurance company under an agreement to pay interest on the amounts held.

Mr. DOLE. Yes; that is correct.

Mr. BENTSEN. At the present time, I see no reason why the Treasury would not provide by regulations that the interest earned on certain amounts held by an insurance company under an agreement to pay interest should be eligible

for the new net interest exclusion. Specifically, policyholder dividends to the extent they do not exceed premium paid—and therefore are not taxed when withdrawn—and prepaid insurance premiums left on deposit appear to be quite similar to savings left on deposit with the sort of savings institutions specifically enumerated in the statute. Even life insurance policy proceeds left by a beneficiary with an insurance company under an agreement to pay interest may be sufficiently similar to other savings vehicles to qualify. The interest component of an amount received under an annuity contract, however, is clearly not eligible for the exclusion. Is this view shared by the distinguished Senator from Kansas?

Mr. DOLE. Yes, at the present time. I see no compelling reason why Treasury would not provide by regulations that interest earned on the amounts that you mentioned would qualify for the new net interest exclusion. If the Treasury and IRS agree that these interest payments are similar to interest paid on amounts left on deposit with savings institutions, I would expect regulations to so provide. The final determination, however, will be left up to the Treasury.

Mr. BENTSEN. Interest earned on policyholder dividends in excess of premiums paid and left on deposit with an insurance company may present different considerations, however. I believe it is appropriate therefore, in promulgating regulations, for Treasury to examine the question of excluding the interest paid on such dividends without our expressing a view as to the correct result.

Mr. DOLE. I agree.●

A CALVIN COOLIDGE TAX BILL

Mr. EAGLETON. Mr. President, as we approach the time of final passage of this tax bill, I think we should step back a moment and reflect on what we are about to do with respect to both the economic and social fabric of this Nation.

First, we should examine what has been done in the Federal budget.

To 3 million social security recipients receiving the $122 minimum payment—some of the oldest and poorest of our Nation—we have said we no longer can afford to provide you this minimum payment.

To 1 million recipients of food stamps—again, some of the oldest and poorest of our Nation—we have said we no longer can afford to provide you food stamps and to 1 million other recipients, we have said we must cut your benefits.

To thousands, maybe millions of people receiving the absolute minimum of medical care under medicaid, we have said we must cut back or altogether eliminate even the most elemental and basic medical care.

To 837,500 college students receiving student loans, we have said you will no longer be eligible for student loans.

To 800,000 poor children in elementary schools, we have said we can no longer provide that extra help necessary to overcome economic or social disadvantages.

To 1,500,000 young people enrolled in the vocational training program, we have said that we do not care if they reach adulthood without a career or any job prospects.

By way of contrast to what we have done in the budget bill, in the tax bill before us, we direct the lion's share of the tax cuts to the rich.

To taxpayers earning $50,000 and more—that is 5 percent of American taxpayers—this bill targets almost two-thirds, 61.5 percent, of the tax cuts. To the taxpayers earning less than $50,000—that is 95 percent of all American taxpayers—this bill targets about one-third, 38.6 percent, of the tax cuts. How is that for good old fundamental equity?

To very wealthy taxpayers with significant "unearned" income—stock dividends and the like—we reduce their maximum tax from 70 percent to 50 percent.

To taxpayers with "capital gains" on the sale of stock, we cut the rate from 28 percent to 20 percent.

The country is now being deluged with television, radio, and newspaper ads extolling the wonders of the administration's tax bill. Is it any surprise that this shameless effort to brainwash the American people is being financed by the very private interests that stand ready to reap the bulk of the benefits?

Perhaps the most unseemly and disgraceful activity of all was the "bidding war" which developed as various groups tried to fashion a coalition. In order to entice this or that House Member, more than $16 billion of tax cuts were directed to the oil industry.

In short, Mr. President, the economic and social policy that we have adopted in this bill is budget cuts for the poor, tax cuts for the rich, a gusher of tax cuts to the oil industry, and high interest rates for everybody. No wonder that President Reagan has restored the portrait of Calvin Coolidge to a place of prominence in the White House. Coolidge and his Secretary of the Treasury, Andrew Mellon, would be very much at home with the Reagan-Kemp-Roth economic and social scheme.

In Coolidge's time, it was called "trickle down." In Reagan's time, it is called "supply side," but there is not a scintilla of difference between them. Both proceed from the same view that when you feed the horses well enough, eventually the sparrows eat better, too.

As the Reagan-Coolidge tax bill before us demonstrates, we have not learned much from history. Let us hope there is a special providence somewhere which will spare us from reliving the consequences.

INTEREST EXCLUSION FOR PASSTHROUGH OF QUALIFIED INTEREST FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

● Mr. SCHMITT. Mr. President, on July 16, during the early days of the consideration of this bill, we adopted amendment No. 228, sponsored by myself and Senator DANFORTH, among others. One of the provisions of that amendment revised new section 128 of the Internal Revenue Code, effective for years beginning after 1983, to permit a 15-percent exclusion for certain types of interest, after subtracting from such interest certain types of interest paid. This provision is intended to encourage savings by permitting the return on certain types of savings to enjoy tax-favored status. While I would have preferred to give such tax-favored status to the return on all sorts of savings and investment, revenue constraints forced us only to favor interest.

Mr. President, it is my understanding that the interest exclusion provisions contained in the amendment list several specific types of interest that would be excluded from gross income. In addition, a provision is included that provides that, to the extent prescribed in Department of Treasury regulations, the exclusion includes interest on other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public. It is my understanding that this provision concerning the other types of interest was included in order that other types of interest on corporate obligations that were not specifically named in the bill will be eligible for the interest exclusion. Can the distinguished manager of the bill confirm whether or not my understanding is correct?

Mr. DOLE. Yes, your understanding is correct.

Mr. SCHMITT. I am informed that regulated investment companies have historically been treated in the Internal Revenue Code as "conduits." No tax is levied upon the company so long as it currently distributes its income to shareholders, and the principal types of income received by the companies retain their character when passed through to the companies' shareholders. Thus, even though the distributions of such income to shareholders are denominated as dividends, net long-term capital gains distributed to shareholders as so-called capital gains dividends are treated as long-term capital gains in the hands of shareholders under code sections 852(b)(3)(B) and (C) and tax-exempt interest is flowed through as tax-exempt interest in the hands of shareholders under code section 852(b)(5).

Similar treatment is available for beneficiaries of a real estate investment trust. It seems clear to me, for purposes of the new 15-percent net interest exclusion, that otherwise qualified interest paid to a regulated investment company or real estate investment trust and passed through to its shareholders or beneficiaries nominally as "dividends" or other type of return should retain its character as interest qualified for the 15-percent exclusion in the hands of the shareholders or beneficiaries. Does the Senator from Kansas agree?

Mr. DOLE. Yes; I do. If the interest is otherwise qualified for the exclusion, and is distinguished from other income passed through, it should remain qualified when passed through to shareholders and beneficiaries.

Mr. SCHMITT. Is it the chairman's understanding, then, that one type of interest that can and should be excluded under Treasury regulations is such interest?

Mr. DOLE. Yes, that is my understanding. Determination, however, will be left up to Treasury.●

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, if the Senator from Kansas would permit me, I have consulted with the minority leader, with the chairman, and with the ranking member of the Finance Committee. It seems clear that there are no other amendments that we can do tonight. So I wish to announce there will be no more votes this evening.

Mr. President, sometime shortly I will ask the Senate to enter an order to convene at 9 o'clock tomorrow morning. I inquire of the distinguished chairman of the committee if he is in a position to suggest a listing and sequence of amendments to be disposed of tomorrow and perhaps an overview of how many amendments remain and when he thinks we might reach the final stages of consideration of this bill on tomorrow?

Mr. DOLE. Mr. President, I would say to the majority leader and others that, as I understand it, the distinguished Senator from Missouri, Senator EAGLETON, would be recognized to call up his amendment, followed by the distinguished Senator from Massachusetts, Senator KENNEDY, to call up an amendment—I am not certain if he identified that amendment—and then the distinguished Senator from Montana, Senator BAUCUS, to call up an amendment on expensing, then the distinguished Senator from Tennessee, Senator SASSER, to call up an amendment following that. So there would be four amendments.

That would leave an amendment by the Senator from Montana, Senator MELCHER, an amendment by the Senator from West Virginia, Senator ROBERT C. BYRD, two amendments by the manager of the bill, one possible amendment by the Senator from Texas, Senator BENTSEN, and four other Kennedy amendments, but I understand they may not be called up tomorrow.

Mr. BAKER. I thank the Senator. Could he tell me the nature of the Baucus amendment to be offered?

Mr. DOLE. The Baucus amendment deals with small business expensing of $25,000.

Mr. BAKER. Mr. President, I am advised by the minority leader that they are agreeable on that side, may I advise the chairman, to a sequence of an Eagleton amendment as the first amendment, a Kennedy amendment from the list of amendments—I might say that the distinguished Senator from Massachusetts (Mr. KENNEDY), indicated to me that there is a possibility that he might offer two amendments, he thought it was only an outside possibility, and there is also an outside possibility he will not offer any. The second amendment would be a Kennedy amendment, the third amendment a Baucus amendment, and the fourth amendment a Sasser amendment and perhaps a Melcher amendment after that.

But I am advised that the minority side is willing to clear on their side the sequence of the four amendments at this time: Eagleton, Kennedy, Baucus, and Sasser. If that is agreeable to the distinguished chairman, I will make that request at this time, Mr. President.

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

The Chair wishes to inform the majority leader and the distinguished Senator from Kansas that the time allotted on the bill to the Senator from Kansas is now exhausted.

Mr. BAKER. Mr. President, how much time remains to the distinguished minority manager of the bill?

The PRESIDING OFFICER. Seventy-four minutes.

Mr. BAKER. Mr. President, I ask unanimous consent that an equal time be allocated to the distinguished manager of the bill.

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

Mr. BAKER. Mr. President, was that request granted?

The PRESIDING OFFICER. That is correct.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 9 A.M.

Mr. BAKER. Mr. President, if the Senator from Kansas would permit me one more moment, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

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

REDUCTION IN LEADERSHIP

Mr. BAKER. Mr. President, this has been discussed with the minority leader.

Mr. President, I ask unanimous consent that on tomorrow the time allocated to the two leaders under the standing order be reduced to 2 minutes each.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, after the two leaders are recognized under the standing order as reduced, I ask unanimous consent that the following Senators be recognized for not to exceed 15 minutes each: the Senator from Oklahoma (Mr. NICKLES); the Senator from Kentucky (Mr. HUDDLESTON); the Senator from Wisconsin (Mr. PROXMIRE); and the Senator from California (Mr. HAYAKAWA).

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

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders just provided for, there be a period for the transaction of routine morning business not to exceed 5 minutes in length in which Senators may speak for not more than 1 minute each for the purpose of statements only.

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

ORDER TO RESUME CONSIDERATION OF TAX MEASURE

Mr. BAKER. Mr. President, I ask unanimous consent that at the expiration of the time for the morning business just provided, the Senate return to the consideration of the pending measure.

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

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, I thank the Senator from Kansas for permitting me to make these arrangements now. May I say to the Senator from Kansas that he, the Senator from Louisiana, the Senator from Virginia, and others, have done an extraordinary job in dealing with more than 100 amendments on this bill. I would hope that the handful of amendments that are yet to be dealt with can finish this bill sometime in the early part of the day on tomorrow.

I yield the floor.

Mr. DOLE. Mr. President, is it the intention of the majority leader that we will start on the bill at 10 o'clock?

Mr. BAKER. Mr. President, I would say to the Senator from Kansas it would be just a few minutes after 10. I have provided that the Senate would convene at 9 a.m.; the time of the two leaders would expire at 9:04; the time for special orders, if fully utilized, would take until 10:04; 5 minutes for morning business would be 10:09, so the latest we could be on this bill would be at 9 minutes after 10 o'clock tomorrow.

It is my estimate that we will be on the bill before that by reason of the failure of Members to use the time allocated under special orders or the lack of the requirement to use the full time.

Mr. DOLE. I thank the majority leader.

Mr. BAKER. Mr. President, there are certain housekeeping details to be attended to.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have a number of matters that are cleared on this side for disposition.

Mr. President, might I first inquire of the minority leader if he would be willing to examine his Executive Calendar for today? I observe that on our calendar we are prepared now to proceed to the consideration of all of the nominations appearing on page 2 beginning with "New Reports" and continuing on page 3, through "Department of Health and Human Services."

Mr. ROBERT C. BYRD. Yes, Mr. President, those nominations are cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations just referred to.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF EDUCATION

Donald J. Senese, of Virginia, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

George A. Conn, of Maryland, to be Commissioner of the Rehabilitation Services Administration.

Anne Graham, of Virginia, to be Assistant Secretary for Legislation and Public Affairs.

Thomas Patrick Melady, of Connecticut, to be Assistant Secretary for Postsecondary Education, Department of Education.

ACTION AGENCY

Thomas L. Lias, of Iowa, to be an Assistant Director of the ACTION Agency.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

William E. Mayer, of California, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration.

DEPARTMENT OF LABOR

William M. Otter, of Kentucky, to be Administrator of the Wage and Hour Division, Department of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Marie P. Tolliver, of Oklahoma, to be Commissioner on Aging.

STATEMENT ON THE CONFIRMATION OF MARIE T. TOLLIVER, OF OKLAHOMA, TO BE COMMISSIONER ON AGING

● Mr. NICKLES. Mr. President, I rise to voice my congratulations to Mrs. Lennie-Marie Tolliver, a fellow Oklahoman, on her appointment to serve as Commissioner on Aging.

Both in terms of educational background and job experience, Lennie-Marie will bring insight and expertise to this position. She has earned her Ph. D. in social work education from a university in Cincinnati, Ohio, and is currently serving as professor, associate director, and graduate program coordinator for the University of Oklahoma School of Social Work.

Chosen for such honors as listings in "Who's Who of American Woman" and "Who's Who in Black America," Lennie-Marie is also widely recognized by her peers as a woman of accomplishment and leadership.

I would like to encourage my colleagues to join with me in expressing our approval and pleasure with President Reagan's choice for Commissioner on Aging. We look forward to working with Lennie-Marie and seeing the results of what happens when a person of compassion, integrity, and expertise confronts the challenge of coordinating information and recommendations on the very sensitive and critical problems that our elderly face.●

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, 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 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.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of other requests to make. I shall try not to detain the Senate very long. I believe each request has been cleared by the distinguished minority leader.

PROPOSED UNANIMOUS-CONSENT REQUEST CONCERNING CERTAIN TREATIES

Mr. BAKER. Mr. President, in respect to certain treaties that are on the calendar, I would like to propound another unanimous-consent request, as in executive session.

As in executive session, I ask unanimous consent that on Thursday, July 30, at 12 noon, the Senate go into executive session to consider five treaties on the Executive Calendar, those being Calendar Orders Nos. 5–9, under the following time agreement:

Twenty minutes total time on all five treaties to be equally divided between the chairman of the Foreign Relations Committee, Senator PERCY, and the ranking member or their designees, and that after the conclusion or yielding back of the 20 minutes of debate time, one rollcall vote occur counting for five rollcall votes on the five resolutions of ratification.

I also ask unanimous consent at this time that the five treaties be considered as having passed through the various parliamentary stages up to and including the presentation of the resolution of ratification.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object.

Mr. BAKER. Mr. President, I understand that perhaps the clearance process on that request has not been completed. I withdraw the request for the time being.

The PRESIDING OFFICER. The request is withdrawn.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 97–15

Mr. BAKER. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Supplementary Extradition Convention with Sweden (Treaty Document No. 97–15), transmitted to the Senate today by the President of the United States, and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and be printed for the use of the Senate; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view of receiving the advice and consent of the Senate to ratification, I transmit herewith the Supplementary Convention on Extradition between the United States of America and Sweden, signed at Washington on May 27, 1981.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the treaty.

The supplementary extradition treaty updates an existing extradition treaty with Sweden of October 24, 1961. It expands the list of extraditable offenses to include: tax evasion, obstruction of justice, offenses relating to the international transfer of funds, and conspiracy to commit extraditable offenses. Upon entry into force it will amend the extradition convention between the United States and Sweden.

This treaty will improve upon our current extradition treaty with Sweden and will thus contribute to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the treaty and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *July 28, 1981.*

REFERRAL OF NOMINATION

Mr. BAKER. Mr. President, as in executive session, I ask unanimous consent that the nomination of John V. Graziano to be Inspector General of the Department of Agriculture be referred to the Committee on Governmental Affairs for not to exceed 20 days.

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

Mr. BAKER. Mr. President, for the moment, I yield the floor.

EL SALVADOR: THE SEARCH FOR PEACE

Mr. PERCY. Mr. President, Assistant Secretary of State for Inter-American Affairs, Thomas O. Enders, recently gave a speech to the World Affairs Council of Washington, D.C., outlining United States policy for El Salvador and giving the rationale for our strong support for an electoral solution to present political instabilities in that country.

Ambassador Enders notes three important points that must be realized if a political solution is to be found:

First, promises—with respect to reform—must be kept.

Second, there must be demonstrable progress in controlling and eliminating violence from all sources, and

Third, all parties that renounce violence should be encouraged to participate in designing new political institutions and in choosing representatives for them.

Mr. President, the Government of El Salvador is presently engaging in the necessary effort to build an electoral framework within which elections will take place. The first test will come in March of 1982 when elections for a constituent assembly are to be held.

Ambassador Enders makes a strong case for continuing United States assistance to the El Salvador Government so that a climate favorable to a political, electoral solution can be sustained.

This is a clear and important statement of our policy toward this troubled area. I ask unanimous consent that Assistant Secretary Enders' speech be printed in the RECORD.

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

EL SALVADOR: THE SEARCH FOR PEACE

This winter one of our neighbors—El Salvador—was the target of a deadly challenge. On Januray 10, insurgent groups that had developed in El Salvador—but had united with Cuban help, had trained many of their people in Cuba, had just obtained infusions of modern arms through Cuba—launched a "final offensive" to overthrow the Salvadoran government.

Timing was critical to the guerrillas. On Januray 9, the insurgents' Radio Liberation boasted from Nicaragua that the offensive to be launched the next day meant that the new president of the United States would come to office too late to stop the guerrilla victory. But an unspoken internal factor was probably more important. In 1980 the new Salvadoran government—after its predecessors had for years ignored pressing socio-economic problems—had started a program of land reform to benefit the poor. The reform addressed key issues that the insurgents had hoped to exploit as their own. Every passing day was demonstrating that the guerrillas' premises—that they were dealing from strength at home and abroad—were wrong.

El Salvador is in area the smallest mainland country of Latin America. It has not quite five million people. But it is our neighbor. When El Salvador appealed for our help to ward off an externally-armed attack, both the Carter and Reagan Administrations responded. The reason is simple: We cannot be indifferent to outside threats to the security of any friendly country so close to our shores.

A vital fact must be recognized: Cuba is manipulating and feeding the violence in El Salvador. Cuba helped Marxist groups to unify, and has been backing them with military training, arms, and propaganda.

This pattern is not unique.

Cuba applied it in Nicaragua, first to help overthrow the government, then to influence the new one.

With variations, Cuba is attempting to repeat this pattern in Guatemala and elsewhere in Central America.

And in South America last February, armed insurgents landed in Colombia in an attempt to undermine one of the hemisphere's most respected democracies. The landing force had just completed three months of combat training in Cuba.

Had the United States not responded to El Salvador's appeal for help, no country in the area could have considered itself safe from Cuban-backed violence.

Today, as in the past, the basic policy of the United States is to try to help resolve the problems of frail government institutions, of poverty, and of underdevelopment that create vulnerabilities to this form of aggression.

But when trained guerrillas with outside backing take up machineguns, mortars and recoilless rifles, no amount of fertilizers, schools or clinics can prevent them from sowing terror or attempting to seize power by force. That is why we responded to the appeals of the Salvadoran government to supplement our economic assistance with military assistance, and that is why we believe we should continue military aid in the small amounts we are providing.

Contrary to the insurgents' expectations, the Salvadorans contained the immediate January offensive on their own. Our assistance since has enabled the Duarte government to prevent the insurgents from turning their continuing outside support to new military advantage. Even more importantly, our assistance gives the Salvadoran people a chance to defend their right to self-determination by developing a political solution to the conflict.

And that is what I would like to talk about today: a political solution. For just as the conflict was Salvadoran in its origins, so its ultimate resolution must be Salvadoran.

For more than 18 months, El Salvador has had a government with a consistent and stable policy, one that emphasizes domestic reform, closer trade and diplomatic relations with neighboring nations, and firm resistance to outside intervention.

El Salvador, however, remains a divided country. It is divided between the insurgents and a great majority that opposes the extreme left's violent methods and foreign ties. It is divided between an equally violent minority on the extreme right that seeks to return El Salvador to the domination of a small elite and a great majority that has welcomed the political and social changes of the past 18 months.

The insurgents are divided within their own coalition—between those who want to prolong their ill-starred guerrilla campaign, and those who are disillusioned by their failure to win the quick military victory their leaders had proclaimed inevitable—between those who despise democracy as an obstacle to their ambitions to seize power, and those who might be willing to engage in democratic elections.

Finally, the vast majority of Salvadorans in the middle are also divided—over whether to emphasize the restoration of the country's economic health or the extension of the country's social reforms—between those who honor the army as one of the country's most stable and coherent institutions, and those who criticize it for failing to prevent right-wing violence—between those who see the need to develop participatory institutions, and those who maintain that there is no alternative to the old personalistic politics.

Only Salvadorans can resolve these divisions. Neither we nor any other foreign country can do so. It is therefore critical that the Salvadoran Government itself is attempting to overcome these divisions by establishing a more democratic system.

We wholeheartedly support this objective. Not out of blind sentiment, not out of a desire to reproduce everywhere a political system that has served Americans so extraordinarily well, and certainly not because we underestimate the difficulties involved.

Rather, we believe that the solution must be democratic because only a genuinely pluralistic approach can enable a profoundly divided society to live with itself without violent convulsions, gradually overcoming its differences.

How can a country beset by so many troubles get from here to there? The first thing to say is that promises must be kept.

One can debate endlessly about El Salvador's land reform—whether the takeover of the big farms might have a high penalty in lost production for export, whether one can really give clear titles to over 200,000 individual peasant workers, and so forth. But the changes that have already taken place are real. The issue is no longer whether land reform is advisable or not. The issue now is how to consolidate and perfect what has been done. Individual titles are a practical necessity if peasants are to know that their new opportunities to work their own way out of subsistence poverty are fully legitimate. There is no other choice if economic and social chaos and an eventual guerrilla victory are to be avoided.

This understood, the compensation promised should also be provided, and on a just and effective basis. This is not only a matter of right, it is a practical necessity. El Salvador is known for the vigor and skill of its modern entrepreneurs, but entrepreneurs will not stay and work in El Salvador or anywhere else if they cannot expect fair treatment.

Titling and compensation would bring important elements of stability to the reform process. In addition, the assurance that existing reforms will be made to work before new economic changes are introduced, and that predictable rules of the game will be developed in consultation with both employers and workers, would go a long way to consolidate moderate forces, frustrate the guerrillas' economic warfare, and help restore El Salvador's economy.

Second, there must be demonstrable progress in controlling and eliminating violence from all sources.

Violence of the left and violence of the right are inextricably linked. Since the failure of the January offensive, the tragic cycle of violence and counter violence has been most evident in Chalatenango and Morazan, the remote areas where guerrilla forces are concentrated, and where most of the violent incidents recently attributed to the far right and to government forces have taken place. Elsewhere, the violence has tended to fall as the level of nation-wide insurgent activity has declined. The investigations into the murders of the four American Catholic women and the two AIFLD experts, though still unfortunately incomplete, have led to detentions.

But more needs to be done.

Cuban and Nicaraguan supplies to the guerrillas must stop. There is no doubt that Cuba was largely behind the arms trafficking that fueled the guerrilla offensive this winter. In April, when Socialist International representative Wischnewski confronted Castro with our evidence of Cuban interference, Castro admitted to him that Cuba had shipped arms to the guerrillas—just as we had said.

After their arms trafficking was exposed, Cuba and Nicaragua reduced the flow in March and early April. Recently, however, an ominous upswing has occurred, not to the volume reached this winter, but to levels that enable the guerrillas to sustain military operations despite their inability to generate fresh support.

The other side of the coin is that more Salvadoran Army leadership is needed, both to fight rightist death squads and to control security force violence. This is a primary objective of our training effort. There must be improvement.

The basic reality, however, is that violence will likely be countered by violence until a rational and legitimate political process is devised to break this vicious circle.

This brings me to my third point, that all parties that renounce violence should be encouraged to participate in the design of new political institutions and the process of choosing representatives for them.

The government of El Salvador has announced that it will hold presidential elections in 1983. Prior to that a Constituent Assembly to be elected in 1982 will develop a new constitution. Four months ago, in March, President Duarte appointed an electoral commission to develop the necessary procedures. Last week, the government officially approved measures recognizing the legal status of registered parties and setting the procedures whereby these parties, and any new parties that come legally into existence, can participate in the election.

The parties already legally registered include two groups associated with the insurgent political front: the National Revolutionary Movement led by Guillermo Ungo, and the Democratic National Union, the electoral vehicle of the traditional Communist party. These parties, and any others that may wish to do so legally, now have before them the opportunity to test their strength against reformist and conservative parties according to the ultimate test of democracy: ballots, not bullets.

Before developing this critical point further, let me note that the value and importance of elections as a means for resolving and overcoming differences should not be underestimated in Central America today.

Costa Rica has been able to resolve its political differences peacefully largely because elections have been held uninterruptedly since 1948—and are scheduled again next February.

Honduras elected a Constituent Assembly in April 1980 and will elect a President and a Legislative Assembly this coming November. The courage of Honduran leaders in standing by their election commitments despite regional turmoil and economic difficulties deserves recognition as an important contribution to the advancement of peaceful political processes in their country and in the region as a whole.

Guatemala this month began a campaign that is to lead to constitutionally-mandated presidential elections next March. All of Guatemala's friends hope the campaign will evolve in a climate free of violence and contribute to the resolution of Guatemala's serious problems.

In all of Central America, only Nicaragua has no elections scheduled in the months ahead. The government has reneged on its promises to the people who overthrew Somoza two years ago, and has said only that elections may be possible sometime in the future—maybe in 1985. What an extraordinary contrast between this clear lack of self-confidence on the part of the new revolutionary rulers of Nicaragua, and the invitation from the embattled Salvadoran revolutionary junta to the political parties of El Salvador to organize for free elections.

As basic expressions of self-determination and national sovereignty, elections involve many delicate questions. They include technical matters (such as steps to ensure an accurate tally), confidence-building measures (such as providing witness of fairness and absence of coercion or intimidation from any source), and a host of fundamental matters such as the design of institutions, security for participants, and assurances that the results will be respected.

But one asks: can a campaign be held in El Salvador? There are some recent indications it can. Two months ago the leading peasant union, the UCS, held a rally of 10,000 people without incident. A month ago, the Christian Democratic Party held a National Congress, with 2,500 delegates many of them women, in attendance. The electoral commission has made it clear it welcomes observers "not only for the day of elections, but also in anticipation of them, observing the entire process."

Nonetheless, before elections could take place, all parties would want to know how campaign security will be assured, and whether extremists might ultimately permit an actual election campaign without violence.

If elections are held, would the results be respected? The government's intentions are clear. El Salvador's new military leaders have made the reform process possible. An army confident that its integrity will be respected, and that elections will be fair, can also be effective in curbing violence from the right as well as from the left. But it is only realistic to recognize that extremists on both left and right still oppose elections, and that an army suspicious that its institutional integrity might not be respected could itself become a destabilizing element. In this regard, we should recognize that El Salvador's leaders will not—and should not—grant the insurgents through negotiations the share of power the rebels have not been able to win on the battlefield. But they should be—and are—willing to compete with the insurgents at the polls.

To develop a serious, reliable electoral process in El Salvador, all non-violent political groups, whatever their relationship to the current government, will have to make their views known to each other and to the Electoral Commission. This will doubtless require careful discussion and quite possibly negotiation among the parties.

Elections are quintessentially matters of internal policy. But there may be ways other nations can assist. If requested by the government of El Salvador—and desired by those involved—other countries might be invited to facilitate such contacts and discussions or negotiations on electoral issues among eligible political parties. The United States is prepared, if asked, to join others in providing good offices to assist the Salvadorans in this task, which could prove critical to the search for a political solution to the conflict.

We have no preconceived formulas. We know that elections have failed in the past. We have no illusions that the task now will be anything but difficult. But we believe that elections open to all who are willing to renounce violence and abide by the procedures of democracy can help end El Salvador's long agony.

I have one more thing to say.

That is that the search for a political solution will not succeed unless the United States sustains its assistance to El Salvador.

This spring, after their offensive revealed their lack of popular support, the Democratic Revolutionary Front thought—we know from their own documents—that negotiations should be used as a delaying tactic while the insurgents attempted to regroup militarily.

Should members of the guerrilla command believe that they can make gains by military means, no participation in elections, no meaningful negotiations, no political solutions are likely to be forthcoming. The point is not that sustained U S assistance might lead to a government military victory. It is that a political solution can only be achieved if the guerrillas realize they cannot win by force of arms.

To ensure a climate in which a political solution can take place, the limited military programs we now have should be sustained. Our economic assistance, already more than three times our military aid, must continue to offset the guerrillas' efforts to prolong the war by sabotaging the economy.

The war is a terrible ordeal for the Salvadoran people. Many thousands of persons have lost their lives. The conflict is deeply rooted in domestic Salvadoran political and socio-economic problems. But by providing arms, training, and direction to this local insurgency and by giving it global propaganda backing, Cuba and other radicals have intensified and widened the conflict, and greatly increased the suffering of the Salvadoran people.

Our concern for El Salvador is not unique. The United States has met challenges like this before. Since World War II, under Democratic and Republican Presidents alike, the United States has used all appropriate instruments—political, economic, and military—to help friends and allies secure their vital interests as well as our own.

Our help for El Salvador is really very small—but it is vital. With it, El Salvador is making progress. The government, the Church, the trade unions, agrarian organizations, professional bodies, and organizations of businessmen are now all increasingly engaged in seeking a peaceful outcome to the conflict. Last March, the guerrillas' use of violence led the Apostolic Administrator to comment that "most of the public has turned its back on them". Elections now offer to those among them who want to end the violence a chance to work for peace.

The culmination of the search for peace is necessarily the responsibility of Salvadorans. But Salvadorans look to us for understanding and assistance. We can help by:

Extending economic and military assistance to counter the disaster visited upon El Salvador by enemies of democracy;

Standing by our friends while they work out a democratic solution; and

Identifying and seizing opportunities to help such a solution actually take shape.

A HIGHER STANDARD OF EXCELLENCE FOR TELEVISION

Mr. PERCY. Mr. President, I recently read a by-line article by Patricia O'Brien, of Knight-Ridder newspapers, in which she comments on the recent paper poll stating that Americans get more satisfaction from watching television than from anything else except their families.

The same day, I read a recent speech given by O. B. Butler, chairman of the board and chief executive officer of the Proctor and Gamble Co., to the Academy of Television Arts and Sciences in which he tells what P. & G. intends to do "to actively seek programs of exceptional artistic quality which are truly inspirational and which challenge the very best in human nature."

In the support that the Federal, executive, and legislative branches of government offer to public broadcasting, we are doing our share to help establish a yardstick for a higher standard of excellence. Organizations like P. & G., now the Nation's largest user of television, are helping to establish a higher level of quality for commercial television.

Mr. President, I ask unanimous consent that copies of the two aforemen-

tioned pieces be printed in the RECORD at this point.

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

HAS TV TURNED US INTO A NATION OF BYSTANDERS?

(By Patricia O'Brien)

It's time to acknowledge something depressing about the millions of television screens mesmerizing us every night: As a nation, we are really hooked.

According to a recent Roper poll, Americans get more satisfaction from watching television than from anything else except their families.

That finding is worth a moment of silence, if only we could bring ourselves to turn down the volume and think about it.

The Roper people listed 15 of the everyday pleasures of life and asked a scientific sample of 2,000 adults to rank them according to what gives them the most personal satisfaction or enjoyment day in and day out. The choices included many of the things that add a little spice and flavor to life.

In order, after family and television, Americans said they enjoyed spending time with friends, listening to music, reading, their homes, their work, radio, socializing, good food, hobbies, their cars, exercise, following sports and their clothes.

The choices were offered to appeal to as many people as possible. Nothing, it seems, is quite as much fun as settling in for an evening with "The Dukes of Hazzard" or Merv Griffin.

"It isn't surprising," said Shirley Wilkins of the Roper Organization. "Just remember that the median amount of time American adults spend watching TV is two hours and 55 minutes a day—at least that's what they admit to."

Perhaps that makes it reasonable, but it doesn't make it less depressing. We apparently prefer, say, the jokes of Johnny Carson to the splendor of Mozart, or to hoisting a few beers with friends, or to taking in a good football game.

Some of the reasons for TV fixation are easy to understand. More of us are living alone, and television has a powerful appeal for lonely people. Also, we move around a lot, and our ties to friends may be looser than our ties to the television set.

It is hard to accept the image of a nation of men and women looking to television for its primary comfort and diversion. It colors us so gray.

If this attachment were primarily an escape from the gloomy realities of the economy, it would make some sense. After all, our parents and grandparents buried themselves in the glamorous world of movies during the Depression years. They needed a taste of fantasy and something to make them laugh.

We are different. We aren't headed off for the Bijou Theater once or twice a week to forget our troubles. We are shortcutting our need for new experiences and fresh ideas and dreams by sitting for hours in front of an electronic box that churns out mush: pre-digested points of view, sound tracks to cue our laughter, and endless violence to give us thrills.

Maybe the problems of the world and our lives have gotten so dreary, we prefer being bystanders. Maybe all our traditional get-up-and-go is played out. Maybe television has become the equivalent of curling up in a blanket and sucking one's thumb.

"What compels you (Americans) to stare, night after night, at all the glittering hokum that has been deliberately put together for you?" a puzzled author, J. B. Priestley, once asked.

That was in 1947. He should see us now.

TELEVISION CAN SHOW AND TELL BUT CAN IT LISTEN?

STATEMENT FROM O. B. BUTLER, CHAIRMAN, THE PROCTER AND GAMBLE COMPANY

Officers, members and friends of the Academy, and guests—good afternoon.

The opportunity which I have today fulfills a fantasy which I believe I share with every American beyond the age of six or seven. Every one of us has at some time or another tried to talk back to the television screen and have been frustrated because we knew it wasn't listening. For the first time, I'm going to have a chance to truly talk to all of you creative people who conceive, bring to life, and broadcast the thousands and thousands of hours of programing that appear every year. The challenge which you face staggers the imagination of a layman. The demands of television could in a single year easily consume all of the great literature created in the five centuries preceding this one. Given the size and insatiability of the appetite, probably the single most remarkable thing about the material available on commercial television is that so much of it is so very good.

If television were nothing more than an occasional entertainment medium, if it were nothing more than a carrier of commercial messages, I would not be here today or, if I were, the subject of my discussion would certainly be different. The fact is, as all of you know, that television not only entertains and informs, but, in the process of entertaining and informing, it plays a major role in shaping the future of our society. Generations of Americans not only learned to read from McGuffey's Readers, but they also learned that thrift, honesty, and hard work were virtues and that extravagance, cheating, and laziness were vices. Generations of Americans are being taught far more powerfully about virtues and vices, about morality, about society and individual responsibility by the things they watch on television, the things which you create and produce. There is a large, serious and increasingly vocal segment of our population who believe that much of what you are teaching is destructive, that it tears at the character which enabled this country to become what it has become, and there are many, including myself, who believe that what this country has become, with all its faults, is the finest society yet built by mankind.

My purpose in being here today is to try to help you understand how I as an individual, Procter & Gamble as a company, and Procter & Gamble as an advertiser view this phenomenon—that is, how we feel about censorship, how we feel about boycotts, and how we feel about the Coalition for Better Television and its member groups.

The Coalition, as you know, has been monitoring television programs to establish ratings based on the incidence of sex, violence, and profanity, and for overall constructive value. One of the highly publicized and controversial aspects of their plan is their intent to organize a boycott of sponsors whose commercials appear on the most offensive shows.

I am sorry they chose that particular method. In the long run, I think the problem which they, and we, believe exists must be solved by mutual understanding and not by confrontation. On the other hand, the Coalition may well believe that this was the only way they could ever get very many people to listen.

The threat of boycott in and of itself cannot become the basis for our selection of programming. My first experience with the threat of a boycott came in the Spring of 1952, and it was pretty emotional. I had just returned from a year in Korea, having, with my wife's support, voluntarily left her and two very young children, as well as a career, to go off to Southeast Asia and physically oppose the attempt to expand Communism by force of arms. I wasn't in a mood to take lessons on patriotism from anybody, and I didn't have much sympathy with one of my biggest customers who told me he was going to boycott our products because we had, in his words, "dirty little Communist writers and actors crawling all over our television shows." I told him politely what he could do with his business, and I took great pride in our Company's refusal to bow to the threatened boycotts.

My next experience with a boycott is more relevant to the current issue, and it was a beauty. In March, 1977, I returned to the office from a trip and found a letter from the Vice President-Advertising advising me that we had bought first-run television rights to a film called Jesus of Nazareth and that he, incidentally, had left the country on a business trip. It was only later that day that I learned that the previous sponsor had withdrawn from the show after receiving over 13,000 complaints and threats from people who had never seen the show, but were reacting to rumors about the program's content. The complaints were at that time continuing to arrive at the rate of about 1,000 a day, and when the news broke that we had picked up sponsorship, the threats were directed at us. In the next ten days, we received threats of boycott, threats of picketing stores which carried our products, and even threats from a bank officer that he would encourage shareholders to sell our stock. We received more complaints in those ten days preceding the airing of that TV show than we had received on all our television programs during the entire preceding year.

We take these kinds of complaints very seriously and we listen very carefully. Our media people had, of course, seen advance tapes of the film before agreeing to take full sponsorship. Nevertheless, we had the tape transmitted to Cincinnati and I, along with a number of other officers, viewed the film. We made arrangements for responsible leaders from the Protestant, Catholic, Jewish, and Moslem religions to preview the film. We and they concluded that it was high quality programming. It fit very well with our standards of good taste. We determined therefore that we could not withdraw sponsorship, regardless of the threats and regardless of whether the threats might in fact be carried out.

This conclusion grows out of a simple conviction, and it applies to both of the examples I cited. We must be responsible for the programming which we support through our sponsorship, and we must be responsible for the environment in which our commercials appear. We cannot abdicate that responsibility by turning it over to any group, no matter how highly motivated they may be.

I have just told you what we haven't done and what we won't do, but if I were to stop here, I would leave you with a very false impression of both our attitude and our behavior, because while we stand very firm in the conviction that we must not let our programming decisions be made by threats of boycott, we have simultaneously made an intense effort to listen very carefully to what the vocal critics, as well as the general public have to say about the kind of television programs we sponsor.

Going back to the Jesus of Nazareth example, we did go ahead with sponsorship, but we also previewed the film for a group

of our employees who would answer telephone calls and letters. We developed a list of clergy from a variety of denominations who had previewed the film and who volunteered to take calls from members of their denominations if we referred them. In other words, we listened to the critics carefully, we took their concerns seriously, and we went to great pains to explain why we had made the decision we did. This is completely in keeping with our day-in and day-out approach to the public, virtually every one of whom is a consumer of one or more of our products. We like to listen; we think it is good business. We think it is such good business that we not only print our name and address on virtually every package of our products, but we have recently added a toll-free telephone number to encourage consumers to tell us about their questions or their complaints.

Beyond these voluntary contacts, we make hundreds of thousands of calls every year on our own initiative to find out what consumers think about our products and our advertising. We get Nielsen shares for our products just as the networks get Nielsen shares for your products, but we don't think that is enough. Nielsen shares, at best, only tell us what the public did; they don't tell us why, they don't tell us how they felt about their decision, and they don't tell us much about what they are likely to do next.

Don't you agree that it might be equally valuable for your industry to look beyond the Nielsens, and to conduct regular and thorough research into the question of what the public really wants in television programming? I suspect that you will find, as we have, that careful and thoughtful listening, particularly to your critics, can be a valuable marketing asset. Complaints and criticism, if looked on as a productive force can help improve current programs, and identify new opportunities which will assist your industry during the development of cable, pay cable, and other new media. Listening to critics isn't going to diminish anyone's First Amendment freedoms. It should stimulate, rather than stifle, creativity.

And this brings me to what is presently the most vocal critic of television programming—the Coalition for Better Television—which includes Reverend Wildmon's National Federation for Decency, Reverend Falwell's Moral Majority, and nearly 400 other groups.

Technically, we don't agree with the research techniques which the Coalition uses for the rating of programs and for the rating of advertisers. We think the system is capable of producing some wrong answers. We cannot agree with a rating system which treats all incidents of sex and violence the same, whether they are essential to an important story, such as the violence in "Holocaust" or "Roots," or whether they are purely gratuitous "jiggle" and unnecessarily bloodthirsty violence. I believe deeply that the context and the treatment of the material must be considered in reaching a judgment as to whether or not a program is suitable.

Despite this concern about the technique, we think the Coalition is expressing some very important and broadly held views about gratuitous sex, violence, and profanity. I can assure you that we are listening very carefully to what they say, and I urge you do the same. I can't help wondering how many of you have personally listened to Reverend Wildmon or Reverend Falwell. Certainly they and their constituents have spent a lot of hours watching and listening to what you produce wouldn't you be better served by listening first-hand to what they are saying instead of reacting to a second or third-hand, and probably false, understanding of these people and their message?

For example, while we don't agree with their method of establishing ratings, the fact is that their list of the top ten sex-oriented programs includes seven programs which we had previously decided either to avoid entirely, or schedule only rarely, because of the difficulty of finding episodes which are consistent with our guidelines governing excessive and gratuitous sex. We review every program on which we schedule advertising, and even beyond the Coalition's list, we find it necessary to withdraw sponsorships periodically because of offensive program content. You may be interested to know that during this television year, we have withdrawn sponsorship from over 50 programs, including movies, for reasons of taste. In short, the Coalition is not alone in their concern.

This is not to say that we won't tackle controversial programs. We have been proud sponsors of White Shadow, which has dealt with any number of difficult and controversial subjects. Last year, we were taken severely to task by the National Federation for Decency under a headline entitled "CBS, P&G promotion sex between teacher and student." We are perfectly willing to defend our sponsorship of that program and even that episode, and we have done so. What we can't defend is the pre-show publicity which included ads placed without our knowledge and featuring the headline "Teacher Seduces Student."

The fact is that much of the problem which television now faces may grow out of the kind of promotional materials cited in a recent Federation newsletter. For example:

For: Quincy—"Politics and sweet seduction"; One Day at a Time—"What's a little love between business partners"; Women Who Rate a 10—"Sexy super ladies who stack up"; Lobo—"Blackmail in a sex clinic"; and White Shadow—"His girlfriend is young, pretty and pregnant".

Those aren't Reverend Wildmon's headlines . . . those are yours.

With headlines like these, is it any wonder that the industry is being accused of exploiting sex? Is it any wonder that a large body of our population who continue to adhere to what many of you may think of as an old-fashioned morality are offended and are determined to fight back?

You can, of course, choose to ignore or to ridicule the Coalition and its leaders, but you do so, in my opinion, at your peril. While the Coalition itself claims to represent more than five million members, there are other critics just as concerned if not currently as vocal. The National PTA, for example, Morality in Media, National Coalition on TV Violence, are but a few. Beyond these organized groups, columnists like Patrick Buchanan, George Will, and William Safire have echoed the Coalition's concern about television programming, even though they may not agree completely with its tactics. The newspaper editorials we've seen which address television programming generally support the view we share with the Coalition that too much of it is exploitive. A broadly based independent study conducted last year indicated that 64 percent of the viewers agreed with the statement that "there is too much sex on television," and 70 percent agreed "there is too much violence on television."

The public cares. Commercial television is too powerful a force in shaping the character of our society to be ignored. In this country the public, one way or another, does get its way.

I know what Procter & Gamble is going to do about it. For sound commercial reasons, we are not going to let our advertising messages appear in an environment which we think many of our potential customers will find distasteful. Beyond that, we are going to be guided by our conscience on the kind of material we sponsor. A corporation is not without personality and character and conscience. A corporation like ours has a character which is the sum of all the tens of thousands of people who have made up that corporation for more than 140 years, and our definition of the kind of media which we would support with our advertising has always involved some moral considerations.

It is completely within our character not only to screen out problem programs, but also to actively seek programs of exceptional artistic quality, which are truly inspirational and which challenge the very best in human nature. We've done this in the past, investing in such programs as the Corn Is Green with Katharine Hepburn, two Christopher Award winning shows: Son Rise: A Miracle of Love and Private Battle, and most recently, the four-hour drama: Peter and Paul. We will continue to invest in that kind of programming in the future.

Procter & Gamble has no desire to be a censor. We believe in the First Amendment. But we don't believe that means we can disregard our responsibility for the programming which we sponsor. We will not have our programming dictated by threats of boycott, but we will surely listen to those who have strong views about our programming whether they threaten boycott or not. And we stand ready to be persuaded if our standards are in fact too strict or too loose. My hope is that you will listen, too, and that you have or will devise standards in which you believe and which you can defend. We may have the best society that mankind has created, but we certainly don't yet have the best society of which mankind is capable. Certainly some part of everything we do ought to be pointed at that objective.

COMMENDATION OF SENATOR HATFIELD ON OPENING STATEMENT IN SUPPLEMENTAL APPROPRIATIONS

Mr. CRANSTON. Mr. President, some days ago, at the outset of Senate consideration of the Supplemental Appropriations and Rescissions Act of 1981 (H.R. 3512), a remarkably fine opening statement was made by the distinguished chairman of the Appropriations Committee, the senior Senator from Oregon (Mr. HATFIELD).

I commend it to any of my colleagues who may have missed it.

With his usual eloquence and skill, and with no small measure of political courage, Senator HATFIELD has urged that we scrutinize with the utmost care and thought the huge military buildup planned by this administration. He has called attention to the potentially damaging effect the large increases in defense expenditures may have on our efforts to control inflation (particularly in the light of the proposed Kemp-Roth tax cuts) and to reindustrialize our economy.

Our colleague from Oregon reminded us that the seeds of our present inflation were planted during the buildup for the Vietnam war, when our tax policy did not produce sufficient revenue to pay for our spending.

Now President Reagan insists on repeating that mistake.

The chairman of the Senate Appropriations Committee has served notice that he will apply the same careful scrutiny to future defense spending requests as his committee now applies to domestic expenditures. Coming as it does from across the aisle, those words are welcome indeed.

I commend the Senator for his words, for his sound judgment, for his courage,

and for his conscientiousness which assures us that his commitment will be kept.

SHRINERS' BURN PREVENTION CAMPAIGN

Mr. HAYAKAWA. Mr. President, about 1 million children suffer serious burns in the United States every year. The Ancient Arabic Order of the Nobles of the Mystic Shrine of North America, the Shriners, are spreading the word that prevention is the best treatment for burns.

The Shriners have organized a national "Stop Burn Injuries" (SBI) campaign for 1981 to educate children and parents about burn prevention in the home and school. Through the news media, they are discussing the many potential sources of burns including scald, flame, electrical, chemical, and contact.

SBI was launched in San Francisco by former President Gerald Ford, a Shriner, on January 10, 1981. President Ford, who is honorary cochairman of the Shrine Burn Prevention Committee, spoke during halftime at the East-West Shriners football game.

President Ford said:

> Burns claim more pre-schoolers' lives than any infectious disease. Work by Shrine medical experts has taught us all too well that the best treatment of a burn is prevention, and 75 percent of the burns that occur today are preventable.

The Shriners, renowned for their support of children's orthopedic care and burn treatment, manage a network of 18 orthopedic hospitals and 3 burn centers across the United States. The Shriners raise operating funds and provide free medical care to burned children, regardless of race, religion, or relationship to a Shriner. In California alone, 62,000 Shriners raise funds annually from circuses, parades, sports events, and many other philanthropic activities.

The Shrine's 181 local temples have organized an aggressive grassroots public education program as part of SBI, with Shrine medical experts spreading the word about burn prevention throughout U.S. cities. The Shriners are offering free literature and community presentations including elementary-level teaching materials about burn prevention.

Recently, the Shriners requested State legislatures to lend their support in focusing public attention on burn prevention. I am proud that California joined 49 other States in declaring June 28 through July 4 as "Stop Burn Injuries Week." This was a platform from which the Shriners could further educate Americans about the potential for burn injuries in places where children are active.

A recent Lou Harris poll commissioned by the Shrine revealed that only 32 percent of American parents discuss burn prevention with their children. Most parental instruction in this area concerns what to do after a burn occurs, rather than how to prevent the injury. This underlines the importance of the Shriners' efforts, and the need for us all to listen to their message and make burn prevention a priority in our own homes.

I urge citizens in every State to take advantage of the information being distributed during the SBI campaign. For 14 years, many parents have turned to the Shriners' burn centers in times of crisis when their children were seriously burned. As parents and grandparents, let us turn to them again, before a tragic burning occurs in our family. I commend the Shriners and thank them for their continued unselfish service in their burn centers and during the "Stop Burn Injuries" campaign.

DEATH OF A. B. (ABE) FENNELL

Mr. THURMOND. Mr. President, the State of South Carolina and our Nation lost a great American upon the death of A. B. "Abe" Fennell. He died on Monday, July 13, at the Veterans' Administration Hospital in Columbia, S.C.

Abe was a native of South Carolina and attended Bailey Military Institute in Greenwood. A 1928 graduate of the Citadel in Charleston, he taught school for several years after graduation, and in 1934 Abe became the first full-time sports editor of the State newspaper in Columbia. He served in that capacity until 1942, when he joined the U.S. Army. After discharge in 1946 with the rank of lieutenant colonel, Abe served in several business capacities until 1955, when he was appointed the veterans' employment representative for the Department of Labor in South Carolina. He occupied this position until he retired several years ago.

Mr. President, Abe was a strong advocate for veterans and their benefits. He was active in the American Legion and other veterans' organizations at the local, State, and national levels. In South Carolina, he was referred to as "Mr. Veteran." Abe displayed those qualities of fairness, dedication, service, and belief in the strength of America so important in meeting the real needs of those he represented and served so well.

As a past commander of the South Carolina American Legion, Abe was a national figure in American Legion circles. In 1972, he was named American Legion "Man of the Year" at the national convention. One of Abe's pet projects was the American Legion baseball program. Serving as State director of this program for 21 years, Abe saw between 15,000 and 16,000 boys participate in this worthy program.

Mr. President, Abe was a close personal friend of mine. With his death, I lost a wise counselor. To his wife, Jewell, and family, I extend my condolences at this time of sorrow, and I share with them this great loss.

Mr. President, several articles have appeared in various newspapers across South Carolina paying tribute to "Abe" Fennell. In an effort to inform my colleagues of the contribution this great American and South Carolinian made to our Nation, I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Columbia Record, July 14, 1981]

LEGION HONOREE A. B. FENNELL DIES

A. B. Fennell, 74, of Dinwood Circle, the American Legion's 1981 South Carolina Distinguished Service Award recipient, died last night in the Veterans' Administration Hospital.

Funeral services will be held tomorrow at 10 a.m. in the Lutheran Church of the Incarnation, conducted by the Rev. Dr. George Meetze and the Rev. David Donges. Burial will be in Elmwood Cemetery.

Mr. Fennell, who won national recognition from the American Legion for his services to veterans and for his work with that organization's baseball program, was known as "Abe" to his many friends.

He was retired state veterans employment representative and had held that post since appointment by the U.S. Department of Labor in 1955. This put him in contact with South Carolinians all over the state. He was a former state commander of the American Legion in 1965.

Always interested in sports, and a former sports editor of The State newspaper, he was strongly attached, as legionnaire and enthusiast for the game, to American Legion baseball. This led him into active participation in the program, and he became the state director, a capacity in which he served for 21 years.

As in his vocation as veterans representative, his Legion baseball role associated Mr. Fennell with hundreds of boys and parents over the state, and also moved him into a position of national leadership in the operation of the program. He served as an official in 12 of the "Little World Series," which each year determine the Legion championship.

At the time of his retirement as director of the South Carolina program, he said that between 15,000 and 16,000 boys had gone through the program in the state during his 21-year involvement.

Operating the program was complicated and expensive, and Mr. Fennell was credited with exercising especial executive skill in carrying it through. He reorganized the structure, step by step, and left it in good operating form.

He was recognized at the Legion's national convention at Chicago in September 1972, when he received the "Man of the Year" award of the National Past Department State Commanders Club.

E. Roy Stone Jr. of Greenville, then the South Carolina national executive committeeman of the Legion, presented the award to Mr. Fennell, praising him as a man, legionnaire and friend of youth.

"Many youth throughout our state and nation owe their rewards in this great Legion youth experience to this man . . . for he has traveled, promoted and developed new techniques in their behalf to better this program," Stone said.

Mr. Fennell was born in Columbia, a son of J. Braxton and Louisa O. Fennell.

He attended grammar school in Columbia, Mount Pleasant Collegiate Institute, Bailey Military Institute in Greenwood and was graduated from The Citadel in 1928 with a degree in chemistry.

He taught school for many years at Brookland-Cayce High School and coached athletics there.

He also taught in Spartanburg County and at Wellford-Lyman-Tacapau High School a preparatory school in Blackstone, Va., before joining the staff of The State in 1934.

Mr. Fennell served four years in the Army during World War II, two of them in the European theater as assistant corps engineer. He retired as a lieutenant colonel in 1946.

He was active in the American Legion until

he suffered a stroke while attending a Legion function. He was past South Carolina Department commander of the Legion, past commander of Columbia Post 6, chairman of the Legion's National Preference Committee from 1966 until his death and served on numerous post, department and national committees.

He was member of the Lutheran Church of the Incarnation and past president of the Columbia Exchange Club.

Surviving are his wife, Mrs. Jewell Meetze Fennell; three sons, A. B. and Richard B. Fennell of Columbia and J. Rivers Fennell of Dallas, Texas; a brother, John B. (Jack) Fennell of Charlotte, N.C.; and eight grandchildren.

Another brother, Capt. Huss C. Fennell of the South Carolina Highway Patrol, died last year.

Memorials may be made to the American Legion Child Welfare Fund.

[From the State, July 15, 1981]

ABE FENNELL, 74, HONORED LEGIONNAIRE, DIES

A. B. Fennell, 74, of 77 Dinwood Circle, the American Legion's 1981 South Carolina Distinguished Service Award recipient, died Monday at Veterans' Administration Hospital.

Born in Columbia, he was a son of the late John Bratton and Louisa Summers Fennell.

Mr. Fennell attended grammar school in Columbia, Mount Pleasant Collegiate Institute, Bailey Military Institute in Greenwood and was graduated from The Citadel in 1928 with a degree in chemistry.

He taught school for many years at Brookland-Cayce High School and coached athletics there. He also taught in Spartanburg County and at Wellford-Lyman-Tucapau High School, a preparatory school in Blackstone, Va., before joining the staff of The State in 1934. He was the first sports editor of The State, serving in that capacity from 1938 to 1942.

Mr. Fennell, who won national recognition from the American Legion for his services to veterans and for his work with that organization's baseball program, was known as "Abe" to his many friends.

He was retired state veterans employment representative and had held that post since his appointment by the U.S. Department of Labor in 1955. This put him in contact with South Carolina residents all over the state. He was a former state commander of the American Legion in 1965.

He was strongly attached as legionnaire and enthusiast for the game to American Legion baseball. This led him into active participation in the program, and he became the state director, a capacity in which he served for 21 years.

As in his vocation as veterans representative, his Legion baseball role associated Mr. Fennell with hundreds of boys and parents over the state and also moved him into a position of national leadership in the operation of the program. He served as an official in 12 of the "Little World Series," which each year determines the Legion championship.

At the time of his retirement as director of the South Carolina program, he said that between 15,000 and 16,000 boys had gone through the program in the state during his 21-year involvement.

Operating the program was complicated and expensive, and Mr. Fennell was credited with exercising special executive skill in carrying it through. He reorganized the structure, step by step and left it in good operating form.

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"Many youth throughout our state and nation owe their rewards in this great Legion youth experience to this man . . . for he has traveled, promoted and developed new techniques in their behalf to better this program," Stone said.

Mr. Fennell served four years in the Army during World War. II, two of them in European theater as assistant corps engineer. He retired as lieutenant colonel in 1946.

He was active in the American Legion until he suffered a stroke while attending a Legion function. He was past South Carolina Department commander of the Legion, past commander of Columbia Post 6, chairman of the Legion's National Preference Committee from 1966 until his death and served on numerous post, department and national committees.

He was a member of the Lutheran Church of the Incarnation and past president of the Columbia Exchange Club.

Surviving are his widow, Mrs. Jewell Meetze Fennell; three sons, A. B. and Richard B. Fennell of Columbia and J. Rivers Fennell of Dallas, Texas; a brother, John B. (Jack) Fennell of Charlotte, N.C., and eight grandchildren.

Another brother, Capt. Huss C. Fennell of South Carolina Highway Patrol, died last year.

Services will be held at 10 a.m. today at the Lutheran Church of the Incarnation, conducted by the Rev. Dr. George Meetze and the Rev. David Donges. Burial will be in Elmwood Cemetery.

Pallbearers will be James Hamilton, Jim Sherrill, John A. Montgomery, W. C. Plowden, Jr., Alec Geiger and Milford Forrester.

The family suggests that those who wish may make memorials to the American Legion Child Welfare Fund.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

[From the Columbia Record, July 15, 1981]

RITES HELD FOR A. B. FENNELL

Funeral services for A. B. Fennell were held today at the Lutheran Church of the Incarnation, conducted by the Rev. Dr. George Meetze and the Rev. David Donges. Burial was in Elmwood Cemetery.

Pallbearers were James Hamilton, Jim Sherrill, John A. Montgomery, W. C. Plowden, Jr., Alec Geiger and Milford Forrester.

Mr. Fennell, 74, of 77 Dinwood Circle, the American Legion's 1981 South Carolina Distinguished Service Award recipient, died Monday night in the Veterans' Administration hospital.

Mr. Fennell, who won national recognition from the American Legion for his services to veterans and for his work with that organization's baseball program, was known as "Abe" to his many friends.

He was retired state veterans employment representative and had held that post since appointment by the U.S. Department of Labor in 1955.

Mr. Fennell was a former state commander of the American Legion in 1965.

He was active in the American Legion until he suffered a stroke while attending a Legion function. He was past South Carolina Department commander of the Legion, past commander of Columbia Post 6, chairman of the Legion's National Preference Committee from 1966 until his death and served on numerous post, department and national committees.

Memorials may be made to the American Legion Child Welfare Fund.

[From the State, July 16, 1981]

ABE, A.B. OR MR. FENNELL, NAME MADE NO DIFFERENCE, CALL HIM "FRIEND"

(By Bob Spear)

One of my favorite people was buried Wednesday, and I never knew his name. His real name, I mean.

A lot of people shared that dilemma, not knowing the real name of this man christened Alva Beckman Fennell. He was "A.B." to some and "Abe" to others. The important thing, though, is he was "friend" to everybody.

He was one of the genuine good guys to pass this way, and anybody who enjoyed the good fortune to cross his path is richer for the experience. Maybe he sounded gruff at times, but he had a heart as big as all outdoors.

He was, in fact, the perfect subject for a "most unforgettable character" sketch.

A graduate of The Citadel with a degree in chemistry. Teacher and coach. Athletic official. Sports editor of this newspaper. Army officer. Civil servant. A pillar in the American Legion.

Abe did a little bit of everything, and anybody who met him never forgot him. And he didn't forget you, either.

A giant of a man in both stature and deed, Abe Fennell died at age 74 Monday. His legacy of achievement is one that most would be proud to claim.

He touched many lives in many ways, and some who profited from his service never realized their benefactor.

I knew him best in his role of state director of American Legion baseball, a program he operated for 21 years in a classic labor of love. He merely developed it into one of the best in the country.

He presided over American Legion baseball in South Carolina with an iron hand. To tamper with his project guaranteed a stinging rebuke.

His guiding principle: what's best for the youngster.

Once, a coach kept his pitcher on the mound for all 16 innings of a marathon regular-season game. Too long, much too long, Abe decided.

The next year, he installed a rule limiting pitchers to 12 innings over three days. One pitcher was ruined by a coach," he said. "Durned if it's gonna happen again in South Carolina."

A Palmetto State prep football coach earned Fennell's everlasting wrath by luring his players, the heart of the state championship Legion baseball team, to the gridiron for drills prior to the baseball regionals.

Abe went to his grave believing that football coach "ruined one of the best Legion teams this state ever produced."

Abe could sound gruff, but "that's when you knew he was feeling good," says Tiny Meeh, Fennell's successor at the helm of the state Legion program. "He was straight up and down the line, and everything was fine if he was barking."

Oh, how he hated to fly. He preferred the train—"the rattler," George Rulon, national head of the Legion baseball program insists.

"I met him at the airport in Hastings, Neb., one time, and he had had a rough flight with lost baggage and everything else," remembers Rulon. "The airline's slogan was 'a better way to fly.' Abe said, 'no, what it should be is there's got to be a better way to fly.' "

Rulon and Fennell first met in 1961 at Florence on the eve of a regional tournament in Sumter.

"My commercial flight was landing and a private plane pulled out in front," Rulon says. "The pilot turned the air blue yelling at the small plane. Abe's standing there and sees the whole thing.

"I get off and he says, 'I hope our relationship gets on a better tempo than it's started.'

"Needless to say, it did. He contributed a great deal to South Carolina and he helped me a great deal. We had a very close relationship, and I'm so pleased that I got to see him earlier this month."

Fennell served on Rulon's staff in operating the American Legion World Series on many occasions.

"One clear picture I cherish is Abe at the 1965 Series in Aberdeen, S.D.," Rulon says. "The word 'South' was about the only thing familiar to him; it was really cold, and he was complaining in that gruff way of his.

"After a couple of days, he took matters into his own hands. I looked down and there he is, sitting beside the dugout with a blanket wrapped around his legs, wearing a ski jacket and a cap with the flaps down around his ears. He looked like an ice fisherman instead of an official watching a baseball game."

Another time, Fennell left the tourney site with Rulon's folding chair in the trunk of his car. Months later, Rulon visited Columbia and, loading his luggage in Abe's car, spied the missing chair.

"Forgot to return the durn thing," Abe stammered like a youngster caught with his hand in the cookie jar.

In 1966, Orangeburg hosted the Legion championship tournament and Fennell, always loyal to his friends, wanted South Carolina umpires to work the Series. Instead, the crew consisted of three of "Abe's" umps and three from the professional minor leagues.

The pros experienced rough sledding, "Abe's" men worked well.

"I told you so," Abe told Rulon afterwards.

Abe had stories to top every story.

He liked to reminisce about his days in the sports-writing profession, and perhaps his favorite involved "cutting the wire to the only telephone in the press box" one night in Newberry. "After I filed my story, of course," he would say mischievously. "But I'd paid to have that phone installed, and I couldn't help it if those other reporters didn't have one."

Just recently, he took the owners' side in the confrontation over escalating players' salaries. "How a guy batting .240 can even consider himself a major-league player is beyond me," he said. "Then, they have the nerve to want $200,000 a year. Ridiculous."

He also liked to talk about circumventing the stuffy baseball executive who said he "could not help" solve a sticky rules interpretation. "Pro ball only," the man told Abe.

"So I phoned Calvin Griffith (owner of the Minnesota Twins)," Abe said. "Calvin called the guy, put the screws on him and got what I wanted."

Abe could get what he wanted. He had friends everywhere, in every walk of life.

Maybe they didn't know his real name, but nobody could forget this giant of a man.

[From the Columbia Record, July 16, 1981]

"ABE" FENNELL

No one, it is safe to say, did more for American Legion baseball in South Carolina than A. B. "Abe" Fennell. Few could match his commitment, love and enthusiasm for the sport.

He was more than a baseball fan, however. He brought a shrewd and sound business mind to bear on Legion baseball, spreading the word and encouraging literally thousands of young South Carolinians to challenge themselves on the baseball diamond.

Abe Fennell was active in Legion affairs up until his death this week. With everything he did, he was no mere "joiner." He was an achiever, an active participant in what he believed. He believed in the American Legion and what it meant in terms of patriotism and personal initiative. His commitment to fundamental values made for a rich legacy, testament to an earthly existence lived full and well.

[From The State, July 17, 1981]

A. B. FENNELL

News of sports is a major ingredient of The State today, but it was not always so. Forty-three years ago, there were no sports pages as we know them today.

We remark upon that now because of the death Tuesday of A. B. "Abe" Fennell of Columbia. He was the first sports editor of The State. In his book, The Story of the State, the late S. L. Latimer, Jr., recorded this:

"Indeed it was not until 1938 that there was established a desk through which was channeled all sports copy and assignments. Alva Bratton Fennell was the sports editor at that time. Soon a second man was added. Gradually the staff has been increased.

"Mr. Fennell, an enthusiastic follower of athletics and a varsity football player during his Citadel days, left in 1942 to enter the war as a captain. He rose to be a lieutenant colonel. After the war, of his own accord, he did not return to newspaper work, but has kept up his interest in sports and for many years has directed American Legion junior baseball for South Carolina. In addition he is prominent on the national scene in this fine youth program."

The obituaries properly emphasized Abe Fennell's devotion to the American Legion, to veterans, to the Legion's junior baseball program which thrived under his direction. But it should also be recorded that he was a warm and loving family man, an active churchman and keeper of friendships.

He will be fondly remembered at this newspaper, however, as a former employee and its first sports editor.

THE U.S. ARMY WAR COLLEGE GRADUATION CEREMONIES

Mr. THURMOND. Mr. President, I recently had an opportunity to review a transcript of a speech delivered by the Secretary of the Army, Jack Marsh, and I found his comments both inspiring and timely. The speech was delivered before the graduating class of the U.S. Army War College at Carlisle, Pa., on June 8, 1981.

Secretary Marsh uses the 200-year anniversary of the victory of the American Army at Yorktown, an anniversary which will occur this October, to set the theme for a call for greater flexibility and creativity in military leadership and in defense planning generally. I believe his comments are worthy of the attention of Senators, and, for that purpose, I ask unanimous consent that his remarks be printed in full in the RECORD.

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

REMARKS BY HON. JOHN O. MARSH, JR.

This coming October marks the 200th Anniversary of the victory of the American Army at Yorktown. This is an event of enormous significance. I charge you with not only remembering it, but also with seeking ways to commemorate it. And it is my hope the following remarks will stimulate you in this regard.

We are at a point of unprecedented examination and discussion of military thinking. This is occurring in:

The Congress,

The Fourth Estate,

Military writers including Defense journalists and some former officers,

Proponents of Defense plans and programs who are speaking out in response to a growing Soviet threat,

Critics who attack Defense requests because of scarce resources and who speak for other forces within our society competing for a share of the Federal budget.

In this dialogue on military thinking, we should remind ourselves of the educational background of our military leaders. It is estimated the typical American officer will spend 25 percent of his time in schools. The range of Army schools is a vast one which goes from language training to communications, from transportation to medicine, from management to tactical and strategic warfare.

I think it is fair to say from the middle level officer ranks and above, the Army has one of the best educated group of leaders of any United States institution. Almost without exception, you find master's degrees in many disciplines and a growing number of Ph. D.'s from nearly every American university, in addition to attendance at one of the war colleges.

I would have to say, however, that I think there is not enough emphasis, particularly at the junior level, to train officers to communicate in the written form. It has been said the pen is mightier than the sword. I simply suggest that we must develop both of these important weapon systems.

Today, I want to give you some of my own views about military leadership. I would like to use the War Between the States as my initial frame of reference. But I would also like to direct your thinking to the American Revolution, because I think there are great lessons in American military leadership that are overlooked from that conflict. There is much we can learn from the study of such men as Washington and Greene—the latter I believe by the end of the war was our greatest field commander—Morgan and Marion, and a number of overlooked commanders of smaller commands.

We have also overlooked the sophistication, skill and enormous contribution of the American intelligence effort in that war. It is my hope by raising this point, that I will also stimulate further study on your part.

But, first, the War Between the States.

It continues to be of intense interest, appealing to a broad audience because of:

Battles and campaigns;

Leaders and soldiers;

Combat intensity and chivalry.

It was the first of the modern wars, but interest is heightened because there were two major technological innovations of great consequence. Although the nature of the tactics and force structure of the combat arms was the same as former wars, there was something dramatically new—it was the first war to employ the railroad, a transportation breakthrough which changed the movement of men, units and logistical support.

It was also a war that saw the first use of the telegraph, a device that provided a giant leap in communications from higher or more subordinate commands.

That War shows how change drives national policy and strategy, and impacts on tactics. Commanders can never overlook how new developments and innovation can drive strategy and tactics. Success will go to those commanders who adapt and incorporate change in the planning of operations and employment of their units.

Perhaps in no other field is this more certain than the military field.

Let me take you through an exercise that reflects some of my own thinking. It is an examination of leadership which I frequently use. At the outset, it is a theory which can be applied to the civilian sector, including

political leadership, as well as military leadership.

Perhaps others have made similar observations, but much of what I am about to say reflects my own thinking.

Generally speaking, I think there are two types of leadership, which for purposes of discussion, I would categorize as Creative and Doctrinal. Doctrinal might be called "Conventional."

First, let me define creative leadership. I have to do this in terms of an individual. As a general rule, the creative person is idea oriented, is more sensitive, takes great pride in his ideas, and is very imaginative; but, because of their ingrained sensitivity, their ideas and personality may have a fragility. The creative leader is more rare for reasons I have mentioned. They are more vulnerable to being rebuffed and are more easily crushed, because often ideas suggest new approaches or changes that go across the main stream.

Now the military environment is difficult for the creative leader. Of necessity, the military stresses conformity and the uniformity—the status quo. Consequently, the system can easily rebuff or squelch what appears to be dissent or non-conformity. It is important we not view new ideas as dissent. All too frequently they are, I am afraid.

The Creative Leader is the one who will rewrite doctrine, employ new weapons systems, develop new tactics, and who pushes the state of the art. As he forges ahead, he leaves it to others in future years to consolidate gains and to tie up loose ends—to build on his new doctrine. The senior creative military leader will test and exploit new ideas.

In personality, he has developed a mental toughness which enables him to survive the system. He will harbor a new concept gained as a Captain—but which was crushed or rebuffed under the system—until he is a senior commander, and then he comes forward and tries it again. Many potential creative leaders in military and civilian life do not make it through the middle level. They become casualties on the battlefield of their career. They are the walking wounded about whom others speculate as to their great potential which was never realized.

Now, let's examine the doctrinal or conventional leader.

He is the predictable, sound, sturdy leader, that follows and builds on basics. Resolute and not easily crushed, the military is a friendly environment. The conventional leader follows doctrine. He masters existing tactical concepts, exploits to the fullest available weapons systems, and prefers the tried rather than testing the new. He is thorough in execution. He capitalizes on the gains made by creative leaders. Because he plans and follows through, he leaves little to chance and avoids loose ends.

As you first consider this exercise, most people opt to be a creative leader. But I want to challenge your thinking. So now I will select several of our military greats and put them in categories, knowing full well that some of you will argue with me and differ as to the following selection process.

A Caveat—Do not let flamboyance influence whether you define a leader as being creative.

CREATIVE LEADERS

General Greene of the American Revolution, because of the way he rose from the ranks and mastered command and doctrine to emerge at the close of the war as perhaps our ablest general.

Jackson because of his outstanding Valley campaign, and his use of the railroad to shuttle troops.

Lee because of his brilliant retrograde maneuvers against overwhelming forces in the last year of the war.

Marshall—who forged a global strategy for United States forces and conceived the NATO plan for the rebuilding of Europe, defensively and economically.

MacArthur because of his broad, island hopping amphibious envelopment strategy and later his decisive surprise at Inchon.

General Billy Mitchell because of his concepts of air power.

General Howze for the development of the air mobile concept.

Two non-Americans:

1. Lord Nelson for his brilliant and sometimes unorthodox leadership at sea; and

2. Rommel for his desert warfare and use of armor.

DOCTRINAL OR CONVENTIONAL LEADERS

Washington—for his adherence to basic principles, who took loss after loss on the field, but held an army together and won the war.

Grant—for the outstanding orchestration of arms and men in a resolute strategy that produced victory.

Longstreet—sometimes criticized, but probably the most conventional of Confederate commanders.

Pershing—for the training and leadership of American forces which won the respect of foreign conventional armies.

Bradley—who mastered years of training and doctrine to build the Army of World War II.

Eisenhower—whose leadership could span both military and civilian fields to weld together forces of separate nations.

Although I have tried to avoid leaders of a more contemporary time, I would mention in the creative category General Taylor, who helped prepare the Army for the nuclear battlefield, as well as for a multi-faceted career; General Stan "Swede" Larsen, for his tactical concepts on air mobility; and General William Yarborough for his contribution to unconventional warfare. A doctrinal leader—General Abe Abrams, who I consider to be one of the most superb soldiers of recent times.

I said I could get argument on these selections, and I mentioned that many people at first would opt for creative leadership. However, I call to your attention that in the list of doctrinal leaders, there are three Presidents of the United States.

What I think this exercise points out is that the successful leader may be predisposed by natural talent toward either creative or doctrinal leadership, but invariably the greatest leaders are a blend of both, or learn to use both, although one leadership trait may dominate.

I think you will observe that the best creative leaders master fundamentals. It is from this base that they push forward to new concepts. By mastering these fundamentals, they win the confidence of their peers. Creative leaders—with certain exceptions—all use the system and work within it. On the other hand, successful doctrinal leaders—without exception—are broad gauged and open-minded enough that they do not rebuff new ideas and will take advantage of change and new systems to achieve their end. To me, Grant is a classic in this regard, and may be America's greatest doctrinal leader. In fact, you could argue that his efforts in exploiting existing resources were really creative.

You can take this exercise and extend it even further by looking at unconventional warfare and such names as Marion, Mosby and others. You can find examples where creative leaders over-reached because they did not master fundamentals. You can also find examples where doctrinal leaders were defeated because they were wedded to the old way of doing things.

To summarize, the best creative leaders use conventional forms and modes to their maximum advantage. The best doctrinal or conventional leaders are those who are receptive to change and new ideas.

Rigidity, inflexibility, and excessive parochialism can be the pariah of the would-be military commander.

As never before, military leaders must not only be well trained, but must also be well educated. Their areas of knowledge must be broad enough to give them both confidence and certainty in command, yet they still must question and stimulate inquiry into those things with which they are not familiar—things that could impact on their duties and command performance.

We need leaders who are grounded in the principles of command, yet who are responsive to new ideas; who have not only the flexibility to cope with and direct change, but the audacity to take the measured risk in order to gain victory on the battlefield.

This requires all of the forces of intelligence, competence and courage.

I am certain these qualities of human character will be found in abundance in this class, and will be reflected in your future service to your country.

Two centuries ago, on the 19th of October 1781, the British forces under Cornwallis, surrendered to the American and French forces, led by General Washington.

Yorktown was a bridge between two great ideas, two great concepts which fell almost equal distance time-wise between those two events—The Declaration of Independence with its hope of Life, Liberty and the Pursuit of Happiness, and the Constitution of the United States.

The Constitution captured and harnessed the forces of liberty into a structure of orderly Government.

As a mark of the traditional dedication the American Officers Corps has had to the concept of civilian authority, I would remind you that with the signing of the Treaty of Paris in 1783, there was only one national, viable force in the country. That was the Army.

Following the example of their Commander, the officers resigned their commissions, the Army disbanded, and returned to civilian pursuits. When the Constitution was written, authority to raise armies and spend on their behalf was clearly and unequivocally vested in the Legislative Branch.

It is interesting to note of the 39 signers of the Constitution, 22 had served in the Army.

The Congress looks to you for the leadership this Army needs. In the words of one of our greatest Commanders in Chiefs, President Lincoln, I leave you this charge:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves, and then we shall save our country."

Good luck, and Godspeed in your new assignment.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HAYAKAWA). The Chair, on behalf of the Vice President, appoints the Senator from South Dakota (Mr. PRESSLER) to attend the United Nations Conference on New and Renewable Sources of Energy, to be held in Nairobi, Kenya, August 1981.

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 Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry

nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on July 23, 1981, he had approved and signed the following act:

S. 1395. An act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate 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.

MESSAGES FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1040. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4119. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1982, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1104. An act to amend the International Investment Survey Act to provide an authorization for further appropriations, to avoid unnecessary duplication of certain surveys, and for other purposes;

H.J. Res. 84. Joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week"; and

H.J. Res. 191. Joint resolution designating August 8, 1982, as "National Children's Day."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL SIGNED

At 7:18 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1040. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILL REFERRED

The following bill was read twice by unanimous consent, and referred as indicated:

H.R. 4119. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1982, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary reported that on today, July 28, 1981, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1104. An act to amend the International Investment Survey Act to provide an authorization for further appropriations, to avoid unnecessary duplication of certain surveys, and for other purposes; and

S.J. Res. 28. Joint resolution designating the week beginning March 7, 1982, as "Women's History Week".

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–1672. A communication from the Secretary of Agriculture, transmitting, pursuant to law, notice of the delay of the submission of a report on a study to determine the potential of using agricultural exports to obtain resources needed by the United States; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1673. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report with respect to converting the family housing maintenance function at Minot Air Force Base, North Dakota, and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–1674. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1675. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Greece for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1676. A communication from the Secretary of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule which provides for an exemption from incremental pricing pursuant to the Natural Gas Policy Act; to the Committee on Energy and Natural Resources.

EC–1677. A communication from the Attorney General of the United States, transmitting, pursuant to law, notice that the United States will not ask the Supreme Court to review the decision of the district court in Evans versus Schweiker; to the Committee on Finance.

EC–1678. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 16, 1981; to the Committee on Governmental Affairs.

EC–1679. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the establishment of a Senior Cryptologic Executive Service and merit pay and awards system within the National Security Agency, and to make necessary amendments to title 5, United States Code; to the Committee on Governmental Affairs.

EC–1680. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, additional information about the proposed revision of two Privacy Act systems of records; to the Committee on Governmental Affairs.

EC–1681. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, notice of three new Privacy Act systems of records for the Department; to the Committee on Governmental Affairs.

EC–1682. A communication from the Vice Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the first annual report of the Board on the significant actions of the Office of Personnel Management for calendar year 1980; to the Committee on Governmental Affairs.

EC–1683. A communication from the Special Assistant to the Secretary of Defense, transmitting, pursuant to law, the report on Department of Defense procurement from small and other business firms for October 1980 to February 1981; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–846. A resolution adopted by the City Council of Oakland, Calif., opposing measures preempting local control; to the Committee on Banking, Housing, and Urban Affairs.

POM–347. A resolution adopted by the Board of Levee Commissioners of the Orleans Levee District, New Orleans, La., favoring legislation which will restrict the jurisdiction of the U.S. Corps of Engineers over discharge of dredged or fill material to those discharges which are into navigable waters; to the Committee on Environment and Public Works.

POM–348. A bill passed by the Legislature of the State of Oregon; to the Committee on the Judiciary:

"HOUSE BILL 3247

"Section 1. (1) The proposed amendment to the Constitution of the United States relating to the District constituting the seat of government of the United States, as set forth in this Act, hereby is ratified.

"(2) The Secretary of State shall send certified copies of this Act to the Administrator of General Services of the United States, to the presiding officer of the United States Senate and to the Speaker of the House of Representatives of the United States."

"ARTICLE

"Section 1. For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"Sec. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"Sec. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"Sec. 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

EXECUTIVE REPORTS OF COMMITTEES

By Mr. PERCY, from the Committee on Foreign Relations:

William Jennings Dyess, of Alabama, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of the Netherlands.

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 J. Dyess.

Post: Ambassador to the Netherlands.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses, Chandler (15): None.

4. Parents: Mrs. T. J. Dyess: None.

5. Grandparents: None living during reporting period.

6. Brothers and spouses: None.

7. Sisters and spouses: 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.

WILLIAM J. DYESS.

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States to the People's Republic of China.

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: Arthur W. Hummel, Jr.

Post: Ambassador to China.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse, Betty Lou Hummel: None.

3. Children and spouses, William and Varuni Hummel, Timothy Hummel: None.

4. Parents: Deceased.

5. Grandparents: Deceased.

6. Brothers and spouses, Sharman and Marie Hummel: None.

7. Sisters and spouses: Deceased.

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 acknowledge, the information contained in this report is complete and accurate.

ARTHUR W. HUMMEL, Jr.

John Langeloth Loeb, Jr., of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to Denmark.

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: John L. Loeb, Jr.

Post: Ambassador to Denmark.

Contributions, amount, date, and donee:

1. Self, John L. Loeb, Jr., see statement.

2. Spouse: None.

3. Children and spouses, Alexandra Loeb and Nicholas M. Loeb: None.

4. Parents, John L. Loeb, Sr., and Frances Lehman Loeb, see statement.

5. Grandparents: Deceased.

6. Brothers and spouses: Arthur Lehman Loeb, see statement.

7. Sisters and spouses: James Brice/Deborah Loeb Brice: None.

Ann Loeb Bronfman and Judith Loeb Chiara. see statement.

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.

JOHN L. LOEB, Jr.

STATEMENT OF JOHN L. LOEB, JR.

Amount, date, donee

1981

$10,000, March 11, 1981, Republican Senatorial Trust.

$500, March 17, 1981, Warner Committee.

1980

$10,000, June 24, 1980, Republican National Committee.

$150, February 4, 1980, RNC/80 Campaign Membership.

$80, March 14, 1980, 1980 GOP Victory Fund.

$50, June 30, 1980, Republican National Committee.

$5,000, August 15, 1980, Republican Senatorial Trust.

$1,000, October 20, 1980, Friends of Al D'Amato for US Senate.

$250, May 28, 1980, Citizens For The Republic.

$1,000, February 8, 1980, Baker Committee.

$500 March 17, 1980, Atanasio For Congress.

$100, April 4, 1980, Atanasio For Congress.

$250, April 23, 1980, Slade Gordon For US Senate.

$250, April 25, 1980, Bush Committee.

$200, May 20, 1980, Bush Committee.

$125, October 20 1980, Christiana For Congress.

$2,000, June 16, 1980, Javits Committee (primary & general election).

$250, May 31, 1980, Lantos Committee.

$250, September 8, 1980, Lantos Committee.

1979

$1,000, November 9, 1979, Reagan For President.

$1,000, May 24, 1979, People For Boschwitz,

$20 September 20, 1979, Friends of Joseph Christiana.

1978

$100, April 27, 1978, Green For Congress Committee.

$250, June 29, 1978, Citizens For The Republic.

$250, June 29, 1978, Edelman For Congress.

$750, October 19, 1978, Edelman For Congress.

$100, June 30, 1978, Radway For Congress.

$1,000, September 27, 1978, Martinelli For Congress.

$100 October 13, 1978, Solomon For Congress.

$150, December 12, 1978, RNC/1979 Membership Fund.

1977

$100, December 9, 1977, Republican National Committee.

STATEMENT OF JOHN L. LOEB

Amount, date, and donee

1981

$2,000, April 10, 1981, People For Jackson (primary and general election).

1980

$10,000, June 27, 1980, Republican National Committee.

$5,000, September 19, 1980, Americans For An Effective President.

$5,000, March 17, 1980, Federal Republican Club.

$250, May 13, 1980, Buckley Committee.

$1,000, April 10, 1980, Howard Committee.

$2,000, April 30, 1980, Javits Committee (primary and general election).

$1,000, July 15, 1980, Lindsay Committee.

1979

$1,000, November 7, 1979, Reagan For President Committee.

$800, October 16, 1979, Moynihan '82 Committee.

$1,000, November 29, 1979, Citizens For Brademas Committee.

$1,000, June 27, 1979, Connally Committee.

$500, July 12, 1979, Ravenal Committee.

$250, February 15, 1979, Pressler For Senate.

$100, March 14, 1979, Citizens For Petri.

$500, June 14, 1979, Packwood Committee.

$1,000, January 23, 1979, Citizens For Petri.

$200, January 30, 1979, Moynihan Committee.

$1,000, February 7, 1979, Bush Committee.

$5,000, May 9, 1979, Democratic Congressional Committee.

1978

$1,000, September 22, 1978, Re-Elect Senator Howard Baker Committee.

$1,000, September 14, 1978, Edelman For Congress Committee.

$750, June 6, 1978, Pell Re-Elect Committee.

$1,000, July 20, 1978, George W. Bush for Congress.

$1,000, October 17, 1978, Committee to Re-Elect Bill Green.

1,000, September 29, 1978, Citizens For Brademas.

$250, August 26, 1978, Ravenal Committee.

$1,000, February 22, 1978, Haskell Committee.

$100, August 21, 1978, Moorhead Committee.

$1,200, October 3, 1978, Friends of Jesse Unruh Committee.

$500, May 12, 1978, Case Committee.

$1,000, May 15, 1978, Power Committee.

1977

$250, November 27, 1977, Pell Committee.

$300, May 25, 1977, Riegle For Senate Committee.

$1,000, December 15, 1977, Robin Duke Committee.

$250, September 29, 1977, People For Haskell Committee.

$10,000, March 17, 1977, Democratic National Finance Committee.

STATEMENT OF FRANCES LEHMAN LOEB

Amount, date, and donee

1981

$2,000, April 10, 1981, People for Jackson (primary and general election).

1980

$1,000, June 24, 1980, Reagan For President Committee.

$5,000, September 19, 1980, Prelude to Victory.

$4,000, September 19, 1980, Americans for an Effective Presidency.

$1,000, April 10, 1980, Howard Committee.

$2,000, April 30, 1980, Javits Committee (primary and general election).

$1,000, May 15, 1980, Lindsay Committee.

1979

$1,000, February 6, 1979, Bush Committee.

1978

$1,000, January 9, 1978, Robin Duke Committee.

1977

None.

STATEMENT OF ARTHUR LEHMAN LOEB

Amount, date, and donee

1981

None.

1980

$5,000, September 19, 1980, Americans For An Effective Presidency.

$1,000, June 27, 1980, Bush For President.

$2,000, June 12, 1980, Javits Committee (primary and general election).
$5,000, October 20, 1980, Liberal Party Federal Campaign Committee.
$50, October 25, 1980, Dodd Committee.

1979

$1,000, August 1, 1979, Connally Committee.
$100, May 18, 1979, Culver Committee.

1978

None.

1977

None.

STATEMENT OF DEBORAH LOEB BRICE

Amount, date, and donee

1981

None.

1980

$2,000, June 12, 1980, Javits Committee (primary & general election).

STATEMENT OF ANN LOEB BRONFMAN

Amount, date, and donee

1981

None.

1980

$5,000, November 24, 1980, Liberal Party Federal Campaign Committee.
$2,000, June 12, 1980, Javits Committee (primary & general election).

1979

None.

1978

None.

1977

$1,000, June 6 ,1977, Moynihan for Senate Committee.

STATEMENT OF JUDITH LOEB CHIARA

Amount, date, and donee

1981

None.

1980

$5,000, October 28, 1980, Americans for an Effective President.
$5,000, Liberal Party Campaign Committee.
$200 (approx.), Dodd For Senator.

1979

None.

1978

None.

1977

$1,000, June 6, 1977, Moynihan for Senate Committee.

Keith Foote Nyborg, of Idaho, to be Ambassador Extraordinary and Plenipotentiary of the United States to Finland:

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: Keith Foote Nyborg.

Post: Ambassador to Finland.

Contributions, amount, date, donee:

1. and 2. Self and Spouse; $135, 1977 to 1981, Rep. Ntl. Com.; $90; 1977 to 1981, Ntl. Rep. Cong Com.; $75; 1980 and 1981 George Hansen; $100, 1980, Steve Symms; $200, 1980, Ronald Reagan.
3. Children and Spouses: None.
4. Parents: None.
5. Grandparents; None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: 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.

KEITH FOOTE NYBORG.

Frederic L. Chapin, of New Jersey, a Foreign Service Officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States to Guatemala:

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: Frederic L. Chapin.

Post: Ambassador, American Embassy, Guatemala.

Contributions, amount, date, donee:

1. Self, Frederic L. Chapin: None.
2. Spouse, Cornelia Clarke Chapin: None.
3. Children (all unmarried), John Clarke Noyes Chapin, Anne Cornelia Chapin, Grace Selden Chapin, Edith Clarke Chapin: No contributions.
4. Parents, Father deceased, Mother, Mary Noyes Chapin: No contributions.
5. Grandparents, Deceased since 1955.
6. Brothers and spouses: No brothers.
7. Sisters and spouses, Helen Chapin Metz and Rev. Ronald Irwin Metz: No contributions.

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.

FREDERIC L. CHAPIN.

Kenneth L. Adelman, of Virginia, to be Deputy Representative of the United States to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary:

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: Kenneth L. Adelman.

Post: Deputy term Rep. at the UN, Amb. E&P.

Contributions, amount, date, donee:

1. Self: None.
2. Spouse, Carol C. Adelman: None.
3. Children and Spouses, Jessica C. and Jocelyn: None.
4. Parents, Harry Adelman and Connie Adelman: None.
5. Grandparents: None.
6. Brothers and Spouses: Gerald, Caryn A., $100, Oct. '80, R. Weinberger; $50, spring '80, Robinson (state); James, Ellen A., $25 and $50, October 1980 (?), Rep. Pryer (NC), $50 to Anderson; Richard, Paula A., $20, August 1980, Goyke (local cand.); Robert A., $25, October 1980, R. Daley for Cook County.
7. Sisters and Spouses:

Sister, Nancy and Alan Spector: 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.

KENNETH L. ADELMAN.

Abraham Katz, of Florida, a Foreign Service Officer of Class one, to be the Representative of the United States to the Organization for Economic Cooperation and Development, with the rank of Ambassador:

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: Abraham Katz.

Post: Ambassador, U.S. representative to OECD.

Contributions, amount, date, donee:

1. Self: None.
2. Spouse: None.
3. Children and Spouses: Jonathan Katz, Naomi Katz; Mr. and Mrs. Michel Amsalem.
4. Parents, Selma Shakin (mother-in-law): None.
5. Grandparents: None living.
6. Brothers and Spouses: None.
7. Sisters and Spouses: 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.

ABRAHAM KATZ.

Robert John Hughes, of Massachusetts, to be an Associate Director of the International Communication Agency;

Julia Chang Bloch, of the District of Columbia, to be an Assistant Administrator of the Agency for International Development;

Elise R. W. du Pont, of Delaware, to be an Assistant Administrator of the Agency for International Development;

Jay F. Morris, of Maryland, to be an Assistant Administrator of the Agency for International Development;

Jon D. Holstine, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Francis Stephen Ruddy, of Texas, to be an Assistant Administrator of the Agency for International Development; and

W. Antoinette Ford, of Michigan, to be an Assistant Administrator of the Agency for International Development.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PERCY. Mr. President, I also report favorably two nomination lists in the Foreign Service which appeared in the CONGRESSIONAL RECORD on July 15 and 23, 1981, and, to save the expense of printing them on the Executive Calendar, ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. WILLIAMS, Mr. DECONCINI, and Mr. PELL):

S. 1524. A bill to amend the National Labor Relations Act to provide that the duty bargain collectively includes bargaining with respect to retirements benefits for retired employees; to the Committee on Labor and Human Resources.

By Mr. ABDNOR (for himself, Mr. PRESSLER, Mr. EXON, and Mr. ZORINSKY):

S. 1525. A bill to direct the Army Corps of Engineers to undertake certain studies affecting waters within the States of South Dakota, Montana, and Nebraska; to the Committee on Environment and Public Works.

By Mr. NICKLES (for himself and Mr. BOREN):

S. 1526. A bill to change the name of Clayton Lake in the State of Oklahoma to Sardis Lake; to the Committee on Environment and Public Works.

By Mr. ABDNOR (for himself, Mr. PRESSLER, Mr. EXON, and Mr. ZORINSKY):

S. 1527. A bill entitled the "Coal Pipeline

Act of 1981"; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. BAUCUS, Mr. BIDEN, Mr. BURDICK, Mr. CANNON, Mr. COCHRAN, Mr. DANFORTH, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MELCHER, Mr. MOYNIHAN, Mr. NICKLES, Mr. PELL, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. D'AMATO, and Mr. WILLIAMS):

S.J. Res. 101. Joint resolution designating "National High School Activities Week."; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. WILLIAMS, Mr. DECONCINI, and Mr. PELL):

S. 1524. A bill to amend the National Labor Relations Act to provide that the duty bargain collectively includes bargaining with respect to retirements benefits for retired employees; to the Committee on Labor and Human Resources.

RETIRED EMPLOYEE BENEFITS ACT

● Mr. METZENBAUM. Mr. President, Senators KENNEDY, RANDOLPH, WILLIAMS, PELL, DECONCINI, and RIEGLE join me in introducing the retired employee benefits act of 1981. This legislation is designed to restore to retired workers in this country their right to have their interest represented in the collective-bargaining process.

The high rate of inflation that we have experienced in recent years has taken its toll on all Americans, but for those who are retired on fixed incomes, inflation has meant a constant, losing struggle against price increases that threaten to place necessities like food, housing, medical care, and utilities beyond the reach of millions of our people.

It is a sad fact, but true, that fewer than 2 percent of those who today receive benefits from private pension plans are eligible for cost-of-living adjustments.

Until 1971, labor unions frequently raised the issue of retiree benefits at the bargaining table. In that year, however, the Supreme Court held in Allied Chemical and Alkali Workers against Pittsburgh Plate Glass that retirees cannot be considered as employees or as members of a bargaining unit as defined by the National Labor Relations Act. As a result, benefits for retired workers cannot be considered a mandatory subject of collective bargaining.

This decision placed a severe and unfair burden upon the very people whose personal sacrifices built the union movement and whose financial contributions formed the basis for today's powerful pension funds. And it has condemned thousands who contributed in good faith toward pensions during their working years to poverty during retirement.

Mr. President, this legislation does not require any increase in retiree benefits. It merely amends section 8(d) of the National Labor Relations Act in order to make retirement benefits for retired workers a legitimate subject for collective bargaining. It means that if labor brings up the subject, management must discuss those benefits. And it says that retirees may in the future have reason to hope that their legitimate interests will be represented at the bargaining table.

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

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

S. 1524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 8(d) of the National Labor Relations Act is amended—

(1) by inserting after "other terms and conditions of employment" the following: ", including retirement benefits for retired employees", and

(2) by inserting after "all the terms and conditions" in paragraph (4) of the proviso the following: "(including terms and conditions relating to retirement benefits for retired employees)".●

By Mr. NICKLES (for himself and Mr. BOREN):

S. 1526. A bill to change the name of Clayton Lake in the State of Oklahoma to Sardis Lake; to the Committee on Environment and Public Works.

SARDIS LAKE

● Mr. NICKLES. Mr. President, the bill I am introducing today along with Senator BOREN is to amend the Flood Control Act of 1962 by changing the name of a lake that was authorized for construction in Pushmataha County, Okla. The original legislation refers to this new reservoir as Clayton Lake.

Ten miles from the site of the new lake is an existing Clayton Lake. Unless this change is made, there will be two lakes by the same name in Pushmataha County.

A public meeting was held by the local citizens on July 24, 1981, and requested the name change to Sardis by a vote of 322 to 1. The name "Sardis" will commemorate the village which will be partially inundated by the new reservoir.

Mr. President, I urge early consideration by my colleagues of this legislation to rename the new lake Sardis Lake. 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. 1526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake known as Clayton Lake, which is being constructed as part of the project for the Clayton and Tuskahoma Reservoirs, Kiamichi River, Oklahoma, authorized in the Flood Control Act of 1962, shall hereafter be known and designated as "Sardis Lake". Any reference in a law, map, regulation, document, record, or other paper of the United States to Clayton Lake shall be held and considered to refer to "Sardis Lake".●

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. BAUCUS, Mr. BIDEN, Mr. BURDICK, Mr. CANNON, Mr. COCHRAN, Mr. DANFORTH, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MELCHER, Mr. MOYNIHAN, Mr. NICKLES, Mr. PELL, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. D'AMATO, and Mr. WILLIAMS):

S.J. Res. 101. Joint resolution designating "National High School Activities Week"; to the Committee on the Judiciary.

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

Mr. DOLE. Mr. President, it gives me great pleasure to introduce a joint resolution designating "National High School Activities Week" this fall during the week of October 19–October 25. For months, the National Federation of State High School Associations has been making recommendations for the promotion of their activities in high schools across the country. The federation has already gained the support of the President's Council on Physical Fitness and Sports for this resolution.

IMPORTANCE OF EXTRACURRICULAR ACTIVITIES

Mr. President, I believe we all recognize the importance of a formal, academic high school education. But I still believe that experience can be the best teacher, and I am pleased to recognize the opportunities for experience offered through our high school's extracurricular programs.

For too long, too little attention has been paid to the role played by this "other half of education" in channeling the energies and talents of young people. It is the development of teenage interests outside the classroom that helps provide high school students a means of social involvement and interaction among their peers. And it is these extracurricular activities that often extend the opportunity for involvement in community affairs—an involvement that serves to instill in our youth an early sense of civic duty.

Yet perhaps the most beneficial outcome of a student's involvement in extracurricular activities is the realization that he, as an individual, can contribute to the society in which he lives. High school activities provide students a chance to exercise their talents in areas which are of special interest to them, and because they are specifically interested, they tend to do very well, even to the point of excelling.

Certain high school activities—such as forensics, dance, theater, or involvement with a student newspaper—promote skills and talents in performance of an individual nature. Others—such as athletics, debate, and participation in student government—provide opportunities for interaction and cooperation with individuals of the same age group who possess similar interests.

LEADERSHIP ROLE OF ACTIVITIES DIRECTORS

While emphasizing the importance of the activities themselves, it is also important to recognize the role that the guidance and encouragement of teachers, coaches, and program directors play in

enriching the lives of high school students. Because young people go through so many changes during this period, being a teenager is a difficult time of life. It is often a time of fragile personalities, sometimes resulting from a lack of support or reinforcement from parents and siblings.

Yet highly qualified teachers and other individuals who give so much of their time often step in to fill this void, and in the process often become friends, counselors, and even role models for the young people with whom they work and play. It is from these positions, as well as from their place in the classroom, that such leaders instill in their students the attitudes and values that will serve them throughout their lives.

I think it appropriate, therefore, that we express our appreciation to those whose commitment and dedication make such valuable extracurricular activities possible, and whose chief reward comes only from the fulfillment of witnessing the growth and development of the young people they serve.

FUTURE SUCCESS POTENTIAL OF ACTIVITIES

That growth and development was documented well in a recent article by David Harty that expressed the long-range value of these extracurricular programs in terms of the future development of high school students.

At this point, I ask unanimous consent that a portion of that article be printed in the RECORD:

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

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

(By David Harty)

The American College Testing Service (ACT) conducted a study of itself, comparing the value of four factors in predicting success (measured by self-satisfaction in participation in a variety of community activities two years after college). Three of the four factors—high grades in college, high grades in high school and high scores on the ACT test—were found to have no predictive value. The only factor which could be used to predict success in later life was achievement in "extracurricular" activities. The College Entrance Examination Board's Scholastic Aptitude Test (SAT) was also examined for its accuracy in predicting how successful a person might be at a chosen career upon graduation from college. Results indicated that "the SAT's offered virtually no clue to capacity for significant intellectual or creative contributions in mature life." The study found that the best predictor for creativity in mature life was a person's performance during youth, in independent, self-sustained ventures. These youngsters who had many hobbies, interests and jobs or were active in extracurricular activities were most likely to be successful in later life. Participation in activities does make better citizens.

The "Study Report on the Cost Impact of Interscholastic Programs" presented April 6, 1979, by the Minnesota State High School League indicates in a random sampling of school districts in Minnesota that approximately 2.03 percent of the general fund budget is spent on the interscholastic program. An informal tally of several school districts in the state of Iowa, revealed that somewhere between 1.5 percent and 2 percent of the general fund budget was expended on the interscholastic program for the 1977–78 school year. School activities are a bargain.

Mr. President, I can think of few worthier causes that would deserve more public awareness than the important role that high school activities play in the lives of our Nation's teenagers. Communities themselves benefit from the involvement of students in healthful, constructive activities, and that involvement often helps those students assume positions of leadership in civic and community affairs.

With so much emphasis being placed strictly on classroom training, I believe it is time we recognized and generated a greater amount of public awareness of the value of the "other half of education." I ask the support of my colleagues in supporting this resolution.

ADDITIONAL COSPONSORS

S. 569

At the request of Mr. JEPSEN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 1107

At the request of Mr. SIMPSON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1107, a bill to amend certain provisions of title 28, United States Code, relating to venue in cases of a local or regional nature which involve the United States as a party.

SENATE JOINT RESOLUTION 65

At the request of Mr. PELL, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of Senate Joint Resolution 65, a joint resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States, and requesting the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom.

SENATE JOINT RESOLUTION 72

At the request of Mr. HAYAKAWA, the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of Senate Joint Resolution 72, a joint resolution proposing an amendment to the Constitution of the United States with respect to proceedings and documents in the English language.

SENATE JOINT RESOLUTION 78

At the request of Mr. COCHRAN, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day."

SENATE JOINT RESOLUTION 93

At the request of Mr. HAYAKAWA, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of Senate Joint Resolution 93, a joint resolution to clarify that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services.

SENATE RESOLUTION 21

At the request of Mr. HAYAKAWA, the Senator from North Dakota (Mr. BURDICK), the Senator from New York (Mr. D'AMATO), the Senator from Nebraska (Mr. EXON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nevada (Mr. LAXALT), the Senator from Indiana (Mr. LUGAR), the Senator from Maine (Mr. MITCHELL), the Senator from New York (Mr. MOYNIHAN), the Senator from South Dakota (Mr. PRESSLER), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of Senate Resolution 21, a resolution to commend James duMaresq Clavell for his contributions to literature.

AMENDMENT NO. 513

At the request of Mr. MOYNIHAN, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Montana (Mr. BAUCUS), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of amendment No. 513 proposed to House Joint Resolution 266, a bill to provide for a temporary increase in the public debt limit.

AMENDMENTS SUBMITTED FOR PRINTING

PRICE SUPPORTS AND PRODUCTION INCENTIVES FOR FARMERS

AMENDMENT NO. 524

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (S. 884) 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.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, the Subcommittee on Federal Expenditures, Research, and Rules of the Committee on Governmental Affairs will hold a hearing on Tuesday, September 15, 1981, to consider S. 719, the "Consultant Reform and Disclosure Act of 1981." The hearing is scheduled to begin at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Small Business Committee will hold a full committee hearing on July 30, 1981, at 11:30 a.m., in room 424 of the Russell Senate Office Building to consider the nomination of Frank S. Swain to be Chief Coun-

sel for Advocacy of the Small Business Administration.

For additional information contact Mike Haynes, chief counsel of the committee at 244–5175, or Kim Elliott of the committee at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 28, to hold hearings on standby oil allocations.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 29, to hold a business meeting to discuss the following pending business:

First. S. 1031, to amend section 303 of the Federal Land Policy and Management Act.

Second. Committee resolution urging the Senate to return the filling of the strategic petroleum reserve to the budget at the earliest date.

Third. S. 901, to prepare and protect the Georgetown waterfront for the recreational use of the public.

Fourth. S. 1475 and S. 1512, to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

Fifth. S. 146, to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes.

Sixth. S. 187, to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont.

Seventh. S. 188, to authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes.

Eighth. S. 512, to direct the Secretary of Agriculture to convey certain National Forest System lands in the State of Nevada, and for other purposes.

Ninth. S. 634, to authorize the exchange of certain lands in Idaho and Wyoming.

Tenth. S. 656, to preserve, protect and maintain the original boundary stone of the Nation's Capital.

Eleventh. S. 763, to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title and interest of the United States in and to certain lands that were withdrawn or acquired for the purpose of relocating a portion of the city of American Falls out of an area flooded by the American Falls Reservoir.

Twelfth. S. 764, to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho.

Thirteenth. H.R. 618, an act to convey certain interests in public lands to the City of Angels, Calif.

Fourteenth. S. 794, to amend the National Trails System Act to designate the General Crook Trail in Arizona and the Beale Wagon Road in Arizona, for study to determine the feasibility and desirability of their designations as national historic trails.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 30, to hold hearings on standby oil allocations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, to hold hearings on monetary policy.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate at 8:30 a.m. on Wednesday, July 29, to hold hearings on the nomination of James Richards to be Inspector General of the Department of Energy.

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

SPECIAL COMMITTEE ON AGING

Mr. BAKER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, July 29, to hold hearings on medicare reimbursement to competitive medical plans.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate at 10 a.m. on Wednesday, July 29, to hold a hearing on S. 792, a bill to create an institute for American Indian art and culture.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate at 9:30 a.m. on Thursday, July 30, to hold hearings on S. 159, a bill dealing with Navajo BLM land exchange, and S. 1340, a bill concerning the distribution of judgments awarded the Clallam Tribe of Washington State.

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

COMMITTEE OF SMALL BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, July 30, to hold hearings on the nominations of Frank Swain to be Chief Counsel for Advocacy of the Small Business Administration.

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

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, July 29, to hold oversight hearings on alternative service delivery.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 30, to hold oversight hearings on alternative service delivery.

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

SUBCOMMITTEE ON ECONOMIC POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 30, to hear testimony on an overview of U.S. policy toward international investment from public witnesses.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 31, to receive a briefing by administration officials on the military situation in El Salvador.

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

ADDITIONAL STATEMENTS

GAO PAPERWORK CHECKLIST NOW AVAILABLE

● Mr. DANFORTH. Mr. President, some time ago the Senate passed a rule—rule 26.11(b) to be exact—requiring committees to estimate the paperwork and privacy impact of proposed legislation. But—compliance with the rule has been perfunctory at best. On the theory that committee performance might improve if the process for doing estimates were somewhat more disciplined and if committee staffs had a better idea of where they could go for assistance, Senator CHILES and I asked the General Accounting Office to prepare a checklist to assist committees in preparing paperwork estimates.

We are pleased to announce that that guide is now complete and available from the GAO (Document Number GGD–81–76). Copies may be obtained by calling the GAO's document facility at 275–6241. We hope that committees will make good use of it.●

TESTIMONY OF SENATOR DOMENICI BEFORE THE CONSTITUTION SUBCOMMITTEE ON S. 584 AND S. 585

● Mr. DECONCINI. Mr. President, the Senate Committee on the Judiciary's Subcommittee on the Constitution has held a series of hearings recently on two bills introduced by the distinguished Senator from Utah (Senator HATCH) who is also the chairman of the subcommittee. These two bills, S. 584 and S. 585, have as their purpose the limitation of liability of local governments. Recent Supreme Court decisions have expanded that liability dramatically and it has become a cause of great concern to local government officials. Last week my distinguished friend and colleague from New Mexico (Senator DOMENICI) testified before the subcommittee and he was most eloquent in his discussion of the issues and ultimate support for the bills. As ranking minority member of the Constitution Subcommittee, I felt his testimony fairly stated the issues and offered constructive remedies, and I would like to share his thoughts with all my colleagues.

I ask that the statement of Senator DOMENICI before the Constitution Subcommittee on S. 584 and S. 585 be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR PETE V. DOMENICI

Mr. Chairman, it is a pleasure for me to appear before your subcommittee today to express my support and views with respect to the proposed amendments to 42 U.S.C. Section 1983. From the outset, my interest in this legislation stems particularly from my experience as Chairman of the City Commission and ex officio Mayor of Albuquerque, New Mexico.

Recent state and federal judicial decisions have significantly expanded beyond its intended purpose, the coverage of Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. Section 1983. Specifically, in *Maine* v. *Thiboutot*, 448 U.S. 1 (1980), the Supreme Court last Term broadly construed Section 1983 to authorize suits redressing violations by state officials not only in cases of deprivation of constitutional and statutory equal rights but also with respect to rights created by *any* federal statute. In *Owen* v. *City of Independence*, 445 U.S. 622 (1980), the Court—departing from the previous strict construction of that section—broadly interpreted Section 1983 to impose strict liability on municipalities for constitutional violations rejecting any form of qualified immunity for municipalities.

Taken together, these decisions dramatically expand—without firm legal and policy support—the liability of state and local officials in such a way as to disturb the balance between the important public interests contemplated by the original legislation and the legitimate fiscal and administrative interests of state and local governments. As a former mayor, I am particularly concerned that this balance be maintained. In the face of the existing imbalance triggered by recent judicial activity, I am co-sponsoring legislation, pending in the Senate Judiciary Committee, which—while not compromising the original intent of Section 1983 to protect the constitutional and statutory equal rights of an individual—will effectively limit its reach.

The first bill, S. 584, is designed to amend Section 1983 by replacing the unqualified phrase "and laws" with more specific language "and by any law providing for equal rights of citizens or of all persons within the jurisdiction of the United States." In *Maine* v. *Thiboutot, supra*, the Court—although broadly interpreting the phrase "and laws" to include all federal laws—admitted that "legislative history does not permit a definitive answer" with respect to its construction and invited clarification from Congress. This amendment seeks to provide that clarification. It would limit the liability of local and state officials to actions clearly found to deprive citizens of rights secured by the Constitution and by those laws which provide for equal rights—not for violations of any and all federal statutes. While protecting the intended civil and constitutional rights of individuals, this amendment to Section 1983 will prevent the harassment of state and local officials which would otherwise result from the unintended broader interpretation. It will also save countless dollars for state and local governments which would otherwise be required to defray the entire burden of liability for violations of statutory "civil rights" even when federal officials are involved equally with state officials in the administration of the affected program. Absent the amendment, literally hundreds of cooperative regulatory and social welfare enactments—including management laws and grant programs—may be affected.

The second bill, S. 585, provides that municipalities and other political subdivisions of a state shall have a good faith defense, or qualified immunity, in Section 1983 actions. This amendment is responsive to the Court's misdirected decision in *Owen* v. *City of Independence, supra*, and the more recent Supreme Court decision in *City of Newport* v. *Fact Concerts, Inc.*, 49 U.S.L.W. 4860 (June 26, 1981), which admits that the "contours of municipal liability under § 1983 . . . are currently in a state of evolving definition and uncertainty." This amendment seeks to provide additional certainty with respect to municipal liability under Section 1983.

Such immunity would still leave the municipality liable for bad faith or unreasonable constitutional deprivations. It would obviate, moreover, the need for costly damage judgments to be paid for by local and state governments where officials have acted in good faith but, because of strict liability, would be held liable. Finally, it would avoid the undesirable result of strict liability for municipalities described by the dissent in *Owen* v. *City of Independence*, 445 U.S. at 658–59:

"The Court now argues that local officials might modify their actions unduly if they face personal liability under § 1983, but that they are unlikely to do so when the locality itself will be held liable. *Ante*, at 655–656. This contention denigrates the sense of responsibility of municipal officers, and misunderstands the political process. Responsible local officials will be concerned about potential judgments against their municipalities for alleged constitutional torts. Moreover, they will be accountable within the political system for subjecting the municipality to adverse judgments. *If officials must look over their shoulders at strict municipal liability for unknowable constitutional deprivations, the resulting degree of governmental paralysis will be little different from that caused by fear of personal liability.* Cf. *Wood* v. *Strickland*, 420 U.S., at 319–320; *Scheuer* v. *Rhodes*, 416 U.S., at 242." (Emphasis added.)

This amendment strikes an equitable balance between two very important considerations—the constitutional rights of individuals and the ability of local governments to serve all the people. In so doing, it attempts to meet the undesirable policy consequences which, left unchanged, the existing law will cause.

The state of the law with respect to municipal liability under Section 1983 is clearly in present need of clarification by Congress. Two additional Supreme Court decisions involving municipal liability under Section 1983, handed down last month, underscore most recently the inadequacy of a piecemeal judicial construction of this legislation of the post-Civil War reconstruction era.

In *City of Newport* v. *Fact Concerts, Inc.* 49 U.S.L.W. 4860 (June 26, 1981), the Court—after reviewing the legislative history of Section 1983—determined that Congress did not intend to abolish the doctrine of municipal immunity from punitive damages. Likewise in *Middlesex County Sewerage Authority* v. *National Sea Clammers Association*, 49 U.S.L.W. 4783 (June 25, 1981), without either party raising the issue, the Court determined that, where a State official is alleged to have violated a federal statute which provides its own comprehensive enforcement scheme, Congress intended not only to foreclose implied private actions but also to supplant any other remedy which otherwise would be available under Section 1983. While welcome, these recent decisions point up the need for clear Congressional clarification and direction with respect to Congress' original intention in passing this legislation.

Absent Congressional action, these judicial decisions, and no doubt others, will continue the uncertainty concerning interpretation of Section 1983 and severely impair the ability of local and state governments to serve the people. This it will continue to do under the mistaken "guise" of protecting the constitutional rights of individuals. I am, accordingly, urging immediate action on these two amendments to Section 1983.●

ETSI LEGISLATION

● Mr. ABDNOR. Mr. President, today our Nation faces an energy environmental dilemma as we attempt to look inward to meet our energy needs and find ourselves faced with the possibility that meeting those needs will impose irreversible scars on the face of our country. In my State of South Dakota we are acutely aware of the problem because of the energy-hungry looks attracted by the vast reserve of coal which our neighboring States of the West are fortunate to possess.

While I recognize the need for energy independence, I am also very determined that it be achieved without upsetting the delicate balance of nature that exists in many areas of the West. Two measures, Senator EXON, Senator ZORINSKY, Senator PRESSLER and I are introducing today address one aspect of this problem—the use of ground water to transport coal in a slurry pipeline. The first bill would establish new policy to govern Federal involvement in promoting such uses of ground water; and the second addresses the specific problem South Dakota, Montana, and Nebraska are facing.

Under the first bill no rights-of-way across Federal land could be granted for a coal slurry line without the approval of each State whose ground water would be affected and under which lies the aquifer to be utilized as a source of water by the proposed pipeline.

The problem with existing law is that it is not designed to deal with the present circumstances, in which water may be pumped out from under one State from wells in another State, mixed with coal, and exported 1,800 miles across several States, for the benefit of citizens

in still other States. Under present law, the Federal Government has no obligation to check with each State whose water rights may be affected, prior to participating in the approval of a coal slurry line through the granting of rights-of-way. In my view this is highly unacceptable, given that a wrong decision could be devastating to future generations in the affected areas, because the ability of land to sustain life is so dependent on the water that nurtures it.

This legislation is merely an extension of the concept on which President Reagan campaigned and has begun to institute in other areas, that is returning decisionmaking authority to the governmental entities closest to the problems and where the solutions are best understood.

The second bill relates specifically to the problem that exists in South Dakota, Wyoming, Montana, and Nebraska with respect to use of the Madison aquifer for coal slurry pipeline purposes. It would direct the Corps of Engineers, which is conducting an ongoing study of the water resources of western South Dakota, to investigate the impact of possible ground water withdrawals for slurry purposes.

The State of Wyoming has granted Energy Transportation System Inc. (ETSI) a permit to remove 20,200 acre feet per year from the Madison formation in Niobrara County, Wyo., which borders South Dakota and Nebraska. There is a lot of well-founded concern that the drawdown from the Madison will adversely affect recreational, municipal, scenic, domestic, and agricultural uses in South Dakota, Montana, and Nebraska, but none of these States had a voice in the decision to grant the water right.

The ETSI project does require a permit to cross 36 miles of Federal land and consequently must go through the Bureau of Land Management's environmental impact statement (EIS) process. But, the ETSI draft environmental impact statement (DEIS) was so inadequate that every member of the South Dakota delegation, as well as several from the Nebraska delegation, registered complaints with BLM. Due to the quantity and quality of the complains BLM decided to delay publication of the EIS for 2 months to study further the hydrology, socioeconomics, spill contingency, and the all-rail option.

This month the final EIS was publicized, but the fact that the DEIS was so inadequate as to require a 2-month delay for rewriting of several major areas further substantiates that decisions affecting whether whole counties will continue to exist on arable but semiarid land should not be made from Washington.

Chairman UDALL will be holding hearings on coal slurry legislation (H.R. 4230) before the House Interior Committee on July 30, 1981. It is my hope that the affected States review concept embodied in the legislation I am introducing today will be reflected in any legislation passed by the House or the Senate to promote the development of coal slurry pipelines.

It is my hope that this legislation wil be enacted to protect South Dakota, Montana, and Nebraska in this instance, but also any other State which happens to share an aquifer with a State where a coal slurry pipeline is being considered in the future.●

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BAKER. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to and, at 10:32 p.m., the Senate recessed until tomorrow, Wednesday, July 29, 1981, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1981:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles L. Donnelly, Jr., [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8036, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. George D. Miller, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Charles G. Cleveland, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, Section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of Section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert T. Herres, [redacted] FR, U.S. Air Force.

IN THE MARINE CORPS

The following-named male officer of the Marine Corps for permanent appointment to the grade of Colonel under the provisions of title 10, United States Code, sections 5769 section 5902:

John T. Garcia

The following-named male officers of the Marine Corps Reserve for permanent appointment to the grade of Colonel under the provisions of title 10, United States Code, section 5902:

Robert E. Akins
Tedd W. Aldrich
Daniel M. Bergbauer
Wayne J. Bienvenu
John C. Boston, Jr.
Owen G. Brown
Richard G. Cashwell
Edward L. Collymore
Richard E. Deichmann
Daniel H. Donegan
John F. Dwan
John C. Eisenhammer
Peter D. Everill
Andrew J. Fang
Larry D. Field
Glendon C. Fleming
Coleman J. Foley
Howard W. Greenup
Gladen R. Hamilton, Jr.
David L. Hilton
Nicholas R. Hirsch
Richard N. Hoehn
Donald E. Holt
Roger A. Holtzapple
Ansley S. Horton
Thomas R. Horton
Philip S. Inglee
Donald F. Joganic
William M. Keal
Timothy D. Lundy
James J. Manley
Robert D. McCarthy
Dudley E. McFadden, Jr.
Richard J. McGill
Michael E. McPherson
James C. McRoberts
Allan R. Millett
Jacques C. Naviaux
John D. Oakey
James H. Pope
William C. Price
Richard G. Rodriguez
Gerald J. Ryan
Anthony F. Schuster, Jr.
Frederick N. Shaffer
John W. Sledge, Jr.
Donald H. Smith
Robert W. Sparrow
Robert C. Summe
Charles M. Temple
Clarke E. Vollbrecht, Jr.
Tren A. Williamson
William H. Wundram
Richard L. Yarmy
Frank D. Yusup, Jr.

The following-named woman officer of the Marine Corps Reserve for permanent appointment to the grade of Colonel under the provisions of title 10, United States Code, section 5902:

Adele A. Graham

The following named male officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of Title 10, United States Code, section 5780:

Paul R. Aadnesen
Michael C. Abajian
William G. Adamaitis
John F. Adinolfi
John L. Adkinson, Jr.
John H. Admire
Travis M. Aiton
Allan A. Algoso, Jr.
David P. Allen
James P. Allen, Jr.
Jose G. Alonzo
Richard S. Alvarez
James A. Amendolia
Granville R. Amos
George A. Ampagoomian
Charles W. Anderson
Denis J. Anderson, Jr.
Lee H. Anderson
William D. Armstrong, Jr.
Joseph U. Arroyo
John P. Aymond, Jr.
Raymond P. Ayres, Jr.
Russell F. Bailes, Jr.
Thomas C. Bailey, Jr.
Lorenzo R. Bancells
Barry V. Banks
William L. Barba
Charles E. Barnett
James B. Barr
Bradley E. Barriteau
William E. Bartels, Jr.
Merrill L. Bartlett
Dennis D. Beckman
Raymond H. Bednarsky
Robert A. Beeler
David E. Belatti
Thomas M. Beldon
Michael C. Bell
Charles S. Bentley
Stephen R. Berkheiser
Rudy W. Bernard
Maurice F. Bernier
Floyd A. Best
Lee H. Bettis
John A. Bicknas
Jerry C. Black
Frank S. Blair III
Gary A. Blair
Marvin S. Blair, Jr.
Richard J. Blanchfield
Carl R. Bledsoe
Andrew J. Blenkle
Donald E. Bonsper
Thomas A. Bowditch
John T. Boyer
Charles D. Breme
John L. Brennan
Randolph H. Brinkley
John F. Brosnan, Jr.
Neil J. Bross
Donald P. Brown
Edward C. Brown
Ross A. Brown
Randolph D. Brunell
Roland J. Brunelle
Kenneth T. Brunsvold
Clarence C. Bryant
John D. Buckelew
John G. Burns
Kenneth R. Burns
Raymond M. Burns
Jerry R. Cadick
William L. Cadieux
David L. Caldon
Charles M. Calhoon
Jack R. Campbell, Jr.
Larry E. Campbell
Wallace L. Campbell
Ray G. Canada
Nicholas F. Carlucci, Jr.
William D. Carr, Jr.
John R. Carswell II
Hugh T. Carter
Thomas W. Carter III
James A. Cathcart
Hubert L. Causey
James M. Chapin
Charles W. Cheatham
Clarence B. Cheatham, Jr.
Clayton C. Christensen
John C. Church
John A. Cirle
Philip C. Cisneros
John R. Clickener
William H. Climo, Jr.
Clovis C. Coffman, Jr.
Brascal B. Cole, Jr.
Michael H. Collier
Joseph P. Colly
George M. Connell
Robert W. Coop
Dillard W. Copeland
David C. Corbett
Kermit C. Corcoran
John O. Cotton
Ronald J. Coulter
William V. Cowan III
Thomas N. Cox
Merle L. Crabb
Thomas P. Craig, Jr.
David E. Crais
Arthur O. Cravets

John D. Cummings
Gary J. Cummins
Jack W. Cunningham
Ronald J. Curtis
Terry M. Curtis
Reid E. Dahart
William M. Dale
Robert J. Dalton
Ronald M. Damura
Walter E. Daniell
John J. David
Douglas M. Davidson
William A. Davidson III
Charles R. Davis
Michael A. Davis
Peter K. Davis
Pleas E. Davis
Thomas E. Davis
William J. Davis
Stephen M. Day
Walter S. Deforest
Conrad A. Delateur, Jr.
Thomas R. Delux
John F. Dennis
Richard E. Dennis
Gerald L. Dereberry
James A. Derrico, Jr.
Kenneth W. Dewey
Bruce H. Dewoolfson, Jr.
William J. Dibello
Wilbur C. Dishman
Gary D. Dockendorff
Richard E. Donaghy
Robert J. Dougal
David Douglas III
James J. Doyle, Jr.
John B. Dudley III
Thomas M. Early
Edgar J. Easton, Jr.
Thomas R. Edmunds
Larry M. Edwards
William E. Egen
Sidney A. Ellertson
Robert J. Eisenlohr
Michael W. Emmett
George J. I. Eschenfelder
George K. Eubanks
David P. Evans
Leroy B. Evans
John P. Farrell
Dennis L. Faust
Mark F. Felske
George I. Felt, Jr.
Louis J. Ferracane, Jr.
Raymond W. Fesperman
Thomas M. Fine III
Andrew R. Finlayson
Dennis M. Finnance
Augustus Fitch III
William C. Fite
Dennis R. Fitz
Ronald E. Fix
Ronald D. Fleming
Morris O. Fletcher
Joseph G. Flynn
Walter H. Flynn, Jr.
Philip A. Forbes
Norman R. Ford
William R. Ford
William A. Forney
David E. Foss
Wesley L. Fox
Donald R. Frank
Robert L. Frantz
Paul A. Fratarcangelo
James E. French
John B. Fretwell
Barton J. Friebolin
Dennis B. Fryrear
Carlton W. Fulford, Jr.
Randolph A. Gangle
James P. Gardner
David P. Garner
Dixon B. Garner
Larry T. Garrett
Jerald B. Gartman
Michael H. Gavlick
Charles L. George
Howard L. Gerlach
Jerry R. German
Perry H. Gesell
Graydon F. Geske
Wayne M. Gibbons
Walter M. Gibbs
Henry P. Giedzinski
Woody F. Gilliland
Roger H. Gingrich, Jr.
John T. Gipson
John P. Glasgow, Jr.
James P. Gleason
Robert E. Godwin
Humberto Gonzalez
Jerome E. Goodrich
John B. Goody
Joaquin C. Gracida
Michael J. Graf
John H. Grant
Donald A. Gressly
Richard H. Griffin
Gordon H. Gunniss
Clarence L. Guthrie, Jr.
William J. Gwaltney
David I. Habermacher, Jr.
James C. Hajduk
Samuel T. Hall
James C. Hallman II
James W. Hardy
Joe M. Hargrove
Dennis M. Harke
Robert L. Harrison
Richard T. Harry
James G. Hart
William F. Harvey
Eric E. Hastings
Charles E. Hatch
Orville E. Hay
James M. Hayes
Robert B. Haynes
Stanley E. Haynes
Donald R. Head
Gale E. Heavilin
William E. Healy
Hans R. Heinz
Ronald A. Hellbusch
Phillip R. Hemming
Roger M. Henry
James E. Henshaw
Richard Herberg, Jr.
Dennis B. Herbert
Leslie B. Herman
David F. Herr
Peter M. Hesser
Donnie H. Hester
Milton J. Hester
Francis E. Heuring
Robert Hickerson
Larry T. Higbee
David A. Higley
Robert G. Hill
Judson D. Hilton, Jr.
Steven M. Hinds
Marshall G. Hodges
Richard W. Hodory
Howard M. Hoffman
George R. Hofmann, Jr.
Franklin D. Holder
Marvin T. Hopgood, Jr.
Nathaniel R. Hoskot, Jr.
David Howe
Merlin R. Huckemeyer
Stanley P. Huey, Jr.
Robert A. Hughes
James L. Hurlburt
Larry W. Hutson
Charles H. Ingraham, Jr.
Thomas R. Irvine
Frank M. Izenour, Jr.
Marvin L. Jackson
Grant G. Jacobsen
James W. Jacobson
Michael R. Janay
Roger M. Jaroch
Gordon R. Jefferson
Gerald O. Jenson
Jack D. Jewell
James E. Johnson
Melford M. Johnson
Robert J. Johnson, Jr.
William F. Johnson
Paul S. Johnston
John N. Jolley, Jr.
David A. Jones
Fred L. Jones
Gerald W. Jones
Thomas L. Jones
Virgil W. Jones, Jr.
Walter F. Jones
Harry K. Jowers, Jr.
Luis A. Juarez
Louis S. Jumbercotta, Jr.
John F. Juul
Thomas A. Kahl
Patrick J. Kahler
Richard J. Kalata
Lawrence G. Karch
William M. Kay
James H. Kean
Arthur J. Keener
Robert F. Kehres
Cary Kelly
Michael S. Kelly
Thomas W. Kelly
Norman G. Kerr
Robert E. Kiah, Jr.
Lynn J. Kimball
Novatus N. Kirby
Kenneth J. Kiriacopoulos
Robert H. Kirkpatrick, Jr.
Edward J. Kline
John E. Knight, Jr.
David E. Knop
George W. Kralovec III
John J. Krauer
Coleman D. Kuhn, Jr.
Lawrence C. Kutchma
David J. Laboissiere
Alexander E. Lancaster
Robert K. Lange
Shelton F. Lankford
Timothy L. Laplaunt
Robert L. Larkin
Jacob L. LaRue
James H. LaVelle
Joseph A. Lavigne
Francis X. Lawler, Jr.
William F. Lawlor III
William S. Lawrence
Walker M. Lazar
Charles D. Lea
Sean K. Leach
Harry E. Lee III
Frank Libutti
Jay C. Lillie
Jasper C. Lilly, Jr.
Achim W. Lind
Stephen E. Lindblom
David B. Littell
Frank E. Littlebury
Junior D. Littlejohn
John S. Lowery, Jr.
James L. Lucas
James W. Lucey
Freddie M. Luckie
Brice R. Luedtke
Herbert G. Lyles
Bertie D. Lynch
Douglas C. Maccaskill
Gary W. Macleod
Rudolph J. Maikis
Bruce A. Major
Robert M. Mallard
Michael G. Malone
John M. Maloney
David P. Martin
William R. J. Masciangelo
Edward G. Massman
Robert L. Matlosz
John B. Matthews
Frederick H. Matthys Jr.
Robert E. Mattingly
Herman L. May, Jr.
Jeffrey B. McAnally
John C. McAnnally
Robert M. McBride
William G. McBride, Jr.
Patrick J. McCann
James E. McClenahan, Jr.
Daryl S. McClung, Jr.
Jimmy W. McClung
Stephen R. McComb
John J. McDermott
Thomas C. McDonald
John C. McGee
James B. McKenney
Gary S. McKissock
Robert J. McLaughlin
John P. McMahon
Warren R. McPherson
Thomas H. Meurer
Gary G. Meyers
Perry W. Miles, III
Donald J. Miller, Jr.
Gerald L. Miller
George J. Miske
Stuart J. Mock
John W. Moffett
John W. Mohr
Rex B. Moody
John R. Moore
Kenneth W. Moore
Paul Moore, Jr.
Walter H. Moos
Joseph G. Morra
Joseph J. Morrissey, III
Michael J. Moss
Joseph F. Mullane, Jr.
Richard J. Muller
James E. Murphy
James W. Murphy
William A. Murphy
William F. Murphy
John D. Murray
Joseph A. Murry
James M. Mutter
Lonnie M. Myers
Richard I. Neal
James S. Needham
David W. Nelson
Thomas S. Nelson III
Ronald S. Neubauer
David E. Niederhaus
Ernest G. Noll, Jr.
Robert G. Nunnally
Robert M. Nye, Jr.
Ronald C. Oates
Donald J. O'Connor
Mark D. O'Connor
George W. O'Dell
Thomas F. O'Malley, Jr.
Kevin P. O'Mara
Edward P. O'Neil
Vincent E. O'Neill
John P. Oppenhuizen
James M. O'Rourke, Jr.
Theodore D. Owens
Nelson Paler
Paul A. Pankey
William A. Parker
Julian W. Parrish
David N. Pedersen
William T. Pedersen, Jr.
James A. Pelli, Jr.
James P. Pennell
Peter L. Perkins, Jr.
Jack F. Perry
Guy A. Pete, Jr.
William C. Peters
Kenneth B. Petersen
William E. Phelps
John D. Phillips
Daniel R. Phipps
Arthur J. Picone, Jr.
Gordon L. Pirtle
Ido E. Pistelli
William E. Platz
William W. Pollock
Gerald J. Polyascko
Corbett G. Pool
John R. Pope
Michael E. Popelka
Stephen P. Porcari, Jr.
Harry P. Porth, Jr.
David G. Pound
Paul J. Prinster
James M. Puckett
Charles J. Pyle
Robert H. Railey
James M. Rapp
Geoffrey K. Rasmussen
Jimmy M. Ray
Philip H. Ray
Charles Rechtenbach
Robert K. Redlin
Albert A. Reed
Don T. Reed
Henry L. Reed
Robert E. Reedhill, Jr.
Lawrence C. Reifsnider
Richard M. Reilly
Claude W. Reinke
Robert R. Renier
Wayne H. Rice
Clarence E. Richards, Jr.
Larry R. Richards
Charles E. Richardson
David A. Richwine
Manfred A. Rietsch
Clarence C. Riner, III
James P. Riordan
Jack W. Rippy
Frederick M. Rivers, Jr.
Joseph W. Robbern, Jr.
Lawrence R. Robillard
Clifford R. Robinson
Gary H. Robinson
George R. Robinson
Richard J. Rochford
Bob B. Rodgers
John M. Rodosta
Richard D. Rodriguez
Thomas J. Romanetz
Hugh A. Ronalds
Herbert G. Roser
George A. Ross
Peter R. Rounseville
Daryl L. Russell
Glenn W. Russell, Jr.
Victor M. Russillo
Kenneth S. Russom
Bernard R. Rusthoven
Edward M. Rynne
Woodson A. Sadler
William J. Sambito
Kenneth R. Sandstrom
Durward T. Savage
Don F. Schafer, Jr.
Klaus D. Schagat
Thomas A. Scheib
Bernard D. Schmidt
Klaus D. Schreiber
Edward C. Schriber
Russell W. Schumacher, Jr.
Bruce A. Schwanda
Rudy T. Schwanda
Richard E. Schwartz
Thomas E. Schwartz
Gene D. Schwartzlow
James E. Scoggins
James E. Secrist
T. D. Seder
Vytautas S. Senkus
Merlyn A. Sexton
Michael N. Shahan
William C. Shaver
Stanford E. Sheaffer
William G. Sheldon III
John D. Shinnick
Michael F. Shisler
William B. Shively
Raul A. Sifuentes
Hurman R. Sims
Alexander G. Smith III
Gordon F. Smith
Larry E. Smith
Ronald L. Smith
Stephen K. Smith
Edward A. Smyth
Frank R. Soderstrom
James L. Spence
William R. Spicer
Robert L. Spooner
Larry J. Springer
Robert C. Springer
Ray L. Springfield
Michael A. Stankosky
Gregory C. Steele
Thomas W. Steele
Eugene A. Steffen
Craig R. Steinmetz
Louis C. Stengel III
Joseph D. Stewart
Raymond A. Stewart, Jr.
Charles R. Stichter II
William A. Stickney
Myles C. Still
Roy J. Stocking, Jr.
James F. Stodola
James E. Stoll
Terry W. Stone
Thomas D. Stouffer
Richard A. Strickland
Edward G. Stuckrath, Jr.
John M. Suhy
John J. Sullivan
Robert J. Sullivan
Russell H. Sutton
Terry P. Swanger
William G. Swarens
Bronson W. Sweeney
Charles T. Sweeney
Robert E. Swete
William P. Symolon
Stephen A. Tace
Jerry K. Taylor
Monty J. Tennes
Joseph G. Thomas
Ky L. Thompson
William F. Thompson
Robert O. Tilley
Anthony P. Tokarz
Thomas A. Toth
Edward L. Trainor
Robert E. Tschan
Phillip E. Tucker
Frank L. Turner
Ellsworth J. Turse, Jr.
Charles G. Tyrian, Jr.
William P. Vacca
Jay H. Vandyne
Gary R. Vangysel
Robert A. Vanhouten, Jr.
George M. Vanorden
Russell D. Verbael
Eric P. Visser
Rishard L. Vogel
Richard H. Voigt
James A. Vollendorf
John M. Wagner
Alfred J. Walke
Thomas U. Wall
Earl P. Wallis
George H. Walls, Jr.
Loren A. Wasson
David J. Watson
Larry L. Weeks
John Wegl
Edwin W. Welch
Roger V. Wellbrook
Daniel T. Wellman, Jr.
Ronald R. Welpott
Robert F. Wemheuer

Alfred M. West
William D. Wester
Buddy P. Westmoreland
John K. Wetter
David L. White
Michael C. Wholley
Frank G. Wickersham III
Harold B. Wilber
James R. Williams
John F. Williams, Jr.
John K. Williams
Joseph H. Williams
Lester H. Williams, Jr.
Roger L. Williams
Monroe F. Williamson
Robert T. Willis
Gordon R. Willson
Jeffrey A. Wilson
Lynn W. Wilson
William D. Wischmeyer
William C. Wolfe
Mansel M. Wood
Lance P. Woodburn
John A. Woodhead III
Larry L. Woodruff
Clyde E. Woods
Dale F. Wyrauch, Jr.
Robert E. Yeend
Paul D. Young
John S. Zdanowski
Anthony C. Zinni
Lawrence M. Zipsir

The following named officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under the provisions of Title 10 United States Code, section 5911:

Robert L. Adams
James A. Aiken
Ronald J. Appel
David A. Ballentine
Clarke C. Barnes
James V. Barrios
Ralph S. Bates
Donald J. Beary
Robert L. Beavis
Richard E. Beirne IV
Robert H. Belknap
Ben H. Bell
Rodney E. Bell
Stanley L. Benson
William W. Benson
Cedric C. Bevis
Otto Biangardi
Kenneth M. Billingsley
Patrick J. Blessing
Richard N. Bloomberg
John R. Booth
Duncan E. Bossle
Roger A. Bourgery
George F. Braun
Terrence M. Breen
Darwin E. Bremer
Paul G. Brown
Umphis L. Brown
Dale L. Buchanan
Eugene G. Buglewicz
Harry E. Burton
George E. Cadman III
Marshall M. Calef II
Charles P. Campbell, Jr.
James M. Campbell
William S. Campbell
William E. Capehart
Michael G. Carberry
Albert E. Carpenter, Jr.
John J. Cassidy, Jr.
David P. Connelly, Jr.
Richard A. Connor
John R. Connors, Jr.
James G. Custar
Benjamin R. Dadd, Jr.
Kevin R. Danehy
Robert R. Davis, Jr.
Terry L. Delong
Alexander C. Dickerson
Vincent D. Diloreto
Joseph P. Dyer, Jr.
John R. Elkins
Randall L. Erickson
Carlos D. Espinoza
Thomas D. Ewton
Jerry J. Farro
Michael S. Ferneau
James E. Flanagan
James J. Funcheon
Kenneth R. Furr
Donald S. Gallaspy, Jr.
Louis Garcia
Robert S. Gardner
Leroy A. Garrett
John P. Gill
Marc H. Glasgow
James T. Gleason
Walter H. Goedeke
James C. Goodwin
Joseph E. Gott
David W. Gould
Paul R. Gregus
Gary W. Gretter
John S. Gruggel, Jr.
Donald J. Hager
Edward M. Hall
Donald D. Hamilton
Leonard D. Hanford
Francis T. Hankins
Lowell W. Hanson
John J. Hargrove
Kenneth J. Hebert
William J. Heller
James S. Herak
Dewey L. Herring
Robert L. Higginbotham
William W. Hobbs, Jr.
Russell E. Hohman
Bobby G. Hollingsworth
Robert P. Horne, Jr.
William E. Iorio
Anthony A. Johnson
James L. Johnson
Kari Johnson
Garland L. Jones
John L. Jones
George A. Jonic, Jr.
Thomas W. Kaugher, Jr.
Francis J. Kaveney
John M. Kelly
Raymond W. Kelly
Robert M. Kestler
Alexander Kirk
Stephen A. Kirkpatrick
Matthew T. Kissane
Robert G. Kissling, Jr.
William S. Knight
Larry M. Krilla
Edward Kufeldt
Harry E. Lake, Jr.
Frank J. Lamura
Malcolm V. Lane, Jr.
Elton R. Lanier
Paul J. Laveroni
Gavin D. Lee
Vincent M. Levitsky
James L. Lindemood
Richard J. Lovelace
John K. Lower
Thomas J. Luciano
Walter M. Luy
Clifford H. Manning
David M. Marchand
Kenneth E. Martin
Raymond W. Martin
Robert A. McClellan, Jr.
Alexander McClinchie
Michael G. McCollum
Ronald D. McDaniel
Leland B. McDonough
Thomas H. Meeker
Quinten R. Meland
Leonard E. Miller
Peter M. Molloy
Leon H. Moore
James E. Morley, Jr.
Richard A. Muench
John J. Murray
John J. Nelson, Jr.
Thomas F. Newman
Laurance S. Nowak
George J. O'Connell, Jr.
James T. O'Kelley, Jr.
George S. Olivas
William D. Palmer
Bill D. Parker
Robert E. Parnell, Jr.
Stanley J. Pasieka, Jr.
Robert E. Pearce
Stanley J. Pechalonis
Jeffrey C. Pickett
Darvin D. Pierce
Charles A. Pinney III
William A. Platt
William N. Price
Don E. Prichard
Charles L. Pritchard
Charles J. Quilter, Jr.
Gary L. Randall
Thomas C. Rauwald
Ronald D. Ray
Herbert D. Raymond III
Norbert V. Reardon
Anthony S. M. Reyna
Wayne A. Rich, Jr.
James D. Richards
Douglas S. Rider
Robert O. Riggs
Tomas M. Rodriguez, Jr.
Paul R. Rollins
David K. Rumsey
Earl R. Rutledge
Michael E. Sandlin
Gary A. Sargent
Antonio Scenna
Ernst U. Schultes
Michael J. Severson
Thomas M. Shea
Robert C. Shearer
Denis L. Shortal
William R. Singer
Kenneth P. Sirmon
Carl H. Slaski
Douglas L. Smith
Frederick J. Smith III
Norman W. Smith, Jr.
Neil A. Snider
John T. Somerville
Edward G. Southworth
Billy L. Speed
Michael R. Stanton
David M. Stout
Luther P. Stroud, Jr.
Bruce W. Sumner
Ronald J. Suter
Jack E. Swallows
Robert M. Talent
Albert G. Tase, Jr.
Arthur W. Tifford
Donald R. Treichler
Charles C. Turner
Charles S. Tutt
Richard A. Vansickle
Frederick J. Vogel
Richard E. Vosepka
David F. Wall
Arthur Warnack
Paul F. Wendler, Jr.
Don E. Wheeler
Richard T. White, Jr.
John G. Wilhelm
James T. Williams
Russell L. Williamson
Richard O. Willich
Hugh A. Wilson III
Steven C. Wilson
John T. Winkler
Walter J. Wise, Jr.
Joseph C. Wolfe, Jr.
Howell F. Wright
Michael G. Wystraach
Jack B. Zimmermann

The following-named officers of the Marine Corps for permanent appointment to the grade of major under the provisions of title 10, United States Code, section 5780:

Donald L. Abblitt
James R. Abelee
James R. Acreback
Gayle E. Adcock
Jesse W. Addison
Larry G. Adkins
Jerald R. Agenbroad
Paul R. Ahrens
Robert A. Aikman
Alexander J. Aitken
Anthony C. Akstin
Gary R. Albin
Burt E. Alexander
Gerald W. Allen
James V. Allen
Richard D. Allen
Steve N. Allen
Thomas E. Allen
Charles R. Allison III
Kenneth C. Allison, Jr.
Gary C. Allord
John F. Amend, Jr.
Lester E. Amick III
Gary W. Anderson
Joseph T. Anderson
Gary D. Andersen
James F. Andrews III
David A. Andriacco
Monrovio J. Angell III
Ralph H. Anzelmo
Jeffery A. Applen
Russell E. Appleton
William V. Arbacas, Jr.
Bruce R. Archer
James A. Ardaiolo
Rodney A. Arena
Michael J. Arent
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David W. Zimmerman
Jeffrey M. Zimmerman
Eric D. Zobel
Jeffrey L. Zorn

The following-named officers of the Marine Corps for permanent appointment to the grade of captain under the provisions of title 10, United States Code, section 5780:

Frederick W. Abel
Charles R. Abney
Clifford M. Acree
Charles W. Adair
Raymond Adamiec
James E. Adams
James H. Adams
Michael J. Adams
Michael L. Adams
John F. Adamson
David R. Aday
Robert P. Adelhelm
Frederick P. Adkins
Thomas M. Adkins
Daniel Aguilar
Rodolfo F. Aguilar, Jr.
Mitchel N. Ahlers, Sr.
Dirk R. Ahle
John W. Ailshire
Anthony T. Alauria
Michael C. Albano
Bruce A. Albrecht
Mark E. Albritton
Michael E. Aldridge
Byron A. Alexander
Joseph A. Alexander, Jr.
William T. Alexander
Mark E. Alfers
Louis J. Alfieri
Frederick C. Alke
Daniel R. Allegro
Donald B. Allegro
Charles H. Allen
Geoffrey C. Allen
John R. Allen
Paul C. Allen
Randolph D. Alles
James L. Anderes
David W. Andersen
Alan S. Anderson
David A. Anderson
Frederick E. Anderson, Jr.
Michael C. Anderson
Rodney W. Anderson
Steven D. Anderson
Thomas W. Anderson
Wayne C. Anderson
Wesley M. Anderson
William J. L. Anderson
Paul A. Andres
Robert M. Andrews
William E. Andrews
Stephen W. Andriko
James C. Andrus
Clarke F. Ansel
Steven J. Antosh
Scott E. Apgar
James C. Aplin
Albert E. Apodaca, Jr.
Robert E. Apple, Jr.
Douglas L. Applegate
Michael F. Applegate
Thomas E. Archer II
William A. Archibald, Jr.
Christopher C. Arenas
Elwood M. Armstrong, Jr.
Charles W. Arnold
Roy A. Arnold
Malcolm Arnot
Michael L. Arter
Stephen E. Arthur
Levon S. Asadoorian
Steven L. Ash
Lawrence W. Astyk
John H. Aten
David E. Atkins
Richard A. Atkisson
Henry Attanasio
Sidney E. Atwater
Edward W. Austermuehle
Allan P. Avery
Robert J. Avila, Jr.
Joseph R. Ayala
Berwick P. Babin
Mariano Baca, Jr.
Ruben Baca
Brian J. Bach
Jesus M. Baez
Winston E. Baggs
Allen T. Bailey
Cozy E. Bailey
Don M. Bailey
Donald L. Bailey
Donald R. Bailey
Martin P. Bailey
William F. Bain
Stephen W. Baird
Charles L. Baker
Neal A. Baker III
William C. Baker, Jr.
Paul Balash III
Carlos M. Baldwin
Peter J. Baldwin
Ralph A. Baldwin
Frank A. Baleskie
Mark J. Ballas
Edward S. Ballew
Philip M. Bambrick
Reno C. Bamford II
Anthony Banaszewski
William M. Bann
Walter C. Bansley
Jeffrey M. Banwell
Daniel E. Barber
Terry L. Barger
Steven F. Barilich
Thomas D. Barker
William C. Barnebee
Albert Barnes
James F. Barnes
Larry B. Barnes
Robert B. Barnes
Edwin C. Barnett
Mark S. Barnhart
Thomas N. Barnhouse
Dennis J. Barr
John A. Barr
Richard G. Barr
James A. Barrett
John P. Barrett, Jr.
Terence W. Barrett
Michael E. Barrington
Theodore H. Barrow
Robin H. Barrows
James J. Barry III
Richard M. Barry
Robert L. Barry
Steven L. Bartalsky II
Dennis T. Bartels
William M. Barth
Mark P. Barthel
William G. Barthold
Michael D. Bardholf
David A. Bartlett
John E. Barton

Robert S. Barton
Richard K. Bartzer
William R. Basham, Jr.
Timothy M. Bashor
John A. Bass
Ralph G. Bass
Charles W. Bassett
John R. Bates
Edward A. Batten
Robert H. Bauman
Stephen B. Baumann
Dan O. Bausch
John H. Beadling
James M. Beal
William F. Beal
Charles H. Beale III
Doyle H. Beam
Jesse L. Beamon, Jr.
Ronald D. Bean
Maynard P. Bearce
Timothy P. Beard
Jefferey W. Bearor
Dave Beasley, Jr.
Kenneth E. Beaton
Bill R. Beauchamp
Raymond Beaulieu
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Christopher L. Becker
Daniel E. Becker
Michael D. Becker
James E. Beckle
Gerald W. Becknell
George R. Bedar
Michael C. Beegle
David L. Beeman
Kim R. Beesley
Matthew Begert
Brian L. Behl
Patrick J. Behnke
Bennie H. Bell III
Billy C. Bell
Gordon M. Bell, Jr.
Randy B. Bell
Wayne C. Bell
Guy M. Belleman
David C. Bender
Paul L. Benedict
Johnie W. Benefield
Thomas A. Benes
Richard D. Benjamin
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Mark E. Bennett
William A. Bennett, Jr.
William H. Bennett, Jr.
James F. Benson, Jr.
Kenneth Berger
William J. Berger
John C. Bergman
Francis X. Bergmeister
John W. Berkley
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Larry W. Berquist
Stanley P. Berry
Ronald A. Berube
Bruce Besemer
William F. Best
Raymond L. Betros
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Timothy P. Biggs
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Larry K. Bishop
Bruce E. Bissett
George A. Biszak
Richard H. Bixby
Paul E. Black
Robert T. Blackburn III
Matthew W. Blackledge
Michael J. Blaine
James G. V. Blair
John E. Blair
Edward W. Blankenship
Leonard A. Blasiol
Robert A. Bleak
Anthony D. Blice
Timothy Blickensderfer
Alan L. Bliss
Thomas J. Block
Cleve R. Blouch
Raymond H. Blumel, Jr.
Douglas F. Boag
Joseph E. Bockhold, Jr.
Gerald A. Boeke
Edward J. Boekenkamp
William D. Bogard
Robert H. Bogart
John T. Boggs, Jr.
David W. Bohon
Patrick S. Bole
Kenneth L. Boles
Kent R. Bolin
James A. Bollengier
James E. Bond
James R. Bonnell
Kenneth D. Bonner
David F. Bonwit
Michael D. Boone
Robert J. Borgatti
Donald J. Borje
John E. Borley
Timothy B. Born
Wayne A. Bosco
James E. Bostek
David G. Botizan
Charles T. Botkin
Carl R. Bott
Bruce A. Boulton
Gordon C. Bourgeois
Carl S. Bourne, Jr.
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Grant E. Bowden
Terry R. Bower
Robert B. Bowling, Jr.
James A. Bowman
Charles J. Bowser
Charles E. Boyd
Charlie C. Boyd, Jr.
John C. Boyd
Michael D. Boyd
Thomas E. Boylan
John F. Boyle
Gary W. Bradley
Alan R. Bradshaw
Bruce F. Brady
Gaylen F. Brady
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Thomas I. Branch
David J. Brandenburg
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Boyce A. Brasington, Jr.
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Tommy L. Bray
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Terry L. Breithaupt
Allan C. Breller
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Francis P. Brennan
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Emmitt D. Brewington
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Gregory K. Brickhouse
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Germain B. Broeckert, Jr.
Mark L. Broin
Alan A. Bromka
Bruce E. Bronars
Russell A. Brooks
Timothy E. Brooks
Allen D. Broussard
Gordon A. Broussard
Mark J. Brousseau
Barrington M. Brown
Craig H. Brown
Eugene M. Brown
Gregory D. Brown
James Brown
Jerry L. Brown
John D. Brown
John R. Brown
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Rodney K. Brown
Stephen S. Brown
Terrence D. Brown
William D. Brown
William H. Brown
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William M. Bruce, Jr.
Lowell K. Brueland
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William M. Brumbach
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Philip E. Buchinger
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Alvin T. Buckhaults
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Andrew J. Budka
Lyle R. Buerkens
Bruce C. Buljan
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Richard K. Burchnall
Roberto A. Burciaga
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Roland N. Burgess
William M. Burgess
Joe C. Burgin III
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Joseph E. Burke, Jr.
Paul A. Burkholder
Paul C. Burnett
Whit D. Burnett
Carl L. Burney, Jr.
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Michael R. Burns
Ronald K. Burns
Glenn G. Burnside II
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Jay E. Burzak
Steven Busch
Terrance G. Buschelman
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Felix M. Bush
James A. Bussiere
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John G. Butler
Roy R. Byrd
Ervin E. Cade III
Mark A. Cagiano
Paul J. Cahill
Lee R. Cain, Jr.
Gerald W. Caldwell
Richard W. Caldwell
Greg D. Calhoun
Thomas R. Calkins
Peter J. Calvello
Robert J. Cameron
Stewart D. Cameron
Carlton C. Camp
Andrew H. Campbell II
Lonnie E. Campbell
Robert D. Campbell
Robert I. Campbell
Mark F. Cancian
Raymond Cannata
Paul B. Cannon
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Vincent J. Capece
Michael G. Capoot
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Jeffery S. Cardeilhac
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Lawrence J. Carino
James Carlsen
Randy B. Carlton
Mario V. Carmo
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Jack P. Carter, Jr.
Morrison G. Carter, Jr
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Aron K. Champion
Grady B. Chaney II
Gerald R. Chapman
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Frankie D. Chappell
James H. Charest
Johnny F. Charles
Paul J. Chase
Frederick E. Chasney
Rocky J. Chavez
Robert S. Chester
Cary R. Cheston
Leroy Chevis
Dennis C. Chinault
Courtney D. Chinn
Madison C. Chisum, Jr.
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Steven K. Chorak
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Larry G. Christie
Jeffrey C. Christman
Thomas J. Christofk
Richard D. Christopher
Samuel H. Christopher IV
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Michael A. Cicere
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Bradley S. Clark
George A. Clark, Jr.
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James G. Clark, Jr.
Michael E. Clark
Robert B. Clark
Stephen R. Clark
Steven E. Clark
William M. H. Clark
Scott W. Clarke
Billy J. Clarkson
John A. Clauer
Randall B. Claybourn
William D. Claytor
Donald A. Cleary
Terry E. Clevenger
Robert L. Click
David R. Clifton
Richard A. Clute
Sylvester P. Clymer, Jr.
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Curtis A. Cobb
Henry J. Coble
Steele C. Coddington, Jr.
John T. Coggin
Eugene J. Cole
Harry L. Cole, Jr.
James L. Cole
Jeffrey U. Cole
Thomas V. Colella
Bruce D. Coleman
John C. Coleman
Ronald S. Coleman
Michael R. Collier
Francis X. Collins
Raymond S. Collins, Jr.
Wayne C. Collins
Larry D. Collinsworth
Kenneth L. Collyer
Russell W. Colman, Jr.
Henry A. Commiskey, Jr.
Gary C. Conary
Kenneth J. Conatser
William R. Conaway
Edward J. Condon
Joseph M. Condon
Mark E. Condra
Christophe J. Conlan
David G. Conley
Patrick D. Connally
George W. Connell III
Joseph E. Connell III
Mark A. Conner
James E. Connick
Donald B. Conrad
Daniel A. Conway
G. Conway, Jr.
Timothy C. Conway
James R. Cook
Kyle E. Cook
Charles E. Cooke
Brian M. Cooker
Donald K. Cooper
Michael L. Cooper
Paul H. Coovert
Richard C. Cope
Steven H. Copley
Arthur O. Corcoran
William J. Corcoran
Timothy J. Cornell
Bradley A. Corr
Jeffrey A. Cory
Charles P. Cosmos
Mark A. Costa
Rodney M. Cotten
Donald B. Cotton
Robert T. Coultas
Allen Coulter
Ronaldo A. Coulter
Leonard A. Courson
James H. Court
John W. Cowan, Jr.
Christian B. Cowdrey
Charles A. Cox, Jr.
Glenn R. Cox
Robert L. Crabb
Constant P. Craig
Leon Craig, Jr.
Martin K. Craig
Michael S. Craig
Ralph D. Craig
Robert J. Craig
John S. Cramer
Joseph F. Cramer
James A. Crawford, Jr.
Anthony M. Crebbin
Donald E. Creighton
Lyn L. Creswell
Frank Crilley
James M. Crites
Michael O. Crooks
Joseph A. Crookston
Donald G. Croom
John G. Crosby, Jr.
Craig C. Crowley
Thomas D. Crowley
Leigh W. Crumpton
William M. Cryan
James J. Cuff, Jr.
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Gary R. Cullop
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Glenn K. Cunningham
Terrence J. Cuny
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Daniel E. Curfiss
Frederick H. Curlin, Jr.
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John P. Curry
Robert F. D. Curtis
John P. Cushing, Jr.
Daniel D. Cushman
George C. Cutchall
Robert S. Cypher
Thomas J. Czech
Stephen W. Dade
Conrad G. Dahl
Theodore E. Dailey, Jr.
Michael N. Daily
Joseph F. Dalton, Jr.
Michael F. Daly
Michael L. Dammer
Maurice Daniel
Eddie A. Daniels III
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Richard A. Daprato, Jr.
Sampson D. Darden
Douglas A. Darling
Rodell C. Darling
Carmen M. Darminio
William S. Daron
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Jennings M. Davenport, Jr.
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Robert G. David
Jeffrey L. Davidson
John M. Davidson
Thomas A. Davidson
William J. Davin
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Bryan M. Davis, Jr.
Carl I. Davis, Jr.
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Dequincey A. Davis
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Jack G. Davis
James C. Davis
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Sidney F. Davis
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Arthur L. Deal
David R. Dean

David R. Dean
Jeffery L. Dearing
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Amo R. Debernardis
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Donald A. Debruyne
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Thomas V. Demars, Jr.
Thomas L. Dempsey
Dymond R. Dempster
Bruce A. Denault
Russell E. Denman III
Kenneth W. Dennett
James I. Dennis III
James A. Dentinger
Vincent G. Depierre
James E. Derdeyn
Richard E. Deslauriers
Robert P. Destefanis
Richard L. Deutsch
Bruce D. Devers
Joseph E. Deyoung, Jr.
Levernen Dial
Robert C. Dickson, Jr.
David T. Dickinson
Albert J. Diehl III
Robert F. Dietrich III
Thomas M. Digregorio
John S. Dill III
Thomas E. Dillard, Jr.
Darrel W. Dillon
Dennis J. Dilucente
Frank P. Dimarco
Dale S. Dimitroff
Brian S. Dinwiddie
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Daniel W. Dishart
Kenneth W. Dixon
William H. Dixon, Jr.
Robert K. Dobson, Jr.
Charles E. Dolejs
Robert L. Domina
Robert S. Donaghue
Patrick E. Donahue
William J. Donahue
Kevin G. Donaleski
John P. Donato
Robert E. Donelan, Jr.
Steven B. Donnell
Leo M. Donnelly
Martin A. Donovan
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Lloyd A. Doran
Terrance S. Doran
Clifford D. Doro
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Michael S. Dossett
Paul S. Dostal
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David G. Dotterer
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Doyle G. Douglas
Richmond F. Douglas
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Peter A. Doyle
Robert D. Dozier
Carmen Dragotta
Richard M. Draina, Jr.
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William B. Drennan
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Daniel A. Driscoll, Jr.
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Vincent M. Dubois, Jr.
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Leslie F. Duer
Gary P. Duffy
Terrence P. Dugan
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Donald G. Duke
Scott G. Duke
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Wallace G. Duncan, Jr.
William K. Duncan
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Kenneth D. Dunn
Leroy W. Dunn
Richard C. Dunn
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Richard H. Dunnivan
Billy D. Dunsmore
Camille G. Durand
Guy Durand
Donnie R. Durbin
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Francis S. Durtche
Ronald V. Dutil
John P. Dwyer
William H. Dykes
Dale A. Dykhuizen
Daniel M. Dykstra
Stephen J. Dyroff
John A. Dzierzak
Gary J. Eady
Arnoldo R. Easterly
Edmund D. Eaton, Jr.
Gary H. Ebanks
George A. Eberhart, Jr.
Gary M. Eberling
Andrew F. Eble
Howard B. Eddins III
Gregory J. Eddy
Richard S. Edmundson
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Paul S. Edwards
Randy L. Edwards
Stephen B. Edwards
Ronald D. Eggleston
Michael A. Einsidler
Richard C. Eisiminger
Richard J. Eisloeffel
Joel P. Eissinger
Roger S. Eldridge
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Robert W. Ellis, Jr.
Ronald L. Ellis
Ronald S. Eluk
John P. Elwell
Dennis A. Emanuel
Oregon Emerson III
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Christopher A. Erdos
Rick C. Erickson
Carl J. Ericson, Jr.
Jimmie E. Ervin
Howard F. Eslick
Jose T. Espinosa
Alfred J. Espinoza
Jeffrey P. Estep
Rex A. Estilow
James P. Etter
Bethel Q. Evans III
David L. Evans
Douglas A. Evans
Jacob Evans, Jr.
Joseph Evans
Lloyd Evans
Russell A. Eve
David H. Evenstad
Willie M. Everett
Vincent P. Everman, Jr.
Frank R. Eversole IV
Stephen D. Ewers
Walter L. Exley
Philip J. Exner
Joseph Fabrizio
Charles R. Fairchild
Peter T. Fairclough
Roland W. Falana
Edward F. Fall
Michael S. Farina
Lee H. Farmer
Roger T. Farmer
Laurence Farnen, Jr.
Thomas K. Farrell
John R. Farris, Jr.
John D. Favors
Zenas E. Fearing, Jr.
Allie C. Felder III
Lloyd A. Feldman
Dennis G. Felhoelter
Brian T. Fenlon
George P. Fenton
Fletcher W. Ferguson, Jr.
Kenneth P. Ferguson
Michael R. Ferlet
Timothy K. Ferral
Raymond C. Ferrara
Eugene F. Ferraro
William P. Ferrel
William H. Ferreter
Robert R. Ferris
Timothy B. Ferris
Barry R. Fetzer
Gary W. Fife
Robert M. Finer
Jeffrey A. Finley
George M. Finnerty
Donald M. Finney
Robert B. Finney
Steve J. Finsterle
Jeffrey C. Fishbaugh
Barney J. Fisher
Donald K. Fisher
Thomas W. Fitzgerald
Leonard J. Fitzgibbons
Patrick J. Fitzsimmons
Larry W. Fivecoat
John S. Flanagan II
Patrick M. Flanagan
Richard J. Flann
Donald E. Fleming, Jr.
Ronald R. Fleming
Wayne T. Fleming
Roy W. Flentge
Edward R. Fletcher
William M. Fletcher
James F. Flock
Joe Flores, Jr.
Larry G. Flores
Gerold J. Flotte
George J. Flynn, Jr.
Michael P. Fogarty
Stephen P. Folan
John W. Foley
Robert F. Foley
Timothy H. Foley
Robert W. Foltyn
Michael R. Fonteno
Barry M. Ford
James R. Forgy
Steven W. Forney
James R. Forr
Michael F. Forrester
Edward T. Forte
Robert T. Forte
Henry J. Foshee
Barry R. Foster
Frank E. Foster
Willis R. Foster
Craig S. Foucha
Harold H. Fox II
Peter O. Francescon
Ronald F. Franks
Joseph H. G. Franz
Eugene J. Fraser
Michael J. Frasher
Paul O. Freeberg
Gregory H. Freed
Kent R. Freeland
Mark P. Freeman, Jr.
Richard D. Freeman
William E. Freisthler
Marc E. Freitas
Mark Freitas
Lee W. Freund
Andrew P. Frick
Steve A. Fris
David J. Fry
David D. Fulton
Larry G. Fulton
Foster L. Fuselier
Steven J. Gaffney
William H. Gaffney
Dan M. Gailey
Dennis P. Gallaher
Robert D. Galloway
Michael A. Galt
Michael Gambino
Alfred A. Gambone, Jr.
Gregory W. Gambucci
Jon L. Gant
Javier Garcia
John M. Garner
William M. Garrabrants
Richard S. Garretson
Donald M. Garrett
James R. Garret
William B. Garrett
Leslie C. Garrison
Walter E. Gaskin, Sr.
Timothy M. Gaskins
Danny W. Gaston
Bradley M. Gates
Keith E. Gay
Michael J. Gearin
Jeryr G. Gelling
Roger L. Gemar
John D. Genduso
Alan J. Genteman
Philip N. Georgariou
John W. Georges
William S. Gerichten II
John L. Gerlaugh
Dennis D. German
Kerry K. Gershaneck
Richard A. Gesick
Ralph J. Getty
Timothy F. Ghormley
Gary A. Giacoma
John R. Giberson
Mark J. Gibson
Michael Gibson
Christopher P. Gieser
John P. Gilguere
John R. Gilbert
Joseph B. Gilbert
Earnie L. Giles, Jr.
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Clarence R. Gilman, Jr.
David L. Gilmer
Kevin M. Gilpin
Robert C. Gimm
Benjamin D. Gipe
Bruce A. Giron
Gary G. Gisolo
Robert J. W. Giuda
Johnny E. Glenn
Robert H. Glisson
Richard D. Gloger
John E. Glover
Kenneth J. Glueck, Jr.
Henry T. Gobar
Charles D. Godby
Bruce L. Godfrey III
Michael J. Godfrey
Stephen L. Godin
Gregory G. Golden
William E. Goldmon
Timothy R. Golike
Christ G. Gologanoff
Johnie Gombo
Hector Gomez
Richard W. Goodale, Jr.
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Kevin L. Gordon
Terrence M. Gordon
Arthur V. Gorman, Jr.
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Darrell L. Goudge
Richard J. Gough
Stanton R. Gould
Gary C. Grady
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John L. Graham
John W. P. Graham
Richard A. Graham
Stephen K. Graham
Thomas K. Graham
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Terry L. Grant
Steve M. Grass
Robert J. Graus
William W. Graves, Jr.
Anthony Gray
Jake T. Gray
Tommy S. Gray
Alfred Green, Jr.
Eric J. Green
Randy L. Green
Robert L. Green
Ronald G. Greene
Bobby L. Gregory
Kenneth E. Gregory
Eric J. Gremminger
Stephen B. Grey, Jr.
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Elie E. Griffin, Jr.
Otis Griffin, Jr.
Todd H. Griffis
Craig A. Griffith
Laurence W. Griggs
Mark D. Grim, Jr.
Barney A. Grimes III
John M. Grimes
Roy W. Grimes
Dennis H. Grimm
John L. Grimmett
Steven P. Grohsmeyer
Charles R. Gross
Stanley L. Grossman
Clemson D. Grove
William K. Grover
Leon D. Guenzler
Ramon L. Guerrero
John J. Guevremont
Albert J. Guidotti
Richard W. Guidry
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Michael L. Pellegrini
Frank D. Pelli
John J. Pellicone
Alan C. Pendleton
David N. Penman
William M. Pennick
Troy D. Pennington
George D. Penny
Robert Peno
Melvin L. Peoples
Stephen W. Perkins
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Harry D. Persons, Jr.
Edward F. Pesik, Jr.
William R. Pesnell
Andrew J. Peters, Jr.
Robert H. Petersen
Charles L. Peterson
Christopher D. Peterson
David L. Peterson
Harriesclichy Peterson
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Bruce K. Petit
Eugene D. Petrelli
Nicholas C. Petronzio
James J. Pettengill
Walter E. Pfandl
Paul W. Pfohl
Anthony F. Phelps
David A. Phillips
Gary V. Phillips
James A. Phillips
Maxie W. Phillips
Timothy L. Phillips
Richard F. Piasecki
Steven J. Piccirilli
Merrill L. Pierce
Daniel F. Piermarini
Steven R. Pietrzak
Larry G. Pilkey
Mark A. Pillar
Cleve B. Pillifant
Brian V. Pilmer
Alan J. Pingree
Eugenio G. Pino
Paul J. Pisano
Greg P. Pistochini
James E. Pitchford
Paul R. Plante
Christopher D. Platt
Alexander Plechash
James M. Plumer
Randy S. Ponzini
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Roger R. Poole
Edward C. Pooley
Richard J. Poppe
Tony L. Porter
Wendell A. Porth, Jr.
Terrance M. Portman
Martin Post
Mark L. Potocki
Rayner R. Powell
Ronald G. Powell
William J. Powell
Earl W. Powers
James S. Powers
William M. Prather
Dennis C. Pratt
Danny R. Praytor
Stephen W. Prendergast
William J. Preston
Doyel Price, Jr.
Gary M. Price
Robert C. Price
William E. Price
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Randall R. Pritchett
Joseph S. Prizy, Jr.
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Rodney N. Propst
Paul R. Puckett
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Thomas J. Pugh
Donald E. Quail, Jr.
Steven R. Quentmeyer
Joseph B. Quigley
Francis A. Quindlen, Jr.
Michael J. Quinlan
Anthony J. Quinn
Carl E. Quinn, Jr.
Mario T. Rabusin
John C. Rader
William A. Radtke III
Joseph G. Radzikowski
Curtis G. Raetz
Michael P. Rainey
Joel T. Raley
Bryan G. Ramey
William M. Ramsey
Stephen W. Randall
Manuel G. Rangel, Jr.
Dale K. Rankin

John J. Rankin
Thomas D. Rankin
David P. Rann
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Douglas C. Rape
Daniel E. Rapp
Richard C. Rascher
David J. Rash
Richard M. Rasmussen
Gregory G. Raths
Louis F. Rave
Steven W. Rawson
Robert S. Rea
Franklin V. Reagan
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John D. Reardon
John Recine
William E. Reckert II
George E. Rector, Jr.
Earl E. Reddix III
Douglas C. Redlich
Kenneth T. Reed, Jr.
Michael A. Reep
John T. Rees
Stephen K. Reese
Harold L. Reeves, Jr.
Paul D. Refling
Joseph A. Regan
Joseph S. Regan
Michael R. Regner
Charles W. Reif
Dennis W. Reilly
Gary M. Reinhold
David J. Reintjes
David G. Remmy
Steven K. Rendell
Arlen D. Rens
James L. Renton II
Thomas P. Rentz
James M. Reuter
Arthur M. Reynolds, Jr.
Ronald R. Rhoads
Harley J. Rhoten
Howard E. Rice, Jr.
Michael L. Rice
Linwood D. Richards III
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Thomas A. Richards
Eugene J. Richardson III
Guy S. Richardson
Robert S. Richardson
Rodney C. Richardson
Thomas C. Richardson
William E. Richardson
Stephen W. Richey
James S. Richter
Jeffrey C. Richter
James Rickard
Paul J. Riding
James D. Riemer
Chester A. Riley III
Mark S. Riley
Timothy M. Riley
Steven M. Ritacco
Ervin Rivers
William L. Riznychok
Francis P. Roach
Jay W. Roach
John L. Roach
Richard W. Roan
Stephen C. Robb
Mark E. Robbins
Leonard D. Robert
Jerry A. Roberts
Mark A. Roberts
Noel D. Roberts
Samuel E. Roberts
Thomas A. Roberts
Blake J. Robertson
Gerald B. Robertson II
Jeffrey A. Robertson
Mastin M. Robeson
Charles Robinson
David J. Robinson
James W. Robinson, Jr.
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Wayne D. Robinson
Terry G. Robling
David B. Roche
Richard L. Rodecker
Don R. Rodgers
Daniel W. Roepke
Jasper P. Rogers, Jr.
John S. Rogers, III
Lowell R. Rogers
Theron D. Rogers
Max Rogozinski
William G. Rohlfs, Jr.
Lewis W. Rollins
Thomas L. Rollins
Juan J. Roman
James T. Ronaghan, Jr.
Michael J. Ronner
Clifton B. Rook
Quentin R. Roos
Knute K. Rosche
David M. Rosenau
Christopher J. Ross
Richard C. Roten
Richard K. Rothell
Anthony P. Rothfork
Robert O. Rowland
Paul D. Roy
George S. Royal
John R. Ruckriegel
Philip C. Rudder
John N. Ruettinger
Robert A. Rufo
James M. Rush
Charles T. Rushworth, III
Allen T. Russell
Heber C. Russell
Ira S. Russell, III
Karl R. Russell
Merrill L. Russell, Jr.
Louis F. Russo
John L. Rutledge, Jr.
Robert D. Rutledge
Brendan P. Ryan
James T. Ryan
John E. Ryan
Thomas P. Ryan
Peter L. Rybacki
Eugene R. Rybak
Jonathan T. Ryberg
Richard A. Rybolt
Glen R. Sachtleben
Joseph M. Sackett
David W. Sadler
Ray Salas, Jr.
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David A. Salzman
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Thomas O. Schaefer
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Walter A. Schartmann
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Walter C. Schmick, Jr.
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William T. Sears
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Larry K. Shipman
Trent W. Shirey
Donald P. Shirk
James L. Shirk
Danny T. Shoemake
Steven V. Shook
William B. Shores
Francis R. Short
Richard J. Shows
Daniel W. Shupe, Jr.
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Patrick K. Shy
Daniel L. Sickinger
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Robin D. Sides
Thomas A. Sieg
Philip S. Silano
George C. Siller, Jr.
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Mark A. Silver
Clifford M. Simmons
Reginald S. Simmons
Richard L. Simmons, Jr.
Ricky L. Simmons
Walter W. Simmons
David Simon
Raymond M. Simon
Dan Simons
George T. Simpson IV
Thomas L. Simpson
Larry R. Sims
Bernard A. Siwicki
Neil E. Sizemore
Robert W. Skaggs
Marvin E. Sleppy
Bryant W. Smith II
Charles R. Smith III
David L. Smith
David M. Smith
Dennis J. Smith
Ellett M. Smith
Floyd R. Smith, Jr.
Guy B. Smith
Harry D. Smith
John R. Smith, Jr.
Jordan B. Smith, Jr.
Kenneth E. Smith
Paul A. Smith
Richard G. Smith
Richard J. Smith
Richard J. Smith
Robert F. Smith
Spencer H. Smith
Steven L. Smith
Theo Smith, Jr.
Thomas C. Smith
Thomas M. Smith
Vincent L. Smith
William J. Smith
William W. Smith, Jr.
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Walter R. Smusz
Stephen M. Smyser
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William T. Snider, Jr.
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George C. Solley
John W. Sondermann
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Leland F. Sorrels, Jr.
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Paul F. Souza
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Marcus E. Sowl, Jr.
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George T. Sparkman, Jr.
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Jake L. Sparks II
John E. Sparks, Jr.
Linwood W. Sparrow
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William X. Spencer
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Melvin G. Spiese
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Harrell D. Spoons, Jr.
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Marc A. Spurgeon
Daniel C. Spurlock
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Kim Stalnaker
Mikal P. Stampke
Gregory W. Stanley
Thomas S. Stanmore
Konrad E. Stapler
Ricky L. Starks
Conley W. Starling
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Robert E. Steffensen
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Randall L. Stegner
Leslie Stein
Douglas E. Stender
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Robert A. Stevens
Robinson Stevens, Jr.
Craig P. Stevison
Frank M. Stewart
Grant R. Stewart
Jeb E. B. Stewart
Michael E. Stewart
Richard A. Stewart
Harry P. Stickley I:I
Kenneth N. Stidham
Clayton E. Stillings
Paul D. Stinnett
Harold H. Stirling III
Scott C. Stith
Anthony Z. Stobiecki
Richard Stockburger
Robert D. Stockman
John W. Stokes
Ronnie E. Stokes
James R. Stoller
Stanley J. Stolpe
Jacob F. Stone, Jr.
Romuald A. M. Stone
Louis G. Stough
Randall C. Stout
Ronald D. Stout
Richard E. St Pierre
Robert W. Strahan
George E. Stratmann, Jr.
Herbert Strauss
Wade C. Straw
Jerreyy N. Strawn
Douglas G. Streeter
Joseph J. Streitz
Phillip S. T. Strickland
Charles M. Stringer
Frederick T. Strock
Charles W. Strong, Jr.
Silas L. Strother
Michael L. Stroud
Robert M. Stubbs
John T. Studinarz
Clyde N. Sturgeon
Roger G. Sturgis
Joseph L. Styons
Vincent G. Suetos
Russell J. Suga
James D. Sullivan, Jr.
Robert J. Sullivan
Robert J. Sullivan
Donald E. Summers
James A. Summers, Jr.
Jeffrey C. Sumners
Carroll B. Sumrall
John R. Suter
Hollis J. Suttle, Sr.
Mark E. Swanstrom
Stephen D. Swazee
Tommy D. Sweatt
Deryl L. Sweeney
John L. Sweeney, Jr.
William S. Sweeney
John F. Sweet
Theodore M. Swendra, Jr.
James S. Swift
Palmer D. Swift
Daniel W. Swindell
Robert D. Swisher
John R. Sykes
Michael D. Symons
Elek J. Szkalak
Stephen C. Tagg
Fabio Taglieri
William D. Talbott, Jr.
Bradford L. Tammaro
Timothy J. Tanner
Larry D. Tarbet
John M. Taska
James M. Tate
John R. Taxeras
Chester M. Taylor
Frank B. Taylor, Jr.
John A. Taylor
John G. Taylor
John M. Taylor
Jonathan M. Taylor
Michael E. Taylor
Norman B. Taylor
Stephen P. Taylor
Dennis A. Tedder
Stephen J. Teetor
Robert C. Tekampe
David E. Ternes
Timmy J. Terrebonne
Kenneth W. Terry
Charles A. Teubert
Bruce A. Thake
Thomas F. Thaler
John D. Theeuwen, Jr.
Jeffrey R. Theinert
Duane D. Thiessen
James E. Thigpen
Mark C. Thoman
Johnny R. Thomas
Kenneth E. Thomas
Robert D. Thomas, Jr.
Robert M. Thomas
Victor J. Thombs
Thomas H. Thomiszer
Dennis C. Thompson
Gregory E. Thompson
James W. Thompson
Jeffrey A. Thompson
John H. Thompson
Thomas E. Thompson
Bruce P. Thompsonbowers
Gary D. Thrash
Ernest C. Threadgill III
Michael W. Thumm
Robert Tiberg
Ralph F. Tice
Steven P. Tidwell
Steven M. Timm
Theodore R. Timmerman
Eugene R. Timothy
Earl W. Timpe, Jr.
Hubert E. Tobey
Donald N. Todaro
Leonard E. Todd, Jr.
Peter B. Todsen II
Michael A. Toepfer
Hunter G. Tolbert II
Charles F. Toler III
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Jeffrey J. Tomlin
Douglas M. Tonn
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Alexander M. Torrance
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Craig W. Towsey
Joseph F. Tracey
Philip D. Tracy
Randall L. Trammell
George J. Trautman III
John C. Trelease
Dennis F. Tretter
Charles F. Triplett
Mitchell T. Triplett
William K. Tritchler
Lawrence E. Troffer, Jr.
Gerald L. Troupe
Danny K. Trout
Robert P. Troy, Jr.
Roy E. Truba, Jr.
Thomas J. Trudeau
Richard T. Tryon

Johnny L. Tuck
Paul A. Tully
Richard J. Tumas
Alan A. Turk
Carl D. Turk
Bradley E. Turner
Gregory P. Turner
John H. Turner
John R. Turner
Stephen A. Turner
Bert B. Tussing
Charles M. Tye
Tommy L. Tyrrell, Jr.
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Ronald H. Underdahl
Andrew C. Unsworth
Dudley W. Urban
Robert J. Urban
Clarence L. Urps, Jr.
Charles M. Urtnowski
Edward G. Usher III
Mark D. Vail
John Valentin
Charles E. Vallandingham
Charles Valrie
Jackson M. Vanderburg
Thomas M. Vanderhoof
John R. Vandrasek, Jr.
Duane Vanfleet, Jr.
Edward B. Vanhaute
Richard E. Vanmeter
James I. Vanzummeren
Thomas G. Vaughn
James W. Vaught
Enrico M. Velasquez
Lawrence W. Venner
Terry L. Vermillion
Jeffery D. Vick
Kevin A. Vietti
James B. Vile
Stanley H. Vilhauer
Jose R. Villarta
Wayne A. Vinkavich
George J. Vinskey
Geramon W. Vinup
Dean A. Viventi
Jonathan N. Vizina
Douglas A. Vogel
Peter R. Vogt
Joel R. Voneida
Blair R. Vorgang
James P. Voss
Michael J. Vrabel
Daniel D. Vuilleumier
Derrell E. Wade
Joel M. Wade
Terry R. Wade
John P. Wagemann
Lawrence E. Waggoner
Michael W. Wagner
Stuart W. Wagner
John W. Waid
Larry D. Walden
Thomas D. Waldhauser
David G. Walick
Frank A. Walizer
Andrew D. Walker
Garry W. Walker
Joseph C. Walker
Lawrence G. Walker
Martin W. Walker II
William C. Walker, Jr.
Jeffrey S. Wall
Clifton B. Wallace
James R. Wallace
Walter J. Wallace
Craig R. Wallwork
James R. Walsh
John F. Walsh, Jr.
John T. Walsh
Rory J. Walsh
David G. Waltrip
Stephen C. Wampler
John E. Wangsgard
Belton R. Ward, Jr.
Charles E. Ward
Dayton F. Warfle
Edward J. Wargo
Kevin L. Warkentin
Michael B. Warlick
Gregory S. Warner
William A. Warner
Michael J. Warren
Wallace F. Warriner
Bruce R. Warshawsky
Bradford G. Washabaugh
Albert A. Washington
James R. Washington, Jr.
John L. Wasiewicz, Jr.
Michael G. Waters
John H. Watson
Paul H. Watson
Paul W. Watson
Stephen P. Watson
William P. Watson III
Dennis E. Watts
Dolph N. Watts
Richard D. Watts
George M. Weathersbee
Gary L. Weaver
Robert T. Weber
Louis E. Webster
Ross L. Webster
Thomas D. Webster
Daniel A. Wehrle
Robert M. Weidert
Robert J. Weimann II
John Y. Weins
Donald L. Weiss
Eric W. Weiss
Richard E. Weiss
Daniel P. Weitekamp
Franklin W. Welborn II
Stephen D. Weldon
Lawrence E. Welker
Stephen A. Wellman
Buford G. Wells
Dean E. Wells
Karl D. Wells
Stanley E. Wells III
Steven E. Wells
Robert M. Welter
Michael D. Weltsch
Daniel J. Wenck, Jr.
James M. Wenk
Scott W. Wenzel
Raymond W. Wersel
David C. Wesseling
Richard P. Wesseling
James G. Westberg
John R. Westbrook
Philip R. Westcott III
Carl D. Westfall
Ronald C. Weston
David P. Westridge
William M. Wetherell
Clifton R. Weyeneth
Marty J. Weygandt
Richard M. Whaley
George M. Wheeler
Roland P. Wheeler
John D. Whitaker
Dickie J. White
Jonathan C. White
Steve E. White
Steven B. White
Thomas B. White III
William A. White
Peter A. Whitenack
Walter L. Whitesides
Walter V. Whitfield
George J. Whitlock
Stephen P. Whitlock
William J. Whittaker
Michael M. Whitted
Dale W. Whitten
Michael G. Whitten
Bruce A. Whomsley
David C. Wick
Wayne E. Wickman
Kenneth D. Wickwire
Walter J. Wierzbicki
Robert G. Wilcox
George K. Wilcutt
Terrence W. Wilcutt
Michael G. Wild
Christopher A. Wilk
Charles D. Wilkins
Jeffrey L. Wilkinson
Robert J. Wilkinson, Jr.
Allen W. Williams III
Arlie C. Williams
Dennis J. Williams
Edward G. Williams
Glenn R. Williams
Herlis A. Williams, Jr.
James D. Williams, Jr.
James L. Williams
Jan J. Williams
Jeffrey B. Williams
Kenneth D. Williams
Lansdale B. Williams, Jr.
Lloyd S. Williams
Loxie A. Williams III
Major Williams, Jr.
Michael B. Williams
Michael E. Williams
Ronald M. Williams
Thomas J. Williams
Timothy L. Williams
Willie J. Williams
Earnest W. Williamson
Raymond E. Willis
David F. Wills
Cornell A. Wilson, Jr.
David J. Wilson
Michael P. Wilson
Robert E. Wilson, Jr.
Michael A. Windsor
David M. Winn
Floyd H. Winn, Jr.
Gary M. Winter
William E. Winter
Kevin H. Winters
David E. Wirsig
Michael Wisloski, Jr.
Lance Wismer
Frederick B. Witesman II
Ronald L. Withrow
Duane L. Witmer
Carl H. Wohlfeil, Jr.
Larry J. Wolf
Richard L. Wolf
Robert Wolf
Robert L. Wolf
Robert S. Wolfe
Stanley C. Wolfe
Stephen M. Womack
David B. Wood
Franklin P. Wood
Lee W. Wood
Michael E. Wood
Steven C. Wood
William E. Wood, Jr.
Robert M. Woodall
Michael A. Woodcock
John I. Wooden
John D. Woods
Dillard D. Woodson, Jr.
Thomas S. Woodson
Russell C. Woody
John A. Woolley III
Robert O. Work
Charles D. Workman
David E. Workman
Douglas T. Wray
David L. Wright
Gregory R. Wright
William A. Wright III
William G. Wright
Kenneth D. Wrinkle
Charles S. Wuest
Benjamin G. Wyatt
David A. Wynn
Francis J. Wysocki
Thomas M. Yackley
Gerald L. Yanello
David G. Yarrington
Stephen A. Yates
William M. Yates
James M. Yeager
Stanley J. Yelito, Jr.
John M. Yencha, Jr.
Philip N. Y.
Gerald A. Yingling, Jr.
Wade Yoffee
Jeffrey P. York
David H. Young
David J. Young
John K. Young
Philip A. Young
Randolph F. Young
Raymond H. Young
Stephen M. Young
Robert G. Zakula
Richard H. Zales
Royce D. Zant II
Michael A. Zarate
Victor R. Zaremba
Richard Zee
Edward J. Zelczak, Jr.
Anthony J. Zell
Bertrand L. Zeller
Anthony Zezzo II
Richard C. Zilmer
Steven M. Zimmeck
Francis E. Zink, Jr.
Mark D. Ziobro

The following-named officers of the Marine Corps for permanent appointment to the grade of first lieutenant under the provisions of title 10, United States Code, section 5788:

Peter J. Aagaard
John A. Able
Benny L. Adams
John D. Adams
William W. Adams
Robert K. Aiken
Timothy A. Aines
Douglas E. Akers
Bruce N. Akiyama
Michael C. Albo
James V. Aldrich
Bernal B. Allen
George J. Allen
Mark W. Allen
Scott C. Allen
Charles R. Allen, Jr.
Kervyn B. Altaffer, Jr.
Larry D. Ammerman
Daryl E. Anderson
Donald R. Anderson
Keith E. Anderson
Mark P. Anderson
Ronald E. Anderson
William G. Anderson III
Frank K. Anderson, Jr.
Peter G. Andresen
Gregory E. Andrews
Steven T. Andrews
Richard E. Antablin
James G. Antal
Steven M. Arbogast
Danny G. Arledge
Norman C. Arnberg
James R. Arnett II
Philip G. Arnold
Justin L. Aschenbrenner
Robert P. Ashe
Brian M. Ashworth
Arthur J. Athens
Roger D. Atkins
Eugene A. Atwell, Jr.
Michael L. Atwell
Nicholas E. Augustine
Rickey L. Auman
Joseph J. Austin
Morris Austin
Warren P. Averill
Lynnwood M. Baade
David B. Babel
Robert J. Bader
Joseph A. Bailey
Ronald L. Bailey
Thomas B. Bailey
Stephen B. Baird
James P. Baker
Myron A. Baker II
Vincent M. Balderrama
John K. Baldwin
William R. Ball, Jr.
Gregory A. Ballard
John R. Ballard
David R. Barber
Don E. Barber
Robert C. Barber
John N. Barclay
Richard A. Barfield
David J. Barile
Kevin D. Bark
Jesse R. Barker
Michael J. Barker
Daniel J. Barnd
James M. Barnes
David G. Barnum
John T. Barrera
Douglas S. Bartlett
William W. Bartlett
Gregory J. Baur
Bazzel H. Baz
Richard D. Bean
Willie M. Beardsley
Miguel I. Becerril
Donald P. Beck
Arlen R. Becker
Donald D. Begley
Larry R. Behm
John R. Bell
John H. Belson, Jr.
Bruce P. Bendele
William J. Bender III
Robert S. Bennett
Ronald R. Bennett
Robert F. Benning, Jr.
Mitchell W. Benson
Timothy P. Benson
Lorine E. Bergeron III
John L. Bergstrom IV
Steven M. Berkowitz
Michael E. Bermel
James R. Berry
Ross P. Bertucci
Alfred W. W. Bethea
David A. Bethel
James S. Billings
David D. Bilodeau
Donna L. Binneweg
Harry R. Bishop, Jr.
Samuel H. Bishop
Steven T. Bissell
David B. Bixler
Peter M. Bizinkauskas
Paul E. Blais
Ricardo J. Blanco
Paul R. Bless
Russell C. Blevins
Thomas F. Blizzard
Timothy R. Blue
John A. Blum
Malcolm J. Blundell
Richard K. Boch
Gary W. Boettcher
Robert T. Bohannon, Jr.
Joseph V. Boland
Robert I. Boland III
Mark G. Bolin
Kim D. Bolitho
Elliot F. Bolles
Stephen K. Bollinger
Kenneth D. Bomgardner
Robert G. Bond, Jr.
Harold E. Bonham, Jr.
John A. Bonosoro
Joseph Bonsignore, Jr.
Philip J. Booker
Roy A. Bookmiller
David S. Borsack
Louis P. Boudreaux
Steven M. Bounds
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Loring F. Bowen
David J. Bowers
Dennis G. Boyd
John W. Boyd
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Michael F. Bradley
Robert M. Brady
Thomas Brandi
Robert A. Brant
Robert L. Brant
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Lionel V. Sanders
Mike W. Sanders
Benjamin F. Sands III
Fredorick M. Sanford
Stephen Santaana
Daniel Sarmiento
James L. Sasser
John P. Sauer
Timothy L. Sawyer
William A. Sawyers
David O. Saxton, Jr.
Dennis J. Scanlon
Steven J. Schad
Jonathan R. Scharfen
Stephen J. Schemmel
Mark H. Schilling
Richard K. Schlaefer
Roy R. Schleiden
Louis G. Schneider
Patrick J. Schneider
Harold E. Schoepflin
Richard A. Schollmann
George R. Schrader
Ernest L. Schrader, Jr.
Daniel J. Schuster
Raymond E. Schwartz III
Seth H. Schwartz
John D. Scott
John F. Scott
Robert W. Scott, Jr.
Ricky G. Searles
Michael E. Sears
Michael Seay, II
Robert M. Sellers
Steven W. Selvig
Lawrence S. Semanyk
Jeffrey M. Seng
Philip N. Serr
Burke P. Shade
Mark S. Shafer
Ronald A. Shafer
Timothy W. Shaffner
Dennis W. Shannon
Walter G. Sharp
Gary P. Shaw
Robert W. Shaw, II
David L. Shelton
David E. Sherry
Lesley V. Shimanek
Glen E. Shipman
Steven L. Shippee
Scott F. Shogren
David W. Sholler

Frederick D. Shroyer
Franklin G. Shuler, Jr.
James E. Shulson
Stanley G. Shumway
David H. Shutt
Samuel C. Sichko
Randy S. Siders
Rolf A. Siegel
David D. Simms
Michael J. Simonian
Charles E. Simpson
Lery B. Sims
John L. Skelley
Gary F. Skinner
Bertram C. Smith
Blake H. Smith
Colby B. Smith
Del C. Smith, III
Douglas Smith
Herschel C. Smith, III
Michael J. Smith
Paul G. Smith
Ronald S. Smith
William S. Smith
David M. Smith, III
Francis P. Snarski
Alan R. Snider
James Snipes
Michael D. Snyder
William R. Snyder, Jr.
Kenneth S. Southworth, Jr.
Arthur R. Spafford, Jr.
Gary T. Spargo
John J. Spegele
Eva G. Spelter
Michael T. Spencer
Ricky C. Spillman
Cosmas R. Spofford
William L. Springston
Alan C. Sproul
Donovan J. Spurgeon
Gary A. Stahl
James B. Stallings
Haskell S. Stamps, Jr.
Kenneth A. Stansell
George M. Stark
Larry D. Stark
Byron F. Stebbins
Gerald H. Steele
Michael L. Steele
David S. Stehlin
Kurt E. Stein
William L. Steinwedell
William L. Stenseth
Kenon Q. Stephens
Mark D. Stephens
Michael C. Stephens
Edward R. Sterling
Harry B. Steuber
Gregory A. Stevenson
James M. Stevenson
Lance J. Stewart
Lee W. Stewart, Jr.
Raymond D. Stivers
Harmon A. Stockwell
William A. Stokes, Jr.
John E. Stoll
John S. Stollery, Jr.
Shimon Stone
Gregory L. Stoutenburg
Patrick M. Strain
Robert S. Street
Daniel B. Streich
William F. Stringer
Steven W. Sublett
Thomas K. Sudbeck
Martin J. Sullivan
Michael P. Sullivan
Scott F. Sullivan
John C. Sumner
Robert R. Sutphin
Richard A. Swedberg
Michael P. Sweeney
Charles A. Szypszak
Lawrence J. Taggart
Steven H. Taylor
Steven R. Taylor
James F. Taylor, Jr.
Ronald L. Tedesco
John A. Terrell
Jeffrey A. Terry
Paul T. Thalhofer
William M. Thamm
Stanley E. Thigpen
Bradley A. Thomas
Jeffrey E. Thomas
Michael W. Thomas
Scott R. Thomas
Barry M. Thompson
Gary L. Thompson
Mark I. Thompson
Robert L. Thompson
Steven J. Thompson
Donald J. Thornley
James A. Thorstad, Jr.
William C. Tierney
Christophe M. Tilton
Mark E. Tilton
Shane W. Tippett
Kerry T. Titello
David S. Tobiassen
Robert F. Tomon
John J. Tongue
Brian L. Tonnacliff
Daniel C. Topolewski
John T. Torielli III
Dwight E. Trafton
Raymond R. Trombadore, Jr.
Richard W. Trott
John B. Trowbridge
Edward L. Trudeau III
Thomas R. Trueblood
David R. Trundy
Michael E. Tucker
Eric T. Turcotte
Timothy R. Turlo
David P. Udovich
Donald W. Ulirich
Peter T. Underwood
Brian L. Unger
Stephen C. Upton
Charles C. Vaden, Jr.
Joseph P. Valdore, Jr.
Mark S. Vandover
Anthony E. Vandyke
Raymond B. Vannatta
Thomas J. Vanneman
Mike L. Vannordheim
Henry G. Vanwinkle II
Edward J. Vasques
Jose R. Vazquez
Dennis F. Vest
Wendell N. Vest, Jr.
Dennis Viera, Jr.
David A. Vinson
Gregory J. Viviano
Richard S. Voorhees
Blaine D. Vorgang
Roy M. Wagener
Eugene L. Walden
Benjamin E. Walker
James C. Walker
Raymond L. Walker
Terrence C. Walker
John T. Wallace
Craig L. Wallen
Kevin J. Walsh
Robert S. Walsh
Steven L. Walsh
David L. Walter
Joshah F. Walter
Glenn M. Walters
Robert V. Walters
Roland B. Walters
Warren H. Walton
Terry L. Wampler
Michael F. Wangler
Robert G. Ward
Troy A. Ward
Gary A. Warner
Kenneth L. Wartick
Martin J. Wasielewski
David J. Wassink
Michael W. Watkins
Robert T. Watral
Damon T. Watson
David A. Watson
James H. Watson
George W. Watson, Jr.
Billy P. Webb, Jr.
Jeffrey A. Webb
John R. Webb
Brandon W. Wehe
Otto W. Weigel, Jr.
Aaron E. Welch
Allen J. Welk
Francis J. Welsh
James L. Welsh
Charles W. Wentworth
Gary L. Wentz
Gary R. Wentz
Douglas E. West
Douglas L. West
Rex L. Westmeyer
Charles G. Wheeler, Jr.
Jeffrey B. Whitacre
Charles M. White
Dennis R. White
Richard L. White
Tolor E. White
Mark E. Whited
John M. Whiteley
Sam E. Whittle, Jr.
David G. Whittlesey
Robert B. Whomsley
John W. Wickel
Phillip J. Wiecek
Roberta A. Wiedower
Robert P. Wieland
Robert B. Wieners
Gary L. Wilburn, Jr.
Paul S. Wilkerson, Jr.
James R. Williams
John D. Williams
John W. Williams
Thomas E. Williams, Jr.
William G. Williamson
Sedgwick A. Willingham
Mark J. Willis
Patrick E. Wills
Charles B. Wilson
Kenneth D. Wilson
William R. Wilson IV
Robert G. Wilson, Jr.
David B. Winandy
Lor M. Windle
Joseph R. Wingard
Walter E. Wint, Jr.
Alan K. Winters
Frederick Winters
John K. Winzeler
Michael L. Wirth
John E. Wissler
Robert H. Withers
Stephen B. Wittle
Frank B. Wolcott IV
Garry R. Wolfe
John R. Wolfe
Kelvin K. Womack
Alan M. Womble
Michael D. Woodman
Marc A. Workman
Randall B. Wormmeester
Christophe G. Wright
Louis E. Wright
Warren H. Wright
Thomas L. Wright III
David M. Wunder
Thomas P. Wyatt
Randle L. Yarberry
George D. Yaron, Jr.
Lon M. Yeary
Derwin G. Yee
Gerald D. Yoder
Richard W. Yoder
Thomas B. Young
Peter E. Yount
Douglas P. Yurovich
Thomas A. Zackary
James D. Zartman
Peter M. Zelechoski
Larry E. Zimmerman
Martin W. Zimmerman
Kurt V. Zirkelbach
Bradley J. Zitterkopf
Robert S. Zuchowski

The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant under the provisions of title 10, United States Code, section 5784:

Peter J. Aagaard
William W. Adams
Timothy A. Aines
Charles R. Allen, Jr.
Keith E. Anderson
Ronald E. Anderson
Frank K. Anderson, Jr.
Richard E. Antablin
Norman C. Arnberg
James R. Arnett II
Justin L. Aschenbrenner
Rickey L. Auman
Lynnwood M. Baade
Robert J. Bader
William R. Ball, Jr.
Gregory A. Ballard
John R. Ballard
Don E. Barber
Robert C. Barber
John N. Barclay
Richard A. Barfield
Douglas S. Bartlett
Bazzel H. Baz
Donald D. Begley
Larry R. Behm
William J. Bender III
Lorine E. Bergeron III
Steven M. Berkowitz
David A. Bethel
Donna L. Binneweg
Samuel H. Bishop
Steven T. Bissell
Paul R. Bless
Timothy R. Blue
Malcolm J. Blundell
Robert T. Bohannon, Jr.
Joseph V. Boland
Robert I. Boland III
Stephen K. Bollinger
Kenneth D. Bomgardner
Joseph Bonsignore, Jr.
Mark S. Bradford
Michael F. Bradley
Thomas Brandl
Robert A. Brant
Jonathan P. Brazee
David J. Breen
Michael C. Brennan
Robert J. Brennan
Troy G. Brewer
Raymond T. Bright
Kittredge D. Broussard
James W. Brown
Roy A. Brown
Terry L. Brown
Mark K. Broyles
Paul T. Bruemmer
Gregory L. Brunet, Jr.
Robert E. Burrows
Bradley R. Busler
Daniel T. Button
John M. Byzewski
Bryce K. Cameron
Bradley E. Cantrell
Kevin O. Carmody
Daniel K. Carpenter
Jeffrey L. Caspers
Michael F. Chanenchuk
Richard M. Chenoweth
John J. Chester
Joseph F. Ciano, Jr.
Leo J. Clark
Allan W. Clayborn
Edward P. Coady
Francis C. Coble
Stephen D. Coolbaugh
Deane A. Corbett
Lawrence P. Corbett
Jeffrey G. Cosgrove
Brent R. Cottingham
Daniel B. Cowdin
Robert J. Crazythunder
Kevin F. Crockford
Gerald H. Crossland
James P. Cullen, Jr.
Mark J. Cyr
Richard A. Dale
Matthew A. Dapson
Thomas E. Davin
Carl E. Davis
William E. Davis, Jr.
Claude R. Deering
Kent A. Defebaugh
John P. Dehart
Kevin J. Delmour
Jeffrey L. Den Herder
Carl P. Dennis
George W. Deryckere
Peter N. Desalva
Douglas R. Doerr
Raymond P. Dolan
Kenneth A. Donnelly
Joe D. Dowdy
Erik N. Doyle
Michael J. Doyle
Mark A. Draper
Warren I. Driggers
Robert G. Dupuis
Thomas L. Earwood
James M. Echols
Larry W. Elliott
William J. Enslen, Jr.
Theodore S. Eschholz, Jr.
James R. Estes, Jr.
David T. Evans
Jesse G. Evans
Paul A. Evans
James A. Fasciano
Robert A. Fay
Attila H. Felsen
David D. Ferrucci
Stephen C. Fessler
Marshall H. Fields, Jr.
Acension D. Fierro
Matthew A. Finlon
Michael E. Finnie
Charles S. Firneno
William L. Fiser
Craig S. Fisher
Richard B. Fitzwater
Gary P. Fontaine
Daryl J. Forbes
Douglas W. Foss
David E. Fournier
William A. Franchi
Kent A. French
Lawrence W. Fryer, Jr.
Phillip A. Gabriel
Gail V. Gabrielli
Robert E. Gagne
Steven A. Gaioni
Raymond P. Ganas
Esteban J. Garcia III
Marc T. Garofalo
Berle Garris, Jr.
David B. Garvey
James O. Gay
Michael A. Gay
Paul R. Gehring
Thomas D. Gehrki
Russell E. George
Donald L. Geving II
John H. Giesen
Christophe C. Gillette
Douglas W. Gills
Richard M. Gin
Charles W. Gittins
Raymond J. Gizara
Stuart D. Glass
Gary L. Glover
Volker E. Goins
Angel R. Gotay
Craig Grabowsky
Patricia A. Graham
Howard M. Green
Thomas E. Gregory
Thomas A. Grubic
Wayne R. Hagen
Michael J. Hallahan II
Terry L. Hand
Darrel L. Handgraaf
Allan C. Harlow
Anthony D. Harrison
Timothy M. Harvey
Mark L. Haskett
Michael L. Hawkins
John L. Heibel
Bruce R. Heim
Timothy P. Hewitt
Dale E. Hill
Kevin L. Hill
Richard D. Hine
James S. Hinkle
Thomas D. Hobson
Joseph E. Hoffert
John P. Holden
Kenneth T. Holder
David W. Hoover
James R. Howcroft
Curtis W. Howes
Tawish Huaute
James H. Huebener
Samuel C. Hull
Kevin A. Humphrey
Jessie L. Hunter
Charles W. Hurt, Jr.
Leon J. Huss
Charles M. Iaquinto
Stanwood K. Ingram
Edward N. Jackson
Henry C. Jackson, II
Ronald D. Jacob
David N. Jacobsen
Gordon M. Januszewski
Donald S. Jaquith
Larry E. Jarrett
Joseph E. Jenkins, Jr.
Ernest B. Johnson
Jan T. Jonas
Michael J. Jones
Steven M. Jones
Leo H. Jones, Jr.
William C. Jorden III
Timothy E. Junette
John A. Kailey III
Christophe J. Kane
Michael J. Kantaris
David A. Kanter
Steven M. Keim
Russell A. Keller
Richard H. Kelley
Bruce C. Kennedy
Frank M. Kenny
Robert W. Ketter
Kevin J. Kiff
Larry A. Kihlstadius
Michael F. King
Samuel R. King
Robin P. Kinney
John W. Kirkland III
Jeffrey S. Klingensmith
Criston E. Klotz
Richard V. Kmiec
Janice G. Knight
Bruce A. Koerner
Joseph C. Kolshak
Roy Kompier
John G. Koran III

Robert G. Kovac
Thomas R. Kovach, Jr.
Daniel J. Kowall
Leland P. Kriner III
John J. Kuenzle
Ronald R. Kuhlman
Michael D. Kuszewski
Raymond M. Kutch
William G. Labutta
Paul D. Lacy
James M. Lariviere
Guy D. Larrimer
Harry D. Larsen
George A. Last
James E. Leible
Thomas J. Leinenkugel
Chad Lienau
Robert C. Link
Eric T. Litaker
Peter D. Lloyd
Gregory P. Lockett
Garry E. Loeffler
Peter F. Long, Jr.
Robert G. Longino
Robert M. Lottie
David J. Lueder
Daniel F. Lyons
Timothy P. Macneil
Daniel F. Maher
Thomas F. Manley II
Martin J. Marbach
Jennifer L. Marker
James L. Maroney
Raymond M. Martin
Robert J. May
Mary P. McCaffrey
William R. McDowell
James M. McGee
Bernard W. McGowan, Jr.
Kenneth F. McKenzie, Jr.
Richard H. McKenzie, Jr.
Alan G. McKillip
Alfred S. McLaren, Jr.
Timothy C. McMillian
George W. McMullan
Douglas G. McPherson
Brian McQuiston
Michael V. Meed
Gregory F. Megan
Leo A. Mercado, Jr.
Brian L. Merritt
Kay L. Metzner
Jonathan G. Miclot
David J. Millush
William T. Mitchell
David J. Mollahan
Edward C. Montgomery
Garrett W. Moore
Terry M. Moore
Clarence E. Moore II
Harrell M. Moore II
Robert D. Moran, Jr.
Bruce A. Morgan
William M. Moser
Paul H. Mueller
Amador Munoz, Jr.
Anthony A. Murphy
Shaun M. Murphy
Jane L. Muse
Douglas A. Musil
Charles R. Myers
James E. Nelson, Jr.
Dennis C. Newkirk
Douglas P. Nichols
Paul A. Nitkowski
Mark L. Noble
Kent E. Norgrove
Robert E. Nunley
Herbert A. Oakes, Jr.
Raymond J. O'Brien
Christophe E. O'Connor
Michael S. Ogden
Michael E. O'Neil
Colin E. O'Neill
Ralph S. Osborn
Michael E. Ostapiej
Charles E. Owens
Anthony B. Pais
Charles H. Pangburn III
William J. Parker
William W. Parsons, Jr.
Edward J. Patterson
Kevin F. Patterson
Michael J. Paulovich
Ted D. Payne
Ronald L. Pearce
Michael D. Pedersen
Andrew S. Pelo
Alan L. Perla
John E. Peters
Ronald R. Phillips
Theordore L. Plautz
Allan C. Polley
Robyn R. Poole
Brian L. Pooler
Jerry L. Poteat
Alan G. Powell
Charles H. Pratt III
Lynn A. Price
Richard C. Price
Martin C. Price III
John C. Pross
Paul B. Pruitt
Michael J. Purvis
Stone W. Quillian II
Leo A. Radovich
Michael S. Ramos
Peter R. Rasmussen
John F. Reardon
Frank W. Reed III
Richard C. Reinecke
Kim B. Reisdorph
Ricardo J. Rendon
Robert G. Richer
Jackie L. Rickman
Michael K. Riley
William E. Riley
James A. Rioux
Jose E. Rivera
William E. Rizzio, Jr.
Randy H. Robbins
George I. Roberts
Marvin D. Roberts
James S. Robertson
Ronald J. Robinson
Grady H. Roby, Jr.
Brian D. Rodeck
John L. Rogers
Seth G. Rosen
Michael O. Rowell
Roger R. Royston
Terry E. Ruddy
Kenneth L. Russell
Richard S. Ryan
Thomas M. Rychlik
Cecil R. Samson
James F. Sanders
Benjamin F. Sands III
Stephen Santaana
John P. Sauer
David O. Saxton, Jr.
Steven J. Schad
Stephen J. Schemmel
Richard A. Schollmann
Randall K. Schroeder
Michael Seay II
Robert M. Sellers
Burke P. Shade
Mark S. Shafer
Dennis W. Shannon
David W. Sholler
James E. Shulson
Samuel C. Sichko
Rolf A. Siegel
Blake H. Smith
Douglas Smith
Kenneth S. Southworth, Jr.
Eva G. Spelter
Ricky C. Spillman
Cosmas R. Spofford
Gary A. Stahl
Kenneth A. Stansell
Byron F. Stebbins
David S. Stehlin
William L. Steinwedell
William L. Stenseth
Mark D. Stephens
Harry B. Steuber
Gregory A. Stevenson
James M. Stevenson
Lance J. Stewart
Gregory L. Stoutenburg
Daniel B. Streich
Martin J. Sullivan
Michael P. Sullivan
John C. Sumner
Robert R. Sutphin
Michael P. Sweeney
Charles A. Szypszak
Lawrence J. Taggart
Steven H. Taylor
Stanley E. Thigpen
Bradley A. Thomas
Robert L. Thompson
Donald J. Thornley
Christophe M. Tilton
Mark E. Tilton
Shane W. Tippett
Dwight E. Trafton
Raymond R. Trombadore, Jr.
Timothy R. Turlo
Peter T. Underwood
Henry G. Vanwinkle II
David A. Vinson
Gregory J. Viviano
Robert S. Walsh
Steven L. Walsh
David L. Walter
Glenn M. Walters
Robert V. Walters
Michael F. Wangler
Robert G. Ward
Troy A. Ward
Kenneth L. Wartick
David J. Wassink
Robert T. Watral
David A. Watson
James L. Welsh
Gary L. Wentz
Gary R. Wentz
Jeffrey B. Whitacre
Tolor E. White
Mark E. Whited
Sam E. Whittle, Jr.
John W. Wickel
Robert A. Wiedower
Paul S. Wilkerson, Jr.
Thomas E. Williams, Jr.
William G. Williamson
Mark J. Willis
Charles B. Wilson
Kenneth D. Wilson
Alan K. Winters
John R. Wolfe
Kelvin K. Womack
Alan M. Womble
Randall B. Wormmeester
Derwin G. Yee
Thomas B. Young
Douglas P. Yurovich
Thomas A. Zackary
Peter M. Zelechoski
Kurt V. Zirkelbach

DEPARTMENT OF STATE

Jack F. Matlock, Jr., of Florida, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czechoslovak Socialist Republic.

THE JUDICIARY

Rogers J. Miner, of New York, to be U.S. district judge for the northern district of New York, vice James T. Foley, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 28, 1981:

DEPARTMENT OF EDUCATION

Thomas Patrick Melady, of Connecticut, to be Assistant Secretary for Postsecondary Education, Department of Education, vice Albert H. Bowker.

Donald J. Senese, of Virginia, to be Assistant Secretary for Educational Research and Improvement, Department of Education, vice F. James Rutherford, resigned.

ACTION AGENCY

Thomas L. Lias, of Iowa, to be an Assistant Director of the ACTION Agency, vice Irene Tinker, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

William E. Mayer, of California, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, vice Gerald L. Klerman, resigned.

DEPARTMENT OF EDUCATION

George A. Conn, of Maryland, to be Commissioner of the Rehabilitation Services Administration, vice Robert R. Humphreys, resigned.

Anne Graham, of Virginia, to be Assistant Secretary for Legislation and Public Affairs, Department of Education, vice Martha Keys.

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.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee on the Senate.