SENATE—*Thursday, July 30, 1981*

(Legislative day of Wednesday, July 8, 1981)

The Senate met at 10 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.

Holy God, patient, caring, forgiving Father, we thank Thee for Thine unconditional, impartial love. Help us to understand that Thou dost love us with perfect love and that we can do nothing to make Thee love us more; we can do nothing to make Thee love us less, for Thy love is unchanging, irrevocable, and eternal.

We thank Thee for Thy grace, for the unmerited favor by which Thou dost bid us receive Thy love. We allow guilt to corrode our souls when it is so unnecessary. Thou hast promised to—

Blot out our transgressions like a cloud and our sins like mist.—Isaiah 44: 22.

Thou hast said:

If we confess our sins, Thou art faithful and just to forgive us our sins and to cleanse us from all unrighteousness.—I John 1: 9.

Dear God, help us in humility to confess to Thee and receive Thy forgiveness. Then help us to forgive ourselves and especially to forgive others as Thou hast forgiven us. We ask this in the name of Him who gave His life for sinners. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

JOURNAL

Mr. BAKER. 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.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no need for my time under the standing order. I am prepared to yield it to any Senator who may wish it as a supplement to his time on special orders or to the distinguished minority leader if he requires it.

Mr. President, I yield control of the remainder of my time under the standing order to the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

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

RECOGNITION OF SENATOR NICKLES

The PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. I thank the Chair.

TAX REFORM LEGISLATION

Mr. NICKLES. Mr. President, I want to pay my compliments to the distinguished majority leader and the Senator from Kansas for their excellent leadership in the tax bill yesterday, to the Senator from Louisiana, and also to the President of the United States, because I think that, together, they worked exceptionally well. The real beneficiaries of their hard work and the work done in the Senate yesterday and the work done in the House yesterday will be the taxpayers of America.

I think the bill that was passed yesterday will go down in history as one of the truly significant pieces of tax reform legislation that has ever come about in this country's history.

We did reduce taxes, we did set up the momentum to turn our country around as far as the growth of Government is concerned. Government has been growing out of control for the past many years and I think with the action that was taken on the floor of both Houses yesterday, we shall reverse that growth through significant reductions in personal income tax, through the indexing feature which, Mr. President, I predict will probably be the most significant and most important part of the legislation that was passed, through reduction in the unfair and unequitable inheritance tax, through some modification, certainly, of the unfair windfall profit tax and many of the other tax provisions. In my opinion, Mr. President, they are exceptional and all the aforementioned individuals are to be complimented for their efforts.

Certainly, the people we should add to our compliments are the people of America, who spoke out loud and clear, stating that they wanted a turn in the direction of their country when they spoke to their Congressmen and Senators. I think the majority listened. I think the real beneficiaries of yesterday's action will be the taxpayers.

S. 1541—RETIREMENT INCOME INCENTIVES AND ADMINISTRATIVE SIMPLIFICATION ACT OF 1981

Mr. NICKLES. Mr. President, today, I am introducing a bill, the Retirement Income Incentives and Administrative Simplification Act of 1981, to amend the Employee Retirement Income Security Act of 1974. I am pleased that Senator WALLOP is joining with me in cosponsoring this legislation.

The primary purpose of ERISA was to insure that employees covered by private pensions received the benefits promised them by their employers or labor unions or both. Encouragement was to be provided to both employers and individuals to develop private welfare benefit and pension plans.

Whether ERISA encouraged growth in these plans or not is doubtful. However, the growth rate is staggering. Since 1940, the assets of private pension arrangements have increased from $2.4 billion to over $150 billion in 1975.

For 1980, assets in private defined benefit plans were $341 billion while another $50 to $62 billion was in private defined contribution plans.

It is estimated that today there are some 1.8 million private pension and welfare plans covering 70 million-plus participants. In 1978, nearly 90 percent of total corporate after-tax profits were spent on retirement benefits.

Another goal of the act was to improve the administration of pension plans. Nearly 7 years of ERISA oversight experience has demonstrated that the administrative goals of this act have not been met.

ERISA has been repeatedly included in a list of Government programs known for excessive bureaucracy. It earned this reputation through well documented examples of duplication and waste, confusion and delay, complexity and lack of inter- and intra-agency coordination. Each of ERISA's three administrative agencies—the Department of Labor, the Internal Revenue Service, including the Treasury Department, and the Pension Benefit Guaranty Corporation—has pursued its own individual and distinct policy, leaving ERISA without a consistent comprehensive policy of its own.

Not only has this multiple administration frustrated the development of a uniform policy, but the flood of regulations promulgated thereunder has resulted in unnecessary governmental costs, organizational waste, and inefficiency. This regulatory chaos has adversely affected the interests of plan participants, beneficiaries, and sponsors. Problems with this duplication are compounded by the fact that both the Department of Labor and the Internal Revenue Service have their own reporting requirements.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

To eliminate these problems and to provide for the implementation of a national retirement income policy, this bill consolidates all Federal pension regulation under a single agency to be known as the Employee Benefit Administration.

The need for a national retirement income policy is also evident in the lack of a comprehensive policy in ERISA to encourage individual savings to meet the needs of employees and their families in the event of death, disability, or retirement.

In fact, certain provisions of the Internal Revenue Code of 1954 have actually created disincentives for this type of employee participation. This bill will provide those incentives to encourage retirement savings.

Mr. President, I might also add that the tax bill passed by the Senate yesterday will also include many of the necessary changes to encourage retirement savings.

Another major problem area in ERISA is the termination insurance program for single-employer pension plans. The current plans limit an employer's liability at the time of a voluntary plan termination. This encourages employers to terminate their plans prematurely and thereby transfer to remaining plans the cost of underwriting large unfunded pension liabilities.

Also jeopardizing the stability of this program are the current minimum funding standards which often are inadequate to contain the growth of unfunded pension liabilities within supportable levels. The bill which Senator WALLOP and I are introducing today will modify both the termination insurance provisions and the current minimum funding standards for single-employer pension plans.

As a matter of fact, the majority of pension plans today, in my opinion, constitute one of the most serious liabilities to the funding of pension plans, to the inadequacy of a large number of pension plans, and I think it jeopardizes the future security of a large number of individuals, not to mention the present liability payments under PBGC.

It is imperative that Congress take action to move at a very early date to make some significant changes to protect not only the PBGC funds but also the basic retirement benefits that have been guaranteed to employees throughout the country.

There are numerous other improvements to ERISA contained in this Bill. These improvements are being presented at a time when concerns about the adequacy of retirement income are increasing due to the alarming condition of our social security system. Coupled with this is the projection that in the year 2000 there will be 31.8 million people over the age of 65 in the United States.

The time to simplify the administration of retirement plans for these individuals and to provide incentives for increased retirement savings is now.

Mr. President, this is an extremely lengthy bill—about 300 pages in length. I do not ask that it be printed in the RECORD, because of the obvious cost involved. I look forward to holding hearings sometime in the late fall on this issue.

There are thousands of employers who have been wrestling with the bureaucracy, trying to comply with ERISA, the act of 1974—as I did, as a small employer—having to meet the various reporting requirements of various agencies, somewhat in conflict. I am positive that our colleagues will receive a great deal of input from the frustration of employers throughout the country.

I hope that the bill, which is approximately 300 pages in length, can be reduced, can be simplified, can make it easier to protect employees across the country, and can make it easy for employers to comply with these regulations.

● Mr. WALLOP. Mr. President, this morning I join my colleague from Oklahoma (Mr. NICKLES) in introducing the Retirement Income Incentives and Administrative Simplification Act of 1981. This act represents a major effort to protect and to expand our Nation's private retirement system.

It is a well-known fact that retired workers derive their retirement income from three sources—personal savings, private pension plans, and social security. For many retirees, the social security program is the major, if not only, source of income upon retirement. But now, this pay-as-you-go system is experiencing a period of economic strain. High inflation and unemployment rates are chief culprits behind this strain. However, it is also the result of the incredible demands we place on the system.

This fall, the Senate will begin work on legislation to insure the financial soundness of social security. Years ago, the Congress would diligently work every 2 years to increase social security benefits, usually right before an election. Now it seems that every few years we have to figure out a new scheme to rescue social security. The program is too important to our senior citizens to allow it to falter. We will restore social security to a sound basis, both for the short and the long range.

At the same time, we must give greater attention to the two remaining sources of retirement income. Our retirement program is often compared to a three legged stool. However, it is a very wobbly stool since one leg, social security, dominates. It is time to balance our retirement system by strengthening the other two legs.

The Economic Recovery Tax Act, which has just passed the House and the Senate, provides a number of incentives to expand personal savings. These incentives mean more funds for capital formation and economic expansion—which indirectly helps social security—more money for retirement savings, and more money for private pension plans. But merely making more money available for private pension plans is not enough to strengthen the third leg of the stool. What is also needed is comprehensive reform of the Employee Retirement Income Security Act.

ERISA has been in effect since 1974. Since then, our private pension program has achieved a certain amount of stability. Still, over the past 8 years, we have seen little expansion of the private pension system. What is worse is that employers have become increasingly frustrated with the cost and the complexity have refused to start up new plans.

ERISA, unfortunately, is responsible for the increased expense, delay, and confusion for employers who have sought to provide their workers with adequate pension plans. As a result, plans have terminated, and employers have refused to start up new plans.

We have a way out of this mess. The bill we are introducing today will provide for more effective and efficient administration of private pension plans. The bill will encourage greater investment by individuals in retirement plans. and will stimulate the establishment of new plans.

The bill has six titles. Title I would consolidate administration of ERISA in one agency, the Employee Benefit Administration.

Not only do we have four congressional committees with legislative jurisdiction over ERISA, but we have four departments and agencies in the executive branch trying to administer the program. No wonder employers are frustrated with ERISA. This title achieves one of the major goals of the Reagan administration, regulatory relief and reform.

Title II provides incentives for individual retirement savings. The provisions are the same as S. 1218, the Employee Retirement Income Security Act, which I introduced earlier this year. Provisions of this bill are included in the Economic Recovery Tax Act.

Title III provides corrections, clarifications and simplifications in ERISA to make the act a more reasonable law while protecting worker's pension rights. Title IV amends the Internal Revenue Code to insure sound funding of private pension plans, revise the tax treatment of contributions, and for other purposes. Title V provides individual retirement payroll deduction arrangements for employees not covered by pension plans. Title VI revises single-employer termination insurance provisions in ERISA.

In recent years, the Congress has held oversight hearings on ERISA. The Federal Paperwork Commission, the President's Commission on Pension Policy, and the President's Task Force on Regulatory Relief have all delved into problems associated with ERISA. The bill we are introducing today reflects this work. It is a responsible and needed reform. I urge my colleagues to join us in supporting this legislation.●

● Mr. HATCH. Mr. President, I am pleased to join Senator NICKLES and Senator WALLOP in introducing legislation to reform ERISA. Although the purpose of the 1974 act is unquestionably laudable, the last 7 years of experience under

the act has disclosed a number of problems. On an administrative level, the act has proved unduly burdensome and expensive.

The onerous reporting requirements and the plethora of regulations issued by the Government have been a nemesis to private pension plans and in the end probably have not fulfilled the goals of the act, which was to assure employees that benefits promised them at retirement would be paid.

In addition, the dual administration exercised by the Department of Labor and the Treasury Department has been demonstrably unworkable. The time has come to seriously examine an alternative enforcement scheme, such as the single agency—an Employee Benefit Administration—proposed in the bill.

Accompanying this structural change would be a number of changes in the existing reporting requirements and standards designed to simplify the administration and oversight of private pension plans.

Besides addressing the problems found in titles I, II, and II of the act, the bill also proposes a fundamental restructuring of the termination insurance provisions of title IV pertaining to single employer plans. In the last Congress, we changed the law with respect to multiemployer pension plans, opting for a system that triggers relief to the financial condition of the plan rather than the unilateral decision of the employers. Similarly in this bill we propose an insurance system that is not geared to the voluntary termination of the plan by an employer but is rather geared to the liquidation of the employer's business.

Finally, it should be noted that the bill proposes financial incentives for people to utilize personal savings as a source of retirement income.

It is evident that this is a comprehensive bill, but it should not be considered the final word on the reforms to ERISA. I anticipate that the committee will be devoting a substantial amount of time to studying this legislation, to hearing from representatives of the administration, industry, and labor, and to shaping eventually a reform package that strikes a fair and equitable balance.●

RECOGNITION OF SENATOR ZORINSKY

The PRESIDING OFFICER (Mr. DENTON). The Senator from Nebraska is recognized.

THE SITUATION IN NICARAGUA

Mr. ZORINSKY. Mr. President, 2 years ago I rose in the Senate to support aid to the fledgling government in Nicaragua because I strongly believed that we should meet, in a constructive way, the challenge to our interests posed by elements of the Nicaraguan revolution. Today I feel no less strongly about the necessity of facing up to the complex problems of this hemisphere. But circumstances must dictate our response, and so I rise to express to my colleagues and to the American people my very grave concerns about the increasingly troubled path and direction of the Nicaraguan revolution. Disturbing developments over past weeks have caused me to conclude that the Nicaraguan Government seems to be backing off from its original commitment to political pluralism and a mixed economy made to the Nicaraguan people when the Sandinistas took power 2 years ago.

That commitment, made personally to me, was the basis of my support for aid to the new Nicaraguan Government, 60 percent of which was earmarked for the private sector and all of which was designed to strengthen the moderate forces in Nicaragua's struggle to seek its path.

That commitment assured that Nicaraguan moderates would have a role to play in determining the nation's destiny after years of repression under Somoza's dictatorship.

That commitment assured a role for the private sector in developing a mixed economy that would benefit the great majority of the Nicaraguan people.

That commitment promoted support within the United States and created a climate for a relationship between the United States and Nicaragua that was in the best interests of both countries.

And most importantly that commitment had the overwhelming support of the Nicaraguan people.

Some disturbing trends in Nicaragua have concerned me for some time, although, with patience, I have hoped that various problems could be worked out. Recent events, however, seem to have underlined these negative trends and my patience has worn thin.

The 2-day closing of the most popular newspaper, La Prensa, was an especially serious development. The closing of La Prensa was the latest in a series of acts of harassment against the newspaper and its officials in response to its highly critical reporting of Government policies. Intimidation of this brave opposition voice, so instrumental in the campaign against Somoza, has not succeeded, but has caused me to openly question the Nicaraguan Government's desire to have a free and independent press. A related concern is the Government's 4-day closing of Radio Cooperacion, also an independent and critical voice. Criticism of Government by the media is one of the major healthy consequences of a free and open society and must be accepted and tolerated if that society is to remain free.

Equally disturbing are reports that the Catholic Church in Nicaragua is having difficulties with the Government. During a visit to Italy, Nicaraguan Archbishop Obando y Bravo voiced concern over the influence of Marxists and Cubans in Nicaragua. In response, the Government banned the archbishop's weekly televised sermon. Not only is such action an unprincipled attack on freedom of religion, but also a highly unpopular decision at odds with the overwhelmingly Catholic and devoutly religious people of Nicaragua.

The matter of free elections has long been a concern of mine, and I have expressed these concerns personally and repeatedly to the Nicaraguan leadership. The Government likes to call attention to the dialog with the opposition parties as evidence that it is on track with its plan to begin the electoral process in 1984 and national elections in 1985. As much as I commend efforts to increase communication, I am increasingly skeptical as I read and hear reports that the Government is not really serious about either the substance of the dialog or holding direct, representative elections.

And one political group, the Democratic Conservative Party, has dropped out of the talks charging that the Nicaraguan Government believes the issue to be what the political parties can do to help the Sandinistas rather than what the Sandinistas can do to reverse their deviations from their original commitments. Compounding the ominous signs of a weakening commitment to political pluralism is the continued absence from the Council of State of 11 groups which dropped out of active participation in the Government last November.

The economic measures announced by junta President Daniel Ortega at the July 19 anniversary of the revolution are no less a cause for concern about the way things are done today in Nicaragua. Ortega announced that 13 companies were immediately being nationalized because their owners were believed to be smuggling capital out of the country. No one can deny that it is the Government's right to respond to illegal activity but it is the arbitrary manner of this response which has serious implications to me.

Measures that fail to observe due process can only serve to further intimidate and isolate the private sector in Nicaragua. The Government, which lately has been extremely sensitive to the private sector's involvement in politics, must recognize such involvement as a fact of life in a free society.

Finally, I am concerned with the developing arms buildup under which Nicaragua already has Soviet T-55 tanks which recently came from Algeria. Plans to substantially increase the size of the armed forces and the influence of Cuba within the military and security organizations are extremely worrisome to me—and should be as well to those in Nicaragua who seek to preserve its nonalined status.

It is only fair and right to acknowledge that some attempts have been made to improve the lives of the Nicaraguan people, but it is not enough to build hospitals and schools. It is not enough to work to rebuild the nation and the economy. It is not enough to seek to provide jobs. It is not enough to teach people to read and write. These are among the shared

responsibilities of government, but its preeminent responsibility is to represent a free people—to undertake its other responsibilities with the consent and at the direction of the people. Both the Fascists and the Communists make the same mistake: They believe people can be bought. But humans have proven time and again that they will sacrifice position for freedom. They will sacrifice prosperity for freedom. They will sacrifice education for freedom. They will sacrifice health—and indeed life—to breathe free.

I earnestly appeal to the leadership of the Nicaraguan Government to remember the objectives and the hopes represented in the revolution that the people of Nicaragua celebrated July 19. The people of Nicaragua who have lived for decades under a repressive tyranny deserve a free and open system which they can support and which they have placed in power by free elections. They deserve to live in a country where there is freedom of the press and where private and public sector cooperate in the economic system. Unless and until the Nicaraguan Government rededicates itself to the principles for which the revolution was fought, neither the majority of the Nicaraguan people, nor their friends in the United States will continue to lend their support.

I feel it is appropriate at this time to make public a portion of a letter I wrote to junta member Sergio Ramírez on December 3, 1980, when I expressed privately my concerns about developments which I felt had further implications. In that letter, I stated:

> Let there be no mistake about my own position: I did not support the overthrow of the Somoza regime in order that others be given a chance to circumscribe the rights and freedoms of the Nicaraguan people. They have had enough of that and too often with the willingness of the United States to look the other way. Rather, I supported Somoza's removal because I believed his opponents—the people of Nicaragua—deserved the chance to create something better than the past knew. I shall continue to support this goal without reservation and qualification. And conversely, I cannot support either personally or politically any measure or measures which deviate from it or do not have the blessing of the people.

When the Nicaraguan leadership rededicates itself to the principles of economic and political pluralism, when there is a renewed dedication to free and direct elections, when the church can function without hindrance, when the press can publish in an atmosphere free of intimidation, I once again will proudly stand in these halls to support assistance to the Government of Nicaragua.

Thank you, Mr. President.

I yield back the remainder of my time.

Mr. COCHRAN. Mr. President, I ask unanimous consent that I be yielded 5 minutes from the special order of the distiguished Senator from West Virginia (Mr. ROBERT C. BYRD).

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

ROTH-KEMP

Mr. COCHRAN. Mr. President, some people may have been amused and others saddened when they picked up their Washington Post this morning to find on page A9 a photograph of BOB MICHEL, JACK KEMP, and some of the others who were being identified as having an influential role to play in the passage of the tax legislation yesterday in both the House of Representatives and the Senate. In the caption Representative TOBY ROTH was identified as being in the picture. I looked around, trying to find where Representative TOBY ROTH was. I did not see anyone in the photograph I did not recognize. There was Senator BILL ROTH. It became obvious what had happened was that BILL ROTH, who had helped hatch the Kemp-Roth bill back in 1977, had been incorrectly identified as TOBY ROTH.

I thought we had seen an awful lot of praise being heaped on the shoulders of the President, and justifiably so, for the magnificent job that was done in moulding a bipartisan coalition of support behind this tax initiative that was approved yesterday here on Capitol Hill.

But we also probably shou'd recognize the tremendous contribution which has been made by the two individuals who really started the ball rolling in the beginning, JACK KEMP, Congressman from New York, and BILL ROTH, Senator from Delaware, both Republicans, both deciding when they called their first news conference back on July 14, 1977, that they were going to commit themselves to a nationwide campaign to attract attention to the necessity for reducing the heavy burden of taxes on the shoulders of American business and individuals.

So this morning, it is my great pleasure, having known these two outstanding lawmakers, to pay tribute to them for the outstanding job they have done.

I know that JACK KEMP has gone all over the country talking to groups wherever he could find them, at party fundraisers, civic clubs, conventions of trade associations, all over this great country since that time preaching the gospel according to KEMP, supply-side economics. Some were worried that this would be too much of a tax cut, that the cut would be too deep for too long a period of time, and these were criticisms heard from the very beginning. But enthusiasm, perseverance, and commitment to that cause could not be ignored and people began to pay attention and listen.

At the same time Senator BILL ROTH was engaged in this same kind of campaign.

What is apparent from yesterday's photograph also is not just the fact that the Washington Post has someone who does not know who Senator BILL ROTH is—maybe they should call the Washington Star people and see where they are going so they can make room for that person also—but it also illustrates that JACK KEMP and BILL ROTH were willing to share the cause with others who wanted to become interested and involved in helping push this measure to final passage.

Senators will notice Kemp-Roth in the House became Conable-Hance, and many others have gotten involved in a very direct and effective way in making this tax reduction plan a reality; the President for his decision to make this a keystone of his platform in his campaign for the Presidency last year, and successfully convincing Americans that this was a sensible and needed part of an economic recovery program for the Nation; leaders of our Finance Committee in the Senate, the Ways and Means Committee in the House, on the Republican side at first but then later attracting support from others in key positions on the Democratic side who were essential to the victory.

But none of it would have been possible had it not been for JACK KEMP and BILL ROTH.

We have seen many successes and victories here in Congress probably through the years, but this Senator can remember none as dramatic and as important as the victory that was won yesterday.

Well, one thing I guess we can say in closing, Mr. President, is that it sure better work because we, this Republican Party and this administration, and now this Congress, have just wagered the whole plantation on it.

I thank the Chair and I yield back the floor.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The minority leader has 10 minutes remaining on the special order.

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

AFGHANISTAN—THE MOSLEM HOLY WAR

Mr. ROBERT C. BYRD. Mr. President, the tenacity of the Afghan freedom fighters deserves the admiration of all the world's people. Some 85,000 Soviet soldiers and the most modern equipment in the Russian army and air force cannot subdue this fiercely proud people.

As noted in a recent edition of The Wall Street Journal:

> The Moslems aren't winning against these odds, but diplomats and others observing the clash of cultures describe the situation as a stalemate. They say the Russians appear to have decided to protect the cities and their military bases, leaving the countryside to the insurgents. The Kabul government hasn't any presence in 95% of the country, one observer says. . . .

It is a holy war for this predominantly Moslem population. As one 19-year-old Moslem youth pointed out:

> We'll fight until the last breath in our bodies. If the Communists decide not to leave for 100 years, then we will still fight them.

If the Soviets believe they can wear down the freedom-fighters, history is not on their side. The British found they could not subdue these proud and independent people. And the Soviets will discover the same. Yet, this tragic bloody occupation continues. The world should

note with horror Soviet action in Aghanistan. The Stalinist purges have been revised in what was a neutral, Third World Moslem nation whose people dared to challenge the Red army.

I ask unanimous consent that the article from the July 24, 1981 Wall Street Journal be printed in the RECORD.

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

AFGHANISTAN TRIBESMEN FIGHT COMMUNIST ARMY TO A STALEMATE AND RULE MOST OF THE COUNTRYSIDE

(By Barry Kramer)

PESHAWAR, PAKISTAN.—Despite the adolescent crack in his voice, Haji Murad is a seasoned veteran of the Moslem holy war against communism in Afghanistan.

"We'll fight until the last breath in our bodies," the turbaned 19-year-old Tadjik tribesman says. He is here with other *mujahideen*, or Moslem holy warriors, to get arms from an Afghanistan resistance group. "If the Communists decide not to leave for 100 years, then we will still fight them," he says with the mujahideen conviction that they can't lose because God is on their side.

Afghanistan's Moslem tribesmen began their crusade after a Communist government took over in Kabul in a 1978 military coup. They have continued the fight against 85,000 Russian soldiers who arrived in 1979 to save the Communist government from the incursions of the Moslem warriors.

The Moslems aren't winning against these odds, but diplomats and other observing the clash of the cultures describe the situation as a stalemate. They say the Russians appear to have decided to protect the cities and their military bases, leaving the countryside to the insurgents. The Kabul government hasn't any presence in 95% of the country, one observer says, and the morale of the mujahideen remains high.

GAINS IN THE CITIES

Even in the cities, the Moslems have made some gains. The mujahideen have taken control of large parts of Kandahar, the second-largest city, after hand-to-hand combat with Russian and Afghan troops. At night, diplomatic sources say, Herat and Jalalabad are in rebel control.

The mujahideen can cut off major highways for days at a time, and many roads are passable only in the daytime by armed military convoys. But the various groups of the mujahideen remain separate, disorganized entities, rarely coordinating their attacks. "They pay lip service to unity," a Western diplomat says, "but whenever they bury the hatchet, it's in somebody else's back."

Few tribesmen think of themselves as part of a nation. "Their world is their valley, and they resist anyone who claims the right to tell them how to live in their valley," an observer says.

Said Muhiudden, a shopkeeper from a village near the northern city of Kunduz, says he joined the mujahideen after Kabul instituted a land-reform program. "I didn't own the smallest piece of land," he says, "but giving one man's land to another man goes against God Almighty."

Because mujahideen believe that they are fighting a holy war and that to die is to become a martyr, casualties among the insurgents are high. Almost no medical care is available in Afghanistan, and usually only the rebels with less serious wounds survive the long trek to Pakistan for treatment.

Soviet troops are making retaliatory raids against villages that aid the mujahideen, refugees say. Scores of villages have been scorched by Russian artillery, jets and helicopter gunships following mujahideen ambushes nearby, adding to the flow of refugees. More than two million Afghan refugees now are in neighboring Pakistan, and up to a million more are in Iran, totaling 15 percent to 20 percent of Afghanistan's population.

The Russian presence in Afghanistan has failed to stop the murderous infighting among the factions of the Afghan Communists or to broaden the base of the government of President Babrak Karmal, who was installed when the Russians invaded. "Things have gotten to the stage where the majority of the Afghan people won't accept anyone who's acceptable to the Russians," a diplomat in Pakistan says.

The Soviets also have been unable to stem the disintegration of the Afghan army currently thought to number fewer than 20,000, compared with its original 80,000 men. Some of this is explained by defections to the mujahideen side. For instance, two 14-year-olds, Abdul Waheed and Abdul Sayyaf, say they were in their village market early this year when they were abducted by soldiers and flown to Kandahar for military training. After a month, they say, they and 25 other draftees escaped and joined the Moslem tribesmen.

SOURCES OF ARMS

The insurgents say that most of their weapons come from soldiers defecting from the Afghanistan army. At least a small part of the mujahideen arsenal, however, apparently comes by way of the Pakistan military from Egypt, Saudi Arabia, Oman, China and possibly the U.S. Pakistan denies it is conduit for the arms, and the U.S., at least, denies supplying any arms to Afghanistan.

Journalists who have accompanied the mujahideen inside Afghanistan say they suffer from the lack of advanced weapons, especially antiaircraft weapons for use against the armor-plated helicopters that the Russians use with devastating effect against the mujahideen.

No one expects the Russians to tire of Afghanistan. In fact, they may hope to wear down the rebels' resistance. What's at stake for the Russians is their "Brezhnev Doctrine," under which Moscow views all Socialist revolutions as irreversible. To pull out of Afghanistan could weaken Soviet credibility among its allies, it is reasoned, much as the U.S. pullout from Vietnam caused America's allies to question Washington's reliability.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand that we are almost ready to commence consideration of our first regular appropriation bill for this year. I commend the distinguished Senator from Oregon (Mr. HATFIELD), the chairman of the Appropriations Committee, for making it possible for us to do that in advance of the August recess. I am personally grateful, and I am sure the Senate is grateful, that we have reached the 1st of the 13 regular appropriation bills in a good and expeditious way.

As we wait now for the managers to assemble, and those who will have the first business to transact in connection with the bill, I am prepared to create a brief time for routine morning business. If the manager of the bill, Senator GARN, who is the subcommittee chairman, is agreeable, I will provide now for a brief period for the transaction of routine morning business.

Mr. GARN. That will be fine.

Mr. BAKER. I thank the Senator from Utah.

Let me thank him as well for his work in bringing this matter to us at this time. It is an extraordinary thing that we have the level of competence in his subcommittee and others, and in the Appropriations Committee, that permits us to reach this point at this relatively early time in this legislative year.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not longer than 15 minutes, in which Senators may speak for not more than 2 minutes each.

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

Is there further morning business?

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

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

RECEIPT OF MIDYEAR MONETARY POLICY REPORT TO CONGRESS PURSUANT TO THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the midyear monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978. This report is available for review by my colleagues in my office.

ACT NOW ON THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, one of the common traits of human nature is our reluctance to take decisive action in the absence of a crisis. I submit to my colleagues that this reluctance stands in the way of ratification of an important treaty, the Genocide Convention.

We can see examples of this problem in our personal lives, in business decisionmaking, and in public affairs, to name a few instances.

We have all had the experience of hearing strange sounds from our car, but not taking it in for a tuneup because we were too busy. Then, inevitably, the car breaks down just when we are in a hurry and have no alternative transportation. We get it fixed, but by not

acting early to prevent a breakdown, we aggravate the problem and end up in a crisis.

We have a tendency to react to crises instead of preventing predictable problems in the realm of public affairs, too. One example which comes to mind is the public pressure for Presidential security which followed the attempted assassination of President Reagan. Throughout the world, security is tightened after an attempt on someone's life. People do not act to solve problems that are not pressing—people act when disaster strikes.

From this common, but destructive, habit comes the adage, "an ounce of prevention is worth a pound of cure." In the case of the Genocide Convention, this is undoubtedly true.

We must apply all the wisdom and forethought we can muster. We must act now to prevent genocide instead of reacting later as if we could cure it. If we wait until a case of genocide occurs, we risk losing thousands of human lives and the security of important, unique human groups.

Mr. President, I urge my colleagues speedily to ratify the Genocide Convention. The U.S. Senate must join with the world community in working to prevent all future genocidal acts.

LUTHERAN WOMEN SUPPORT U.N. CODE ON INFANT FORMULA REGULATION

Mr. PROXMIRE. Mr. President, the influential organization of the American Lutheran Church Women recently gave a resounding endorsement to the Senate's action on June 18 urging the U.S. Government to support the international code regulating the marketing of infant formulas. Though the United States cast the only negative vote out of 119 participating countries, both Houses of Congress have gone on record in opposition to our Government's official position.

The code, which is supported by a varied and broad group of religious and health organizations here and overseas, is based on the very practical considerations of infant mortality. Infant mortality in developing countries is two to seven times higher for bottle-fed babies than breast-fed babies. To some degree, this results from formulas being mixed with contaminated water or from being overdiluted—thus causing infant malnutrition.

The House of Representatives passed Joint Resolution 287 by a 301-to-100 vote. The Senate followed suit with a vote of 89 to 2. Thus, the consensus in Congress is not only clear but also overwhelming. Nonetheless, the administration sought to make an argument based on narrow constitutional grounds which have no merit in this case.

I applaud the American Lutheran Women's organization for their continued dedication to this important issue. It is an issue with moral, economic, and even strategic consequences. The United States should not be blind to the long-term consequences of taking the wrong position on the Infant Formula Code.

Mr. President, I ask unanimous consent that the resolution passed by the American Luthern Church Women be printed in the RECORD.

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

RESOLUTION AFFIRMING CONGRESSIONAL VOTE ON INTERNATIONAL INFANT FORMULA

Whereas, on May 21, 1981, in Geneva, Switzerland, at the 34th meeting of the World Health Organization, the U.S. cast the sole vote (118 to 1) against adoption of an international Code regulating the marketing of breastmilk substitutes, and

Whereas, the groundswell of citizen outrage in the U.S. against this ill-advised negative vote by the U.S. representative was immediate and widespread, and

Whereas, the WHO Code caps ten years of concentrated consultation by governments, health professionals, industry, and consumer groups, and

Whereas, adoption of the Code is an explicit recognition by the world's highest health authorities that breast feeding and infant health must be protected from aggressive advertising and unethical marketing by baby milk companies, and

Whereas, scientists estimate that each year ten million infants suffer malnutrition, disease, and often death due to misuse of artificial infant formulas, and

Whereas, on June 16 the U.S. House of Representatives passed Joint Resolution No. 287 by a 3 to 1 ratio, (1) expressing its shock and dismay at the negative vote by the U.S. on the WHO Marketing Code, (2) urging the Reagan administration to cooperate with other nations in implementing the Code, (3) urging the U.S. infant formula industry to abide by Code guidelines, and, (4) reaffirming the dedication of the U.S. to the protection of the lives of all the world's children, and

Whereas, on June 18 the U.S. Senate approved by a vote of 89 to 2 a resolution urging the U.S. government and the breast milk substitute industry to support the basic aims of the Code and to cooperate with governments of all countries in their efforts to implement the Code objectives,

Now therefore be it resolved that the American Lutheran Church Women, assembled in Dallas, Texas, in convention, express their wholehearted affirmation and support of the senators and representatives who so courageously cast their votes in favor of these resolutions, and

Be it further resolved that ALC Women be urged to send letters to their individual senators and representatives congratulating them on their enlightened stand, and

Be it further resolved that ALC Women pay close attention in the months ahead, and give their encouragement and support in every way possible to consumer groups, health professionals, law enforcement agencies and governments who will be working to implement the objectives of the International Infant Formula Code on behalf of the world's children, both here in the U.S. and in lands across the seas.

INFANT FORMULA RESOLUTION

Mr. SYMMS. Mr. President, since the Senate vote on the Infant Formula Resolution, I have been criticized for being against motherhood, having no concern for others and insensitive to innocent children. I suppose my colleague, Senator EAST, who joined me in opposition to that resolution, has had the same experience. Apparently our votes were read that way by those who refused to look at the underlying arguments.

The Senate vote on that resolution condemning the Reagan administration for voting against a World Health Organization code on baby formulas raised a number of complex issues.

One can view the Senate vote in two ways. Most of my colleagues saw it as an opportunity to express mild disapproval of the administration for its Geneva vote against that international advertising code, a code which, by the way, was not a simple statement that breast feeding is better, but an effort to limit freedom of expression. I saw my vote on the Senate resolution as an opportunity to express strong disapproval for an unpleasant trend in international affairs.

Most of the international organizations of the world operate on the fringes of reality. They are governed by international bureaucrats, intellectuals, and elitists from many nations. These international bureaucrats are irresponsible. They are elected by no one; they answer to no one; they draw large salaries, but they have no power. Power is what they seek.

They attempted to assert control over the natural resources of the world through the Law of the Sea Conference. They sought power over the world's press by proposing a UNESCO-sponsored system of press censorship. They sought control over some of the large commercial enterprises of the world by proposing an advertising code which instead of working toward the aim of resolving the persistent malnutrition problems of mothers and infants in developing areas demands that all advertising of infant formula to the public be forbidden. That is absurd.

Anton Keller in a recent article in the Wall Street Journal summarized it best when he stated:

> The code sets yet another precedent for experts, commissions and international officials to become bona fide legislators, with international "service" organizations being their vehicle for establishing mostly self-serving norms beyond the effective control of national legislatures.

Most of our troubles in international affairs are due to a refusal to deal with the world as it is. We persist in pretending that international negotiations, through the U.N. can make everything right. The international bureaucrats encourage that pretense, and seek to extend it, for their own purposes.

My vote against the Senate resolution was a vote expressing the need to resist this kind of trend and to express my view that we should be very careful about strengthening the hand of international bureaucrats in their efforts to bind sovereign nations of the world.

It was not a vote against breast feeding. I recognize the superiority of breast feeding, when it can be done. In some cases it cannot be and in those cases, substitutes are needed.

It was not a vote condoning the specific advertising and marketing practices carried out by infant formula companies. I think some of it is reprehensible, though I think it is at least as subject to first amendment protections as other forms of advertising.

It was not even a vote to defend the contribution that infant formula companies have made to improved nutrition in underdeveloped countries, providing protein and other food supplements that increased survival rates and cut down on disease and malnutrition. The efforts of the companies have been widely recognized by international health authorities.

My vote on that Senate resolution was a chance to remind those international bureaucrats that they do not have real power yet, and as long as the United States will defend its real interests, they will never have it.

Mr. President, the respected columnist Smith Hempstone, in the July 8 Washington Star, has written perceptively on this infant formula controversy. His article makes good sense, and I wish other Senators had taken the time to consider his arguments before the vote. Since they did not have the chance then, I offer it to them now and ask unanimous consent that the article be printed at this point in the RECORD.

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

ALL THIS BREAST-BEATING ABOUT INFANT FORMULA

(By Smith Hempstone)

When the Reagan administration finds itself outvoted 118–1 in the World Health Organization and opposed by both the U.S. Senate (89–2) and the House of Representatives (301–100), the White House is in the wrong, right?

Not necessarily. And, in the case of the current breast-feeding brouhaha, almost certainly not.

For the past six years, an odd assortment of liberal activists and other gollywogs (Ralph Nader, Cesar Chavez, Dr. Benjamin Spock, Mother Jones) have been after the scalp of the baby-food industry, and particularly Nestle, the venerable Swiss giant (with annual sales of $13 billion) that markets about a third of the baby formula sold in Asia, Africa and Latin America. The charge: that use of the formula causes 1 million infant deaths a year in the Third World.

That is, of course, hogwash. The infant formulas, which are used extensively in the United States, are not responsible for a single death. When such deaths occur—and they do occur—the cause inevitably is the mother's improper dilution of the formula, the use of polluted water or the failure to sterilize bottles.

No one would argue that breast-feeding, when the mother is healthy, is the cheapest healthiest and most emotionally satisfying method of infant nutrition. Unfortunately, not all Third World mothers are healthy, or able and willing to breast-feed their children.

TRADITIONAL SUBSTITUTES

When this is the case, the woman denied access to nutritionally balanced baby-food formulas obviously will use traditional substitutes such as gruel, sugar-water or mashed fruits, foods that are lacking in nutritional value and hard to digest. Since such substitutes invariably are mixed with the same polluted water, it is difficult to see how the rate of infant mortality is reduced.

The code passed recently by WHO, with the U.S. casting the sole dissenting vote, rests on the incorrect assumption that marketing practices are the primary cause of the decline of breast-feeding in the underdeveloped world.

There is not a scintilla of evidence to support this thesis, and more than a little to contradict it.

In the U.S., for instance, where baby formulas are heavily advertised, there has been a dramatic increase in breast-feeding over the past decade; in the Soviet Union, where there is no advertising, use of baby formula has been equally dramatically on the upswing. WHO's own 1975–77 survey of 23,000 mothers in nine disparate countries showed no causal link between breast-feeding decisions and marketing practices.

A cynic might observe that, since the WHO vote was only a recommendation, many nations that have not the slightest intention of enforcing it voted for it, not to save the lives of children but to indict multinational corporations, and to avoid admitting the existence of primitive and unsanitary conditions in their own countries.

But how to explain last month's votes in the U.S. Senate and House?

CORRECT SIDE OF THE ISSUE

Rep. Larry McDonald, a Georgia Democrat who is a medical doctor, suggests that many of his colleagues "didn't have the foggiest idea what they were voting on . . . but simply wanted to be perceived . . . as being on the 'correct' side of this issue."

McDonald, who calls the WHO code "absurd," points out that it prohibits all advertising and promotion of formula, and bans all sales incentives to salesmen and efforts by marketing personnel to educate mothers on the proper use of these products.

The code "will not improve infant health but rather have the opposite effect," concludes McDonald.

It is clear that special precautions ought to be taken in marketing products in semiliterate societies lacking in hygienic traditions and refrigeration. But the baby-food corporations themselves have done much to regulate their marketing practices, and there is no reason to believe that supranational organizations such as WHO are better placed to dictate such procedures.

At least in theory, the WHO code could be translated into regulations that would be binding on all nations, including the U.S. Sec. of Health and Human Services Richard Schweiker, however, has made it plain that, in his view, application of the code here would violate constitutional guarantees of free speech and association, and violate anti-trust laws.

Rather than castigating a 100-year-old firm such as Nestle as "a baby-killer," the liberal activists who created this phony issue might better spend their energy and money teaching Third World mothers to read labels and boil polluted water.

But then the health of the world's children is not their genuine concern, is it? They prefer a grievance to a solution.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1982

The PRESIDING OFFICER. The pending business will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4034) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1982, and for other purposes.

Mr. GARN. Mr. President, the bill before the Senate contains $60.5 billion in budget authority and an estimated $56.2 billion in outlays for the Department of Housing and Urban Development and 19 other agencies. This is $3.9 billion in budget authority and $700 million in outlays below the 302(b) allocation. The reported bill is $2.7 billion below the request and $9.0 billion below the fiscal year 1981 level.

The Senate bill is $2.1 billion in budget authority less than the House version and is also below the House version in outlays. In this regard, it should be noted that the Senate version contains $115 million for civil defense and $147.7 million for the operation of low-income housing subsidies—both of which are fiscal year 1982 requirements not funded by the House. With these items considered, we would be another $200 million in outlays below the House version.

In each case, the impact of the subcommittee's recommendations on authorization and reconciliation was considered. Many of the items in this bill are awaiting authorization. The staff has discussed each recommendation with the appropriate authorizing committees and in each case, the consensus was that these recommendations would not unduly compromise the Senate's position in the authorization and reconciliation conferences. I believe that we must avoid undercutting our conferees.

The total amount proposed in this bill does not exceed the amount contained in the Senate authorization or reconciliation bills.

HUD—INDEPENDENT AGENCIES APPROPRIATIONS SUBCOMMITTEE

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The committee recommended a limitation on annual contribution contracts for assisted housing of $891,500,000 and an overall limitation of $17,815,100,000 in the new budget authority. The limitation on annual contract authority recommended by the committee is $95,936,250 less than the budget estimate and the House allowance. The recommended limitation on new budget authority is $1,927,545,500 less than the budget estimate and the House allowance.

The amount provided by the committee is estimated to result in the reservation of 156,205 housing units, of which 59,892 will be new construction; 10,569 rehabilitation; and 85,744 existing. Within the units provided are 4,000 Indian housing units.

In addition, within the funds provided, the committee has included $1,500,000,000 in new budget authority and $75,000,000 in contract authority for modernization. Additionally the bill includes a provision releasing an additional $300,000,000 in budget authority and $15,000,000 in contract authority

that was deferred in the supplemental bill (Public Law 97–12), thus bringing the fiscal year 1982 program level to $1,800,000,000.

Finally, the committee included a provision in the bill requiring the Secretary to transfer no less than 6.3 percent and no more than 17 percent of the funds in this account for public housing new construction to support the operation of low-income housing projects. The effect of this provision is to adjust the number of public housing new construction units from 16,000 to no more than 14,992 and no less than 13,280. This provision would give the Secretary the flexibility of trading off new construction for operating subsidies on existing units and would hopefully preclude the need for a separate supplemental action in fiscal year 1982.

RENT SUPPLEMENT

The committee agree with the House in approving the administration's proposed rescission of $1,037,000,000 in budget authority and $30,500,000 in contract authority for the rent supplement program. In fiscal year 1982, the Department proposes to continue to phase in the conversion of units currently assisted under the rent supplement program to the section 8 program. The conversion of rent supplement assisted units will provide a long-term solution to the existing problem of inadequate funding to amend rent supplement contracts.

HOUSING PAYMENTS (LIQUIDATION OF CONTRACT AUTHORITY)

The committee recommended an appropriation of $8,759,000,000 for the liquidation of housing contract authority. The amount recommended will provide housing payments for an estimated 3,751,000 eligible units, including 1,588,000 section 8 units; 1,238,000 public housing units. The aggregate number of units eligible for payment in fiscal year 1982 represents an increase of 230,000 units over the current estimate for fiscal year 1981.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

The committee recommended a loan limitation of $830,848,000 for the section 202 housing program for the elderly or handicapped program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

Of the $830,848,000 recommended for reservations in fiscal year 1982, $50,000,000 would be loaned for housing designed expressly for nonelderly handicapped individuals. The amount recommended will provide for an aggregate total of 17,200 units in fiscal year 1982, including 1,035 units for nonelderly handicapped persons.

Additionally, language requested to permit the use of up to $20,000,000 in 1982 of recaptured authority from prior year reservations is included in the bill.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

The committee has recommended an appropriation of $1,204,600,000 for payments for the operation of low-income housing projects. This amount is the same as the budget estimate and the House allowance.

The committee continues to be concerned with the need for annual supplementals to cover shortfalls in operating expenses and notes that such supplemental amounts have not been authorized. For example, recently HUD has informed the committee of an additional unfunded requirement of about $147,700,000 in fiscal year 1981.

In order to address this recurring problem, the committee has included language in the bill under the annual contributions for assisted housing account permitting the Secretary to transfer no less than 6.3 percent and no more than 17 percent of the funds available for public housing new construction to this account to cover shortfalls in operating subsidies. The committee believes that this mechanism will provide the Secretary with the flexibility needed to respond to unexpected large increases in utility costs without requiring further legislative action. The 6.3 percent transfer is designed to cover the expected fiscal year 1981 shortfall. If the Secretary exercises the option up to 17 percent provided, a total of $400,248,000 could be made available for operating subsidies during fiscal year 1982. Coupled with the amounts appropriated, this should be sufficient to meet the 1981 and 1982 anticipated shortfall.

TROUBLED PROJECTS OPERATING SUBSIDY

The committee recommended an appropriation of $50,176,000 for troubled projects operating subsidies. This amount is the same as the budget estimate and the House allowance. The committee expects this amount to support 1,663 projects during fiscal year 1982.

NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION HOUSING COUNSELING ASSISTANCE

The committee recommended an appropriation of $5,000,000 for housing counseling assistance in fiscal year 1982. This amount is $1,000,000 more than the budget estimate and the same as the House allowance.

Under the committee recommendation approximately 62,500 clients will receive default counseling and comprehensive counseling. This is 12,500 clients more than would have been served under the administration's request, which would restrict the program to default counseling. The committee directs that the additional $1,000,000 only be used for those activities eligible under S. 1377.

FEDERAL HOUSING ADMINISTRATION FUND

The committee recommended an appropriation of $222,148,000 for this account. This amount is the same as the budget estimate and the House allowance.

The budget also requested language limiting mortgage assistance payments to $75,960,000. The temporary mortgage assistance payments (TMAP) program was authorized to prevent further assignments of single family mortgages by helping those homeowners who have experienced temporary financial problems and cannot meet monthly mortgage payments. The committee approved the use of funds for this purpose and included bill language which will implement the program.

The revised 1982 budget proposed credit control language to limit commitments for mortgage insurance to $35,000,000,000. Testimony from HUD officials indicated that it is unlikely that the limitation would be reached. However, the committee is concerned, as was the House, that the proposed limitation could have a negative effect on the already depressed housing industry and has recommended a $41,000,000,000 limitation. This is the same amount included in the first concurrent resolution for fiscal year 1982 (H. Con. Res. 115).

LOW RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES

The committee agreed with the House in denying without prejudice the request of $1,100,000,000 to fund the difference between the total debt service cost under existing annual contributions contracts and the requirements of the Federal Financing Bank based on the respective borrowing costs at the taxable rate from the Treasury.

The committee's action is taken in view of the fact that denying the appropriation will still permit the estimated sale of $1,300,000,000 of instruments in 1981 and 1982 and is not likely to result in exceeding the existing $20,000,000,000 administrative ceiling.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNCTIONS FUND

The committee has recommended an appropriation of $1,973,000,000 for mortgage purchase commitments under the Government National Mortgage Association's section 8 tandem and targeted tandem programs. This amount is $1,627,000,000 less than the budget estimate and the House allowance.

The amount approved by the committee would go to support the production of approximately 780 section 8 and targeted tandem project applications representing an estimated 51,000 new rental units. These applications had the status of conditional in process to firm commitment for insurance purposes as of February 13, 1981.

MORTGAGE-BACKED SECURITIES

The revised 1982 budget request proposed credit control language to limit commitments for guarantees of mortgage-backed securities to $64,000,000,000. However, the committee shared the House's concern that the proposed limitation could have a negative effect on the already depressed housing industry and has recommended a $69,500,000,000 limitation. This is the same amount included in the first concurrent resolution for fiscal year 1982 (H. Con. Res. 115).

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

The appropriation recommended by the committee will cover insufficiencies for sales authorized in 1968, including $84,000 for public facility loans and $1,880,000 for the special assistance functions fund. An additional $121,000 will be provided through a permanent, indefinite appropriation to cover insufficiencies for sales authorized in 1967.

SOLAR ENERGY AND ENERGY CONSERVATION BANK
ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

The committee concurred with the administration in not recommending an appropriation for this bank in fiscal year 1982. This represents a $50,000,000 decrease from the House allowance.

The committee believes that current market factors and existing tax credits provide ample incentive for conservation and solar improvements. Energy tax credits alone are expected to cost the Federal Government $538,000,000 in foregone revenue in 1981.

COMMUNITY PLANNING AND DEVELOPMENT
COMMUNITY DEVELOPMENT GRANTS

The committee recommended an appropriation of $4,166,000,000 for community development grants in fiscal year 1982. This amount is the same as the budget estimate and $134,000,000 less than the House allowance when the funds recommended for the urban development action grant program are taken into account.

The amount provided is also the full amount authorized under S. 1197. Within this amount is included $500,000,000 for the urban development action grant program. In combining the UDAG program with the CDBG program, the committee has followed the structure recommended by the administration and the Senate authorizing bill.

The committee has not reduced the loan limitation under section 108 of the Housing and Community Development Act of 1974, as amended, as did the House. The committee has provided the full $250,000,000 loan limitation request by the administration for this program.

REHABILITATION LOAN FUND

The committee recommended no additional funding for the rehabilitation loan program. This amount is the same as the budget estimate and the House allowance.

Although the committee did not provide additional funding for this program in ficsal year 1982, it did not agree with the administration that the program should be terminated. In the 1981 Supplemental Appropriations and Rescission Act (Public Law 97–12), the Congress agreed to rescind the estimated program balance of $110,856,954. However, the act did not terminate the program.

Both the 1981 Housing Amendments (S. 1197) and the reconciliation bill (S. 1377) continue the program as a revolving account. Therefore, the committee has recommended that the program be continued on a reduced scale. An estimated $85,000,000 from repayments and other income sources will be available in 1982 for new loans and other expenses. The committee has included language in the bill to continue the program in 1982 with repayments. The Department is directed to allocate sufficient staff years to maintain the appropriate program level.

This level of funding should support approximately 3,800 section 312 loans.

POLICY DEVELOPMENT AND RESEARCH
RESEARCH AND TECHNOLOGY

The committee has recommended an appropriation of $30,000,000 for the Department's research and technology program. This amount is $5,000,000 less than the budget estimate and $10,000,000 more than the House allowance.

The $5,000,000 reduction below the budget request is a result of the committee's concern that the Department intends to spend $10,000,000 during fiscal year 1982 on the annual housing survey. Testimony before the committee indicated that it is not necessary to conduct this survey on an annual basis.

In addition, during the past several years, HUD has provided financial support to the Housing Assistance Council. The committee directed HUD to apply $1,000,000 of the funds provided to support the activities of the Housing Assistance Council during fiscal year 1982.

FAIR HOUSING AND EQUAL OPPORTUNITY
FAIR HOUSING ASSISTANCE

The committee has recommended an appropriation of $5,700,000 for the fair housing assistance program. This amount is the same as the budget estimate and the House allowance. Of the appropriation recommended by the committee, $2,000,000 would be targeted for assistance to community housing resource boards (CHRB's). Contributions for capacity building, compliant processing, training, and compliant monitoring systems (noncompetitive) would amount to $2,700,000. The balance of $1,000,000 would be distributed to specialized fair housing projects. The $5,700,000 appropriation would provide assistance to approximately 70 State and local agencies and 130 community housing resource boards in 1982.

MANAGEMENT AND ADMINISTRATION
SALARIES AND EXPENSES

The committee has recommended $323,664,000 in appropriated funds plus transfers of $266,752,000 from various Federal Housing Administration funds for the salaries and expenses of the Department. This amount is $15,000,000 less than the budget estimate and the same as the House allowance.

WORKING CAPITAL FUND

The committee recommended an appropriation of $600,000 for the working capital fund. This is the same as the budget estimate and the House allowance.

TITLE II—INDEPENDENT AGENCIES
AMERICAN BATTLE MONUMENTS COMMISSION
SALARIES AND EXPENSES

The committee recommended an appropriation of $10,507,000 for the salaries and expenses of the American Battle Monuments Commission. This amount is the same as the budget estimate and the House allowance. The appropriations provided by the committee will allow the American Battle Monuments Commission to maintain 129,000 graves and headstones; 40 memorial structures with an estimated replacement value of $190,000,000; 67 miles of asphalt roads and paths; 908 acres of flowering plants, lawns, and meadows; shrubs and hedges with a surface area of 3,000,000 square feet; and 11,000 ornamental trees. The Commission will also use its 1982 resources to provide information and assistance on request to relatives and friends of the war dead interred in or commemorated at its facilities.

CONSUMER PRODUCT SAFETY COMMISSION
SALARIES AND EXPENSES

The committee recommended an appropriation of $32,983,000 for the salaries and expenses of the Consumer Product Safety Commission. This amount is the same as the budget estimate and the House allowance.

The committee has agreed that there is a need for substantial reform of the Commission, and commends the Senate Authorizing Committee for moving ahead in this regard. However, the committee has noted with some concern that the authorization for CPSC expires on October 1, 1981, and that there is a possibility House action on that reauthorization may not occur before the expiration date is reached. Therefore, the committee has noted the difficult position the Commission will be placed in if the CPSC authorization runs out, and has suggested that, in the event the authorizing legislation is not enacted, the committee will review the funding level for CPSC in fiscal year 1982.

CEMETERIAL EXPENSES, ARMY
SALARIES AND EXPENSES

The committee recommended an appropriation of $5,086,000 for the cemeterial expenses of the Department of the Army. This amount is the same as the budget estimate and the House allowance. Of the funds recommended by the committee, $4,466,000 will be used for operation and maintenance of Arlington and Soldiers' Home National Cemeteries, including support for 153 FTE and the procurement of necessary operating supplies and equipment. Construction projects at Arlington National Cemetery are estimated to cost $320,000 in 1982. The balance of $300,000 will be spent on administration.

ENVIRONMENTAL PROTECTION AGENCY

The committee recommended an appropriation of $1,418,953,200 for all of EPA's programs in fiscal year 1982. This amount is $493,800 less than the budget estimate and $10,652,800 less than the House allowance. The committee took $21,419,800 in reduction in various EPA programs and recommended a series of additions.

SALARIES AND EXPENSES

For EPA salaries and expenses, the committee recommended an appropriation of $583,747,000 associated with administering the programs of the Environmental Protection Agency. This amount is $978,000 more than the budget estimate and $56,000 more than the House allowance.

The House increased the construction grants program in salaries and expenses by $350,000 and 10 positions for the headquarters review of advanced waste water treatment plants. The committee has eliminated this add on.

The committee has included an additional $1,478,000 for water quality manpower planning and training over the request. The committee is concerned, as was the House, that inadequately trained operators may be a significant factor in many improperly operating treatment plants.

The committee has restored the $750,-

000 cut by the House for the Office of Air, Noise, and Radiation. It is the committee's understanding that this reduction would eliminate the Office's ability to post notices in the Federal Register and would also significantly reduce the salaries available to the Office. The committee has also restored $150,000 for the Office of Press Services.

The committee has restored a $1,000,000 reduction taken by the House for EPA planning and management studies. The committee believes that the review of EPA regulations in terms of their potential benefits and economic impacts will require EPA to expend additional funds in this area.

The committee has added $500,000 to the request for the Great Lakes program. These additional funds are needed to support the higher program level provided by the committee in the R. & D. and abatement, control, and compliance accounts.

The committee has reduced EPA's rent, communications, and utilities request by $1,000,000. This reduction has been taken in light of testimony indicating EPA's poor use of existing space.

At this level of funding, EPA will be able to support 12,277 FTE during 1982, or 853 less than last year's level.

RESEARCH AND DEVELOPMENT

The committee recommended an appropriation of $181,250,700 for EPA's research and development program in fiscal year 1982. This amount is $9,384,300 less than the budget estimate and $9,996,300 less than the House allowance.

Within the amounts provided, the committee has included an additional $1,500,000 for the Great Lakes research program. These funds would be used to continue toxic loading studies to determine the sources and distribution of toxic substances in the Great Lakes.

ABATEMENT, CONTROL AND COMPLIANCE

The committee recommended an appropriation of $421,840,500 for abatement, control, and compliance activities. This amount is $7,912,500 more than the budget estimate and $712,500 less than the House allowance.

In recommending $7,912,500 more than the budget estimate, the committee has provided an additional $323,000 for the National Rural Water Association, State rural water training and technical assistance program. This will bring the total contract effort up to $1,823,300.

The committee has also provided an additional $12,000,000 to complete the projects currently underway in the clean lakes program.

In addition, during the March budget revisions, the administration decreased funding for the last year of the Chesapeake Bay program from $2,991,000 to $1,006,000. The committee has recognized the importance of the Chesapeake Bay program, not only to the contiguous States, but to the Nation as a model program. Consequently, the committee included an additional $1,000,000 for the bay program.

The committee has also added $2,625,000 for water quality manpower planning and training, restoring the program to the level requested in the January submission and $1,000,000 for academic training, to be equally divided between graduate training and research fellowships.

Finally, the committee also included an additional $1,500,000 for the Great Lakes program in this account.

BUILDINGS AND FACILITIES

The committee recommended an appropriation of $4,115,000 for buildings and facilities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

PAYMENT TO THE HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

The committee recommended an appropriation of $28,000,000 for this account. This amount is the same as the budget estimate and the House allowance.

HAZARDOUS RESPONSE TRUST FUND

The committee recommended an appropriation of $200,000,000 for the Hazardous Response Trust Fund. This amount is the same as the budget estimate and the House allowance.

Associated with these funds are an estimated FTE level of 584 in fiscal year 1982 or 424 more than the fiscal year 1981 level. EPA current estimates indicate that $397,000,000 will be credited to the trust fund through various sources during fiscal year 1982. Given the expected level of activity during fiscal year 1982 the trust fund will have a remaining end-of-year balance of $197,000,000.

CONSTRUCTION GRANTS

The committee has reluctantly recommended no funding for 1982 in agreement with the administration's revised request. The committee is concerned however, that the combined effect of the 1981 rescission and the possibility that 1982 funding will not be available until late in the fiscal year may be a grave disruption of program operations. Concurrently, the committee has recognized the need for reforms in the construction grants program and urges the legislative committees to act on the proposed amendments.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

The committee recommended an appropriation of $1,044,000 for the salaries and expenses of the Council on Environmental Quality. This amount is the same as the budget estimate and the House allowance. These funds will provide for 16 FTE during fiscal year 1982. This represents a decrease of 16 from the fiscal year 1981 level. The change in staffing levels reflects the President's desire to utilize more fully the available resources of line agencies working in unison with Council staff.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The committee recommended an appropriation of $1,793,000 for the salaries and expenses of the Office of Science and Technology Policy. This amount is the same as the budget estimate and the House allowance.

This level of funding will support 12 full-time permanent positions and 10 full-time equivalents, the same as in the current fiscal year.

FEDERAL EMERGENCY MANAGEMENT AGENCY

The committee recommended an appropriation of $654,614,000 for the Federal Emergency Management Agency (FEMA) in fiscal year 1982. This amount is $10,507,000 less than the budget estimate and $119,151,000 more than the House allowance.

The following is a breakdown of the funds recommended for FEMA in fiscal year 1982.

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

The committee recommended an appropriation of $369,000,000 for disaster relief assistance in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

SALARIES AND EXPENSES

The committee recommended an appropriation of $83,369,000 for the salaries and expenses in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

STATE AND LOCAL ASSISTANCE

The committee recommended an appropriation of $134,789,000 for the State and local assistance activities of FEMA in fiscal year 1982. This amount is $4,000,000 less than the budget estimate and $80,705,000 more than the House allowance.

The reduction of $4,000,000 recommended by the committee from the budget request is to be applied in the following civil defense activities: —$1,000,000 in supporting materials; —$2,000,000 in nuclear attack civil preparedness; and —$1,000,000 in communications and warning policy. Funds for all other civil defense activities in this account are funded at the requested level.

EMERGENCY PLANNING AND ASSISTANCE

The committee recommended an appropriation of $67,456,000 for the emergency planning and assistance activities of FEMA in fiscal year 1982. This amount is $6,507,000 less than the budget estimate and $38,446,000 more than the House allowance. The reduction of $6,507,000 from the budget request is to be applied in the following activities: —$800,000 in resource preparedness, resource assessments: —$1,882,000 in continuity of government, national security plans and policy; and —$3,825,000 in national readiness/evaluation. Funds for all other civil defense activities in this account are provided at the requested level.

NATIONAL FLOOD INSURANCE FUND

The committee recommended no appropriation to repay funds borrowed from the Treasury by FEMA to carry out the national flood insurance program in fiscal year 1982. This amount is $373,000,000 less than the budget estimate and the House allowance. Based on information provided by FEMA, this repayment to the Treasury will not be needed in fiscal year 1982. Sufficient borrowing authority will remain to meet expected program needs.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

The committee recommended an appropriation of $1,344,000 for the Consumer Information Center. This amount

is $30,000 more than the budget estimate and the House allowance.

The committee has provided an additional $30,000 for a study to examine the effects of imposing a charge on consumers ordering free publications through the Pueblo, Colo., distribution facility.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

The committee recommended an appropriation of $2,000,000 for the salaries and expenses of the Office of Consumer Affairs. This amount is the same as the budget estimate and the House allowance.

This funding level will provide for 43 full-time permanent and 6 other than full-time positions, as requested. This is a reduction of 11 permanent positions from the current fiscal year.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

The committee recommended an appropriation of $4,994,500,000 in fiscal year 1982 for the research and development activities of the National Aeronautics and Space Administration. This amount is $91,400,000 more than the budget estimate and $56,400,000 more than the House allowance.

The additional $91,400,000 recommended by the committee partially restores the $549,500,000 reduction in this account contained in the March budget revisions. The amount provided is $7,200,000 less than authorized under Senate bill S. 1098.

CONSTRUCTION OF FACILITIES

The committee recommended an appropriation of $104,800,000 for facilities activities in fiscal year 1982. This amount is the same as the budget estimate and $9,000,000 more than the House allowance.

The administration requested $9,300,000 for construction in the space flight operations facility at the Jet Propulsion Laboratory. The House, however, reduced this request by $8,000,000. The committee has recommended restoring these funds.

In addition, the committee has also restored the $1,000,000 deleted by the House for NASA's minor construction budget. The total budget request for such activities is only $3,000,000 and the cut of $1,000,000 proposed by the House could severely jeopardize essential NASA programs and activities.

RESEARCH AND PROGRAM MANAGEMENT

The committee recommended an appropriation of $1,114,300,000 in fiscal year 1982 for research and program management. This amount is the same as the budget estimate and $14,300,000 more than the House allowance.

Approximately 75 percent of the appropriation recommended by the committee is needed to provide for salaries and related expenses of a civil service workforce of about 21,900 permanent civil service personnel at 10 installations and headquarters. This represents a reduction of 840 from the fiscal year 1981 appropriation.

NATIONAL CONSUMER COOPERATIVE BANK

SELF-HELP DEVELOPMENT

The committee has recommended no additional funds for the self-help development fund in fiscal year 1982. This amount is the same as the budget estimate and $5,000,000 less than the House allowance.

The committee has noted that officials of the Bank testified that additional funding for the Bank would not be required in fiscal year 1982 if the fiscal year 1981 rescission was overturned, which it was in Public Law 97–12. The committee has included bill language parallel to that included in Section 323–11 of the Senate reconciliation bill (S. 1377). This provision will restrict the Bank from making further loans.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

The committee recommended an appropriation of $100,000,000 of emergency lending authority by the Secretary of the Treasury. This amount is the same as the budget estimate and the House allowance. With the approval of these funds the CLF will end its dependence on the Federal Financing Bank for the financing of its loan programs and begin borrowing in private markets.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SALARIES AND EXPENSES

The committee recommended an appropriation of $1,500,000 for the salaries and expenses of the National Institute of Building Sciences in fiscal year 1982. This amount is $1,000,000 more than the budget estimate and the House allowance.

The Institute has estimated that it will need a total of some $5,173,000 in additional capital funding over the next 3 years to achieve the goal of self-sufficiency and at the same time be in a position to carry out its mission. The institute can forecast raising approximately $2,503,000 of this amount itself. This would leave a shortfall of $2,670,000.

Rather than extend the Institute's authorization, the Committee has proposed that the $2,670,000 shortfall be met by a final appropriation of $1,500,000 for fiscal year 1982, and $1,170,000 in earned overhead on service grants/contracts from executive agencies which should be utilizing the services of the Institute in carrying out their mission as intended by the Congress. The Institute's effective overhead rate is 26 percent, therefore, it will require $1,500,000 per year in such grant/contract activity over the next 3 years to produce the needed $1,170,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The committee recommended an appropriation of $1,024,100,000 for research and related activities. This amount is $4,000,000 more than the budget estimate and $40,900,000 less than the House allowance.

The committee has added $2,000,000 to the NSF budget to fund the U.S. contribution to the International Institute for Applied Systems Analysis. The committee has also provided $3,000,000 for NSF's intergovernmental programs.

For biological and behavioral sciences, the committee has restored funding to the fiscal year 1981 level. The additional $12,620,000 will provide support for important research that impacts on current policy decisions in a variety of social areas.

The committee has also included an additional $150,000 for the continuation of the Alan T. Waterman award. The committee believes that this national award provides a significant incentive to young scientists at a relatively modest cost to the Government.

SCIENCE AND ENGINEERING EDUCATION ACTIVITIES

The committee recommended an appropriation of $19,900,000 for the Foundation's science education activities in fiscal year 1982. This amount is $10,000,000 more than the budget estimate and $15,100,000 less than the House allowance.

The additional funds provided by the committee for science and engineering education should be distributed as follows: $9,900,000 for existing graduate fellowships; $5,000,000 for new graduate fellowships; $4,500,000 for the highest priority science and engineering education activities as determined by the Foundation and $500,000 for a study on the future direction of the NSF's science and engineering education program.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

The committee recommended an appropriation of $3,500,000 for the Foundation's scientific activities overseas program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

NEIGHBORHOOD REINVESTMENT CORPORATION

The committee recommended an appropriation of $14,950,000 for the salaries and expenses of Neighborhood Reinvestment Corporation in fiscal year 1982. This amount is the same as the budget estimate and $1,000,000 more than the House allowance. Based on the level of funding recommended by the committee, the Corporation will have 240 FTE in fiscal year 1982, 15 more than the current fiscal year.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

The committee recommended an appropriation of $20,000,000 for the salaries and expenses of the Selective Service System in fiscal year 1982. This amount is $1,174,000 less than the budget estimate and the same as the House allowance.

The committee has also retained House bill language which would limit obligations to not more than $1,000,000 per month in the event that continuous registration is terminated.

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

The committee recommended an appropriation of $4,566,700,000 for payments to the State and local government fiscal assistance trust fund in fiscal year 1982. This amount is $3,249,000 less than the budget estimate and the same as the House allowance.

The reduction of $3,249,000 from the budget request recommended by the committee was made to conform with the authorizing legislation (Public Law 96–604).

OFFICE OF REVENUE SHARING SALARIES AND EXPENSES

The committee recommended an appropriation of $6,986,000 for the salaries and expenses of the Office of Revenue Sharing in the Department of the Treasury. This amount is the same as the budget estimate and the House allowance. At the funding level recommended by the committee, the Office will employ 152 authorized and 148 average positions, which is a decrease of 6 over the fiscal year 1981 level.

NEW YORK CITY LOAN GUARANTEE PROGRAM ADMINISTRATIVE EXPENSES

The committee recommended an appropriation of $934,000 for the administrative expenses of the New York City loan guarantee program in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

At the level of funding recommended by the committee, the program will maintain a staff of 14 during fiscal year 1982, which is 2 less than the fiscal year 1981 level.

INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK

The committee did not recommend additional funding for the Bank in fiscal year 1982. This is the same as the budget estimate and $58,000,000 less than the House allowance.

The committee has noted that officials of the Bank testified that additional funding for the Bank would not be required in fiscal year 1982 if the fiscal year 1981 rescission was overturned, which it was in Public Law 97–12. The committee has included bill language parallel to that included in section 323–11 of the Senate reconciliation bill (S. 1377). This provision will restrict the Bank from making further loans.

VETERANS' ADMINISTRATION COMPENSATION AND PENSIONS

The committee recommended an appropriation of $12,857,400,000 for veterans compensation and pensions. This amount is $99,400,000 less than the budget estimate and $57,400,000 less than the House allowance.

The reduction from the budget estimate recommended by the committee, reflects the anticipated savings from the elimination of burial benefits for certain individuals. This anticipated savings is based on the Senate reconciliation bill (S. 1377) and represents $99,400,000, or $57,400,000 more than the savings assumed in the House version of that bill. The savings from this account has been used as an offset to increases in the medical care appropriation. The committee has noted that supplemental funding will be necessary when final disposition of proposed legislation is known.

READJUSTMENT BENEFITS

The committee recommended an appropriation of $1,658,000,000 for readjustment benefits. This amount is the same as the budget estimate and $32,000,000 above the House allowance.

The committee has provided $32,000,000 over the House in order to restore correspondence and flight school training. The Senate authorization bill does not deauthorize these programs. The committee also notes that it expects that a supplemental will be required to cover the full year costs of the readjustment program.

VETERANS' INSURANCE AND INDEMNITIES

The committee recommended $8,500,000 for veterans' insurance and indemnities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance. The appropriation recommended by the committee will cover the cost to the various insurance funds of death claims on policies under waiver of premiums while the insured was on active duty.

MEDICAL CARE

The committee recommended an appropriation of $6,996,418,000 for VA medical care in fiscal year 1982. This amount is $291,527,000 more than the budget estimate and $1,757,000 more than the House allowance.

The committee has provided, as did the House, an additional $1,716,000 to treat 200 additional patients in community nursing homes.

Other changes to the request recommended by the committee include a $10,000,000 reduction in funds for equipment, supplies and a decrease of $12,900,000 related to legislation eliminating presumptive service connection for certain outpatient dental treatment now provided up to 1 year after discharge.

MEDICAL AND PROSTHETIC RESEARCH

The committee recommended an appropriation of $145,699,000 for medical and prosthetic research activities. This amount is the same as the budget estimate and $8,000,000 less than the House allowance. At the level of funding recommended by the committee, the VA will be able to maintain a staff level of 4,293 in fiscal year 1982 or 76 less than the fiscal year 1981 level.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

The committee recommended an appropriation of $62,400,000 for medical administration and miscellaneous operating expenses. This amount is $4,000,000 more than the budget estimate and $172,000 less than the House allowance. At the funding level recommended by the committee, the VA will be able to support an employment level of 866 staff years, or 27 more than the fiscal year 1981 level. Also included in this account is $4,000,000 for the nurse scholarship program authorized by the Veterans Administration Health Care Personnel Act of 1980, Public Law 96–330.

GENERAL OPERATING EXPENSES

The committee recommended an appropriation of $659,512,000 for general operating expenses in fiscal year 1982. This amount is $55,784,000 more than the budget estimate and the same as the House allowance.

The January budget requested $670,028,000 and 22,089 staff years for general operating expenses. The March budget amendments reduced the request to $603,728,000 and 20,067 average employment (FTEE). The committee does not believe it is possible to reduce fiscal year 1982 funding and employment as proposed without severe disruption to nonmedical veterans programs. Accordingly, the committee has increased the amount recommended by $55,784,000 and 1,891 average employment (FTEE) above the budget request.

The amount recommended above the budget request also includes the following: +$6,390,000 for State approving agencies, providing for a total program of $14,500,000; +$100,000 for training activities, providing for a total program of $1,118,000; and +$49,294,000 and 1,891 average employment (FTEE), including 1,679 average employment (FTEE) for the Department of Veterans' Benefits of which 115 average employment for the Vocational Rehabilitation and Counseling Service program. The balance of the increased funds and average employment (FTEE) is to be distributed at the discretion of the Veterans' Administration.

CONSTRUCTION, MAJOR PROJECTS

The committee recommended an appropriation of $434,603,000 for the construction of major projects in fiscal year 1982. This amount is $4,673,000 more than the budget estimate and the same as the House allowance.

The increase of $4,673,000 over the budget estimate recommended by the committee, is the net effect of a $6,000,000 reduction in the advanced planning fund (leaving $10,000,000) and an appropriation of $10,673,000 for funding to complete the Brooklyn (St. Albans) laundry consolidation project.

CONSTRUCTION, MINOR PROJECTS

The committee recommended an appropriation of $110,000,000 to finance the construction of minor projects. This amount is $6,979,000 less than the budget estimate and the same as the House allowance.

The committee has directed that this $6,979,000 reduction below the request be applied at the discretion of the VA.

The recommendation will provide for a total of 765 staff years in fiscal year 1982, an increase of 30 above the current level.

CONSTRUCTION AND OPERATION OF GARAGE AND PARKING FACILITIES

The committee recommended an appropriation of $4,692,000 for this account. This amount is the same as the budget estimate and $4,692,000 more than the House allowance. This is the first time this fund has been activated.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

The committee recommended an appropriation of $18,000,000 for grants for the construction of State extended care facilities in fiscal year 1982. This amount is the same as the budget estimate and the House allowance. The level of funding recommended by the committee is an increase of $3,000,000 above the fiscal year 1981 appropriation.

TITLE III—CORPORATIONS

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES

The committee recommended a limitation on administrative expenses of $22,320,000 and a limitation on non-

administrative expenses of $37,540,000 for the Federal Home Loan Bank Board in fiscal year 1982. This is the same as the budget estimate and the House allowance.

The committee's recommendation includes funding of 494 FTE within the administrative expenses account and 915 FTE in the nonadministrative expense account.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The committee recommended a limitation of $1,030,000 on the administrative expenses of the Federal Savings and Loan Insurance Corporation in fiscal year 1982. This amount is the same as the budget estimate and the House allowance.

The committee's recommendation includes funding for 20 FTE within the administrative expenses account.

TITLE IV—GENERAL PROVISION

The committee has concurred with the general provisions that apply to the Department and agencies funded through this legislation in fiscal year 1982 as approved by the House with the following deletions:

Section 413: This new provision would have required both House and Senate committees to approve any reprogramming. The committee believed this provision was overly restrictive and could seriously hamper the agencies' ability to manage their programs.

Section 409: This provision would have prohibited the transfer of funds from personnel compensation and benefits to any other object class without the prior approval of the committees. Section 413 covered the activities that fell under this section and the committee had the same objections to this provision as it did to section 413.

Section 414: This new provision would have prohibited overtime pay for employees over GS–9 paid through this act. The committee believed that this provision, if enacted, would cause legal, administrative and morale problems.

In addition the following new provision was included by the committee:

Section 415: This provision would prohibit the use of funds in this bill to pay for employee travel which involves the taking of annual leave while the employee is away from his/her official duty station.

TECHNICAL CORRECTIONS IN THE COMMITTEE REPORT

On page 3 of the committee report, the total difference in budget authority between the Senate bill and the budget estimate should be —$2,705,934,300 rather than —$22,705,934,300.

On page 25 of the committee report, in the chart for the Department of Housing and Urban Development, management and administrative section, the total for salaries and expenses for both the House and Senate recommendation should be $590,416,000 rather than $594,416,000.

On page 63 of the committee report, the total personnel for the National Credit Union Administration Central Liquidity Facility, should be 15 rather than 700 personnel in fiscal year 1982. In addition, the reference to the 1982 personnel level being four less than the 1981 level, should be deleted.

On page 89 of the committee report, in the chart for the Veterans Administration, construction, major projects section, funding for the new ambulatory care building in St. Louis, Mo., should be $43,421,000 for the administration's request and the House and Senate recommendations.

Mr. HATFIELD. Mr. President, this is the first regular appropriations bill for fiscal year 1982. As chairman of the Committee on Appropriations, I am especially pleased that this bill reflects the continuing efforts of the committee to be responsive to human, social, and economic needs, while at the same time is consistent with the ambitious budgetary reform program to control Federal spending.

Consideration of this measure involved long hours of work and many difficult choices, and I commend and congratulate the distinguished Senator from Utah (Mr. GARN), who, as chairman of the HUD and Related Agencies Subcommittee, is the principal architect of the bill.

I might mention that in addition to this heavy responsibility that Mr. GARN carries on the Appropriation Committee, he serves as chairman of the Senate Committee on Banking, Housing, and Urban Affairs, which gives him a great number of headaches as well, I am sure.

Equally deserving credit for this measure is the ranking minority member of the subcommittee, the Senator from Kentucky (Mr. HUDDLESTON). Together, they have crafted a bill which balances the financing needs of a broad array of programs with the constraints adopted by Congress in the first concurrent budget resolution.

Mr. President, I believe the Senate should pay careful attention to this point: H.R. 4034, the Housing and Urban Development and Independent Agencies appropriations bill, as reported by the Senate Committee on Appropriations, is within the subcommittee's section 302(b) allocation for both budget authority and outlays. In the weeks ahead, the committee will be reporting to the Senate other appropriations bills, and it is my intention to do everything possible to assure that they too comply with these spending targets.

This is an ambitious goal, and it reflects the urgency of this issue in restoring the economic health and strength of our Nation. The Committee on Appropriations is responsible for the "nuts and bolts" decisionmaking for the Federal Government. We must translate the often vague and inconsistent budgetary aggregates adopted in the budget resolutions into a workable and efficient expenditure plan for individual Federal agencies and programs. We have to be conscious of financing requirements which often have been ignored in the "assumptions" underlying the budget resolution or even "awaiting later transmittal" by the administration.

Added to the budgetary responsibilities of the committee is the ongoing oversight and review of Federal activities. This is a natural and important advantage that annual funding programs yield, and one reason that I am very concerned over the continuing trend of locking more and more of the Federal budget in mandatory or uncontrollable programs.

Mr. President, the bill we have before us today reflects the work of the Committee on Appropriations at its best. The committee has recommended a net reduction of $2.7 billion from the amounts requested by the administration and $2.1 billion from the level approved by the House. Despite these cuts, financing was also provided for anticipated utility costs of the Public Housing Administration operating subsidies program, a need which would otherwise have to be met through a supplemental appropriation later this year.

The committee action also leaves room for anticipated supplementals to cover the mandatory costs of veterans compensation and pensions and readjustment benefits. There is concern that unless rigorous constraint is exercised here, on the Senate floor, and in conference with the House, there may not be sufficient room remaining after this bill is adopted to cover all these mandatory costs. This concern is legitimate, but I would point out that it is the clear intention of this Senator, and the intention of the other members of the Committee on Appropriations to continue to hold down any spending which is not absolutely necessary or which would threaten to breach the spending targets established by Congress.

Furthermore, it must be made clear that the programs financed in this bill do not operate according to neat assumptions or economic plans. A whole world of very dynamic factors influences and directs the spending patterns of these programs, and no one on Capitol Hill, or downtown, or anywhere else can flatly predict with certainty the precise funding needs which must be provided.

Congress will shortly begin consideration of the second budget resolution for fiscal year 1982, and if history is any guide, there will be a third budget resolution next spring. What will remain unaltered is our commitment to curb unnecessary Federal spending, and I can assure any Senator that this approach will continue as we consider the other regular appropriations bills and any supplemental appropriations requests we may receive during the course of the fiscal year.

Mr. President, I again commend the Senator from Utah (Mr. GARN) for his extrordinary performance here of duty and responsibility within the constraints of the budget resolution. His leadership has been outstanding not only in this instance but also in every aspect of his Senate service.

I also commend the staff for their outstanding support to Senator GARN and Senator HUDDLESTON as they have worked up this bill and brought it to the floor at this time.

I am very proud of this record and of this beginning of the appropriations process under the leadership of Senator GARN.

Mr. HUDDLESTON. Mr. President, as the distinguished chairman of the sub-

committee has indicated, H.R. 4034, the HUD-independent agencies appropriations bill for fiscal 1982, as reported from committee, includes $60.5 billion in budget authority and $56.2 billion in outlays. This makes the bill $3.9 billion below the budget authority allocated to the subcommittee under the first concurrent resolution on the budget and $2.7 billion below the budget request.

As everyone knows, this has been a difficult year during which we have had to balance a number of considerations from program needs and requirements to budgetary constraints. We have not been able to fully fund a number of worthwhile programs, but we have, I believe, worked to achieve viable recommendations within the spending limitations which do exist. This is not a perfect bill, but it is a good bill in view of today's circumstances.

I do not intend to cover the bill in detail, but I do want to mention a few particular items.

We have allowed for the reservation of 156,205 new units. While this is not as many as requested in the budget or provided by the House, it was the level in the Senate authorization and reconciliation bills. And, hopefully, we will be able to do a little better in conference.

We have provided a loan limitation of $830.8 million for the section 202 housing for the elderly or handicapped program, the same amount as the budget request and the House allowance.

While the recommendation for public housing operating subsidies is at the budget request—$1.2 billion—the subcommittee developed what I consider an innovative and viable mechanism for dealing with a problem which has plagued us for several years now, that is, estimating and covering utility costs in public housing projects. In fiscal 1981 there was a serious shortfall in the amount requested and early projections for fiscal 1982 suggest that that estimate is already understated.

Under the mechanism, between 6 and 17 percent of new construction authority may be transferred to operating subsidies in fiscal 1982. This will compensate for the fiscal 1981 shortfall and allow for adjustment of the fiscal 1982 program. While additional units are undoubtedly needed, it seems more appropriate to insure the viability of the units one has prior to constructing more.

The bill also contains the Gramm-Latta figures for FHA mortgage insurance and for GNMA mortgage-backed securities. In subcommittee, I recommended that we move to these figures—$41 billion and $69.5 billion, respectively—and the chairman accepted the motion. The limits imposed on these programs have no budget impact. Nevertheless, these levels together with the subcommittee language regarding the financing adjustment factor (FAF) for section 8 projects should provide some minimal encouragement to the housing industry, which, as we all know, is severely depressed at the moment.

Unfortunately, we were able to provide only $1.973 billion for the GNMA tandem program. That cannot possibly meet the need in the section 8 and targeted tandem programs. Under this circumstance, I think we will have to consider continuing the program beyond fiscal 1982, when the administration proposed to terminate it.

As reported, H.R. 4034 continues the UDAG program as a program separate from the community development block grant program. UDAG has been very successful in leveraging local funds and has contributed to economic redevelopment in a number of downtown areas. For fiscal 1982, $500 million is provided.

Under HUD's policy development and research account, we have earmarked $1 million for the Housing Assistance Council (HAC). This is particularly important, I believe, because HAC has operated quite effectively in a number of rural areas where HUD programs, often designed with urban areas more in mind, have not proven directly applicable.

For the Environmental Protection Agency (EPA), the additional funding over that included in the supplemental for the hazardous substance response fund should allow for much needed action on spills and waste sites. While no funding has been provided for the wastewater construction grant program, we do have room within the subcommittee allocation to fund the program later if appropriate authorizing legislation is forthcoming. I hope the administration will soon submit its legislative proposals so that we can move ahead.

For the National Aeronautics and Space Administration (NASA), we have further funding for the Space Shuttle, which, as you know, recently completed its first test flight. We also added $45 million for aeronautical research and technology. This is designed to help the United States maintain its technological base in this area and continue as a major aircraft exporter. The inclusion of funds for the International Solar/Polar Mission (ISPM) and the solar electric propulsion system (SEPS) should allow the United States to move ahead on two significant efforts. And, just as importantly, the technology utilization program will seek to apply the discoveries and developments of the space program to immediate practical concerns of business and industry.

For the National Science Foundation, the restoration of the full fellowship program under science education activities will not only help our Nation train a continuing supply of new scientific talent but also provide the human resources necessary to maintain and enhance our scientific and technological base.

In our full committee markup, we added $115 million for the civil defense program. This included the full request for State planning efforts.

For the Veterans' Administration, the committee recommendations include $12.8 billion for compensation and pensions, and $6.9 billion for medical care which will allow for an increase of 4,445 personnel to more than 185,000. The committee also restored the funds proposed for reduction in the budget for State approving agencies.

Mr. President, this is a big bill, covering 20 agencies; it is an expensive bill, the third largest regular appropriation bill we will have to deal with. I hope my colleagues will examine closely the recommendations which we have made and will conclude, as we did, that they are appropriate in view of current budgetary and economic circumstances.

Mr. President, I say that we are indebted and grateful for the tremendous amount of work going into this bill by the distinguished floor manager and subcommittee chairman, the Senator from Utah (Mr. GARN).

As I just indicated, we were operating under constraints that we never before have had to operate under in developing this particular legislation as all of the other appropriations bills that will come before this Chamber.

And it is only because of the willingness to look at priorities, to make priorities and to make cuts, as painful as they were in some cases, that we have been able to arrive at an overall package that I feel meets the basic needs to the fullest extent that we possibly can under our budgetary restraints and at the same time protect the taxpayer from unnecessary expenditures.

Thank you, Mr. President.

Mr. GARN. Mr. President, as has been outlined by both the full committee chairman and Senator HUDDLESTON, this has been a difficult bill because of the large size of the cuts from the current fiscal year. As I said in my opening statement, this bill is more than $9 billion below the fiscal year 1981 level.

But, I would be remiss if I did not thank my colleague from Kentucky. It has been a great pleasure to work with both him and his staff this year, and I appreciate very much the cooperation. Although we happen to serve in different parties, I wish I got along as well with some of my colleagues on this side of the aisle as I do with Senator HUDDLESTON.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded for purposes of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

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

The committee amendments agreed to en bloc are as follows:

On page 2, line 13, strike "$987,436,250", and insert "$891,500,000";

On page 2, line 21, strike "$19,742,645,500", and insert the following: $17,815,100,000:

Provided further, That no less than 6.3 per centum and no more than 17 per centum of the budget authority provided herein which would otherwise be used for purposes other than under sections 8 and 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f and 1437l) shall be transferred from amounts which would otherwise be used for new construction other than pursuant to section 8(b)(2) of such Act (42 U.S.C. 1437f) on or prior to July 1, 1982, by the Secretary of Housing and Urban Development to Payments for Operation of Low-Income Housing Projects, and appropriations for payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as

amended (42 U.S.C. 1437g) are increased to the extent budget authority is transferred:

On page 7, line 8, after "expended", insert the following: *Provided*, That during fiscal year 1982, gross obligations of not to exceed $75,960,000 are authorized for payments under section 230(a) of the National Housing Act as amended by section 341 of the Housing and Community Development Act of 1980 (Public Law 96-399), from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

On page 7, line 23, strike $39,000,000,000", and insert "$41,000,000,000";

On page 8, line 20, strike "$3,600,000,000", and insert "$1,973,000,000";

On page 9, line 21, strike "$67,000,000,000", and insert "$69,500,000,000";

On page 10, strike line 1, through and including line 8;

On page 10, beginning on line 13, strike "a community development grant program", and insert the following: "local community and economic development programs";

On page 10, line 17, strike "$3,800,000,000", and insert "$4,166,000,000";

On page 11, line 3, strike "$200,000,000", and insert "$250,000,000";

On page 11, strike line 6, through and including "1985." on line 9;

On page 12, line 21, strike "$20,000,000", and insert "$30,000,000";

On page 16, line 15, strike "$583,691,000". and insert "$583,747,000";

On page 16, line 21, strike "$191,247,000", and insert "$181,250,700";

On page 16, line 23, beginning with ": Provided", through and including line 9 on page 17;

On page 17, line 12, strike "$422,553,000", and insert "$421,840,500";

On page 20, line 21, strike "$54,084,000", and insert "$134,789,000";

On page 21, line 16, strike "$29,010,000", and insert "$67,456,000";

On page 21, strike line 18, through and including "$373,000,000." on line 23;

On page 22, line 7, strike "$1,314,000", and insert "$1,344,000";

On page 22, line 23, beginning with ": and" through and including the sum on line 8, and insert "$4,994,500,000";

On page 23, line 16, strike "$95,800,000", and insert "$104,800,000";

On page 24, line 19, strike "$1,100,000,000", and insert "$1,114,300,000";

On page 25, strike line 4, through and including line 15, and insert the following:

"During 1982, the National Consumer Cooperative Bank (Bank)—

"(A) may not make any new commitment for a loan or guarantee; and

"(B) may not issue any obligations pursuant to section 107 of Public Law 95-351, the National Consumer Cooperative Bank Act (12 U.S.C. 3017).

"All amounts received by the Bank as repayments of principal and payments of interest or other charges or fees in connection with loans, guarantees, or investments shall be paid into the Treasury of the United States as miscellaneous receipts not later than thirty days after receipt by the Bank, except that the Bank may pay out of such amounts its operating expenses in an amount each year not to exceed that amount determined by the Comptroller General of the United States to be necessary for that year, but the total amount of such expenses shall not exceed the cost which would have been incurred if the Bank were terminated during fiscal year 1981 and its functions transferred to the Secretary of the Treasury."

On page 27, line 9, strike "$500,000", and insert "$1,500,000";

On page 28, line 3, strike "$1,065,000,000", and insert "$1,024,100,000";

On page 28, line 13, after "Proportionally:", insert the following: "*Provided further*, That not more than $184,600,000 shall be available for biological, behavioral, and social sciences."

On page 28, line 22, strike "$35,000,000", and insert "$19,900,000";

On page 29, line 19, strike "$13,950,000", and insert "$14,950,000";

On page 31, strike line 8, through and including line 14;

On page 32, line 1, strike "$12,914,800,000", and insert "$12,857,400,000";

On page 32, line 8, beginning with ": Provided,", strike through and including line 10;

On page 33, line 12, strike "$6,964,661,000", and insert "$6,966,418,000";

On page 33, line 18, strike "$153,699,000", and insert "$145,699,000";

On page 34, line 1, strike "$62,572,000", and insert "$62,400,000";

On page 36, after line 2, insert the following:

CONSTRUCTION AND OPERATION OF GARAGE AND PARKING FACILITIES

For construction, alteration, operation, and maintenance of garages and parking facilities as authorized by law (38 U.S.C. 5009), $4,692,000.

On page 47, strike line 16, through and including line 20;

On page 47, line 21, strike "410", and insert "409";

On page 48, line 3, strike "411", and insert "410";

On page 48, line 16, strike "412", and insert "411";

On page 49, strike line 6, through and including line 14;

On page 49, line 15, strike "415", and insert "412"; and

On page 49, line 20, strike "416", and insert "413".

UP AMENDMENT NO. 334

Mr. GARN. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 334.

Mr. GARN. 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 2, line 14 strike "$25,120,000" and insert "$25,112,000".

Mr. GARN. Mr. President, this amendment merely changes the number that was inadvertently mistyped as $25,120,000. It should instead read $25,112,000. Mr. President, I ask that the amendment be adopted. It is just merely a change in the typographical error.

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

The amendment (UP No. 334) was agreed to.

VA MEDICAL CARE ACCOUNT FTEE'S

Mr. CRANSTON. Mr. President, as I have discussed with the distinguished chairman of the subcommittee (Mr. GARN), I am very concerned—as are other members of the Committee on Veterans' Affairs—about the Appropriations Committee's recommended level of average employment in the VA's medical care account, which represents a reduction from the House-passed level for this account of 736 full-time-employee-equivalent—FTEE's.

As the Senator knows, since the President submitted his budget revisions on March 10, the matter of staffing levels in VA health-care-related accounts—in particular the medical care account—has generated substantial activity and much discussion within the Congress resulting in the Reagan-endorsed Gramm-Latta budget level for function 700 Veterans Benefits and Services, in House Concurrent Resolution 115, the first concurrent resolution on the budget for fiscal year 1980. This level was predicated on restoring the medical care FTEE's that had been requested in the Carter January budget, 186,287 FTEE's. Not only was this staffing level an essential part of the assumption underlying the budget resolution, but that level has been endorsed by the administration and the new Administrator of Veterans Affairs at his July 9 confirmation hearing, and agreed to by the House in this appropriations measure on July 21.

Those participating in the discussions that led to this broad-based staffing level agreement as part of the budget process believe that the number of FTEE's contained in that agreement would meet the present employment needs of the VA in connection with providing health-care services to eligible veterans. It is my very firm conviction that the medical care account average employment level contained in the administration-supported agreement should not be reduced.

Mr. THURMOND. I share the concern of my good friend from California and the ranking minority member of the Veterans' Affairs Committee (Mr. CRANSTON) about the Appropriations Committee's recommended medical care staffing level.

The VA health-care system should provide the best quality of care possible to our Nation's veterans, and at the very heart of making sure the VA is capable of providing that care to veterans is making sure the VA is properly staffed.

The chairman of the subcommittee (Mr. GARN) is aware of how hard we worked with the House and with the President to achieve agreement on a staffing level in this account that would be adequate. Having worked that hard to iron out our agreement, I certainly would urge the Senator to do what is necessary to see that agreement carried to completion.

Mr. SIMPSON. I have listened to the remarks of my two colleagues on the Veterans' Affairs Committee, and I very much share their concerns.

Mr. CRANSTON. Mr. President, I thank my colleagues from South Carolina and Wyoming for their good words. They are both staunch supporters of the VA medical system.

Because of my strong concern about this matter, I considered offering an amendment to provide the funds necessary to add the 736 FTEE's deleted by the committee from the medical care account. As a result of my discussions with the subcommittee chairman (Mr. GARN), however, I do not believe it will be necessary to proceed with an amendment in light of the substantial amount of room for maneuverability in this almost $7

billion account. I fully understand the constraints of the budget resolution under which the Appropriations Committee is working and want, to the greatest extent possible, to defer to the Senator from Utah's judgment at this time and to continue to work closely and cooperatively with him and his subcommittee in connection with VA appropriations matters.

Based on our discussions and all that has transpired on this important question, it is my expectation, and I know that of the Senators from South Carolina (Mr. THURMOND) and Wyoming (Mr. SIMPSON), that in conference with the House the administration-endorsed staffing level for the medical care account will be sustained and explicitly endorsed.

Mr. SIMPSON. Both Senator THURMOND and I concur. That is our expectation as well.

Mr. GARN. I appreciate very much the concerns that the Senators have expressed and how important it is that the VA health-care system be properly staffed. I know how hard my colleagues from the Veterans' Affairs Committee have worked to see that that is the case and how much time and effort was put into gaining agreement between the Congress and the Reagan administration on the medical care staffing level.

The subcommittee staff already has discussed this matter with its counterpart staff in the House, and we expect the House to be adamant in support of its medical care staffing level.

The Senators have my assurances that their expressions of concern and their strongly felt views on this question will be very much in my mind and given every consideration as our committee works with the House to develop the final components of the VA medical care account.

Mr. CRANSTON. I thank the Senator for his assurances. I know he will do everything he can to be helpful.

Mr. THURMOND. Senator SIMPSON and I also appreciate the remarks of the Senator from Utah and thank him for his sympathetic consideration of this matter.

LARGE LAKE RESEARCH STATION

Mr. RIEGLE. Is it true that without the Large Lake Research Station at Grosse Ile, Mich., the United States would have extreme difficulty in fulfilling its responsibility to Canada under the Water Quality Agreement of 1978 which calls for the mutual surveillance, research, and exchange of data concerning pollution on the Great Lakes?

Mr. GARN. Yes, that is my understanding. In addition, as you are well aware, Grosse Ile conducts a substantial proportion of the fresh water research in the Nation including toxic substance transport, waste disposal and general water quality.

Mr. RIEGLE. Further, the data gathered at Grosse Ile is necessary for making the decisions about how restrictive the discharge permits for factories should be. If the permits are too restrictive it can hamper the operations of a plant, and if the permit is too lenient, the fragile ecosystem of the Great Lakes could be imperiled and that the monitoring work done at Grosse Ile has a substantive impact on the economic vitality of the Great Lake States?

So does it not make sense that this facility at Grosse Ile which conducts research with such vital national and international ramifications continue these worthy programs?

Mr. GARN. As the Senator knows, the committee included at Senator PROXMIRE's request, an additional $3.5 million for the Great Lakes research and abatement and control program.

Mr. RIEGLE. Am I correct in assuming that at least some of the money that you have designated for Great Lakes research will be directly allocated to the Large Lake Research Station at Grosse Ile?

Mr. GARN. We have provided $500,000 for salaries and expenses. I understand that this will be enough to fund the 10 Government employees working at the lab.

Mr. RIEGLE. Finally are we certain that EPA will continue support to Grosse Ile?

Mr. GARN. Well, the financial resources have been provided, however, the staffing decision will have to be made by EPA. They are faced with an overall decrease of 818 FTE and that is a lot to swallow.

Mr. RIEGLE. Would you support the continuation of the lab?

Mr. GARN. Certainly.

Mr. RIEGLE. I thank the Senator. I would also like to say that Senators LEVIN, HEINZ, and MOYNIHAN join me in supporting this extremely worthwhile project.

Mr. GLENN. Mr. President, I should like to associate myself with the remarks made by the Senator from Michigan (Mr. RIEGLE), and add my support for the EPA water quality Great Lakes research program conducted by the Large Lake Research Station at Grosse Ile, Mich. I am gratified that the Committee on Appropriations has had the foresight to restore funds so that the station may continue its fine research efforts.

Another EPA research program I have strongly supported, along with a number of my colleagues from the Great Lakes region, is the EPA energy research Great Lakes research program conducted by Argonne National Laboratory (ANL). The ANL Great Lakes research program is carried out by an experienced multidisciplinary group which has a proven record of accomplishment and which is backed by the resources of a major, multipurpose national laboratory. Among the program's many accomplishments are the following research highlights:

Definitive radionuclide studies that have obtained most of what is now known on the cycling and fate of nuclear fall-out in the Great Lakes.

Quantitative evaluation of pollutant removal from Great Lakes waters sedimentation processes, using naturally-occurring PB-210, a lead isotope, to date sediments.

Delineation of an area of relatively rapid sedimentation off the eastern shore of Lake Michigan as the present repository of as much as 97 percent of the fall-out radionuclides introduced to the southern basin of Lake Michigan since the beginning of the nuclear age.

Discovery of organic tin compounds in Lake Michigan sediments.

First direct measurements of mass balance budgets of trace metals in Lake Michigan; present accumulation rate of zinc plus results of related effects research suggest plankton community changes in 10 to 20 years.

Demonstration that silica is not being depleted in Lake Michigan, as suggested by others as evidence of eutrophication; year-round studies show that the available silica is recycled through annual plankton bloom and decay.

First direct meaasurements of total atmospheric input (dry as well as wet) of airborne pollutants to the Great Lakes; measurements made from off-shore towers show that more than half of some trace metals enter Lake Michigan's southern basin from the atmosphere—inputs which will increase with the projected increased use of coal.

Unique, direct measurements over open waters of pollutant-specific rates of dry deposition using micrometeorological instrumentation based on off-shore towers.

Experimental studies of sediment resuspension and pollutant remobilization processes on the bottom of the Lakes and systematically evaluating these least-known factors in pollutant mass budgets.

Discovery that the relative sensitivity of fresh-water plankton to zinc is not a function of water hardness as assumed by present water quality criteria, but rather varies with the amount of dissolved organic matter; these results indicate Great Lakes plankton are more sensitive to zinc (and possibly to other trace metals) than previously expected.

Discovery that salmon and Lake trout attracted to Great Lakes power-plant outfalls (a) move in and out of warm plumes to maintain viable average body temperatures, (b) benefit from this cycle thermal regime to the extent of growing faster and becoming heavier, and (c) thereby collect greater proportions of water-borne pollutants (such as PCB's) in body tissues than do fish living in constant thermal regimes.

Development of modified fishery-stock models capable of quantitively estimating the entrainment and impingement effects of power-plant water intakes of fish populations in the Great Lakes.

Development of laboratory microcosms representing the three major Great Lakes biological communities: (1) the plankton (the most sensitive component and a potential source of early-warning), (2) free-swimming fish and their food-chain (the principal pathway to man), and (3) the benthic community (the major biological component involved in determining pollutant fate and the potential for pollutant remobilization).

Year-round, cost-effective ship operations in the southern basin of Lake Michigan using a fast, modified crew boat, the 58-foot research vessel Ekos, based just inside the locks at the mouth of the Chicago River.

The ANL Great Lakes research program was originally established by the U.S. Atomic Energy Commission in 1969 to investigate the cycling and potential effects of radionuclides in the Great Lakes. The program undertook and expanded the sphere of research responsibility that included studies of all major pollutants released in the lakes by large-scale, energy-generation processes when the Atomic Energy Commission became the Energy Research and Development Administration (ERDA) and ERDA was incorporated into the Department of Energy.

Effective in fiscal year 1979, the ANL program was transferred from the DOE to EPA by the Office of Management and Budget to provide the EPA Office of Re-

search and Development with long-term environmental research capabilities. EPA sorely needs such a long-term basic research program from which to develop scientifically sound data bases to be used in formulating regulations. Far too much of EPA's research effort has tended to be of the short-term "fire-fighting" variety.

In its revised budget request for fiscal year 1982, I have been advised that EPA did not provide the very modest level of funding—a mere $1,059,000—to maintain this important research program. The Appropriation Committee's report accompanying H.R. 4034 states that $3.5 million was added by the committee for EPA Great Lakes programs, including $1.5 million for Great Lakes research. I understand that these additional amounts were provided as a result of the committee's adoption of an amendment by the distinguished ranking minority member of the Committee on Appropriations, the Senator from Wisconsin (Mr. PROXMIRE). I would like to ask the Senator if, within the moneys appropriated in this bill, funds are available to provide for the continuation of the Argonne National Laboratory Great Lakes research program?

Mr. PROXMIRE. A portion of the funds we have recommended could certainly be used for this purpose if the Environmental Protection Agency decided to use the money in this way. The committee provided a total of $1.5 million for Great Lakes research and these funds are available for work at Grosse Ile and the Argonne National Laboratory.

Mr. GLENN. I thank the Senator from Wisconsin for clarifying this matter. I hope that the EPA funds both these Great Lakes research programs at adequate levels to maintain the high quality of research performed at Grosse Ile and Argonne. The Great Lakes Basin serves as an industrial center and the home of nearly 40 million Americans and Canadians. The continued vitality and viability of the Great Lakes is vital to the economic health of both nations and deserves the continued commitment of the Federal Government.

Mr. DIXON. Mr. President, I express my sincere appreciation to my distinguished colleague and friend, the Senator from Ohio (Mr. GLENN), for his efforts in behalf of the Great Lakes region. I wish to associate myself with his remarks and those of my colleague Senator RIEGLE.

I also thank the distinguished ranking minority member of the committee on appropriations, the Senator from Wisconsin (Mr. PROXMIRE), for offering an amendment to H.R. 4034 which will greatly benefit EPA Great Lakes programs, and for his clarification.

Senator GLENN has pointed to the topflight accomplishments of Argonne National Laboratory's Great Lakes research program. Little more need be said on this subject.

Yet, I do want to emphasize that neither Argonne, nor Grosse Ile, can continue to build upon their past accomplishments unless the EPA allocates adequate sums to support future research.

Such a prudent investment now by the Federal Government will pay off great dividends in the future.

FLATHEAD RIVER BASIN FUNDING

Mr. BAUCUS. Mr. President, will the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee yield for clarification?

Mr. GARN. I am happy to.

Mr. BAUCUS. I thank the distinguished Senator from Utah.

For the past few years, a unique undertaking has been taking place on the Flathead River Basin area in northwest Montana under EPA auspices. I refer to the Flathead Basin Environmental Impact Study. The Flathead Basin is an environmentally sensitive and pristine area in northwest Montana, increasingly impacted by natural resource development. The Flathead Basin lies within Montana and the Province of British Columbia.

Congress has designated all three forks of the Flathead River as national wild and scenic rivers. This amounts to a distance of over 200 miles. In addition, the North Fork of the Flathead River comprises the western border of Glacier National Park.

The Flathead Environmental Study is unique in the development of solid base line environmental data before the onset of significant deterioration of air and water quality. In this fashion, local, State and Federal officials can anticipate environmental problems and move to meet them in advance. The Flathead Basin study also represents, I believe, a unique precedent which will serve as an example for other regional studies in the United States. It is, as well, an example of constructive United States-Canadian cooperation.

The study is at its most critical juncture. A considerable sum of money already has been invested, and the remaining year of the study's life is upon us.

I simply want to clarify that funds are available in EPA's budget for completion of this most important study. As I review EPA's budget, I understand that $410,000 are programed into the budget to complete the study. I simply want to ask the Chairman if that is correct.

Mr. GARN. Mr. BAUCUS is correct. I commend the Senator from Montana for his testimony and efforts on behalf of the Flathead River Basin study.

Mr. BAUCUS. I thank the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee very much.

CONSUMER PRODUCT SAFETY COMMISSION

Mr. KASTEN. Mr. President, I note that on page 30 of the committee report there is some language regarding changes in the field structure of the Consumer Product Safety Commission. More specifically, the Commission is urged to—

Reduce the number of field staff to not more than 145 FTE in the field and 5 FTE in headquarters and limit its funding to $6,000,000.

I would like to ask the distinguished manager of the bill and chairman of the subcommittee, is it your understanding that these figures are fixed in concrete, or does the Commission have some flexibility in this area?

Mr. GARN. I would assure the distinguished Senator from Wisconsin, who is also the chairman of the Consumer Subcommittee which has jurisdiction over this agency, that the committee will give full consideration to any revised field structure plan the Commission may submit, giving the Commission flexibility in meeting these staff-reduction goals. We understand that we now have a new Chairman of the CPSC and we want to give her flexibility and latitude in her management of the agency. We would hope that there would be some reduction of field offices and personnel but we do not wish to hold her to a specific number of offices or employees.

Mr. KASTEN. I thank the distinguished manager of the bill. I would also note that, as a part of the reconciliation bill, the House and Senate conferees have decided to authorize reduction-in-force severance payments. Is it your understanding that when and if the administration or the Commission itself submits a specific dollar requirement to Congress, the committee will give favorable consideration to such estimates?

Mr. GARN. Yes, it is the intent of the chairman that the committee would give favorable consideration to such a revised appropriations request, if made.

Mr. KASTEN. I would like to thank the Senator again for all his assistance on this matter.

Mr. HUDDLESTON. Mr. President, I want to discuss very briefly with the distinguished floor manager and chairman of the subcommittee a related matter that is of some concern to me, and that is the apparent failure thus far of the Department of Housing and Urban Development to follow the decisions of the Congress with respect to fiscal 1981 funding for the 701 Comprehensive Planning, the housing counseling and the neighborhood self-help programs. In each instance, the administration proposed a rescission of fiscal 1981 funds. In the supplemental and rescission bill, the Congress clearly rejected certain of the administration's proposals.

Yet, there is every indication that the Department and OMB are seeking to thwart the will of Congress through delay, obstruction and misinterpretation of laws, regulations and congressional intent. I think it was crystal clear that Congress intended that $19 million be made available for the 701 program. It did not intend some prolonged debate over regulations to undermine the appropriation. Nor did it intend limitations on fourth quarter spending which were obviously designed to counter another type of problem to undercut its decision.

Furthermore, it did not intend such procedures to be used to jeopardize the level of housing counseling assistance and the self-help projects for which it specifically provided.

We have a process here. As we know, Congress appropriates. The administration can recommend deferrals and rescissions. But the congressional role is then clear. Congress decides whether rescissions are to be accepted or rejected. And, I, for one, cannot see how anyone

could mistake our intent with regard to these programs. Consequently, I think we should emphasize to the Department here and now that we expect our determinations in these bills to be honored and followed.

I would be very interested in the views of the distinguished floor manager.

Mr. GARN. Mr. President, let me add one thought in response to the Senator from Kentucky. I feel that the statement he has made is certainly very good, but I intend to go further and carefully consider HUD's responsiveness in implementing the will of Congress before I make my recommendation on their fiscal year 1982 supplemental pay request.

Too often we have report language or even legislative language which executive branch agencies simply ignore. They go on about their business. So I suggest HUD take note of what Senator HUDDLESTON and I are saying today as we will be taking a very careful look at their supplemental pay request for 1982.

Mr. HUDDLESTON. I thank the distinguished Senator from Utah. I think the suggestion he is making is entirely appropriate. Sometimes you have to take rather drastic action to get the attention downtown. I believe that certainly will do that. I think we can move ahead on this particular area.

Mr. GARN. I thank the Senator from Kentucky.

NATIONAL SCIENCE FOUNDATION

Mr. KENNEDY. Mr. President, for three decades, the National Science Foundation has spurred American scientific research and technological achievement. It has been the crucial partner in both expanding science education and supporting science research.

The National Science Foundation has been our country's primary support for basic and applied research, for encouraging young people to enter scientific and technical fields, for keeping scientists aware of the constantly changing body of knowledge in their fields and for offering to the general public an understanding of how science affects every aspect of their lives.

Last year, Congress took an important step in strengthening the mission of the National Science Foundation by passing the Science and Technology Equal Opportunities Act which sought to expand the numbers of women and minorities able to pursue careers in the sciences. The passage of the act represented a recognition that too many talented individuals were being blocked from pursuing their goals and that the Nation's research community was being denied their contributions.

Since its enactment, the National Science Foundation has set in motion a series of sound programs to implement the letter and spirit of the law. These mechanisms span national research opportunity grants for women, visiting professorships for women, research improvements in minority institutions, minority research initiation and minority institution and graduate fellowships and traineeships. Many of these programs are administered under the auspices of the science and engineering directorate. I am therefore pleased that the appropriations committee has recommended that $10 million over the President's request be appropriated for science and engineering education activities. I notice that $4.5 million of that amount is to be used for the "highest priority science and engineering education activities." I would like to take this opportunity to inquire of the Senator from Utah whether the committee intends that the science and technology Equal Opportunities Act should qualify as one of those priorities?

Mr. GARN. Yes.

Mr. KENNEDY. At the NSF reauthorization hearings held by the labor and human resources committee last April, Dr. Slaughter pledged the foundation's strong commitment to carry out the spirit and intent of the Equal Opportunities Act. I would hope that the NSF appropriations bill and this colloquy today will reemphasize congressional intent in this regard.

I would also like to take this opportunity to commend the members of the appropriations committee for highlighting the importance of preserving adequate funding at the National Science Foundation for the behavioral and social sciences, the international institute for applied systems analysis and small business innovation research. The challenges which this Nation faces in its struggle to regain economic strength and to maintain our Nation's security demand a vigorous and creative scientific community. We need the contributions of behavioral and social scientists as well as physical scientists. We need the unique and innovative research which can come from the private sector. And we need to continue our participation in international cooperative efforts to share vital scientific knowledge.

I am pleased that the funding levels recommended by the appropriations committee recognizes not only the critical nature of our national investment in scientific research and development but also the importance of preserving multifaceted approaches in our scientific endeavors.

ADVERTISING AND PUBLIC RELATIONS BUDGETS

Mr. BAUCUS. Mr. President, last year I offered an amendment to the HUD appropriations bill to cut by 10 percent the advertising and public relations budgets of the agencies funded by that bill. This amendment was accepted by the Senate and signed into law.

I offered that amendment because I believe the Federal Government is wasting millions of dollars on public relations materials that are irrelevant and unnecessary. For example, I found an article in a magazine published by HUD called the International Bulletin, entitled "How to Get an Apartment in Poland."

This was just one example of what I found when I looked into the public relations operations. In fact, some of my colleagues may recall that I brought some 40 pounds of brochures, pamphlets, and magazines to the Senate floor to prove my point.

Federal agencies have a responsibility to inform Americans about many things, and not all advertising is bad. But the advertising bureaucracy seems to have grown out of control. My amendment to cut 10 percent of the advertising and public relations budgets was an attempt to help us regain control of the Federal Government's advertising efforts.

Unfortunately, I am not sure how successful it has been. Recently the Billings, Mont., Gazette published an editorial about HUD's public relations operation. This editorial entitled "Waste Mills Still Grinding it out in Nation's Capital," Reports that the city editor of the Gazette received 28 different press releases from HUD in one single day. And each of these press releases was in a separate envelope, separately postmarked.

What did HUD do during that day to warrant 28 press releases? Here, according to the Gazette, is what they said.

The 28 separate envelopes dealt with such earth shaking subjects as an Ohio man being named Assistant HUD Secretary, the meeting of a housing task force in Washington to exchange ideas with outside experts, the HUD Secretary praising President Reagan, an Alabamian named special HUD advisor for handicapped persons and a Pennsylvania woman sworn in as an Assistant Secretary for Administration.

Other self-serving stuff in the envelopes announced the former mayor of Rochester, New York, sworn in as another Assistant HUD Secretary, a former Puerto Rico official sworn in as a HUD official, and something dealing with "speedy reform of property disposition programs is one of the most urgent jobs facing the new leadership of the Department of Housing and Urban Development, under Secretary Donald I. Hovde told a departmental task force on housing."

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

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

WASTE MILLS STILL GRINDING IT OUT IN NATION'S CAPITAL

If economy and budget tightening have taken over in Washington, D.C., it isn't evident in the deluge of publicity releases spewing out of the federal capital.

The city editor of this newspaper received 28 different purported news releases in just one day from the U.S. Department of Housing and Urban Development's Office of Public Affairs.

Please understand it is the nature of city editors to like to receive news tips. It is the bread and buttter on which they feed. Our man would have relished additional information on what is happening to the HUD stuff in Billings or for that matter any place in Montana or our circulation area.

Is that what he got? No. The 28 separate envelopes dealt with such earth shaking subjects as an Ohio man being named assistant HUD secretary, the meeting of a housing task force in Washington to exchange ideas with outside experts, the HUD secretary praising President Reagan, an Alabaman named special HUD advisor for handicapped persons and a Pennsylvania woman sworn in as an assistant secretary for administration.

Other self-serving stuff in the envelopes announced the former mayor of Rochester, N.Y., sworn in as another assistant HUD secretary, a former Puerto Rico official sworn in as a HUD official and something dealing with "Speedy reform of property disposition programs is one of the most urgent jobs

facing the new leadership of the Department of Housing and Urban Development, Under Secretary Donald I. Hovde told a departmental task force on housing."

Now it is possible that the envelopes containing all this news were bunched up in a U.S. Postal Service aging plant someplace. Or that the mail person at HUD waited until he had a big enough bag to make the trip to the post office worthwhile. At the rate the stuff poured onto our city editor's desk, the HUD hustler must have been making mail runs every few minutes to service this nation's 1,700 daily newspapers.

Oh yes, the mail also came franked, with that U.S. Mail eagle flying in the upper righthand corner of the envelope instead of the 18 cents the rest of us must use.

Remember, too, it took people to write those releases, people to approve their being released and people to perform the mundane chore of getting them from the information specialist's desk to the city editor's wastepaper basket.

This one incident in the comparatively isolated, off-the-beaten-path (at least of Amtrak) American hinterlands is an indication of what is going on in Washington, D.C. What many of the federal force are doing is not only a waste of time, it is wasting the time of others all across the nation.

If this is an example of "Your tax dollars at work for you," let's have less, not more of both, no matter what party is supposedly in charge in Washington, D.C.

Mr. BAUCUS. Mr. President, the administration has made much of its efforts to cut waste in Federal agencies and programs. And, like administrations in the past, the Reagan administration has pledged to reduce the advertising and public relations spending of the Federal Government.

I applaud their efforts so far.

But clearly there is much more to be done. There is no reason the city editor of a newspaper should receive 28 separate press releases in one day. These releases were not newsworthy, and in fact, as the Gazette pointed out, the only newsworthy thing was that HUD would waste so much money mailing press releases to 1,700 daily newspapers.

Mr. GARN. Will my distinguished colleague from Montana yield for a moment?

Mr. BAUCUS. I will be happy to yield to the distinguished Senator from Utah.

Mr. GARN. I was on the Senate floor last year when my good friend from Montana offered his amendment to cut HUD's advertising and public relations budget by 10 percent. I fully supported that amendment and I support the administration's current efforts to cap public relations spending. I certainly agree with my colleague from Montana and the editors of the Billings Gazette that HUD needs to take a closer look at what they are doing and reduce their expenditures.

Mr. BAUCUS. I thank the distinguished chairman for his support. I believe we must impress upon those who control the publicity mills at HUD that this body is serious about cutting the fat from their operations. Would the distinguished chairman from Utah coauthor a letter with me to the Secretary and Inspector General of HUD asking for an immediate review of their press release operation to determine if the taxpayers' money really needs to be spent on 28 separate press releases in a single day?

Mr. GARN. I would be happy to coauthor such a letter. I assure my colleague that this chairman is serious about cutting the waste at the agencies under his jurisdiction.

Mr. BAUCUS. I once again thank the chairman for his support. Once we receive the report, I ask the chairman to coauthor an amendment with me to cut HUD's advertising and public relations budget by the amount found to be a waste of the taxpayers' money.

Mr. GARN. I would be glad to do so.

Mr. BAUCUS. Thank you.

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

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

Under the previous order, the hour has arrived for the Senate to go into executive session.

UP AMENDMENT NO. 335

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may call up my amendment so I may have an amendment pending after this matter.

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

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

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 335:

On page 23, line 8, delete $4,994,500,000 and insert in lieu thereof $4,908,100,000.

Mr. GARN. Mr. President, I ask unanimous consent that we may lay aside the pending amendment and briefly consider an amendment by the Senator from California.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered?

UP AMENDMENT NO. 336

(Purpose: To disapprove Deferral No. D81–98 with respect to the construction of a research and education building at the Long Beach Veterans' Administration Medical Center)

Mr. CRANSTON. Mr. President, I thank my colleague very much for his cooperation in this matter.

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

The PRESIDING OFFICER. Without objection, the pending amendment of the Senator from Wisconsin will be laid aside.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 336:

On page 35, line 5 strike out "23,361,000" and insert in lieu thereof "35,961,000".

Mr. CRANSTON. I shall be brief. The amendment I propose would provide for the express disapproval of the proposed deferral of the $12.6 million thus far appropriated for the construction of an urgently-needed research and education building at the Long Beach VA Medical Center. The House-passed bill and the committee bill already include one such express disapproval of a proposed deferral for construction of a nursing home and a garage facility at the VA Medical Center in Washington, D.C., involving $23.4 million in previously appropriated funds. My amendment would simply increase the amount in that provision to approximately $36 million to take care of the Long Beach project.

Mr. President, this is a matter about which, on July 16, I wrote to the chairmen of the subcommittee (Mr. GARN) and the full committee (Mr. HATFIELD), as well as the very able ranking minority members of the subcommittee (Mr. HUDDLESTON) and the full committee (Mr. PROXMIRE). I ask unanimous consent that that letter be printed in the RECORD at this point.

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

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., July 16, 1981.

Hon. JAKE GARN,
Chairman, Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR JAKE: I am writing to you as Chairman of the Subcommittee on HUD-Independent Agencies to urge that you take steps during upcoming Appropriations Committee consideration of the fiscal year 1982 HUD-Independent Agencies Appropriations Act to disapprove the proposed deferral (D81–98, dated March 10, 1981) of $12.6 million thus far appropriated for the construction of the urgently-needed research and education building at the VA Medical Center in Long Beach, California. This is a matter of immediate personal concern to me.

As you know, planning for this construction project began in FY 1971 and, after a great delay, appropriations for the actual construction of the Long Beach research and education building finally were provided in the FY 1981 HUD-Independent Agencies Appropriations Act (Public Law 96–526). There is no question that the research/education program at the Long Beach VA Medical Center is a critical part of the VA facility's very valuable affiliation relationship with the College of Medicine at the University of California at Irvine (UCI) and that that relationship contributes greatly to patient care at the VA medical center.

The Senate Appropriations Committee has recognized for many years the urgency of this situation (see page 69 of S. Rept. No. 95–280, accompanying the FY 1978 HUD-Independent Agencies Appropriations Act, where funding for the Long Beach research and education building was described as "badly needed"), and I am very grateful for the Committee's support for providing appropriations for the project in the FY 1981 Act.

The proposed deferral of the Long Beach research and education building will result in a requirement for $3.3 million in additional funding (based on a projected inflation rate for construction activities of one percent per month). Because the need for

this project is so clear, I can find no reason to place an additional $3.3 million burden on the VA construction program or American taxpayers. Thus, I strongly urge that you take the appropriate steps to amend the amount shown in H.R. 4034 under Veterans' Administration, Construction, Major Projects (Disapproval of Deferral)—page 32, line 17, of the Act as reported by the House Appropriations Committee—to include the $12.6 million associated with the Long Beach research and education major construction project in proposed deferral D81-98.

I would deeply appreciate your help on this matter.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking minority member.

Mr. CRANSTON. Mr. President, at the committee's July 22 markup of the pending bill, the distinguished Senator from Arizona (Mr. DECONCINI) raised this matter on my behalf. However, his motion was not adopted because a question was raised by the Senator from Utah (Mr. GARN) in connection with a small shortfall of $800,000 caused by the inflation that has occurred in the 2 years since the Research and Education Building at Long Beach was submitted in the administration's budget request for fiscal year 1981.

Subsequent to last week's committee markup, I discussed this deferral disapproval with my colleagues from Utah (Mr. GARN) and Wisconsin (Mr. PROXMIRE) and I believe that it is now agreed that the additional requirement for $800,000—an increase of just 6.3 percent over the original estimate—can be dealt with appropriately through a normal reprograming of unobligated construction funds.

Mr. President, I did not protest the deferral of this project earlier this year when it was proposed in March and implicitly agreed to by the Congress in the context of Public Law 97-12, the Supplemental Appropriations Act, fiscal year 1981. I wanted then to cooperate with efforts to control fiscal year 1981 spending and also to be absolutely certain that this project was as badly needed as ever. I have since carefully reevaluated the need and find that it is still as great as ever—greater actually—to improve the provision of and the quality of health care services at this largest general medical hospital in the VA medical system.

The justification for this project is already a matter of public record. The Appropriations Committee itself has recognized the urgency of the situation at Long Beach for many years and in its report accompanying the fiscal year 1978 HUD-Independent Agencies Appropriations Act (S. Rept. No. 85-280) described the funding for the project as badly needed. The research and education program at Long Beach is a critical part of an affiliation relationship with the medical school at the University of California at Irvine (UCI) which is very beneficial to the quality of patient care at that VA medical center.

Mr. President, the research program at Long Beach currently is located in several one-story buildings that were built for the use of the Navy in the early part of World War II. The floors for the buildings are raised off the ground and vibrate with personnel movement. There is no centralized heating and air conditioning system, which presents problems with respect to the maintenance of a controlled environment. The nine buildings now in use have a total of 618 windows and dust is continually filtering through causing personnel to be continually engaged in housekeeping activities and rendering the operation of some electronic equipment almost impossible. The plumbing system—which has not been replaced since the buildings were constructed—is not adequate for chemical laboratories. The present animal research facilities do not comply with the Department of Agriculture's minimum standards and the buildings, in general, do not comply with fire and safety codes.

Certainly these physical conditions in addition to the severe shortage of space available at the medical center for education and training purposes has hampered the growth of the research program and the ability of the research and education program to make substantial contributions to improvements in patient care.

Mr. President, there is no question of the need for this construction project, and I am very grateful for the committee's support in providing appropriations for it in the fiscal year 1981 act. I hope the distinguished floor managers will accept my amendment so that the construction phase of the project can get underway as soon as possible.

Mr. GARN. Mr. President, as Senator CRANSTON knows, I discussed the Long Beach deferral with Senator DECONCINI at full committee. I have informally checked out the justification for this facility with the VA, OMB, and GAO and can find no reason to oppose the distinguished Senator's amendment. Furthermore, I understand that the deferral of this research and education building would result in the requirement for an additional $3.3 million.

I am sure that the VA can find the additional $800,000 within the over $900 million in unobligated balances in their major construction account.

Mr. President, I am willing to accept this amendment.

Mr. CRANSTON. I thank the Senator for his help.

Mr. President, I am very grateful that the Senator from Utah supports the amendment.

I also would like to take this opportunity to express my deep appreciation to him and to the ranking minority member of the full committee (Mr. PROXMIRE), and to their very able staff members, Wally Berger and Tom Van Der Voort, for all of their assistance on this amendment and on various other VA-related matters in the bill and in the committee report.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 336) was agreed to.

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

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

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES—EX. N—96TH CONGRESS, 2D SESSION

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL—EX. H. 96TH CONGRESS, 2D SESSION

REVISED CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS—EX. M: 95TH CONGRESS, 1ST SESSION

AMENDMENTS TO THE INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION—EX. K: 96TH CONGRESS, 2D SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now go into executive session to proceed with the consideration of four treaties, Executive Calendar Nos. 6 to 9. There is a total of 20 minutes' debate on all four treaties, the time to be equally divided and controlled by the Senator from Illinois (Mr. PERCY) and the Senator from Rhode Island (Mr. PELL).

Mr. PERCY. Mr. President, the four treaties before the Senate today have all been approved unanimously by the Foreign Relations Committee without reservation and with the full support of the administration. I know of no opposition to any of them.

The first two agreements are part of the international response to terrorism. The Hostages Convention establishes an international legal framework for the apprehension and punishment of people who take hostages for the purpose of international political extortion. The Convention on the Physical Protection of Nuclear Material also creates a framework for preventing the diversion of sensitive nuclear material for unauthorized purposes—an objective which many terrorist groups would no doubt consider.

In each case, countries who ratify these treaties undertake an obligation to make adjustments in their domestic laws to properly implement their obligations. I understand that legislation to implement the nuclear materials convention is presently before the Senate Judiciary Committee and I would urge its early approval. Legislation to implement the Hostage Convention is expected to be proposed soon by the administration.

Each treaty will come into force for the United Sates as soon as the specified number of States has ratified them.

In that connection. I note that the committee's report on the Nuclear Materials Convention is inaccurate in saying that the convention is already in force for parties who have ratified it. We are in fact still 20 States short of the requisite number. I should note that although both of these treaties are noncontroversial, they are by no means unimportant in our efforts to prevent, restrict and punish acts of international terrorism. Both were assigned the highest priority in the administration's recent request to the Foreign Relations Committee for action on treaties.

The other two treaties involve very technical matters. Both were originally reported to the Senate last session. They were never taken up simply because the Senate adjourned without doing so.

One treaty deals with an increase in the size of the governing Council of the Inter-Governmental Maritime Consultative Organization (IMCO) and with the procedures for agreeing to amendments to the IMCO Convention. The other treaty concerns customs certificates for the transportation of goods by truck across State boundaries.

For additional details on these four treaties I commend to my colleagues the committee reports on each of them.

I urge the Senate to give its advice and consent to all of the treaties before us.

Mr. PROXMIRE. Mr. President, will the distinguished chairman of the Foreign Relations Committee yield?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. First, I commend my good friend, the Senator from Illinois, on the reporting of these treaties. As I understand it, the hostage treaty was sent to the Senate some time ago. Is that correct?

Mr. PERCY. Yes—the end of last summer.

Mr. PROXMIRE. Of course, I will support the treaty, as other Senators will. However, I ask the Senator this: Why is it that the Genocide Treaty, which has been pending in the Foreign Relations Committee and before the Senate for 32 years—32 years—has not been reported, despite the fact that it has been supported overwhelmingly by all administrations? Secretary Haig supported it at his confirmation hearing. Yet, we cannot get that treaty before the Senate. Why is that?

Mr. PERCY. I know of the Senator's deep interest in the Genocide Treaty. I previously committed myself to make this a matter that can be dealt with and will be dealt with by the Senate this year.

The problem has been that the Senate Foreign Relations Committee has been involved in almost steady hearings just putting together an organization, the State Department authorization bill, the defense and economic assistance program bill. Those matters have taken up a great deal of time. We have moved on 90 different nominations, and it is literally impossible to find Senators to chair hearings.

We are trying to schedule those hearings for the fall. I can assure the Senator, as chairman—and I know that the ranking minority member will agree—that we will do everything we can to move this matter forward.

Obviously, this treaty is not without controversy. It has been before the Foreign Relations Committee for 23 years.

So I trust that the exasperation of the Senator will not all be taken out on the committee this year.

The Senator has been in the Senate for how many years now?

Mr. PROXMIRE. I have been in the Senate for 24 years next month, but this treaty has been before the Senate for 32 years, since 1949. The father of the distinguished ranking minority member, Senator PELL, the distinguished Senator from Rhode Island, of course, had a great deal to do with the original adoption of the treaty before the United Nations. So I am sure there is strong sentiment in the committee for reporting it out.

I cannot tell the Senator from Illinois how delighted I am and how happy he has made my day, believe me, by telling me that he will use his influence as chairman to report that treaty out at long last this year.

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

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I join the Senator from Wisconsin in thanking the chairman of our committee for his support of the genocide convention and his commitment to push ahead with its consideration. I assure the Senator from Wisconsin I will do all I can to assist in this effort.

I am continually impressed with the way the Senator from Wisconsin has kept all of our feet to the fire on this issue over the years. It is my fervent hope that we will have success this year. I will do my best to make it happen.

Mr. President, the four treaties before us are noncontroversial and have received the unanimous endorsement of the Foreign Relations Committee. They also have, as the chairman noted, the support of the administration.

The use of innocent civilians to extort concessions from governments has, sadly, become commonplace in this age. The hostage convention provides a legal framework to prosecute or extradite the perpetrators of hijacking and international kidnapings.

The Convention on the Physical Protection of Nuclear Materials establishes international standards for the shipment of and storage of nuclear materials to prevent their unlawful seizure or diversion. The convention also obligates parties to cooperate in the prosecution or extradition of people who steal or otherwise fraudulently obtain such materials.

The final two treaties are technical in nature. One treaty deals with the governance of the Intergovernmental Maritime Consultative Organization (IMCO) and the method of amending the IMCO Convention. The other treaty brings up to date, and expands the scope of the 1959 customs convention which governs the international transport of goods by motor carrier.

Mr. President, I urge that the Senate give its advice and consent to these treaties.

The PRESIDING OFFICER. Do Senators yield back the time?

Mr. PERCY. Mr. President, have the yeas and nays been ordered on these treaties?

The PRESIDING OFFICER. They have not.

Mr. PERCY. Mr. President, I ask unanimous consent that the four treaties be considered en bloc, and I ask for the yeas and nays.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PERCY. Mr. President, I yield back our time.

All time is yielded back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolutions of ratification.

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Georgia (Mr. MATTINGLY) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. HEFLIN) is necessarily absent.

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

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Votes Nos. 241, 242, 243, 244 Ex.]

YEAS—98

Abdnor	Ford	Mitchell
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baker	Goldwater	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Bumpers	Hayakawa	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	McClure	Weicker
East	Melcher	Williams
Exon	Metzenbaum	Zorinsky

NOT VOTING—2

Heflin	Mattingly

The PRESIDING OFFICER (Mr. WEICKER). Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES—EX. N—96TH CONGRESS, SECOND SESSION—(ROLLCALL VOTE NO. 241)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention Against the Taking of Hostages, adopted by the United Nations General Assembly on December 17, 1979 and signed on behalf of the United States of America on December 21, 1979.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL—EX. H, 96TH CONGRESS, 2D SESSION—(ROLLCALL VOTE NO. 242)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Physical Protection of Nuclear Material, adopted at a Vienna Meeting of Government Representatives on October 26, 1979, and signed by the United States on March 3, 1980.

REVISED CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS—EX. M.S. 95TH CONGRESS, 1ST SESSION—(ROLLCALL VOTE NO. 243)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Revised Customs Convention on the International Transport of Goods Under Cover of Transport International Routier Carnets (TIR Convention), done at Geneva on November 14, 1975, with annexes.

AMENDMENTS TO THE INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION CONVENTION—EX. K: 96TH CONGRESS, 2D SESSION—(ROLLCALL VOTE NO. 244)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the acceptance of the Amendments to the Convention on the Inter-Governmental Maritime Consultative Organization signed at Geneva, March 6, 1948 (the IMCO Convention), which amendments were adopted on November 15, 1979, by the Assembly of the Inter-Governmental Maritime Consultative Organization at its Eleventh Session.

(Later the following occurred:)

Mr. PERCY. Mr. President, as in executive session, I move to reconsider the votes by which the resolutions of ratification were agreed to.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. GARN. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1982

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Wisconsin to H.R. 4034.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment of the Senator from Wisconsin (Mr. PROXMIRE) to consider an amendment of the Senator from Colorado (Mr. ARMSTRONG).

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

UP AMENDMENT NO. 337

(Purpose: Vacant unit subsidies)

Mr. ARMSTRONG. 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 Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 337:

At the end of the bill add the following new section: No funds appropriated in this Act may be used to assist or subsidize beyond 30 days any unoccupied housing unit which is built or otherwise assisted under Section 8 of the U.S. Housing Act of 1937.

Mr. ARMSTRONG. Mr. President, I am not one of those who thinks that the weight of an argument depends upon its length. I intend to be very, very brief.

Current law permits HUD to pay 60 days of full market rent for vacant units, plus an additional 10 months' worth of debt service as long as the landlord is making a good-faith effort to fill the unit. This amendment simply limits such subsidy payment to no more than 30 days with respect to vacant unit subsidies.

Mr. President, this amendment has been previously adopted by the Senate during the course of debate on another piece of legislation. It has been cleared with the managers on both sides. Unless there is need for greater discussion, I will simply call for the adoption of this amendment.

Mr. GARN. Mr. President, I have discussed this amendment with the distinguished Senator from Colorado. The substance of the amendment has passed the Senate, I believe, on two previous occasions. On behalf of the majority, I am willing to accept the amendment.

Mr. HUDDLESTON. Mr. President, we, likewise, on this side are willing to accept this amendment and have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The amendment (UP No. 337) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 335

Mr. PROXMIRE. Mr. President, I understand the Senate now reverts to my amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, my amendment would reduce the amount contained in the HUD-independent agencies appropriation bill for NASA's research and development programs by $86.4 million, bringing the total within $5 million of the President's budget request. We are way over the President's budget request now.

The amendment would preserve $10 million added to the administration's request by the Appropriations Committee for the international solar polar mission in view of our commitment to the European Space Agency, which is our partner in this joint venture. This increase would be offset in part by the committee's deletion of $5 million requested for a fifth Shuttle orbiter, leaving a net increase in the budget request of $5 million.

There are a number of reasons why I believe the Senate should support my amendment. First, although H.R. 4034 as reported by the Senate Appropriations Committee makes a number of reductions in the House passed version of the bill, NASA is a notable exception. The research and development portion of NASA's budget as approved by the committee exceeds the House-passed totals by $56.4 million and is $91.4 million above the President's budget. I see no reason why we should bust the budget in this high technology area, especially in view of our willingness to support substantial cuts in social programs. In fact this very bill includes a subsidized housing cut of $1.9 billion below the President's budget, which I supported. But I cannot in all good conscience vote to increase support for the aerospace industry at a time when we are making drastic cuts in housing for the poor.

Second, the $91.4 million added to the NASA research and development budget by the Appropriations Committee includes $45 million for aeronautical research and technology—an increase of almost 17 percent in the President's budget. This sort of increase is unnecessary at a time when the President is attempting to stimulate industrial productivity with a major tax cut and when the aeronautics industry will be getting billions of additional dollars from a sharply accelerating defense budget.

Mr. President, President Reagan is certainly one who is deeply concerned with industry, with research, with assistance for the aerospace industry. All I am asking is that we accept his proposed level of funding for NASA. The defense sector is getting an enormous increase in his 1982 budget, which I support because of the necessity for improving our defense efforts. If ever there was a sector of our economy that ought to be able to make its own research and investment expenditures, it is the aeronautics industry. Increasing Federal aeronautical research and development funding at this time is like making a charitable contribution to a billionaire. And it is a contribution this Government can ill afford.

Third, we should not provide seed money for new projects that will require us to accelerate spending in the out years at a time when Space Shuttle overruns may well have a major impact on the total NASA budget. Just 2 weeks ago the

Los Angeles Times reported that NASA will seek an additional $300 million to $700 million on top of the $1.6 billion it had planned to request for the Shuttle's development, manufacture and operation in fiscal 1983. If we add funds to the NASA budget before us today for other projects, we may well force NASA into making commitments that the agency will have trouble in pursuing in fiscal year 1983 because of these Shuttle add-ons.

Two witnesses who appeared before the House Science and Technology Committee's Subcommittee on Space Science and Applications on June 25 made this case very well. The first witness was Norman Augustine, an ex-Secretary of the Air Force, who said:

I think it is very important that programs be prioritized by the Congress, by the Administration and to fund only those programs which can be fully funded and not attempt to fund all the worthwhile programs with some money, but to pick the ones that you really think are important, fund them fully, and don't even start the other ones.

Mr. Augustine is now vice president for operations of Martin Marietta Aerospace and I think we should heed his advice by not adding funds for lower priority projects as the committee amendment would do.

The second witness was John W. Townsend, Jr., president of Fairchild Space and Electronics. Mr. Townsend said:

I think NASA has hung on too long in some things expecting that the next year will be better. I would recommend that a lot more care be exercised in how many of these things they let or start up as if it were indeed a flight project. I can think of some projects right now. For example, the UARS, the upper atmosphere research project. That's idling right now, awaiting a chance for a new start. I'm not sure that process is efficient.

That is Mr. Townsend's statement, yet the committee add-ons include $10 million for the upper atmosphere research satellite experiment.

In conclusion, I hope we will not take from the poor, whose social programs we are cutting, to feed the rich aerospace industry.

I hope that while we look to the stars by providing funding for NASA's highest priorities we can also keep our feet on the ground by not adding money to the President's budget to start or accelerate projects that we cannot finish without busting the 1983, 1984, and 1985 budgets.

I hope that my colleagues will support the President of the United States by voting with me to eliminate this significant add-on to the administration's 1982 NASA research and development budget.

Mr. GARN. Mr. President, the Senator from Wisconsin is proposing not only to go back to the budget request level but, in effect, to accept the House authorization bill.

The House and Senate conferees are, this week, working out their differences. The subcommittee's recommendations support the Senate Authorizing Committee's bill, as approved by the full Senate on May 21. The proposal would undermine their position by providing the same funding as recommended under the House bill.

Senator SCHMITT, chairman of the Authorizing Committee, can tell you that the levels contained in that bill were the result of carefully balancing the space programs benefits against the need to reduce Federal spending. And the final levels were the result of recommendations from both sides of the aisle. In this respect, Senator CANNON was very influential in determining the final numbers.

Each of NASA's three accounts will be in conference. I can assure you that I will move to reduce each of these accounts to no more than the authorized levels at that conference, after the authorizing committees have acted.

I am not going to argue the need for these funds in each of the program areas, but I would like to make some general observations. First, NASA's entire R. & D. budget is up 13 percent from fiscal year 1981, which translates to a 3-percent increase when adjusted for inflation. Seventy-five percent of this increase is associated with the Space Shuttle. When you look at specific programs such as space science and aeronautics, you find a decrease of 1.5 percent and 8.5 percent in constant dollar terms.

In this case, I believe that the proposed additions to the budget are justified in terms of the potential scientific, technological, economic and national security benefits.

My good friend from Wisconsin has talked a great deal about taking from the poor and giving to the rich aerospace industry. I might point out that the entire NASA budget is one-third of the budget for food stamps, without regard to welfare and all of the other social programs. The total budget for NASA is a little over $6 billion. That is for the Space Shuttle and for all NASA's other aeronautical research.

I do not think most people are aware that NASA is not just involved in space. If you want to look at the new more efficient wings being placed on our aircraft, they were developed at NASA.

If you want to look at the new quieter engines that solve some environmental problems and burn 25- to 30-percent less jet fuel, look at NASA.

In addition, NASA has done research on airplane crashes. I think everyone wants to fly in a safe aircraft.

So the very area that funds were added were primarily for NASA's aeronautical programs. I believe these additional funds are tremendously important since so much of NASA's work in this area affects our daily lives.

I oppose the amendment of the Senator from Wisconsin, believing it is shortsighted since it would cut back aeronautical research. The overall NASA budget is incredibly small in relationship to just one social welfare program.

Mr. PROXMIRE. Mr. President, I greatly respect my good friend, the Senator from Utah, the manager of the bill, but I have to point out that we cut housing in this bill about 40 percent. We are cutting EPA by $1 billion, about a one-third cut. On the other hand, as he pointed out, we are increasing the amount available for NASA research, even if we cut back to the President's request.

Now, Mr. President, research and development is important. It should be encouraged. We have encouraged it. We just acted on a tax bill that provides a 25-percent salary credit for research and development. Of course, that means tens of millions of dollars will be available in the aeronautical area and other areas for research and development that were not available last year.

So making a cutback to the President's request seems to me to be a very logical, very modest, and very limited step.

Furthermore, Mr. President, there are a number of changes in the House authorization bill from the President's NASA budget. We are not simply endorsing the House authorization bill, although it has the same total as the President's budget. In conference there would still be an opportunity for the conferees to go over or under Presidential budget requests, but overall I am simply saying that we should go back to the level requested by President Reagan. President Reagan has requested funding in the NASA budget that would certainly provide increased assistance if we take it in conjunction with the tax credit, which we have just included in the tax bill, for research and development.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the distinguished subcommittee chairman and floor manager of the bill has presented the case in opposition to the amendment of the Senator from Wisconsin.

He is well known and recognized for his expertise in the area of aviation. I support the position taken by the subcommittee chairman.

I think we need to remember that the United States has a commanding position at the present moment in aircraft exports. Next to agriculture, it is one of our most profitable and productive export areas. That position is being threatened.

The research that NASA does will unquestionably help our industry maintain the position of leadership that we have at the present time.

Mr. President, we looked into the matter with some care before adding the funding. The type of aeronautical research involved has already been detailed to some extent by my colleague from Utah. It is a type of research that cannot reasonably be expected to be conducted by even the largest of our aircraft production companies. Its application is quite broad and it does help us maintain a leadership position.

We are being challenged now, Mr. President, by a number of other countries. I think those of our colleagues who visited the recent airshow in Paris got an indication of the kind of competition that we confront. In order to continue to enjoy the sales to foreign countries of American-produced aircraft we must not only stay abreast of competition, but also stay out in front of it. I think this ap-

propriation, though modest, will help assure that we stay ahead.

For that reason, Mr. President, I oppose the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I shall take only another minute or so.

I appreciate the reasons for the opposition of my friends, but I should like to point out that the amount we are talking about as far as aeronautical research is concerned is $45 million. Do you really think Boeing, McDonnell-Douglas, General Dynamics, Fairchild, Lockheed, the biggest defense manufacturers in the country, cannot afford $45 million, when they will get a tax credit, something they did not get before, a 25-percent salary tax credit for their research and development expenditures? That credit should exceed the $45 million add-on by a substantial amount.

Mr. President, we are not cutting NASA's research budget below present levels. We are still providing NASA with plenty of funding. It seems to me it makes sense for the Senate to try to comply with President Reagan's budget request. We have passed a very generous tax measure, which I supported. We have passed budget cuts in other areas, which I have supported. Now I am trying to say we should have some fairness, some equity, in the way we reduce Federal spending. That is all my amendment would do.

Mr. President, I am prepared to vote on this matter.

Mr. HAYAKAWA. Mr. President, I am opposed to Senator PROXMIRE'S amendment to reduce the appropriations for the National Aeronautics and Space Administration (NASA). I am very impressed with the achievements of NASA but I do not believe we should be content to rely on past achievements.

Our Nation's space program is unequaled in its ability to take the dreams of space exploration and its potential and transform them into reality.

We have all benefited in many ways from our advancement in space. The technology generated by NASA programs and research creates many new products and jobs, and makes everyone's life safer and easier. Some of the byproducts of NASA programs and research are improved communications, better weather detection devices, more accurate naval and air navigation, and many products for medicine, computers, education, and energy. As we reflect upon these accomplishments we should not be lulled into inactivity, but invigorated by new challenges to seek new frontiers. I recognize as well as anyone that the Federal budget must be kept under control, but the HUD appropriations bill is already below the level suggested by the President. I believe that to reduce it further by cutting the appropriations for NASA would be a mistake.

We must continue to fund NASA at a level that will allow it to continue to establish the goals of the future and maintain the U.S. leadership in space and technology. I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 335) was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 338

Mr. PROXMIRE. 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 Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 338:

On page 23, line 9, immediately before the period, insert the following:

Provided: That none of these funds shall be used to support the definition and development of techniques to analyze extraterrestrial radio signals for patterns that may be generated by intelligent sources.

Mr. PROXMIRE. Mr. President, 3 years ago, NASA requested $2 million for a program titled "Search for Extraterrestrial Intelligence"—SETI for short.

The idea was that they are going to try to find intelligence outside the solar system. Our best scientists say that that intelligent life would have to be beyond our galaxy. I have always thought if they were going to look for intelligence, they ought to start right here in Washington. It is hard enough to find intelligent life right here. It may even be harder, I might say, than finding it outside our solar system. At any rate, this $2 million would have funded the initiation of an all-sky, all-frequency search for radio signals from intelligent extraterrestrial life using existing antennas of the Deep Space Network at Goldstone, Calif., and some state-of-the-art hardware that was to be developed specifically for the program. The total cost of the program was to be $15 million over 7 years.

These funds were stricken from the fiscal year 1979 HUD-independent agencies appropriation bill a few months after I gave NASA a "Golden Fleece" for the proposed project, which I thought should be postponed for a few million light-years.

I have since discovered that the project has been continued at a subsistence level despite our decision to delete these funds 3 years ago. In 1980 NASA spent $500,000 on the project. The 1981 budget was $1 million. NASA plans to spend an additional $1 million in 1982 to continue the definition and development of techniques to analyze extraterrestrial radio signals for patterns that may be generated by intelligent sources.

Mr. President, clearly the Congress intended to stop this research back in 1978 when it terminated funding for the program. However, NASA has quietly continued the work under its exobiology program. I believe the rationale for the reduction we made 3 years ago still applies, and the amendment I have just sent to the desk would reaffirm that decision by prohibiting NASA from using funding provided in today's bill to pursue the search for extraterrestrial intelligence.

Why should we stop this program, Mr. President?

First, if NASA launches a full scale SETI program the total cost will be at least $50.9 million over 10 years. This is a luxury we can ill afford at a time when we are making a herculean effort to cut Federal spending.

Second, there is an excellent chance that extraterrestrial intelligent beings do not exist. An article appearing in the April 1981 issue of Physics Today, written by a professor of mathematical physics at Tulane University, Frank J. Tipler, spelled out this thesis in great detail. Professor Tipler's central point is that if intelligent beings did exist elsewhere and possessed the technology for interstellar communication they would have developed interstellar travel and thus would already be present in our solar system. Certainly, there is not a scintilla of evidence that intelligent life exists beyond our solar system.

Third, even if a radio message had been beamed to our planet from some distant civilization, it could well have originated well over a million years ago. The Earth itself is 4½ billion years old while some solar systems are even older and millions of light-years from Earth. Thus the intelligent life that sent the message might well be extinct by the time we received it or, certainly, by the time we responded. Communication over such great distances is almost meaningless.

Finally, Mr. President, if we continue to allow NASA to pursue this effort to intercept signals from some hypothetical intelligent civilization, we are sending exactly the wrong signal to the American taxpayer.

We should worry more about improving our ability to communicate with our neighbors on planet Earth and worry a little less about interstellar conversations. In this year of all years we should not fritter away precious Federal dollars on a project that is almost guaranteed to fail. I hope my colleagues will support my amendment to stop this ridiculous waste of the taxpayer's dollars.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, on this amendment, the Senator from Wisconsin and I do not disagree. I realize he has a great deal more experience, having been in the Senate a lot longer than I and trying to find intelligence in Washington. I suppose that, at the very least, if we were going to spend the money, it would make more sense to transfer it for that search, but that probably would be just as wasteful as the Senator has pointed out. I am willing to accept the amendment.

Mr. HUDDLESTON. Mr. President, on this side, we, too, are willing to accept the amendment of the Senator from Wisconsin and commend him for his diligence in ferreting out unnecessary expenditures and seeking to reduce them.

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

The amendment (UP No. 338) was agreed to.

ANNUAL LEAVE PROHIBITION WHILE ON OFFICIAL TRAVEL STATUS

Mr. CRANSTON. Mr. President, with regard to section 415 of the bill as reported, which would prohibit the employees of the agencies covered in the bill from taking annual leave while on official travel status, I share the committee's concern—and in particular the concern of the distinguished ranking minority member, Mr. PROXMIRE, about the cost to the taxpayers of official travel, and I share the committee's desire to restrain spending in that area as much as possible. In my view, the Appropriations Committees' expression of concern about this matter in recent years has resulted in the development of tighter guidelines by some agencies to curtail possible abuses that might occur by employees taking annual leave in connection with official travel.

The VA is one agency that has taken substantial steps to deal with the concerns the committee has raised.

Mr. President, I ask unanimous consent that two VA circulars entitled "Restriction On Use of Annual Leave While On Temporary Travel Duty" be printed in the RECORD at this point.

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

RESTRICTION ON USE OF ANNUAL LEAVE WHILE ON TEMPORARY DUTY TRAVEL

1. Purpose: This circular prescribes revised policy and procedure to be followed prohibiting employees, under normal circumstances, from taking annual leave while on travel status except in unique or emergency situations.

2. Background. The Joint Conference Committee on the HUD-Independent Agencies FY 1980 Appropriation Bill requested that the agencies and departments funded by the bill prohibit the taking of annual leave by employees who are in a temporary duty travel status except in unique or emergency situations.

3. General. An employee's pay and leave status during a period of official travel will be subject to the hours of duty, pay, and leave regulations of the VA. All time must be properly reported on Time and Attendance Reports, and travelers must assure that leave taken while in travel status is promptly reported to unit timekeepers for recording in official records.

4. Policy. Approving officials may not approve official travel where any extended annual leave is involved except in unique or emergency situations. The approving official is responsible for assuring that only essential travel is authorized, and that travel as stated on the travel order is the sole reason for the trip at Government expense. When annual leave is proposed to be used, the Travel Authority for Temporary Duty, VA Form 60–3036, will reflect in block 10, Remarks, the number of days that annual leave is granted and brief statement of justification. A consolidated Travel Authority may not be used for travel involving annual leave.

a. The following are examples of unique situations:

(1) Employees on temporary duty for extended periods (normally more than 2 weeks of official duty).

(2) Employees traveling under permanent change of station orders.

(3) Traveler agrees to take annual leave to take advantage of economy or other types of reduced fares which will result in significant savings to the Government in travel costs.

(4) Other situations where it is not reasonable or economical to the Government to return the person to the official duty station.

b. Annual leave for brief periods, not to exceed 3 days, may be authorized when the approving official determines that the official travel was required to be taken, both as to location and timing; that there is no additional cost to the Government; and that the requested annual leave is purely incidental to the official travel situation.

c. Emergency unscheduled annual leave necessitated by a sudden, urgent, or unforeseen occurrence is not prohibited. Post-approval of the emergency leave will be accomplished on the travel voucher and will be supported by a complete documentation of the circumstances.

5. Other requirements.

a. Each travel authorization for trips which include annual leave in other than an emergency situation must be approved prior to departure by the approving official who must be at least one level higher than normally required, unless such approving official is the head of the VA facility or the highest ranking official of the department or staff office involved. In addition, the justification for the annual leave must be documented and attached to the travel voucher.

b. See MP–1, part II, chapter 2, and MP–5 for explanation of computing per diem on days when annual leave and sick leave are taken while in travel status.

6. Effective date. The provisions of this circular are effective immediately. Management should meet their labor relation responsibilities when implementing this circular.

7. Rescission: This circular expires December 31, 1980.

By direction of the Administrator,
RUFUS H. WILSON,
Deputy Administrator.

RESTRICTION ON USE OF ANNUAL LEAVE WHILE ON TEMPORARY DUTY TRAVEL

1. The Senate Appropriations Subcommittee for HUD-Independent Agencies has requested data concerning incidents where annual leave has been taken in conjunction with official travel by VA employes. Accordingly, field station heads and each department and staff office head in VA Central Office is required to submit a report providing the following information regarding each incident of annual leave taken in conjunction with a travel assignment performed within the period beginning July 1, 1980, and ending September 30, 1980.

2. Reporting Requirements:

a. Traveler's:

(1) Name.

(2) Grade.

(3) Position.

(4) Duty station (name of VA facility).

b. Points of travel (origin, destination).

c. Purpose of travel.

d. Inclusive dates of travel.

e. Number of hours of annual leave taken in conjunction with travel assignment (for title 38 personnel, number of days of annual leave taken should be indicated and separately identified).

f. Reason for permitting annual leave to be taken (response required only for incidents of travel where annual leave in excess of 3 days was taken).

3. This information should be forwarded to reach VA Central Office Reports and Statistics Service (02B21) no later than November 4, 1980. Reports Control Symbol 64–3 has been assigned to this report. This report will be continued on a quarterly basis. Subsequent reports will be input so as to reach VA Central Office (042B21) no later than 10 workdays following the end of each fiscal year quarter, beginning with the quarter ending December 31, 1980.

4. Extension: VA Circular 00–80–38 is extended to December 31, 1981.

5. Rescission: This supplement is automatically rescinded December 31, 1981.

By direction of the Administrator:
RUFUS H. WILSON,
Deputy Administrator.

Mr. CRANSTON. Mr. President, these VA circulars contain strong guidelines that include the restriction that extended annual leave may not be approved in connection with travel except in unique or emergency situations, such as if the employee is traveling in connection with a permanent transfer to a different VA facility, is able to take advantage of reduced travel rates resulting in significant savings to the Government, is detailed on extended temporary duty, or if it is not convenient or economical to the Government for the employee to return to his or her permanent location. Clearly, these guidelines substantially restrict the situations in which annual leave in connection with a business trip would be approved for a VA employee. Thus, I am concerned that an across-the-board blanket prohibition on such travel has been included in the bill even though it is apparent that at least one agency covered by the bill has taken significant steps to curb abuses.

I ask the Senator from Wisconsin (Mr. PROXMIRE) if he agrees that the steps taken by the VA, particularly the express requirement in the guideline that the official travel in question must be the sole reason for the trip at government expense, are responsive to the concerns the committee has expressed about this issue?

Mr. PROXMIRE. The prohibition contained in section 415 of the bill is intended to curb travel-related abuses in order to cut unnecessary Federal spending to the greatest extent possible. I do, however, agree that the VA is being responsive, and congratulate the VA for its responsiveness in this connection. I thank my good friend from California, who is the ranking minority member of the Veterans' Affairs Committee, for raising this matter.

Mr. CRANSTON. I appreciate the remarks of the Senator with respect to the VA's efforts to restrict annual leave in connection with official travel. I think it is important to note that under its guidelines the VA retains some managerial flexibility that provides an opportunity to deal with employee requests for annual leave in a reasonable manner while still curbing the abuses of concern to the committee.

I believe that such managerial flexibility should be preserved especially where an agency is making every effort to place tight controls on leave requests that involve travel at Government expense. I trust that the section 415 problem is not intended to punish agencies that have complied with the committee's previous direction in this regard.

Mr. PROXMIRE. The Senator is correct as to our intention.

Mr. CRANSTON. That being the case, at the very least, I hope that the Senate conferees will make certain that any statutory provision that might be agreed to is carefully focused so as to prevent the abuses that continue to occur while

not penalizing agencies that have already placed significant restrictions on leave granted in connection with official travel.

Mr. SIMPSON. Mr. President, if I might interject at this point. I have listened with care to the Senator's exchange on this point and find myself in full agreement with the concerns expressed by our committee's ranking minority member, Mr. CRANSTON, as well as the goals sought by the committee provision. I have looked into this matter, however, insofar as the VA is concerned, and I believe it has taken the necessary and appropriate steps through its internal guidelines and see no need for any legislation applicable to the VA on this point.

Mr. PROXMIRE. The Senators have my assurances that I will keep their concerns very much in mind and that I will do all I can to make sure that the effort of agencies that have complied, such as the VA, will be taken into account in the agreement that is reached with the House on this provision.

Mr. CRANSTON. I thank the Senator from Wisconsin very much for his help in this matter. I wonder whether the distinguished floor manager, Mr. GARN, would care to comment on this matter.

Mr. GARN. I believe my friend from California, Mr. CRANSTON, and the chairman of the Veterans' Affairs Committee, Mr. SIMPSON, raise a good point. I assure them that I will work with the distinguished ranking minority member of this committee, Mr. PROXMIRE, to develop an agreeable and appropriate resolution of the questions raised with respect to section 415.

Mr. CRANSTON. I thank the Senator from Utah.

THE ST. PAUL DATA PROCESSING CENTER

Mr. DURENBERGER. Mr. President. I wish to share with the senior Senator from Utah a couple of observations and a couple of concerns relative to a portion of the measure that is before the Senate. It is, I suppose, a small part of the responsibility he has here; but in the context of service to veterans, it is fairly significant.

Since the decision was made about 3 years ago to start a process of consolidation of some data processing within the Veterans' Administration, there has been a gradual erosion of appropriate talents and skills from various computer centers serving the needs of veterans in this country, including a major facility that exists in St. Paul, Minn.

The Veterans' Administration's St. Paul Data Processing Center has played an important role in the efficient operation of the Veterans' Administration for nearly 18 years. The center, which employs more than 250 Minnesota people, provides computer support for all VA insurance programs, for debt collection efforts, for a variety of other matters administered through the regional center.

The Veterans' Administration recently proposed termination of the St. Paul center. That termination apparently comes as part of a broader program that consolidates computer services at a single location. I question the rationale for that decision. If services now performed in St. Paul are shifted to another location, the regional center will lose any guarantee of receiving printouts in a timely and efficient manner. The change will mean an increase in manual data processing, and increased costs for the users of the CARS system.

Earlier this year, my colleague, Senator BOSCHWITZ and I sent inquiries both to OMB and the Veterans' Administration, seeking a detailed justification for the closing. We have yet to receive that response. But the House Appropriations Committee apparently shares our concern. Page 49 of this report states that:

One of the primary reasons that the VA has been able to maintain its AVP productivity in the face of constantly changing requirements has been a management philosophy designed to retain flexibility and to resist becoming an overly centralized, rigidly operated bureaucracy. The current plan to close the St. Paul facility discussed above and to centralize its systems and programing personnel at one location represents a departure from that philosophy. While not a unique approach, the physically decentralized ADP systems organization operated by the VA has certainly demonstrated one essential characteristic: It works. The committee urges the VA to reassess the need, the projected economies, and especially the potential affects on customers services priorities which may attend this plan to centralize systems analysis operations. The Veterans Administration should move cautiously in this area, and then only after fully exploring the potential consequences and with broad based management participation.

The Veterans' Administration also appears to be having second thoughts on the consolidation process. I ask unanimous consent that two items be placed at this point in the RECORD—the first, a letter from VA Administrator Robert Nimmo, canceling implementation of the centralized development center program. In that letter, the Administrator states that:

The CDC concept with its commitment to a highly centralized mode of development management, does not offer the flexibility and access to options that are foreseen to be necessary in dealing with the complex issues that the next few years will bring.

I am also enclosing a teletype message from Joe Garrett, chief of the resources division of the department of data collection and telecommunications regarding funding for the center for the next fiscal year.

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

VETERANS' ADMINISTRATION,
July 23, 1981.

[Memorandum]

1. I have thoroughly reviewed the decision to proceed with the remaining phases of the Centralized Development Center (CDC) program. This action was consistent with the philosophy of step-by-step review that was explicitly included in the planning documentation and in the authorization to proceed that was signed by the Administrator on September 1, 1980.

2. The emphasis in this review was directed toward the needs of the VA ADP programs in the next decade, many of which are already coming into focus. Those needs include conversion of the large library of assembly language software, the large scale replacement of obsolete hardware, the system-wide establishment of medical ADP systems and the consolidation of diverse functional systems and data bases. Accomplishment of such tasks must be within stringent funding limitations and with minimum risk involved in maintaining critical programs. The success with which the VA meets these objectives will impact the character of VA operations and service to a degree not experienced in recent years.

3. I have concluded that the CDC concept, with its commitment to a highly centralized code of development management does not offer the flexibility and access to options that are foreseen to be necessary in dealing with the complex issues that the next few years will bring. Therefore, the CDC implementation program is cancelled as of this date. Compensation, pension and education development functions will remain at the Hines Data Processing Center (DPC). The Philadelphia DPC will retain development responsibility for the Insurance System. Development functions presently in place in Austin will be retained but the transfer and recruiting programs related to the cancelled DPC programs will be suspended immediately and development center personnel will be organizationally restored to the Austin DPC as it existed prior to January 1981. Please forward to me by August 24, 1981, your plans for organizing a single DPC with two components (development and operations) in Austin.

ROBERT P. NIMMO, *Administrator.*

WASHINGTON, D.C.,
July 28, 1981

Present congressional action indicates that the St. Paul DPC will remain open during fiscal year 1982. Until such time that we are able to establish overall staffing levels. All hiring of new employees and transferring of current employees between divisions must be approved by me.

JOE GARRETT,
Chief Resources Division, Department of Data Collection Telecommunication.

Mr. DURENBERGER. Mr. President, I recognize that the individual centers are not line items in this appropriations bill. But it is my understanding that the committee has not accepted the administrations position, and has not eliminated funding that could be used by the VA for the center's continuation.

Mr. GARN. Mr. President, I might say to my distinguished colleague that because the subcommittee was sensitive to the concerns that he had and wanted to look into the matter in more depth, we did not support the administration's position, and I am aware of the telegram that the Senator will now place in the RECORD.

I certainly intend to keep an open mind and take a careful look at this situation.

Mr. BOSCHWITZ. Mr. President, at this time I would like to join my colleague Senator DURENBERGER in a colloquy with the distinguished floor manager of H.R. 4034, the HUD-Independent Agencies appropriations bill.

Earlier this year the Reagan administration announced its intention to close the St. Paul Data Processing Center and consolidate its activities with other VA computer centers around the country. The two most significant computer operations performed at St. Paul are a debt collection facility and an insurance facility. A total of approximately 240 people are employed at the center.

The administration said it wanted to

transfer the debt collection facility to a computer center in Austin, Tex., and the insurance operation to Philadelphia. It projected a personnel reduction of about 90, and a corresponding budget savings of $3 million.

However, Mr. President, my colleague Senator DURENBERGER and I asked in letters to the Office of Management and Budget, whether there would be costs in moving these facilities which would negate the projected cost savings.

For example, VA officials in Minnesota estimate that moving the employees who agree to transfer to Texas and Pennsylvania would cost $20,000 per employee. If 100 employees agree to move, that is a cost of $2 million. Further, if some employees decide to retire early as a result of the transfer then retirement benefits must be added to the total cost of the move.

I have requested from OMB a detailed analysis of the cost savings from the shutting down of the St. Paul Data Processing Center. I have received no response.

In the House version of HUD-Independent Agencies appropriations bill there is an explicit directive to the Veterans' Administration not to shut down the St. Paul DPC in the coming fiscal year. The House bill also directs the VA to furnish Congress, as soon as possible, with a plan covering all VA computer needs for the next 3 years.

Senator DURENBERGER has already submitted for the RECORD a memorandum from Robert Nimmo, the new Administrator of the VA. In this memo Mr. Nimmo points out that a highly centralized computer system would be inflexible and ultimately unworkable. He therefore cancels the VA's plans for consolidating a number of computer functions around the country.

UP AMENDMENT NO. 339

(Purpose: To provide an appropriation of $10,000,000 for the congregate housing services program)

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. CHILES, Mr. GLENN, Mrs. KASSEBAUM, Mr. COHEN, Mr. PRYOR, Mr. GRASSLEY, Mr. CRANSTON, Mr. PACKWOOD, Mr. WILLIAMS, Mr. BRADLEY, Mr. TSONGAS, Mr. BURDICK, Mr. MELCHER, Mr. DURENBERGER, Mr. PERCY, Mr. ROBERT C. BYRD, Mr. PRESSLER, Mr. LEVIN, Mr. RIEGLE, Mr. DODD, Mr. SASSER, Mr. KENNEDY, and Mr. BENTSEN), proposes an unprinted amendment numbered 339.

Mr. HEINZ. 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 5, between lines 19 and 20, insert the following:

CONGREGATE SERVICES PROGRAM

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000 to remain available until expended.

Mr. HEINZ. Mr. President, I shall take only a few moments of my colleagues' time to explain that this amendment would add $10 million to H.R. 4034, the HUD and independent agencies appropriations, to fund the congregate housing services program. Without the amendment, no new fiscal year 1982 project funds will be provided.

Last spring the Congress rescinded the $10 million fiscal year 1981 appropriation for the congregate housing services program. At the time the Senate acted on the rescission, I voiced a number of concerns. In my statement I emphasized my special concern about the Appropriations Committee's simultaneous recommendation that no funding be provided to the congregate housing services program in fiscal year 1982. I had hoped that the Appropriations Committee would review the data on the program, which indicate enormous potential savings to the Federal Government, and reverse their recommendation on the necessity of providing additional funding. I was most disappointed that the committee's position has remained unchanged.

I have been talking extensively with the chairman of the Appropriations Subcommittee, Chairman GARN, about this amendment. He has been extremely sensitive and understanding. I believe he feels that he will be able to accommodate my proposal because he has his own amendment to reduce the amount originally recommended by the committee for troubled projects. The amount of reduction is required to bring appropriation in line with the level of authorization agreed to by the housing conferees. The result of our two amendments will be a net decrease to the total appropriations reported by the committee. I am pleased that the Senate will be continuing its support for the congregate housing services program in fiscal year 1982. Hopefully, Chairman GARN will be able to persuade the House to agree with the Senate on this issue during the upcoming conference on the bill.

Because of the present and future importance of the congregate housing services program to the many low-income elderly and handicapped in this Nation, I would like to offer some comments on the program's merits and my amendment.

The congregate housing services program was first authorized in 1978. The major purposes of the legislation were threefold. First, to prevent the unnecessary institutionalization of low-income elderly and handicapped persons who have some functional disabilities. At the time, it was conclusively demonstrated that placement in nursing homes could be delayed or prevented if some basic support services were made available in a residential setting. Second, to encourage the construction of housing projects that are designed to meet the needs of the partially impaired elderly and handicapped. Third, to reduce medicare, medicaid, and other health-related expenditures.

Under the program, HUD awards 3- to 5-year grants to local public housing authorities and nonprofit 202 housing sponsors. The grants provide for nutritional meals and other supportive services, such as personal care. The law specifically prohibits the duplication of existing local services. Program participants are required to pay for the services they receive based on their ability to pay.

Since enactment of the legislation, 40 congregate housing services projects have become operational serving almost 1600 elderly and handicapped citizens. Another 15 projects should become operational in the near future. Preliminary data collected by HUD and the American Association of Homes for the Aged from currently operating projects indicates that the program has been overwhelmingly successful in achieving its purposes. Premature institutionalization is being prevented, thereby protecting low-income elderly and handicapped individuals from an unnecessary loss of independence, an immeasurable tragedy.

Further, the development of housing designed for the partially impaired elderly and handicapped is being stimulated. Lastly, Federal health-related expenditures are being reduced. Using the most conservative of analytic assumptions, every dollar spent in congregate housing services potentially is saving two medicaid dollars. Information from some projects suggest even greater savings.

Because of the demonstrated success of the congregate housing services program, I am somewhat baffled by the lack of support it has been given by the previous and current administrations, as well as the Senate Appropriations Committee. In this instance, it would seem that our zeal to reduce Federal spending is undermining the very goal of fiscal responsibility we are seeking to achieve. The cost of the unnecessary institutionalization of elderly and handicapped persons eligible for assisted housing is already being borne by the Government. Information from the Department of Health and Human Services indicates that up to 40 percent of our older Americans currently in nursing homes could return to the community if more appropriate services were available. If these figures regarding inappropriate placement are correct, potential savings to the medicaid program through funding of community-based services programs—like the congregate housing services program—is high.

Last spring the Appropriations Committee stated its preference for funding the program as a limited pilot until its effectiveness could be evaluated. For that reason the committee argues that the $20 million appropriated in two previous years would be sufficient to assure an adequate evaluation. But the authorizing committee never intended the program to be a pilot program. Nothing in the statute of the committee's report

language characterizes the program in this manner. And nothing in the program's experience indicates the need to wait for further funding until an evalution on cost efftctiveness can be made. The program was assumed to be cost effective when it was authorized. Therefore, the real question is not whether but how much can be saved.

During the last few days the newspapers have indicated that the elderly, in particular, believe that their legislators may not continue funding for programs assisting them. By not providing funding for the congregate housing services program, many older Americans could have their fears confirmed. My amendment has been cosponsored by 24 Members of the Senate representing a wide variety of political views. It affords the Senate the opportunity to continue a proven, cost-effective form of community-based care and, at a savings to the American taxpayer. Finally, it is consistent with our intent to target Federal assistance to the neediest of our citizens. Needless to say, I am very grateful to Chairman GARN and Senator HUDDLESTON for their help, on this amendment.

Mr. GARN. Mr. President, I am sure the Senator from Pennsylvania knows that Senator HUDDLESTON and I have had a difficult time with this bill in meeting our budget targets, and so I do not object to the amendment. The Senator from Pennsylvania has stated it correctly. However, it is necessary for me immediately upon accepting his amendment to offer another amendment which will reduce funding in another HUD account, so that we are not increasing budget authority or outlays in the bill.

So with that understanding, I am willing to accept the amendment of the Senator from Pennsylvania, and then will immediately, if it is accepted by the minority, propose an amendment to cover the costs.

Mr. HEINZ. Mr. President, I thank the Senator from Utah for his great assistance in this matter.

Mr. DODD. Mr. President, the Congress passed the Congregate Housing Services Act in 1978 to provide necessary meal, housekeeping and personal care services for our senior citizens and handicapped individuals who do not require continuous institutionalized nursing home care. Congregate housing is a proven concept which provides the infirmed elderly or handicapped with a variety of services in a coordinated, efficient fashion, thus enabling them to live on their own. The only alternative to congregate housing for those who qualify is nursing home care, an alternative which often takes away the right to control one's personal destiny and dignity. Nursing home care is viewed as a last resort option because like other forms of institutionalization, it may easily lead to apathy, loss of self-esteem, dependency, and depression. Recent studies have shown that anywhere from 20 to 40 percent of the patients in nursing homes do not need 24-hour-a-day institutional care. Given assistance with daily tasks, they can enjoy the independent lives they have been accustomed to.

Mr. President, nursing homes are not only costly in terms of a patient's self-esteem, but they also cost much more in Federal revenues that congregate housing projects do. Of the $9.68 spent daily to house each resident of a congregate housing project, only $6.14 comes from the Federal Government. In contrast, the Federal Government pays from $10 to $33 per day to keep one patient in a nursing home. Given the severe fiscal constraints we are facing now in this country, we must use the most cost effective and humane means possible for housing our frail and semidependent senior citizens. Congregate housing is clearly that means. I wholeheartedly support this amendment and am pleased to be included as a cosponsor of this action to provide $10 million to support these services in the upcoming fiscal year.

Mr. PERCY. Mr. President, I am pleased to cosponsor the amendment offered by the distinguished Senator from Pennsylvania and chairman of the Special Committee on Aging (Mr. HEINZ).

The amendment we are offering simply adds to the bill $10 million for congregate housing services for fiscal year 1982 which H.R. 4034 chose to delete. This amount will be more than offset by the amendment Senator GARN will offer later.

The Congregate Housing Services Act enacted in 1978 with my cosponsorship authorized the Department of Housing and Urban Development to award grants to PHA and section 202 housing sponsors to provide nutritional meals and supportive services to partially impaired elderly and handicapped persons allowing them to remain in their own dwellings and out of expensive institutions. These 3- to 5-year grants require supplemental funding from other community sources to support the delivery of social services. The law specifically prohibits the duplication of existing services and sets up a procedure for coordinating existing services with congregate housing services through the area agencies on aging. Program participants are required to pay a fee for the services they receive based on their ability to pay.

The congregate housing services program provides at least two meals per day, 7 days per week at a central dining facility; homemaker, housekeeping and personal assistance; and counseling and transportation can be included if the need exists.

In enacting the congregate housing services bill, Congress was responding to two pressing realities—the growing number of frail Americans and the skyrocketing cost of health care. At that time, overwhelming evidence was presented to the authorizing committee demonstrating that the provision of relatively low-cost meals and other support services in a residential setting would prevent premature, expensive institutionalization in nursing homes as well as unnecessarily long hospital stays. Thus, it was assumed that successful implementation of the CHSP would result in significant savings to the medicare and medicaid programs. Equally important, the program was created to protect low-income elderly and handicapped individuals from a loss of independence, which when unnecessary, is a human tragedy.

Forty CHSP projects are now operational. HUD assumes that when all projects are operating 1,800 to 2,000 elderly and handicapped will be served by CHSP. Preliminary data indicates that at least $2 can be saved for every $1 spent under the congregate services program.

I hope the Senate will accept this amendment and keep a very worthwhile and cost effective program running.

Mr. DURENBERGER. Mr. President, I support this amendment to transfer funds to continue the congregate housing services program (CHSP). It is a proven method of allowing senior citizens greater freedom and independence while also saving substantial sums for the taxpayers.

The CHSP program was first passed in 1978 and funded in 1979 in response to the growing number of elderly and the mushrooming cost of health care. The program authorized HUD to award grants to public housing authority and section 202 housing sponsors to provide nutritional meals to partially impaired elderly and handicapped persons.

CHSP projects provide at least two meals daily every day of the week, housekeeping services, and other services such as transportation if the need exists. The law clearly prohibits duplication of local services.

This is not an indiscriminate giveaway program. Participants pay a fee for the services they receive based on their ability to pay. According to HUD the daily cost of providing these services is $9.85 per person with the Federal portion being only $6.14. This is a tremendous savings compared to daily nursing home reimbursements ranging from $25 to $65.

Even more importantly, CHSP grantees have shown again and again that many of their residents who have been scheduled to move into institutions have been able to remain in their own apartments with the help of these services. This is an infinitely better solution for the mental health and vitality of the elderly and quite possibly the physical health as well.

The authorizing committees never intended for this program to serve as just a pilot program. CHSP projects are now underway, serving approximately 1,800 elderly and handicapped persons. More are needed.

The Department of Health and Human Services has data suggesting that up to 40 percent of the elderly who are currently institutionalized could return to the community with sufficient support service availability. There are 660,000 elderly residents in PHA and section 202 housing projects and many of them could take advantage of congregate housing services.

I think it is vitally important that we continue to fund this program. There is strong evidence that it is saving $2 for every $1 spent. We are going to experience a tremendous surge in our elderly population in the coming years. We must continue the evaluation process, but we cannot afford to let such an outstanding effort lag. It is an innovative, caring way

to help many of our most vulnerable citizens in an efficient, cost-effective manner.

I urge my colleagues to support this amendment.

● Mr. HAYAKAWA. Mr. President, I am pleased to lend my support to a housing plan that could revitalize the lives of our frail and low-income senior citizens. Today we have the opportunity to give congregate housing a chance by approving the funds needed to continue these demonstration projects.

With the aid of HUD section 202 dollars, 40 congregate housing projects are open and operating, in the third year of their 4-year authorization. Are we going to limit the program by cutting off appropriations for fiscal year 1982 when we should approve them so that sufficient evidence for its evaluation can be obtained?

I support the intent of Senator HEINZ'S amendment—to continue the congregate housing program. I would also like to emphasize that Mr. GARN'S amendment has compensated for the $10 million needed to finance these projects next year. This additional money will not increase the total HUD and independent agencies appropriation for fiscal year 1982.

Congregate housing for the elderly is not a new idea. Especially in the last decade, this concept has gained popularity and many types of group living situations have been tested. These were radically different, however, from today's proposal. They were basically shelters with no nutrition programs and no on-site support systems. The residents, anxious to preserve their independence, actually lost it due to lack of support systems to meet their daily needs.

Today's proposal would preserve the benefits of the previous congregate housing arrangements—noninstitutional facilities where frail and low-income senior citizens can live and maintain their independence. But it will enhance the former programs with support services for physical, mental, and social assistance and enrichment. I would like to outline some of the support provisions currently being tested at these pilot housing projects.

Each resident lives in his own apartment unit and pays rent totaling 25 percent of his disposable income minus medical costs. Occupants may cook meals in a basic kitchen or eat in the congregate dining room at each facility. The availability of nutritious, low-cost meals at the facility is a major improvement over past congregate housing plans. In addition, residents can use the dining room between mealtimes for enrichment and community activities. Congregate dining rooms are hosting adult education courses, recreational activities, and other extensions of the community which frail residents can experience without leaving the building.

Aides at the congregate housing complexes assist residents with grooming, house cleaning, and personnel care needs such as bathing, dressing, and changing bandages. Use of prescription medicines is monitored by on-site licensed practical nurses and registered nurses who administer all medicines prescribed by physicians for residents.

Janet Levy, director of the California State Department of Aging, has worked with many of the current pilot projects. She has observed that the congregate living arrangement fosters informal support systems among the residents themselves. She attributes this to the assurance provided by the on-site support systems. When the elderly are not struggling to survive on their own, they reach out to each other. In many of the existing demonstration projects, the residents take care of one another. They often build their own support systems, and have a sense of sharing in each other's lives. This is all possible while they preserve their self-esteem and independence in their own living unit.

At the time of congressional approval of these projects, overwhelming evidence was presented about projected health care savings. It was believed that the support systems of these residences would prevent and/or delay nursing home placement and hospitalization. Early studies of existing projects show that the original congressional expectations for savings are being realized. The projects are paying for themselves through savings resulting from lower medicaid claims among residents.

I urge my colleagues to support the amendments proposed by Senator GARN and Senator HEINZ. Together, they will allow for the continuance of the congregate housing projects which are proving to enrich the golden years of America's frail and low-income senior citizens.●

Mr. HUDDLESTON. Mr. President, on this side of the aisle we accept this amendment, also, under the conditions that have been outlined by the Senator from Utah.

Mr. HEINZ. Mr. President, I thank the Senator from Kentucky for his great help in this matter, also. I am deeply appreciative, and I am prepared to yield back the remainder of my time.

Mr. GARN. Vote.

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

The amendment (UP No. 339) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 340

(Purpose: Reduces amounts provided for HUD Troubled Projects to conform to reconciliation agreement)

Mr. GARN. 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 Utah (Mr. GARN) proposes unprinted amendment numbered 340.

Mr. GARN. 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 6, line 7, strike "50,176,000" and insert "4,000,000".

Mr. GARN. Mr. President, last week the House-Senate conferees on the reconciliation bill accepted a House provision which reduced the amount available for trouble projects from $50.176 million to $4 million. The House bill contained a provision to amend section 201(h) of the Housing and Community Development Amendments of 1978 to authorize to be appropriated for the purpose of providing assistance to the troubled multifamily housing projects not to exceed $4 million for fiscal year 1982. The Senate amendment contained a similar provision, except it authorized to be appropriated not to exceed $50.176 million for fiscal year 1982 and $50.176 million for fiscal year 1983. The conference report contains the House provision.

Therefore, this amendment that I have sent to the desk is to make the necessary change, and I call for its immediate consideration and ask for a voice vote.

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

The amendment (UP No. 340) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 341

(Purpose: To prohibit the Environmental Protection Agency from forcing States to adopt vehicle emission control inspection and maintenance programs)

Mr. HEINZ. 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 Pennsylvania (Mr. HEINZ), for himself, Mr. SYMMS, Mr. HATCH, Mr. ANDREWS, Mr. LUGAR, Mr. HELMS, Mr. D'AMATO, and Mr. LAXALT, proposes an unprinted amendment numbered 341.

Mr. HEINZ. 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, line 19, strike the period and insert in lieu thereof the following: ": *Provided further*, That none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.".

On page 17, line 20, strike the period and insert in lieu thereof the following: ": *Provided further*, That none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.".

Mr. HEINZ. Mr. President, today I am proposing an amendment that I believe is absolutely essential of, we believe, one

word of the rhetoric in this Capitol about reining in runaway bureaucracy, because in this instance we have a bureaucracy at the Environmental Protection Agency that is running at this very moment amok in some 29 States and maybe more as we talk.

I am referring to the EPA mandate that is absolutely needlessly imposing costs on consumers, on taxpayers, and imposing nuisance burdens as well on American motorists, on virtually every single motorist in this country. EPA is doing so before Congress has an opportunity to review the Clean Air Act, which could be quite some time.

Specifically, this amendment provides for a 1-year moratorium on the use by EPA of coercion and the threat of sanctions to force States to adopt potentially extremely costly vehicle emissions or tailpipe inspection and maintenance programs, the so-called inspection and maintenance programs.

I have tried to be very, very restrained and responsible in this amendment. It is a 1-year amendment. It is a 1-year moratorium. It is not an attempt to change the policy for all time, but it is an amendment to try to get us enough time so that we can address the substance of the issue—and I see the Senator from Vermont here on the floor—in the Clean Air Act reauthorization that the Environment and Public Works Committee is working on.

This 1-year moratorium is necessary for three reasons. The first is that despite the insistence that States adopt the tailpipe inspection and maintenance program, the fact is—and we looked high and low and it does not seem to make any difference where we look—that the Environmental Protection Agency is totally unable to demonstrate that the inspection and maintenance program is a cost-effective means of reducing ambient air levels of ozone and carbon monoxide—or, for that matter, leaving aside the question of cost-effectiveness, whether it will even lower those levels of ozone or carbon monoxide at all.

The second reason for the moratorium is that there is considerable reason to believe that EPA already has the discretionary authority to go slow on the inspection and maintenance program until Congress completes its review of the Clean Air Act, but is unwilling or unable or blind, but certainly is unwilling, to halt or go slow on the use of this provision. That, I believe, Mr. President, is contrary to the intent of Congress.

The third reason I propose this amendment is for the sake of consumer protection, so that those who can least afford to pay the additional costs—and in some cases they are going to be very large, very heavy, and very unexpected—of an inspection, and mandatory maintenance will not have to do so. You go and drive into a garage, and the guy is going to say, "That needle tells me you have got to do a whole bunch of things to your car, and here is the bill. I just did them." I do not think that people really are going to welcome having to shell out another $50 or $100 or maybe even more than that amount once, maybe even more than that, twice a year.

Mr. President, let me expand briefly on some of those points.

Despite its insistence that States adopt inspection and maintenance, EPA has been unable to demonstrate that inspection and maintenance is a cost-effective means of reducing ambient levels of ozone and carbon monoxide—or that inspection and maintenance is even effective at all.

By way of background, let me explain that in my State of Pennsylvania, an inspection and maintenance program is mandated to begin on May 1, 1982. In both houses of the Pennsylvania general assembly, the bipartisan leadership has expressed its intense opposition to the inspection and maintenance mandate—to the point where last year the legislature was willing to risk Federal sanctions by voting to cut off inspection and maintenance funding for the Pennsylvania Department of Transportation. In addition, the Governor has expressed his strong opposition to the program and has repeatedly sought a delay. I ask unanimous consent that a letter from Governor Thornburgh to the speaker of the Pennsylvania House of Representatives, Matt Ryan, be inserted in the RECORD at this point.

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

OFFICE OF THE GOVERNOR,
Harrisburg, Pa., June 2, 1981.

Hon. MATTHEW J. RYAN,
Speaker of the House, House of Representatives, Harrisburg, Pa.

DEAR MATT: On May 20, 1981, U.S. District Court Judge Louis Bechtle in Philadelphia ordered the Commonwealth to file on or before June 1, 1981, a plan for the immediate implementation of the inspection and maintenance of automobile emission systems, known as the "i/m program," in southeastern counties, including Philadelphia, and southwestern counties, including Allegheny.

I do not agree with this order, and yesterday, at my instruction, the Office of General Counsel through its attorneys assigned to the Pennsylvania Department of Transportation, filed with the Court a motion for reconsideration and will be seeking a stay of the order to implement the i/m program. I have serious reservations about the program as presently proposed, as well as the growing tendency of federal courts to dictate how state funds should be appropriated and expended.

I believe that the Court's action was based on incomplete and inappropriate air quality information provided to it by the U.S. Environmental Protection Agency (EPA). The Court failed to provide an opportunity for the Commonwealth to respond to the EPA's contentions. Most importantly, it denied the postponement of implementation of the tests despite EPA's public position in favor of such relief.

The Commonwealth is seeking permission from the District Court to defer the start-up date for the i/m program until Jan. 1, 1983. Such a postponement will insure that any emission program on Pennsylvania places the least economic burden on our citizens while the state continues to work for the improvement of air quality under present federal law. This also will allow time for new, more efficient testing equipment to be manufactured and for proper certification of inspection stations.

The i/m program was mandated by a 1978 consent decree which was negotiated and signed by then Gov. Milton J. Shapp, the EPA and the Delaware Valley Citizens' Council for Clean Air. That agreement required Pennsylvania to begin testing automobile emissions. Since my Administration assumed office in January, 1979, we have consistently raised questions and expressed concerns about the effectiveness and fairness of this program. These questions and concerns have yet to be answered. In the meantime, under the Carter Administration, we were threatened with the loss of substantial federal highway and sewage disposal funds if we did not proceed with this program.

At our initiative, the original consent decree was amended in July of 1980 to postpone commencement of the program until May 1, 1981. During 1980, the state also initiated discussions with EPA regarding utilization of an improved emission analyzer for this program. A September, 1980, EPA report recommended "the use of a computer operated emission analyzer which features automated quality control and data handling and collection functions." The report said that "this type of instrument will significantly improve the quality of data and tests where it is used, and will dramatically reduce the likelihood of operator error or maloperation."

Thereafter, responding to national policy direction, EPA's regional office agreed to the Commonwealth's request for a further extension of the i/m start-up date until Jan. 1, 1983. The Delaware Valley Citizens' Council for Clean Air, however, would not agree to the extension and objected to it in federal court.

The EPA's agreement to an extension reflects its recommendation that states adopt the new EPA analyzer specifications. As cited in EPA Technical Report No. EPA–AA–IMA–80–5–A:

"This report recommends state adoption of the EPA instrument specification because it is the only specification which can assure instrumentation that will provide accurate and repeatable emission measurements. . . Additional lead time to procure instruments meeting the computer operated instrument specification may be required. . ."

Immediate implementation of the Shapp consent decree would require the state to impose mandatory inspection and maintenance of pollution control systems for gasoline-powered passenger vehicles and light trucks owned by citizens residing in Allegheny, Beaver, Butler, Washington, Westmoreland, Philadelphia, Bucks, Chester, Delaware and Montgomery counties. Experience in other states which have emission inspection programs has shown that they result in considerable repair costs to consumers. If this program is permitted to take effect, the Department of Transportation estimates that 3.7 million vehicles would be affected with total inspection and repair costs as high as $55.6 million. The Department estimates that it would cost $1.3 million alone to put this program into operation.

Finally, it should be noted that EPA's analysis of ambient levels of ozone, which was relied upon by the court, is misleading and was not even conducted in accordance with EPA's own published trend analysis procedures. We are seeking the opportunity to present to the court the facts regarding this matter.

This Administration remains committed to ongoing efforts to improve air quality for the citizens of Pennsylvania. We have an obligation, however, to take all appropriate steps to insure that any federally-mandated program to achieve that goal be as equitable and cost-effective as possible. We believe that substantial costs and regulatory burdens should not be imposed on any group of citizens in this state, particularly when the justifications for such burdens remain subject to legitimate questions.

We stand ready to work with you as we attempt in every possible way to obtain a just and equitable resolution of this matter. We will keep you informed of future developments.

Sincerely,

DICK THORNBURGH,
Governor.

Mr. HEINZ. Now, I wish to continue with the case history of inspection and maintenance in Pennsylvania.

Because of the overwhelming opposition to inspection and maintenance in my State, back in February I asked EPA to delay the mandatory requirement until the agency could demonstrate that inspection and maintenance represented a cost-effective method of improving air quality in Pennsylvania. I am incredulous that this question was not asked—and answered—by EPA before the State of Pennsylvania was threatened with losing its Federal highway money, with losing its sewage treatment construction grants, money, and with no growth permitting requirements. So I sent a letter to EPA in February asking this and a few other simple questions; I ask unanimous consent that a copy of this letter be inserted in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., February 11, 1981.

Mr. WALTER BARBER,
Acting Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. BARBER: This is to request that the Environmental Protection Agency delay the requirement that a vehicle emissions inspection and maintenance (i/m) program begin in 12 Pennsylvania counties on May 1, 1981. Such a delay should be granted until EPA can conclusively demonstrate that the i/m program will provide a cost-effective means of reducing ambient levels of ozone and carbon monoxide in those Pennsylvania counties where it is to be required.

As you know, the National Commission on Air Quality will present its recommendations for amendments to the Clean Air Act to Congress on March 1. A preliminary staff draft report of the Commission suggests possible modifications to the i/m requirement now contained in the Clear Air Act, including:

Requiring I/M programs only in areas that cannot demonstrate attainment by 1985 or 1987; and

Eliminating the requirement that i/m be mandatory in areas not attaining ambient air quality standards, leaving it to State and local discretion to adopt i/m.

Because congressional debate on amendments to the Clean Air Act will begin shortly after the Commission's report on March 1, I am now in the process of reviewing legislation that would make the i/m program optional and allow it to be required only where it can be demonstrated to represent the most cost-effective means of obtaining ambient air quality standards for ozone and carbon monoxide. During the next few weeks I plan to hold a series of meetings in areas of Pennsylvania subject to the i/m requirement to solicit citizen comment and determine what the effects of the i/m program are likely to be. Based upon these meetings—and the evaluation I am requesting from EPA—I shall then decide what modifications to the Clean Air Act may be necessary.

I therefore request that implementation of the i/m program be delayed until EPA can provide satisfactory answers to the following questions:

(1) What evidence is there that the i/m program will result in significant improvement in ambient levels of ozone and carbon monoxide in Pennsylvania?

(2) Is the i/m program the most cost-effective means of effecting these reductions in Pennsylvania?

(3) Is the i/m requirement mandated in the 1977 amendments now obsolete in view of the effect of higher gasoline prices, which is reducing automobile travel, and the improved pollution control equipment installed on new automobiles?

(4) Because vehicles coming off the assembly line are inspected only on a random basis—whereas all vehicles will be subject to the i/m requirement—is it possible that consumers will end up paying to repair equipment that was defective at time of purchase?

(5) Is EPA's performance warranty for pollution control equipment an equitable, workable, and enforceable means of protecting the consumer from unjustified expense and repair shops from questionable claims?

(6) Is the i/m requirement consistent with other provisions of the Clean Air Act, which set ambient air quality standards but in most instances leave the attainment mechanisms to the discretion of the States in the development of state implementation plans (SIP's).

Thank you for your prompt attention to this request.

Sincerely,

JOHN HEINZ,
U.S. Senate.

Mr. HEINZ. I am amazed that here we are at July 30, and to this day EPA has not given us an answer to this question. Instead, EPA is proceeding with its threats, threatening to cut off our sewage treatment grant money, threatening to cut off Federal highway funds, threatening us with stringent no-growth requirements. So what EPA is doing is they are saying, "We are going to run your State from Washington and we are not going to bother to justify that action to you or your constituents."

Mr. President, there are nearly 30 States that are in exactly the same situation. I know because I have talked to a number of the Members from those States who are pretty concerned about this issue, and they were over in the House of Representatives. Congressman DANNEMEYER offered an amendment over there which just barely failed by a handful of votes, by seven votes to be precise. I know there are a lot of people in here, even though their States are not under a direct mandate, who know that some day they could be, and that this kind of precedent, if they allow it to go unchallenged, is the kind of precedent that will come back and bite not once but several times.

Well, we have been bitten enough. There was a vote last November by the people of the United States—a very overwhelming vote. It brought us a new change of leadership in the Senate and very different people downtown. What they said in no uncertain terms to Washington, D.C., and to the overzealous regulators is: "Stop biting us. You took a chunk last year and the year before and those bites have got to stop." And I will leave it to your imagination where people feel they are being bitten—it is very close to the pocketbook.

Well, Mr. President, I said that EPA did not come up with any evidence to support their alleged allegation or supposition or whatever it is they believe, because, frankly, they have not told us what they believe, that this program is cost-effective.

I am still waiting for some facts from EPA, although I never expect to receive an answer, because I do not think that EPA can justify the program—on cost-effectiveness grounds, on health effects grounds, or on any other grounds.

In fact, there is considerable evidence that the program is a colossal waste of money.

I have in front of me, for example, a copy of remarks recently given by Dr. Kay H. Jones, professor of environment engineering at Drexel University in Philadelphia. Dr. Jones' remarks were entitled: "Are i/m Programs Necessary to Achieve the Nation's Air Quality and Public Health Goals?" Dr. Jones answers this question by concluding:

In summary it does not appear that the i/m program espoused by EPA has merit insofar as air quality and public health needs are concerned . . . let's not continue to deceive the public into believing that a 0.2 billion dollar per year expenditure is needed to protect public health and welfare.

Nor is Dr. Jones alone in his assessment.

The Illinois Environmental Protection Agency testified before the Senate Environment and Public Works Committee last month—

For many localities where the law now mandates i/m careful examination of the costs and benefits of the program may lead to a conclusion that it is simply not warranted.

In fact, Illinois estimated the cost per ton of reducing hydrocarbons by i/m at $4,767 per ton—four times as great as the weighted average cost per ton of stationary hydrocarbon source controls adopted by Illinois in 1979.

The Texas Air Control Board analyzed the costs and benefits of i/m and recommended to the 67th Texas Legislature:

The Board is unable to recommend implementation of a vehicle emissions testing program as a prudent air pollution control strategy at this time.

In California, the reduction in pollution resulting from i/m was estimated at 3 percent back in 1979 by Air Resources Board Chairman Tom Quinn—at a cost of close to $500 million the first year alone. For this and other reasons the California Legislature has refused to appropriate funds for the program and the State is now facing Federal sanctions.

How has EPA responded to all this evidence?

By continuing to force State after State to adopt i/m—or else. Or else face a cut off of Federal highway moneys. Or else face a cut off of sewage treatment construction grant moneys. Or else face no-growth permitting restrictions on industrial expansion.

The bureaucrats at EPA have already subjected two States to these sanctions: California and Kentucky.

Eleven other States adopted i/m programs after being threatened with sanctions: Pennsylvania, Michigan, Missouri, New York, Maryland, New Mexico,

Colorado, Idaho, Indiana, Virginia, and Ohio.

In my State, the program is being implemented in 12 counties—only 12 out of 67. Now not all of my constituents have a Ph. D. in environmental engineering as does Dr. Kay Jones; but most of them have been able to figure out that air sometimes crosses county lines. And many of them have already been figuring out ways to circumvent the county-by-county requirement.

Now how might they be planning to do that? Well, there seems to be a run on post office boxes in adjacent counties in Pennsylvania. And there seems to be some suspicion that people are going to register their cars in those adjacent counties that are not covered by this mandate.

Now I do not happen to condone anybody violating the letter or the spirit of the law. But, frankly, Mr. President, this is the kind of law that invites not only disrespect for the law in general but for Government in general.

Now we are all politicians. We are, in Government, very proud of our chosen professions. And I think that when we give an untenable grant of authority to an agency and it is wrongly used and we do not do anything about it, that we do not invite the public to hold us in the high repute we would like them to.

But to get back to my point that the program is not cost effective. Although no one seems able to quantify the benefits of i/m, the costs are very quantifiable indeed. The Pennsylvania Department of Transportation estimates that total inspection and repair costs will be as high as $55.6 million. Many elderly residents with older cars fear that the costs of repairs may force them to sell their only means of transportation.

How can all this be justified?

EPA says that regardless of the cost, regardless of its inability to document the benefits, regardless of the fact that i/m will be receiving careful scrutiny by Congress whenever the Clean Air Act reauthorization is taken up, it has to threaten and browbeat States into adopting i/m because that is the law.

But does the law really say what EPA says it does?

That brings me to the second major justification for this amendment.

There is considerable reason to believe that EPA already has the discretionary authority to "go slow" on i/m until Congress completes its review of the Clean Air Act.

By now most of you have probably seen a "Dear Colleague" letter signed by the distinguished chairman and ranking minority member of the Environment and Public Works Committee. This letter claims that the Clean Air Act as amended in 1977 requires nonattainment areas for ozone and carbon monoxide to have implemented i/m programs by 1981—or automatically face Federal sanctions.

But what does the law really say?

Section 172 of the act requires the State implementation plan to include certain provisions for nonattainment areas—including an i/m program.

Section 176 requires Federal sanctions, and I quote:

Where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982).

The key word, Mr. President, is "considers."

As I understand the verb "consider," it means to think about, to ponder, to weigh, to contemplate, to analyze.

The Texas Air Quality Board considered i/m—and found it to be an imprudent pollution control strategy.

But EPA defines "consider" to mean "reaching the conclusion that the bureaucrats at EPA say you should reach."

In fact, Representative WILLIAM E. DANNEMEYER, Republican of California, who offered an amendment similar to mine that was narrowly defeated on the House floor, asked the Congressional Research Service to analyze just what EPA was actually required to do by the statute and in view of the legislative history.

The American Law Division at CRS responded with a 16-page analysis, the full text of which I ask unanimous consent be inserted in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., July 16, 1981.

From American Law Division.

Subject Issues Related to Vehicle Inspection and Maintenance Programs Under the Clear Air Act

This memorandum is to review our discussion of the above subject at a meeting on June 27, 1980.

You asked us whether there was statutory Authority elsewhere in the Clean Air Act for the Administrator of EPA to impose the ban on new construction in non-attainment areas that is mentioned in section 110(a)(2)(I) of the Clean Air Act.

In response to this question, your attention is directed to section 113(a)(5) of the Act which states:

"(5) Whenever, on the basis of information available to him, the Administrator finds that a State is not acting in compliance with any requirement of the regulation referred to in section 129(a)(1) of the Clean Air Act Amendments of 1977 (relating to certain interpretative regulations) or any plan provisions required under section 110(a)(2)(I) and Part D, he may issue an order prohibiting the construction or modification of any major stationary source in any area to which such provisions apply or he may bring a civil action under subsection (5)."

Your second question addressed the relationship of section 172 to section 176 of the Act and specifically asks if the EPA's interpretation of its authority to cut off funds under section 176 is consistent with the Act.

Sections 172 and 176 are in Part D of the Act—Plan Requirements for Non-attainment Areas.

Section 172 requires the state implementation plan that is required under Section 110 to include certain provisions with respect to areas that have not attained the primary or secondary national ambient air quality standards. Section 176 requires that the approval of certain projects and the awarding of certain grants under the Clean Air Act and Title 23 of the United States Code, be withheld as to air quality controls regions in which transportation control measures are necessary to attain national ambient air quality standards and

"(3) where the Administrator finds after July 1, 1979, that the Governor has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982)."

The establishment of a schedule for implementation of a vehicle emission control inspection and maintenance program (referred to in this memorandum as an I/M program), is one of the elements listed under section 172(b) of the Act.

As will be discussed more fully, the EPA has issued guidelines as to what it deems to be adequate consideration of the required elements of section 172. It is possible that the agency may have indicated a different stance in its communications with your state, but because these documents are not available to us, the issue will be analyzed in terms of the agency's published position.

The EPA has indicated that adequate consideration of all the required elements of section 172 includes an affirmative duty to incorporate required elements into a revised SIP in a manner consistent with the intent and purpose of the Act. With respect to I/M programs, this means the inclusion in the January 1, 1979 SIP revision (which are the revisions now under review) of a schedule that in all cases provides for the implementation of an I/M program as expeditiously as practicable, but definitely by the deadlines set by the agency.

You have asked us whether, in view of the use of the general word "consider" in section 176, the Administrator can terminate federal grant funds to a state that had made the demonstration for an extension of time under section 172(a)(2) and whose SIP revision has considered an I/M program but has not yet complied with EPA guidelines interpreting the requirements of section 172.

Each of these parts to the whole must be analyzed in greater detail—the meaning of the word "considers" in section 176, the requirements of section 172, and the agency interpretation of those requirements.

According to 8A Words and Phrases, courts frequently have held "consider" to mean to think about, ponder, reflect upon, give close attention to, weigh, analyze, and other similar meanings which revolve around mental contemplation without further action. This also is its ordinary meaning. However, in other cases, the same word has been held to mean to give heed, or to give due weight to enumerated items. It has also been held to require action as well as mere thought—e.g. the "consideration of the court" means judgment by the court. The required action may be implied or understood implicitly because of the common understanding of the circumstances.

Therefore, it seems from reading the case summaries, that the meaning of the word is derived from its context and from the circumstances to which it will be applicable. For instance, *Carrigan* v. *Illinois Liquor Control Commission*, 166 N.E. 2d 574 (Ill. 1960) held that a statute that stated that a certain Commission shall receive and "consider" an application for a rehearing within 20 days of filing did contemplate that the Commission would take action but that whether action within the 20 days period was mandatory or directory depended on the statute as a whole, its nature, objects, and the consequences that would result from construing it one way or another.

Although none of the cases summarized were on point with the situation at hand—i.e. a provision that requires "consideration"

of a list of items, some of which are specific affirmative requirements and some of which are not—it is clear that the word "consider" can include taking action if that meaning is appropriate under the circumstances.

If the word "consider" can include a requirement to perform some action based only on common meaning or general context, it would appear that a stronger argument can be made that the word includes a requirement for action if that action expressly is required by one of the provisions that are to be considered.

It is also important to keep in mind, however, that Congress chose the word "considers" instead of more express language such as "complies with." It is possible that the word "considers" was used in section 17b because some of the items listed in section 172 do not require a specific response from a state, but rather require that the state devise an individualized response that fulfills the broadly worded requirements of section 172. For example, section 172(b)(1) states that the plan provisions shall "be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing; . . ."

It is also possible that Congress chose the word "considers" to indicate that the sanction of funding cut offs was not to be invoked in less than clearcut instances.

The legislative history is not very illuminating on this point.

The Conference Report, H. Rep. 95–564, 95th Cong., 1st Sess., at 158 states that the Senate highway and air pollution fund sanctions were retained. At 156, the Senate provisions are described: "Certain highway funds and air pollution grants may be withheld from States where a Governor fails to submit the required plan revision." The Senate report, S. Rep. 95–127, 95th Cong., 1st Sess., at 37 describes the relevant provision of S. 252:

"The Secretary of Transportation shall not approve any projects or award any highway funds after January 1, 1979, to a State which is not meeting the oxidant or carbon monoxide standard and which has not submitted a revised implementation plan by January 1, 1979."

Therefore, "considers" can be read to include executing required actions, but the word must be analyzed in context. But, Congress may have intended by its use in section 176 to allow the states some flexibility. This point will be considered again after an examination of section 172.

Next, section 172 must be analyzed to determine what it requires as to vehicle I/M programs, when those requirements must be met and whether the EPA's interpretation of those requirements are reasonable.

Section 172(a)(1) states that the provisions of a state plan for attainment and maintenance of national ambient air quality standards in any nonattainment area that are required by section 110(a)(2)(I) as preconditions for the construction or modification of any major stationary source in a nonattainment area on or after July 1, 1979, must provide for attainment "as expeditiously as practicable," and in the case of national primary ambient air quality standards, this must be not later than December 31, 1982.

Section 172(b) states: "The plan provisions required by subsection (a) shall . . ." and lists eleven items. Item (2) reads: "provide for the implementation of all reasonably available control measures as expeditiously as practicable: . . ."

Item (3) reads: "require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, as a minimum, of reasonably available control technology; . . ."

Item (8) reads: "contain emission limitations, schedules of compliance and such other measures *as may be necessary* to meet the requirements of this section; . . . (emphasis added).

Therefore, section 172 so far appears to allow considerable flexibility as to whether a state was required to provide for the implementation of a vehicle I/M program in its January 1979 revision. However, depending on the clarity of the facts involved, if an I/M program was reasonably available and necessary, and the other criteria set out under section 176 were met, it is possible that the Administrator could cut off funds to a state whose plan under 172(a)(1) did not include an I/M program and did not realistically provide for "reasonable further progress" or assure attainment by December 31, 1982. However, you have asked about an area for which the demonstration for an extension under 172(a)(2) has been made.

Item (11) of section 172(b) does contain an express requirement as to I/M programs, and item (11) applies only to states that received an extension for an area under 172(a)(2). That subsection allows an extension of time to December 31, 1987 for the attainment of national primary ambient air quality standards for photochemical oxidants or carbon monoxide or both. These pollutants are associated with motor vehicle pollution. (Note that the standards for "photochemical oxidants" now are referred to as "ozone" standards—40 C.F.R. 50.9, as revised 44 Fed. Reg. 8220 (February 8, 1979).)

Section 172(b)(11) provides that if a state plan meets the requirements for an extension to 1987 of the deadline for compliance with the standards for photochemical oxidants or carbon monoxide, then the State must submit a revised plan that does certain additional things, one of which is: "(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; . . ."

Therefore, it is clear that if a state secures an extension to 1987 with respect to the pollutants associated with vehicle pollution, a schedule for implementation of a vehicle I/M program must be included in a revised state implementation plan.

Section 172(c) adds: "In the case of a State plan revision required under the Clean Air Act *Amendments of 1977* to be submitted before July 1, 1982, by reason of a demonstration under subsection (a)(2), effective on such date plan shall contain enforceable measures to assure attainment of the applicable standard not later than December 31 1987." (Emphasis added.) (The reference to (a)(2) again means a plan that met the requirements for an extension to 1987 for compliance with standards for photochemical oxidants or carbon monoxide.)

Section 172 does not provide a complete timetable for submittal of revisions. The reference in section 172(c) to plans required to be submitted before July 1, 1982 by the "Clean Air Act Amendments of 1977" is a reference to an uncodified section of those amendments that provides missing pieces as to the sequence of necesary SIP revisions.

Section 129(c) of Pub. L. 95–95 as amended by section 14(b) of Pub. L. 95–190 is set out as a note under 42 U.S.C.A. 7502 and reads as follows:

"(c) Notwithstanding the requirements of section 406(d)(2) (relating to date required for submission of certain implementation plan revisions), for purposes of section 110(a)(2) of the Clean Air Act each State in which there is any nonattainment area (as defined in part D of title I of the Clean Air Act) shall adopt and submit an implementation plan revision which meets the requirements of section 110(a)(2)(I) and part D of title I of the Clean Air Act not later than January 1, 1979. In the case of any State for which a plan revision adopted and submitted before such date has made the demonstration required under section 172(a)(2) of the Clean Air Act (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meet the requirements of section 172(b) and (c) of such Act."

Therefore, a possible interpretation of these provisions in §§ 129(c), 172, and 176 is that in order to avoid the ban on new construction, a state with nonattainment areas had to submit a revised implementation plan that met the requirements of section 110(a)(2)(I)—the construction ban—and part D of title I of the Act—which includs sections 172 and 176—by January 1, 1979. Normally, this 1979 revision was to contain the elements listed in 172(b) and assure attainment of the primary national air quality standards by December 31, 1982.

However, if a state had particularly severe problems with respect to compliance with the primary air quality standards for photochemical oxidants and carbon monoxide and had made an acceptable demonstration to this effect under 172(a)(2) in its 1979 revision (and thereby received an extension for attainment as to these pollutants until 1987), then such state had until July 1, 1982 to adopt and submit to the Administrator a plan revision which met the requirements of section 172(b) and (c).

The EPA has interpreted the sequence for revisions differently. The guidelines promulgated by the EPA read the statute as requiring that a state in its January 1, 1979 SIP revision 1) provide for basic attainment by 1982 for all but section 172(a)(2) areas; 2) make the demonstration required by 172(a)(2) where necessary; and 3) provide for all the elements listed in 172(b), even with respect to 172(a)(2) areas, leaving for future revision only the final step of making those elements enforceable as to 172(a)(2) areas by July 1, 1982.

The EPA guidelines are: 43 Fed. Reg. 21674 et seq., May 19, 1978: 44 Fed. Reg. 20372, April 4, 1979; 44 Fed. Reg. 38471, July 2, 1979; 45 Fed. Reg. 24692, April 10, 1980, and also include some guidance which was sent directly to the states and is not available to us. Copies of all but the April 4, 1979 documents have been given to your staff previously and the April 4 document is now attached.

Section 129(c) is mentioned as to 1987 attainment in footnote (4) at 44 Fed. Reg. 20372, but there is no discussion in the guidelines of its dates for revisions where a demonstration under 172(a)(2) is made. You will also note that at 43 Fed. Reg. 21676 and 44 Fed. Reg. 20377, final implementation of an I/M program is due by 1981 in the case of a decentralized program, or 1982 for a centralized program. Obviously, if a court were to agree that a state that made the required demonstration under 172(a(2) had until some reasonable time before July 1, 1982 to submit a revision that established the schedule for an I/M program (to be enforceable by July 1, 1982), that court would not agree that the I/M program had to be implemented by 1981.

An attorney for EPA General Counsel office asserts that the legislative history does not support the sequence of revision dates here suggested as a possible interpretation. While the legislative history of the Clean Air Act fills six volumes and could not be reviewed in detail at this time, excerpts of the relevant sections from the Senate report and the Conference report were given your staff which do support the EPA position. Note especially S. Rep. 95–127, 95th Cong., 1st Sess. at 37, 39, and H. (Conf.) Rep. 95–564, 95th Cong., 1st Sess. at 155–158. This latter report at 157 states:

CONFERENCE AGREEMENT

"As a condition for permitting major new sources to locate in a nonattainment area, States are required to have approved revised implementation plans. The plans must pro-

vide for attainment of primary ambient standards no later than December 31, 1982, except that with respect to especially severe oxidants and carbon monoxide problems, the deadline may be as late as December 31, 1987. Providing for attainment in the context of a 1987 deadline means a State must submit a plan in 1979 requiring implementation of all reasonably available control measures. In addition, the plan must list other measures, if any, which may not be reasonably available but which would be needed to meet a 1987 deadline. The State need not make a commitment in 1979 to implement these latter measures. A second plan revision must be submitted by July 1, 1982, if implementation of all reasonable measures contained in the earlier revisions are not sufficient to meet the 1987 deadline. The plan revision submitted in 1982 must require implementation of enforceable measures needed to attain the primary standards by 1987.

"A plan submission in 1979 which demonstrates that oxidant or carbon monoxide standards will not be met by 1982 must contain certain specified provisions: (1) it must require alternative site analysis for major emitting facilities proposing to locate in a nonattainment area; (2) it must establish a schedule for implementing a vehicle I/M program; and (3) it must require that funds reasonably available to the State or local government be used to improve public transportation."

Therefore, while the wording of the statute allows an interpretation different from EPA's, the wording also allows the interpretation proffered by the EPA. Since the latter interpretation is supported by the legislative history, a court is more likely to support the agency's version.

The revision that was due on January 1, 1979 that made the demonstration under 172(a)(2) also had to include the elements listed in 172(b)—which are modified as to an (a)(2) area by (b)(11). Section 172(b)(11)(B) and (C) required that the 1979 plan establish a specific schedule for implementation of a vehicle emission control I/M program, and that the plan identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

This conclusion brings us to the next issue. Section 172 required the inclusion in the 1979 revisions of all reasonable available measures—which may or may not include I/M programs. The legislative history seems to indicate that Congress considered I/M programs in general to be a reasonable measure, with final determination of the issue in any specific instance dependent on such facts as the necessity for the I/M program, the level of control to be obtained compared to the economic or social cost, and the particular framework of the implementation program that is established. The Senate report, supra, at 39 lists alternative measures for states to consider and notes:

"Inclusion of a measure in this statutory list of alternatives is not a determination that the strategy is reasonable, but it is assumed that most of the list will be found to be so: . . ."

This list now appears under section 108(f)(1)(A) as items about which the Administrator shall publish and make available information. As to the issue of whether a measure is reasonable, the Senate report at 40 continues:

"In determining whether a measure is reasonable, a State or the Administrator must consider the time provided for implementation. For example, a vehicle inspection and maintenance program may not be reasonably available by mid-1978 or 1979. There may be a need for lead time to train mechanics, build facilities and educate the public. The program would, however, be reasonable if sufficient lead time is allowed to phase it in. The bill makes clear that an inspection and maintenance program is a reasonable measure. Such a program is made a precondition for extension of deadlines for attainment of oxidant and carbon monoxide standards beyond 1982. At the discretion of the State, an inspection and maintenance program may include pre-sale inspection, inspection at resale, or inspection only in areas where standards are not being attained.

"Another example where time may be a factor in determining reasonableness is the institution of measures to discourage low-occupancy automobile travel. A plan which banned automobiles in the absence of adequate public transportation would be unreasonable. One which limited auto travel only after a public transportation system offered an adequate alternative might be reasonable.

Whether a measure is reasonable also depends on the level of control to be obtained compared to the economic or social cost. Retrofitting existing cars with currently available devices is not reasonable. If a new and relatively inexpensive device were developed, States or the Administrator could determine that this was reasonable to require.

"It should be emphasized that this bill does not define reasonable measures. State and local officials, in cooperation with EPA must do this in order to preserve maximum flexibility to take into account varying local and regional conditions."

The structure of the statute itself, by requiring in 172(b)(11) that states with severe vehicular pollution problems submit a schedule for implementation arguably indicates that Congress intended some area by area flexibility.

You also will note that section 208 of the house bill expressly required annual inspection of light duty vehicles in certain nonattainment areas for which a state plan could not otherwise provide for the attainment and maintenance of the national ambient air quality standards. See H. Rep. 95-294, 95th Cong., 1st Sess., at 20-21, 208-209, 281-291 (attached). This express requirement passed the House, but does not appear in the final 1977 Clean Air Act Amendments. Unfortunately, the Conference Report provides little guidance on the removal of the section from the bill. See the excerpts from the Conference Report that are attached.

The criteria set out at 43 Fed. Reg. 21674 et seq., May 19, 1978 make it clear that the EPA considers I/M programs reasonably available per se and that the word "schedule" as used in 172(b)(11) means a schedule that provides for implementation as expeditiously as possible—which the criteria also define as meaning by the definite deadlines that are specified. 44 Fed. Reg. 20377 states:

Final implementation of the program (including adoption and submission to EPA of all necessary requirements for mandatory inspection and repair of failed vehicles) must be scheduled for no later than the end of 1982 for a centralized program, or the end of 1981 for a decentralized program. Failure to submit by the required deadlines the legal authority and all regulatory requirements necessary for mandatory inspection and mandatory repair of failed vehicles will make the SIP no longer adequate to satisfy the requirements of Part D.

* * * * *

In addition, 44 Fed. Reg. 20376 at n. 21 states:

Section 172(c) of the Act establishes a July 1, 1982 deadline for the SIP to contain all enforceable measures necessary for attainment by the end of 1982. The July 1, 1982 deadline applies only to measures not reasonably available earlier. The state may not delay adoption and implementation of measures that are reasonably available earlier on account of section 172(c). *See* Clean Air Amendments of 1977. Conference Report to accompany H.R.——H.R. Rep. No.——95th Cong., 1st Sess. — (August 3, 1977).

In other words, the guidelines indicate that EPA considers an I/M program in every instance to be a reasonably available measure that can and generally must be implemented before 1982, and that an i/m program is not one of the measures envisioned by 172(c) as having to be enforceable by July 1, 1982.

It is obvious from the structure of section 172 that Congress intended some necessary connection between the demonstration by a state of the necessity for an extension under 172(a)(2) and the establishment of an I/M program. This is clear both from the legislative history and from 172(b)(11).

It is possible that if there were a miraculous technological breakthrough such that those areas with severe vehicular pollution problems no longer needed to implement an I/M program in order to assure attainment by 1987, then an I/M program would not be mandated as one of those measures that must be enforceable by 1982. Absent such a breakthrough, the question remains as to whether an I/M program must be implemented by 1982 in all cases because it is a reasonably available measure per se or whether a state in some instances—for example, a state that can document particularly difficult problems in setting up an i/m program or some reasons why such a program would best be implemented if phased in at the same time as some other crucial provisions—can still be in compliance with the statute as long as the I/M program is enforceable by July 1, 1982. Considering the legislative excerpts set out above, it is at least arguable that Congress intended to allow states some flexibility on this issue to allow for consideration of particular circumstances.

This possibility for a difference in interpretation is important in determining the propriety of cutting off grant funds section 176.

Section 176 requires the Administrator of EPA and the Secretary of Transportation to disapprove projects and grants in certain air quality control regions if they find either that the governor of that state "has not submitted an implementation plan which considers each of the elements required by section 172 or that reasonable efforts toward submitting such an implementation plan are not being made (or, after July 1, 1982, in the case of an implementation plan revision required under section 172 to be submitted before July 1, 1982)."

The EPA guidelines at 45 Fed. Reg. 24695 state:

"The language of Section 176(a) and its legislative history indicate that the limitation will not be improved if a reasonable program which considers each of the elements in Section 172 is submitted on good faith efforts to submit such a plan are demonstrated.

"In cases where a finding is made that the plan does not adequately consider the required elements, or where no plan is submitted, the question of whether good faith efforts are being made will need to be examined. This decision will be made on a case-by-case basis and rely on evidence submitted by the Governor demonstrating that he is moving toward submittal of an adequate plan in an orderly and expeditious manner."

It is not unreasonable for the EPA to require progress toward implementation of an i/m program through the establishment of a legislated framework of authority and the allocation of the necessary funds and personnel. (See 172(b)(3), (7), (9), and (10).) But if a court agrees that whether an i/m program is a "reasonably available" measure is to be determined after consideration of particular circumstances in each case, this deci-

sion obviously will affect the court's determination as to whether the plan in question complies with section 172(b)(11) and the applicable statutory time deadlines.

This decision in turn, also will guide the court in determining whether the plan adequately "considers" the elements of section 172 for purposes of section 176 funding cut offs. A court may even conclude that sanctions may not be imposed until after July 1, 1982 against a state that has made a demonstration under 172(a)(2) and is attempting to enact appropriate legislation.

Furthermore, even if the court agrees with EPA as to its interpretation of what is required under 172 and the relevant deadlines, the court may conclude that the use of the ambiguous and less than forceful word "considers" in section 176, together with that section's requirement that the agency also consider whether "reasonable efforts" are being made by a state to submit a complying plan, preclude a funding cut off against a state that was attempting in good faith to pass the necessary legislation. Arguably, where Congress twice used moderating language with respect to the imposition of a sanction, that sanction should only be imposed where non-compliance and bad faith are clear.

If the EPA proceeds to cut off funds under section 176 and a court is asked to review that action, some deference will be given the agency interpretation. However, the extent to which a court will defer to agency interpretation depends on many variables.

The court in *Alabama Power* v. *Costle*, 13 E.R.C. 1993, 2003 (D.C. Cir. 1979) recently said of the EPA's interpretation of the Clean Air Act: "We are cognizant that in general a court defers to the interpretation of a new statute by the agency that is charged with putting it into effect, meshing the wheels, and that presumably has some awareness of the approaches of legislators particularly concerned with the legislation." However, the court in that case disagreed with agency interpretation in several respects, saying at one point:

"Rather, we have here an instance where the Congress, presumably after due consideration, has indicated by plain language a preference to pursue its stated goals by what EPA asserts are less than optimal means. In such a case, neither this court nor the agency is free to ignore the plain meaning of the statute and to substitute its policy judgment for that of Congress." Ibid., at 13 ERC 2013.

It is possible that a court, after considering the statute and its legislative history as discussed above, the particular factual circumstances of the area involved, and the attempts of a particular state to comply may not agree that the conditions necessary for a cutoff of funds under section 176 have been met.

PAMELA BALDWIN,
Legislative Attorney.

Mr. HEINZ. But for the benefit of my distinguished colleagues, Mr. President, let me quote from the relevant portion of this analysis:

It is not unreasonable for the EPA to require progress toward implementation of an i/m program through the establishment of a legislated framework of authority and the allocation of the necessary funds and personnel. (See 172(b)(3), (7), (9), and (10).)

But if a court agrees that whether an i/m program is a "reasonably available" measure is to be determined after consideration of particular circumstances in each case, this decision obviously will affect the court's determination as to whether the plan in question complies with section 172(b)(11) and the applicable statutory time deadlines. This decision in turn, also will guide the court in determining whether the plan adequately "considers" the elements of section 172 for purposes of section 176 funding cut offs. A court may even conclude that sanctions may not be imposed until after July 1, 1982 against a state that has made a demonstration under 172(a)(2) and is attempting to enact appropriate legislation.

Furthermore, even if the court agrees with EPA as to its interpretation of what is required under 172 and the relevant deadlines, the court may conclude that the use of the ambiguous and less than forceful word "considers" in section 176, together with that section's requirement that the agency also consider whether "reasonable efforts" are being made by a state to submit a complying plan, preclude a funding cut off against a state that was attempting in good faith to pass the necessary legislation. Arguably, where Congress twice used moderating language with respect to the imposition of a sanction, that sanction would only be imposed where non-compliance and bad faith are clear.

In short, if IPA arguably has the authority to delay sanctions until July 1, 1982—why force motorists in the affected States to expend huge sums of money for a program that is virtually certain to be modified in the near future?

Before closing, Mr. President, I have a final point that I would like to make.

Because all vehicles on the road are subject to i/m—but vehicles coming off the assembly line are only spot-checked—I am very concerned that motorists will be forced to pay repair costs for equipment that was defective at the time of purchase.

The final argument against i/m and for this amendment is this: consumers should not be forced to pay for repairs that may be necessary as a result of defective equipment at the time of purchase—even though the consumer may have properly maintained it.

Cars coming off the assembly line are only spot-checked to determine whether the emissions control equipment functions properly. Only 60 percent have to pass.

But cars on the road are all checked—and they all have to pass.

Now EPA says it has taken care of that problem with a 50,000-mile performance warranty. Even if consumers, manufacturers, and repair shops did not all maintain that EPA's warranty was inequitable, unworkable, and unenforceable, anyone who has tried to enforce a warranty knows how difficult it can be—especially for the unsophisticated consumer who does not have ready access to legal counsel. And EPA's performance warranty requires the consumer to document that he has properly maintained the emissions testing equipment over the years.

In short, the fact that EPA has proposed a warranty offers little reassurance that consumers will not be the worse for this program.

To summarize, Mr. President, this amendment does not represent an attempt to rewrite the Clean Air Act on the Senate floor via an appropriations rider, not at all. Rather, for the next year, it prevents the bureaucracy at EPA from usurping Congress authority to rewrite the act—as part of the reauthorization process.

We are going to have a very major job ahead of us in reauthorizing the Clean Air Act. I have always been a very strong supporter of the Clean Air Act. I was on the Health and Environment Subcommittee in the House of Representatives for 4 years. I helped write the 1976 amendments that did not quite make it through here. I supported the committee's efforts the last time around. I guess that was 1977, as I recollect. I believe that air pollution is a national problem and that we need good, strong, workable legislation to deal with it.

But let me tell you that when you get a provision into the act that is abused, it gives the entire act a bad name. Perhaps the surest way to make passage of a strong and responsible Clean Air Act more difficult to accomplish is for the Congress to acquiesce in the unreasonable, arbitrary, unjustifiable administration of that act.

That is why, Mr. President, I bring this amendment to the floor and I urgently solicit the support of my colleagues for it.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Vermont.

Mr. STAFFORD. Mr. President, I rise in opposition to the amendment of the Senator from Pennsylvania. Since none of us have created precisely, in my judgment, what we are talking about on the i/m program, so-called, let me say a word in connection with it. The inspection and maintenance program, or i/m, as it is called, may be explained in this way:

Automobiles emit harmful pollutants such as carbon monoxide and hydrocarbons. Carbon monoxide causes chest pain and aggravation of cardiovascular diseases. The hydrocarbons react in the atmosphere to form photochemical smog that causes asthma attacks, eye irritation, and difficulty in breathing, which is particularly harmful to elderly people.

Because of the Clean Air Act, automobile manufacturers have designed and produce cars which emit much less pollution than older vehicles. Most 1981 cars emit 90 percent less hydrocarbons and carbon monoxide than uncontrolled cars. But experience has shown that cars may emit much more pollution when operated on the road later than when tested on the assembly line or in the laboratory.

The reason for this is a lack of appropriate maintenance by motorists as cars get older. Often drivers neglect to have their cars kept in tune. Some even poison the pollution control equipment on the car by using leaded gasoline or by tampering with the equipment.

For these reasons, Congress, in 1977, decided that motorists had to be given an incentive to maintain their cars properly. Congress decided that auto inspection and maintenance programs had to be done by the States under certain circumstances. Under the law these programs must be implemented in areas that would not be able to meet the public health standards for air pollution by 1982 if the State sought an extension for compliance to 1987.

So a State or any area within a State that appears unlikely to meet the 1982 deadline for healthy air can get 5 more years by implementing an inspection and maintenance program.

I think that should be made clear at the outset of this discussion.

My friend, the distinguished Senator from Pennsylvania, commented at length on the cost to consumers of inspection and maintenance. Most costs, according to our information, are not going to be unreasonable. The National Commission on Air Quality reports show that inspection and maintenance fees will range from a minimum of $2.50 to a maximum of $14. The average repair cost for programs already in operation is between $18 and $35 for those cars that require it.

Some question has been raised about the cost effectiveness of the i/m program. A study of New Jersey's i/m program shows that carbon monoxide in the State improved at a rate 25-percent greater than the non-i/m State with which it was compared, and the net cost per ton of carbon monoxide removed from the atmosphere was $17.47.

Mr. President, the amendment proposed by the Senator from Pennsylvania should be defeated for two major reasons:

First, it will not resolve problems in States which are required to implement auto inspection and maintenance programs. And, second, it will complicate the job of the Environment and Public Works Committee which is moving expeditiously to complete a comprehensive review of the Clean Air Act.

As the chairman of that committee, Mr. President, I feel compelled to oppose this amendment as a clear invasion of the jurisdiction of the committee at the very time when it is trying to complete its work on the Clean Air Act. Moreover, we have not, in the committee nor the Congress, in my judgment, heard from the administration as to what it proposes in the way of the Clean Air Act. So the Senator from Pennsylvania at this point appears to be trying to get his amendment adopted before the administration can indicate what its position is on any of these various aspects at issue in the clean air program.

The Environment and Public Works Committee has completed 23 days of hearings on the Clean Air Act. We have developed a record that includes assessments of the effectiveness and cost of i/m programs, the tradeoffs between control of motor vehicle emissions and control of pollution from industrial sources, and the movement of pollution from motor vehicles from one State to another.

I mention these matters because they show how difficult it is to address one aspect of the Clean Air Act without affecting many others.

Suspending auto inspection and maintenance requirements could mean an increased cleanup burden on industrial facilities. The amendments could also add to the inequity that already exists between States that impose strong air pollution controls and those that do not.

Several States have acted already to put in place auto inspection and maintenance programs. The benefits from these measures in reducing ozone concentrations could be seriously impaired by ozone transported many hundreds of miles from States which fail to control emissions from cars on the road.

Whether changes should be made in the i/m provisions of the Clean Air Act is a question that ought to be decided in the overall review of the act.

The Environment and Public Works Committee is well into just such a review. If adopted, the proposed amendment would dramatically increase the difficulty of distributing the responsibility for controlling air pollution in an equitable fashion.

Interfering with equitable and comprehensive amendments to the Clean Air Act is reason enough to resist the proposed amendment. But a second and compelling reason is that it will not achieve its professed purpose; it will not provide certainty to States in advance of comprehensive reauthorization of the Clean Air Act.

The amendment would not lift the construction ban or funding sanctions that have already been imposed in States for failing to adopt an i/m program.

Nor would the amendment relieve States that have adopted i/m programs from the responsibility for implementing them. Even if EPA could not enforce the act's requirements, citizens would remain free to do so and almost certainly would in some cases.

For example, in the State represented by the sponsor of this amendment, the order to implement an i/m program came from a court, not EPA, as the result of a 5-year fight by citizens' groups.

The amendment offered by the Senator from Pennsylvania would not affect the schedule for inspection and maintenance in his own State. The only effect of the Heinz amendment would be to make achievement of that court-mandated schedule more difficult to reach.

Mr. President, in closing, I point out that the Committee on Environment and Public Works will be examining the i/m program closely during the review of the Clean Air Act as a whole, whether this amendment is agreed to or not. I fully anticipate that during that review some Members will examine not only changes in the i/m program, but the suggestions which some have made that it be eliminated. A "No" vote here does not foreclose any Member of the Senate from asking the kind of hard questions which ought to be asked during our review of the act. But a vote here will guarantee that those hard questions can be examined in a rational and reasonable atmosphere.

Mr. President, I hope every Member of the Senate will join us in opposing this amendment.

Mr. President, I ask unanimous consent to have the following material printed in the RECORD: An editorial published in the Philadelphia Inquirer, the leading paper in Philadelphia, Pa., headlined "Heinz Emission Amendment Deserves Senate Rejection"; letters in opposition to the Heinz amendment from the United Steel Workers of America, the State and Territorial Air Pollution Program Administrators—of which, incidentally, Mr. James K. Hambright of Pennsylvania is the president; a letter from the National League of Cities—principally involved in this matter, incidentally.

Mr. HEINZ. I am sure I have some mayors who are members of the National League of Cities.

Mr. STAFFORD. Mr. President, I do not yield at this point.

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

[From the Philadelphia Inquirer, July 28, 1981]

HEINZ EMISSION AMENDMENT DESERVES SENATE REJECTION

Pennsylvania Sen. John Heinz plans this week to use the legislative process to circumvent a controversial program instituted under the federal Clean Air Act. He will sponsor an amendment to the appropriations bill for the Environmental Protection Agency that would prohibit EPA from using any of its funds for automobile emission inspection-maintenance programs.

Legislating through de-funding is in vogue these days in Washington, and the favorite target of the Reagan administration and Republicans in the Congress has been a wide variety of federal regulatory programs. The White House Office of Management and Budget and the Congress have chosen to eliminate programs simply by cutting off funding, rather than proceeding in the more traditional manner of opening legislation to hearings and then to amendments. As a result of that tactic, debates on substance are avoided and the public is shut out of the decision-making process.

That becomes especially critical on an issue like the Clean Air Act. Public opinion surveys show that most Americans support the Clean Air Act as written. Opposition comes from powerful special-interest groups such as the auto makers and industry. All voices in the debate over clean air must be heard before any legislative changes are considered.

The auto emission inspection-maintenance program, or i/m, is an effort to go after the single greatest polluter: the automobile. The program consists of regular maintenance, enforced by periodic inspections to reduce the levels of pollutants that create unhealthy smog in many areas. The i/m program is part of overall air-quality improvement efforts required of the states under the Clean Air Act, and has been the subject of much controversy since first proposed.

Pennsylvania is under a federal court order to implement an i/m program in 12 urban counties by May 1, 1982. The order came as a result of a five-year fight by environmental groups to force the state to comply with provisions of the Clean Air Act as it applies to reducing carbon monoxide and hydrocarbon emissions. A federal judge set the May deadline after finding that the state has not lived up to past agreements to institute an i/m program in the Philadelphia, Pittsburgh and Allentown areas.

This fall, Congress will take up legislation to re-authorize the 10-year-old Clean Air Act, and the i/m program is expected to draw lively debate. Proponents argue that it is a cost-effective means of reducing pollution, with motorists required to spend a small amount to keep their vehicles in compliance. Opponents claim that the cost far exceeds the program's overall benefit. The issue already has been the subject of a number of public hearings, with more scheduled.

During the EPA appropriations vote in the House of Representatives, an effort to slash funds for i/m was rejected. Among those voting to appropriate money were some House members who expressed reservations about the program as presently constituted but who believed the re-authorization debate this fall represents the proper forum for making changes in the program.

There is the potential for considerable legal problems if the Heinz amendment is approved. The Clean Air Act authorizes the federal government to withhold a wide variety of funds to those states not in compliance with air-quality standards set out in the act. In addition, it authorizes citizens to sue state governments if the states are not in compliance with the federally mandated standards. Thus, if those portions of the act are retained, but the Heinz amendment cuts off all funds for them, a flurry of lawsuits most likely will follow.

Laws weren't mean to be changed through the appropriations process. His colleagues should remind Sen. Heinz of that fact.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,
July 28, 1981.

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

DEAR SENATOR STAFFORD: STAPPA, the national association of state air pollution officials, is hopeful that any consideration of substantive amendments to the Clean Air Act will be addressed through the relevant authorizing committees rather than through the appropriations process.

Sincerely,

S. WILLIAM BECKER.

UNITED STEELWORKERS OF AMERICA,
Washington, D.C., July 28, 1981.

DEAR SENATOR: On July 17, 1981 the House defeated an amendment to the HUD-Independent Agencies appropriations bill which would have prohibited EPA from using funds to implement inspection and maintenance programs (I & M) of automobile pollution control systems.

It is likely that Senator HEINZ might offer a similar amendment to the HUD-Independent Agencies appropriations bill this week.

The Steelworkers oppose this amendment, if it is offered, for the following reasons:

1. The I & M program is a necessary part of efforts to move the dirty air areas toward attainment of the health standards.

2. The I & M program is the only part of the Clean Air Act which assures that automobiles which are in use actually meet federal standards. The emission equipment which is already installed in automobiles should be kept in good working condition in order to achieve the results for which it is intended. In order to determine the operative efficiency of the control systems, it is necessary to monitor the automobiles in current use.

3. The I & M program is necessary only in those areas which will not meet the 1982 deadline for carbon monoxide and ozone. The monitoring of the automobiles in these areas will assure continued progress to meet the 1987 deadline.

4. The I & M program will bring about real reductions in pollution levels where it is required. The National Commission on Air Quality stated that by 1987 the reductions created by the I & M program will be approximately 20 percent for hydrocarbon emissions. These are substantial improvements for the urban areas which suffer the bulk of this type of pollution.

5. The program has not proven to be a financial burden to the automobile owners in those areas where it has been required. The average repair costs have been in the $18 to $35 range. In fact, the program results in better-tuned automobiles which in turn produces greater gasoline mileage for the owners. Some studies show that the fuel economy could be in the 3 percent to 5 percent range for the average automobile. The fuel efficiency over a period of time would more than make up for any cost to the owner required by the I & M program.

6. The I & M program has public support. In New Jersey, 87 percent of those polled favored retention of the current I & M program. In Chicago, over 60 percent were in favor of an I & M program.

7. The result of a moritorium on i/m implementation would be confusion and a deterioration of progress in the areas where the program is required. If the I & M program is required as part of the state plan, then a state which did not implement the program would be in violation of its plan. This violation could lead to suits to prohibit the issuing of permits for new source construction. This situation could cause serious economic problems for those areas and the plants which wished to locate there.

The Clean Air Act is a complex piece of legislation. Any changes in the Act should be given careful consideration by the Congress. This sort of piecemeal legislation is not the manner in which th Act should be considered. We urge you to defeat this amendment which is neither appropriate nor beneficial.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., July 28, 1981.

DEAR SENATOR: During consideration of the HUD/Independent Agencies Appropriation bill, H.R. 4043, Senators Heinz and Specter may introduce an amendment to prohibit the use of federal funds from the Environmental Protection Agency to be used for implementing and enforcing automobile inspection and maintenance. The National League of Cities urges you to oppose this amendment.

NLC believes that consideration of this amendment at this time would be premature. The Senate Environment and Public Works Committee is currently conducting extensive hearings of the Clean Air Act. The Administration has stated it will submit its proposed legislation in mid-August. Thus, to use an appropriations bill at this time both to amend a very complex act and to alter existing national environmental policy would be inappropriate.

We believe consideration on this complex issue deserves to be considered in the context of all other clean air issues.

We hope you agree.

Sincerely,

GEORGE GROSS,
Director.

Mr. STAFFORD. Mr. President, I also ask unanimous consent to have printed in the RECORD the following material, all in opposition to the Heinz amendment; a statement from the National Clean Air Coalition, a statement from the League of Women Voters, a statement from the National Audubon Society, a statement from the American Lung Association, and a letter from the Sierra Club.

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

NATIONAL CLEAN AIR COALITION,
Washington, D.C., July 28, 1981.

SENATE TO CONEIDER AN AMENDMENT TO CRIPPLE CLEAN AIR ACT PROGRAM

During consideration this week of the HUD-Independent Agencies appropriations bill, H.R. 4034, Senator Heinz or Senator Specter may offer an amendment aimed at preventing the Environmental Protection Agency from implementing automobile Inspection/Maintenance programs under the Clean Air Act. A similar amendment was defeated by a bipartisan majority in a recorded vote in the House on July 17. The National Clean Air Coalition strongly urges you to oppose such an amendment for the following reasons:

Inspection/Maintenance (I/M) is the only part of the Clean Air Act which insures that automobiles in use actually meet federal emissions standards. The program only applies to areas of the country which can not meet public health standards for automobile emitted pollutants (carbon monoxide and ozone) by 1982. Studies show that these programs effectively reduce emissions, are reasonably priced, and have majority support among the public.

Cars in Portland, Oregon (which are under an I/M program) have 34 percent lower emissions of carbon monoxide and 24 percent lower emissions of hydrocarbons than cars in Eugene, Oregon, where there is no i/m program.

The average repair cost for the small fraction of cars that need any repairs ranges from a low of $18 to a high of $35 in Los Angeles. In addition, I/M increases fuel economy on the repaired cars by 3 to 4 percent.

Public support for the program is shown by surveys in areas where I/M is operating. For example, in New Jersey 83 percent of those surveyed favored the I/M program. Similar majorities support I/M in other cities where it is already in place.

The Amendment attempts to amend the Clean Air Act by an appropriations rider, short-circuiting the standing committee system. The Clean Air Act is a major piece of legislation. It should be carefully reviewed by the relevant House and Senate committees. These committees have already devoted a good deal of time to hearings on the Act. Their work should not be undercut by hasty, ill-considered riders. Riders of this sort are an attack on the committee system of the Senate.

The Amendment would disrupt new source construction in many states. The amendment would encourage states to delay required steps for implementing their I/M program schedules. But states which delayed taking the required steps could not legally issue permits to new industrial source under Section 173 of the Act. Any industrial source which attempted to build in such an area would therefore be subject to legal challenge by anyone. The result could be serious disruption of economic development in such areas.

For these reasons, the Senate should reject this inspection/maintenance (I/M) rider.

The National Clean Air Coalition includes these national organizations: American Lung Association, Center for Auto Safety, Citizens for a Better Environment, Environmental Action, Environmental Defense Fund, Environmental Policy Center, Environmentalists for Full Employment, Friends of the Earth, International Association of Machinists and Aerospace Workers, Izaak Walton League of America, League of Women Voters of the United States, National Audubon Society, National Consumers League, National Farmers Union, National Parks and Conservation Association, National Wildlife Federation, Natural Resources Defense Council, Oil, Chemical and Atomic Workers International Union, Sierra Club, United Steelworkers of America, The Wilderness Society, Western Organization of Resource Councils.

LEAGUE OF WOMEN VOTERS
OF THE UNITED STATES,
Washington, D.C., July 28, 1981.

To Members of the Senate.

From Ruth J. Hinerfeld, President; Ruth Robbins, Action Chair; and Merilyn Reeves, Natural Resources Director.

Re Heinz Amendment to HR 4034, the HUD and Independent Agencies Appropriations Bill.

Senator Heinz is expected to offer an amendment to the HUD and Independent Agencies appropriations bill which would prevent the Environmental Protection Agency from requiring implementation of inspection and maintenance programs for automo-

biles as provided under the Clean Air Act. The League of Women Voters strongly opposes the Heinz amendment.

The air in many areas of the country is still unfit to breathe. A major cause is pollution from automobiles. Where health standards cannot be met by the 1982 deadline because of pollutants from automobiles, the Clean Air Act allows a five year deadline extension to 1987 and requires the implementation of automobile inspection and maintenance programs. Thus, inspection and maintenance programs are targeted only for those areas with persistent and dangerous air quality problems which have not been cured through other means.

Pollution from automobiles is a significant health threat. Carbon monoxide interferes with the blood's ability to absorb oxygen, impairing perception and thinking, slowing reflexes and causing drowsiness, unconsciousness and death. Inhaled by pregnant women, carbon monoxide may threaten the unborn child's growth and mental development. Long-term exposure is suspected of aggravating arteriosclerosis and vascular disease. Nitrogen oxides can increase susceptibility to viral infections such as influenza, irritate the lungs, and cause bronchitis and pneumonia. Ozone, formed in the atmosphere from nitrogen oxides and hydrocarbons, causes coughing, choking, impaired lung functions, and reduced resistance to colds and other diseases such as pneumonia. It also aggravates chronic heart disease, asthma, bronchitis and emphysema.

Automobiles in use often don't meet prescribed emissions standards. Inspection and maintenance programs, coupled with warranties to protect consumers, are a proven, cost-effective way to ensure that automobiles in use operate up to their design standards. Inspection and maintenance programs are needed to protect the nation's, and the consumer's, multi-billion dollar investment in pollution control devices on automobiles.

Inspection and maintenance programs also improve fuel economy. Because better operating automobiles use less gasoline inspection and maintenance helps conserve fuel.

The League of Women Voters strongly urges you to oppose the Heinz amendment.

NATIONAL AUDUBON SOCIETY,
New York, N.Y., July 28, 1981.

DEAR SENATOR: Senator Heinz may offer an amendment to the HUD-Independent Agencies Appropriations bill prohibiting the Environmental Protection Agency from implementing the motor vehicle emission Inspection and Maintenance program (I/M) mandated by the Clean Air Act. This amendment is likely to be considered on the Senate floor Wednesday, July 29.

On behalf of the nearly one-half million members of the National Audubon Society, I strongly urge you to oppose this amendment or any amendment which would prevent EPA from carrying out this important and badly needed program.

The I/M program is the only mechanism we have to ensure that automobiles meet the public health emission standards for such hazardous pollutants as carbon monoxide and hydrocarbons. This program only applies in those parts of the country which do not yet meet the standards.

Automobiles are major sources of carbon monoxide and hydrocarbon pollution. They emit roughly 84 percent of all carbon monoxide in the air and 40 percent of the hydrocarbons. Both pollutants are hazardous to human health. The I/M programs have effectively and inexpensively reduced the levels of carbon monoxide and hydrocarbons in the air. Moreover, the I/M programs enjoy majority support among the public.

I am concerned that this amendment, which substantially and significantly alters the Clean Air Act, has not received the careful and deliberate attention of the appropriate committees. This amendment would be a major change to the Act and should not be hastily enacted as a rider on an appropriations bill. Moreover, the Environment and Public Works Committee will be spending the fall carefully debating the entire Clear Air Act, including the I/M program. I urge you to wait and listen to this debate before making up your mind.

The House of Representatives recently defeated a similar amendment. I hope the Senators will do the same.

Sincerely,

RUSSELL PETERSON,
President.

AMERICAN LUNG ASSOCIATION.

To Members of the Senate.
From Robert G. Weymueller, Director of Government Relations, American Lung Association.
Re Heinz Amendment to H.R. 4034, the HUD/Independent Agencies Appropriations Bill.

Senator Heinz is expected to offer an amendment to the HUD/Independent Agencies Appropriations Bill which would prohibit the U.S. Environmental Protection Agency from requiring inspection and maintenance programs for automobiles in areas with serious, auto related air pollution problems. The American Lung Association strongly opposes the Heinz Amendment.

The Lung Association feels that it is inappropriate to deal with piecemeal amendments to the Clean Air Act when the entire Clean Air Act is currently under review by the Senate Committee on Environment and Public Works. This Committee should be given a chance to present its entire package of amendments to the Clean Air Act to the Senate for consideration.

In many of America's cities pollution from automobiles represents a serious public health problem. The auto related pollutants which cause the most difficulty are: carbon monoxide, nitrogen oxides, and ozone. Carbon monoxide interferes with the blood's ability to absorb oxygen, impairing perception and thinking, slowing reflexes and causing drowsiness. It also causes chest pain in persons with coronary heart disease. When carbon monoxide is inhaled by pregnant women it may threaten the unborn child's growth and mental development. Exposure to ozone aggravates existing respiratory disease, such as asthma, emphysema and chronic bronchitis. Ozone also reduces the body's ability to fight infection, thus increasing the incidence of colds, flu and serious respiratory diseases such as pneumonia. Nitrogen oxides can increase the body's susceptibility to viral infections, irritate the lungs and cause chronic bronchitis and pneumonia.

Currently in-use automobiles don't always meet prescribed emissions standards. It does little good to require that all new cars meet strict emission standards if the emission controls systems designed to meet those standards are not maintained. Inspection and maintenance programs, coupled with warranties to protect consumers are a cost effective way to insure that the nation's substantial investment in automobile pollution control devices is protected.

For the foregoing reasons the American Lung Association strongly urges that you oppose the Heinz Amendment.

SIERRA CLUB,
Washington, D.C., July 28, 1981.

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

DEAR SENATOR STAFFORD: On Wednesday, Senator John Heinz intends to offer an amendment to the HUD and Independent Agencies FY '82 Appropriation bill, H.R. 4034, which would prohibit the use of EPA funds to require or enforce automobile inspection and maintenance programs under the Clean Air Act. The Sierra Club asks you to oppose the Heinz amendment.

The I/M program is needed to provide healthy air in cities.

The National Commission on Air Quality found that nearly all state air quality implementation plans rely on requirements controlling new automobile emissions as a principal means of providing healthy air to people in the most polluted urban areas. If new car emissions control systems are allowed to degenerate, these pollution reductions on which such plans depend will evaporate. An inspection and maintenance (I/M) program is the only means by which the pollution reductions on which these plans rely can actually be realized.

The I/M program is cost effective.

The Commission found the I/M program to be as cost effective as many stationary source control measures for reducing ozone pollution. The cost of these programs in the existing communities that operate them has not been found to be excessive.

The I/M program reduces pollution and improves fuel economy.

An EPA study in Houston found that a 5 percent improvement in fuel economy was achieved among autos which failed the I/M procedures and were subsequently repaired. A study in Chicago found that among 1975 to 1980 model cars, I/M could achieve a 3–4 percent better fuel economy among all cars, even those that passed the I/M test. In Oregon, the I/M program has lowered emission of carbon monoxide by 34 percent and hydrocarbons by 24 percent.

The Heinz amendment would create uncertainty and confusion.

While the Heinz amendment will freeze EPA's ability to enforce the I/M requirement, the requirement remains an integral part of 29 state air quality implementation plans. It is therefore enforceable by any citizen concerned that such plans are not being properly implemented. Thus, confusion and uncertainty will abound.

The I/M program enjoys popular support where it is operating.

In New Jersey and Rhode Island, which both have state-wide programs, public opinion surveys show 83 and 85 percent support for I/M programs, respectively. Elsewhere, 58 percent favor I/M in Arizona and 67 percent in southern California favor I/M. In the Chicago area, which has not yet implemented an I/M program, over 60 percent of those surveyed supported the use of I/M.

The Sierra Club joins with other member groups of the National Clean Air Coalition in opposition to the Heinz amendment. If you have any questions, please call Blake Early at 547–1141.

Sincerely,

JOSEPH FONTAINE,
President.

[From the Philadelphia Inquirer, July 28, 1981]

HEINZ EMISSION AMENDMENT DESERVES SENATE REJECTION

Pennsylvania Sen. John Heinz plans this week to use the legislative process to circumvent a controversial program instituted under the federal Clean Air Act. He will sponsor an amendment to the appropriations bill for the Environmental Protection Agency that would prohibit EPA from using any of its funds for automobile emission inspection-maintenance programs.

Legislating through de-funding is in vogue these days in Washington, and the favorite target of the Reagan administration and Republicans in the Congress has been a wide variety of federal regulatory programs. The White House Office of Management and Budget and the Congress have chosen to

eliminate programs simply by cutting off funding, rather than proceeding in the more traditional manner of opening legislation to hearings and then to amendments. As a result of that tactic, debates on substance are avoided and the public is shut out of the decision-making process.

That becomes especially critical on an issue like the Clean Air Act. Public opinion surveys show that most Americans support the Clean Air Act as written. Opposition comes from powerful special-interest groups such as the auto makers and industry. All voices in the debate over clean air must be heard before any legislative changes are considered.

The auto emission inspection-maintenance program, or I/M, is an effort to go after the single greatest polluter: the automobile. The program consists of regular maintenance, enforced by periodic inspections, to reduce the levels of pollutants that create unhealthy smog in many areas. The I/M program is part of overall air-quality improvement efforts required of the states under the Clean Air Act, and has been the subject of much controversy since first proposed.

Pennsylvania is under a federal court order to implement an I/M program in 12 urban counties by May 1, 1982. The order came as a result of a five-year fight by environmental groups to force the state to comply with provisions of the Clean Air Act as it applies to reducing carbon monoxide and hydrocarbon emissions. A federal judge set the May deadline after finding that the state has not lived up to past agreements to institute an I/M program in the Philadelphia, Pittsburgh and Allentown areas.

This fall, Congress will take up legislation to re-authorize the 10-year-old Clean Air Act, and the I/M program is expected to draw lively debate. Proponents argue that it is a cost-effective means of reducing pollution, with motorists required to spend a small amount to keep their vehicles in compliance. Opponents claim that the cost far exceeds the program's overall benefit. The issue already has been the subject of a number of public hearings, with more scheduled.

During the EPA appropriations vote in the House of Representatives, an effort to slash funds for I/M was rejected. Among those voting to appropriate money were some House members who expressed reservations about the program as presently constituted but who belived the re-authorization debate this fall represents the proper forum for making changes in the program.

There is the potential for considerable legal problems if the Heinz amendment is approved. The Clean Air Act authorizes the federal government to withhold a wide variety of funds to those states not in compliance with air-quality standards set out in the act. In addition, it authorizes citizens to sue state governments if the states are not in compliance with the federally mandated standards. Thus, if those portions of the act are retained, but the Heinz amendment cuts off all funds for them, a flurry of lawsuits most likely will follow.

Laws weren't meant to be changed through the appropriations process. His colleagues should remind Sen. Heinz of that fact.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. STAFFORD. I am glad to yield to the distinguished Senator.

Mr. HUDDLESTON. To the Senator from Vermont and the Senator from Pennsylvania I say that I do not disagree with some of the sentiments expressed by the Senator from Pennsylvania and the necessity to get control of some of the regulations with which we are confronted and to deal with them in the proper manner.

I do have some concerns about this particular move at this particular time on this particular bill, and I am wondering whether the distinguished chairman of the Committee on Environment and Public Works can give me some information regarding what I believe could be the effect of the pending amendment. He has touched upon these matters already. But, I would like to hear what he has to say about a situation. We frequently have to condition our positions on various pieces of legislation with our own experience, and that of our own States.

There has been a great deal of controversy in the four counties in my home State that were determined not to be able to meet primary air quality standards for ozone by 1982. Two of these counties, Jefferson and Boone, are moving to implement the required inspection and maintenance programs. However, two others, Kenton and Campbell, have decided not to take this course and, as a result, have had the funding sanctions called for in the Clean Air Act imposed on them for the failure to adopt I/M programs.

In establishing their I/M programs, Jefferson and Boone Counties have received approximately $350,000 in Federal funds to help get the programs underway. I am told that to continue the I/M programs additional Federal assistance would be forthcoming in fiscal year 1982 for these two counties and that funds would be available for Kenton and Campbell Counties should they decide to adopt an I/M plan.

Is it the understanding of the chairman of the Public Works Committee that the pending Heinz amendment would jeopardize the availabiilty of Federal funds to help the four counties implement programs they are required to have under Federal law?

Mr. STAFFORD. I say to the Senator that it is my opinion that the language of the amendment could have that effect.

Mr. HUDDLESTON. Assuming that the counties do not have any Federal assistance, does the amendment insulate States and counties from the imposition of the sanctions for failure to implement an I/M program?

Mr. STAFFORD. In response to my friend, no, the amendment would not change the substantive law that requires I/M programs. Even if EPA did not move to impose sanctions, the Clean Air Act would require the Department of Transportation to cut off certain highway funds and citizens could still sue to have the construction ban imposed.

Mr. HUDDLESTON. Is it the chairman's views that enactment of the pending amendment would lift the sanctions currently in effect in those two counties of Kenton and Campbell?

Mr. STAFFORD. In the judgment of this Senator that amendment would not have that effect.

Mr. HUDDLESTON. So, Mr. President, it is the Senator's view that notwithstanding what my position with respect to the overall inspection and maintenance issue might be, my support for the amendment we have before us today would have the effect of doing nothing to relieve the sanctions presently in place in Kenton and Campbell Counties and at the same time it would present Boone and Jefferson Counties with the real possibility of having sanctions imposed upon them because they do not have the adequate I/M programs in place for lack of Federal financial support. What I see here is the possibility that, if the amendment passes, perhaps all four counties that are in question here could end up on the losing end of this particular situation.

Mr. STAFFORD. Mr. President, I say to my distinguished friend from Kentucky that I believe he has described the situation quite well.

Mr. HUDDLESTON. I thank the distinguished chairman.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, the amendment proposed by the Senator from Pennsylvania would prohibit the EPA from doing anything to carry out the clear congressional mandate of the Clean Air Act, that in order to get an extension of the normal 1982 deadline for meeting the national air quality standards, a State must adopt an automobile inspection/maintenance program.

There are at least four reasons why I urge my colleagues to join me and the Senator from Vermont in opposing the amendment. The reasons are:

First, as the Senator from Vermont has so aptly said, we should not bypass the normal legislative process on an important issue in this manner.

In addition, the inspection and maintenance requirement is an appropriate part and an important part of the system that Congress has established for letting States get extensions from the 1982 deadline.

In addition, inspection and maintenance has proved, as determined by the National Commission on Air Quality, to be a very effective way to reduce pollution.

Finally, this amendment would not even serve the purpose for which it is offered.

Mr. President, the Senator from Vermont, as chairman of our committee, I think, has made a very apt argument, that we are in the process now after 3 years of study of undertaking the renewal of the clear air laws for this Nation. It is not appropriate, nor is it timely to undertake in the Chamber in an unrelated bill to change a major part of that undertaking begun from 10 years ago.

We have had hearings. We have 3 years of study embodied in the report of the National Commission on Air Quality, which Senators have available to them, upon which we can legislate in a normal course of events.

I think that normal course should be pursued, and I think it should be pursued quickly. I am hopeful that the administration will come forward at the earliest possible time with its recommendations in this area so we can move forward.

I know it is the intention of the committee chairman to get the committee underway in any case.

But, in addition, the inspection and maintenance requirement—and EPA's implementation of that requirement—is both a reasonable and appropriate part of the system that Congress has approved in 1970 and 1977 to let States get extensions from the 1982 deadline for meeting the national air quality standards.

No area is actually required to have an inspection and maintenance program. Instead, under the law passed by Congress, inspection and maintenance is a condition that Congress requires of a State to let that State get an extension of the 1982 deadline. In 1977, Congress realized that certain parts of the country would be unable to meet the 1982 deadline for complying with the national air quality standards for carbon monoxide and ozone, unless those areas drastically curtailed automobile traffic, a proposal that I think we all felt was unrealistic. To avoid that, Congress established a system to let those areas get an additional 5 years, until 1987, to meet the air quality standards for just those two auto-related pollutants, carbon monoxide and ozone.

But Congress wanted to make sure in doing so that those areas that had the most difficult transportation problems and were asking for those extensions were doing all they reasonably could to meet the air quality standards in the meantime, and Congress, therefore, explicitly required that these areas have some form of inspection and maintenance program.

Mr. President, having been involved in that very serious and prolonged debate, beginning in 1975 and culminating in 1977, I know that this requirement is an appropriate one.

We have to remember that these areas that we are discussing here have pollution levels high enough to affect adversely public health, and these areas are getting extra time to meet the health standards because of the difficulty of pollution control.

But in the meantime, we must keep in mind these areas are exceeding the national standards.

EPA implementation of the statutory requirements, especially the requirement that certain Federal funds be withheld from areas requesting extensions of 1982 deadlines but not adopting inspection and maintenance, has been instrumental in getting States to follow the law. This has been true in my own home State of Colorado, where the State Legislature adopted an inspection and maintenance program only because EPA took steps to implement the congressionally required sanctions which constitute the stick that goes along with the carrot of letting States adopt their own clear air programs.

Prohibiting EPA from carrying out its role would destroy the system that Congress has adopted to both give States the primary role in clean air programs, and that is extremely important, and at the same time to make sure that the air is cleaned up.

Mr. President, inspection and maintenance has proved to be a very effective way to reduce pollution. The problem which inspection and maintenance addresses is that cars actually being driven on the road have, on the average, substantially higher "in use" emissions than the national emission standards allow.

Mr. President, I ask unanimous consent to have printed in the RECORD a National Commission on Air Quality table which shows EPA and the National Commission's calculations of average in-use emissions for different model year cars compared to the standards.

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

TABLE 22.—AVERAGE LIFETIME (100,000 MILES) EMISSIONS OF GASOLINE AUTOMOBILES

Pollutant and year model	Standard (gm/mi)	Average emissions (gm/mi)		Ratio of emissions to standard	
		EPA	NCAQ	EPA	NCAQ
Hydrocarbons:					
Pre-1968	None	8.15			
1975-76	1.5	2.74	2.41	1.8	1.6
1977-78	1.5	2.74	2.55	1.8	1.7
1979	1.5	2.74	1.83	1.8	1.2
1980	.41	1.74	.94	4.2	2.3
1981	.41	1.34	.87	3.3	2.1
1982	.41	1.34	.82	3.3	2.0
1983	.41	1.34	.76	3.3	2.1
1984 plus	.41	1.34	.79	3.3	1.9
Carbon monoxide:					
Pre-1968	None	89.5			
1975-76	15.0	34.5	29.8	2.3	2.0
1977-78	15.0	34.5	32.9	2.3	2.2
1979	15.0	34.5	22.6	2.3	1.5
1980	7.0	20.4	16.9	2.9	2.4
1981	3.4	19.4	16.9	5.7	5.0
1982	3.4	19.0	14.7	5.6	4.3
1983	3.4	18.8	11.7	5.5	3.4
1984 plus	3.4	18.8	12.4	5.5	3.6
Nitrogen oxides:					
Pre-1968	None	3.44			
1975-76	3.1	2.63	2.55	.8	.8
1977-79	2.0	2.19	2.10	1.1	1.1
1980	2.0	2.06	2.10	1.0	1.0
1981	1.0	1.50	1.34	1.5	1.3
1982 plus	1.0	1.50	1.44	1.5	1.4

Note: EPA emission estimates include impact of use of leaded gasoline on vehicles equipped with catalytic converters; Commission estimates do not take this into account.

Mr. HART. Mr. President, for example, as this table shows, the 1981 model year cars are certified by EPA as meeting the national standard of 3.4 grams per mile on carbon monoxide. The EPA calculates that the average 1981 car actually emits almost 20 grams per mile, 19.4 grams per mile to be exact, and the National Commission on Air Quality calculated that the actual emissions are almost 17 grams per mile as opposed to the national standard of 3.4, larger by a factor of 5 or 6.

The major causes of the high in-use emissions can be discovered and corrected through appropriate inspection and maintenance programs. Those causes for 1975 to 1980 care are primarily improper maintenance, such as poor adjustment of the carburetor or of the ignition timing.

For later cars, 1981 and later, a major cause will be the failure of the complex fuel systems which are being used to decrease pollution and increase mileage. These failures will occur on a very small percentage of the cars, but if the failures are not detected and corrected, they can have an enormous effect on total pollution. Tests in California show that if just 4 percent of a car fleet experience fuel system failures, those few cars will produce as much total pollution as all the pollution coming from the remaining 96 percent of the car fleet.

The present inspection and maintenance is the best single way to solve this problem of high in-use emissions.

The National Commission on Air Quality studied inspection and maintenance as part of its comprehensive 3-year examination of the Clean Air Act.

Highlights of that Commission's conclusions are:

Unanimous recommendations that Congress continue to require inspection and maintenance in large cities with severe auto-related pollution problems.

Unanimous finding that inspection and maintenance is the most effective method that has been demonstrated to reduce the emissions from in-use vehicles.

Unanimous finding that inspection and maintenance can reduce tailpipe emissions of carbon monoxide in an area by 26 percent and of hydrocarbons by 20 percent.

Mr. President, finally, because of the way that this amendment had to be drafted to fit on an appropriations bill, this amendment actually would not even serve the intended purpose of removing the statutory requirement of inspection and maintenance in areas getting extensions.

The amendment would prohibit the EPA from spending money to implement the inspection and maintenance requirement, but would not actually repeal the statutory inspection and maintenance requirement.

So a State would continue to have to adopt inspection and maintenance if it is not meeting the air quality standards by 1982.

The difference would be only that if a State tried to take advantage of the amendment to cancel an inspection and maintenance program, the enforcement of the statutory requirement would be left up to the Federal courts, ruling on lawsuits brought by private citizens.

Those lawsuits could result in court ordered inspection and maintenance programs and in court ordered bans on the construction of new plants and factories because of the State's failure to comply with the Clean Air Act.

So, Mr. President, the amendment would result, in the judgment of the Senator from Colorado, in chaos, not in an orderly repeal of the inspection and maintenance program.

I urge my colleagues, together with my distinguished colleague from Vermont, to oppose this amendment.

It would not be the right policy, even if it were considered in the normal legislative process and if it were drafted so as to accomplish its purpose.

There are especially compelling reasons to reject this amendment when it is offered at this time in this fashion and drafted in this form.

Mr. DOMENICI. Mr. President, I won-

der if the distinguished Senator from Colorado would just answer a couple of questions of the Senator from New Mexico.

Mr. HART. I would be glad to.

Mr. DOMENICI. I have been on the committee with our distinguished chairman for as long as I have been in the Senate, and I think you know I have been part of drawing the last two Clean Air Acts, and I am very concerned about getting a new Clean Air Act that is adequate and good.

Let me ask the Senator from Colorado first, Senator, it is true, is it not, that your excellent commission which you chaired recommended some significant changes in this program; is that not correct?

Mr. HART. The commission recommended significant changes in the law and the way it was being administered. But it found this particular program to be effective where it was being adopted.

Mr. DOMENICI. Yes. It said the inspection and maintenance program has some significant qualities about it to help with automobile kinds of pollution. But, as I recall, your commission recommended, first, that cities, only large cities, be under it, and I think you said cities of 500,000 and less should not be under inspection and maintenance; is that not one of the recommendations?

Mr. HART. The Senator is correct.

Mr. DOMENICI. Then the Senator recommended that it not only be applied where primary air standards were violated but that there be a 50 percent in excess of the standards for the inspection and maintenance to be mandated, did it not?

Mr. HART. The Senator is correct.

Mr. DOMENICI. That is not the law now, is it?

Mr. HART. Those requirements are not in the law now.

Mr. DOMENICI. And they cannot be changed administratively, can they? We have got to change the law to say in excess of 50 percent, if that is what the Congress wants?

Mr. HART. The Senator is correct.

Mr. DOMENICI. I thank the Senator and I have no further questions.

I want to comment here that this presents a dilemma for me and, I think, the distinguished chairman knows it, but I think we also have placed American cities in a dilemma, a terrible dilemma, and I will give you a couple of examples.

Your 500,000-population city, 380,000, 260,000, you have been working at this problem, you are about to enter into an agreement or you are about to enforce an ordinance that puts into motion a very extensive and expensive program for the people of that community, and I might say, as an aside, without any assurance it is going to work. But let us even assume it works.

Then the Congress of the United States comes along in 5 or 6 months, as they are going to do, and they change the law, as I predict they are going to do. They are not going to leave this inspection and maintenance program as is. I do not say that about very many laws, but I would risk my legislative reputation that this program will be changed because it does not work very well. It has got enormous problems. We did not build in sufficient flexibility.

When a city exceeds the primary standards in these two pollutants, ozone and CO, the Administrator, within his discretion, says "You have a maintenance and inspection program by a certain time, and if you do not we take away all kinds of program moneys elsewhere." That is what they are going to end up doing, this. Some cities would like to provide other things, but they are not going to be able to.

But what if a city with 400,000 population is on the fence right now. They have been working year after year trying to figure out one of these programs. It is a mess. They have eight hot spots they are trying to take care of. They are wondering if they could do a little land use planning, and here is the deadline and it is a 10-year act. It happens to be a city I know of. They have a 5-year contract with a private sector company to come in and charge for the cars, charge a fee, and the city is going to have such a contract for 6 or 7 months, and then the Congress comes along and says, "this is not working too well, and we accept the recommendations of the distinguished panel headed by the Senator from Colorado."

You do not even come under it anyway, you are exempt, you can do what you want. You can try other methods of controlling automobile pollution. Is not that a nice position to put one of the most controversial programs we have in clean air, referendums in cities for the most part, which have thrown these kinds of ordinances out, the people are frightened to death, asking, "How much are you going to charge to repair each car?" Some are saying, "No more than $75." That is how you solve some of the problems. If the car does not meet inspection they say, "We assure you, you will not pay more than $75 to that automobile repairman."

Then you ask "What if it is supposed to cost $150 to fix it?" They are saying, "You do not have to fix it then because we do not want you to spend more than $75." Some have $60, some have $50, estimates are all over the place. Some say every car in the city will only pay for inspection, and 15 percent will not pay over $50. Another group studies it and says that is too high and it is only going to cost $30 per year. If there is a program that works, if we are not ambivalent on it in the Congress, so be it.

But I ask the Senate if they are confident that the U.S. Congress is not going to alter this rather soon. I am sure the distinguished chairman of the committee, with whom I want to agree, I do not want to offer an amendment, I do not like the Heinz amendment, I want one that changes the sanctions for 6 or 7 months, and which says that "You cannot use any money to enforce the sanctions for 6 or 7 months until we change the law." I think that is a better approach. You still have citizen suits as a possibility, but at least you leave the city in kind of a neutral posture to see if they want to wait a few months and see what Congress does and see what their flexibility might be.

But I think the chairman would agree with me that we are going to have a new Clean Air Act, I think you hope, before the year is out. But I think you would be willing to say in 7, 8, 9 months we are going to get one, and a lot of attention is going to be directed at this.

I assure you that with a couple of days of working this floor amendment over, this amendment like the Heinz amendment is apt to pass. If that is the case you are certain that when we bring this Clean Air Act here it is going to have the same provisions in it, the ones that have been there for the last 4 years. I mean that is almost a foregone conclusion.

I am asking the chairman and Senator HART if that is the case can we not do something to sort of leave this in limbo for 6 or 7 months, for everyone should know—and I think I can say this without any fear that I am wrong—this is a long-term strategy. This is not going to have any material effect in 6 or 7 months. In fact, there are a number of cities that are being right now ordered to do it and they are being told by clean air people, "Even when you are finished we are not sure you are going to have primary air standards in compliance. They are still going to be out after they get it in," and some say after 5 years it has been in.

I am not asking for throwing this program out forever. It is no good, it is part of a good strategy, it is not flexible enough, I will say that right going in, and it is going to be changed. Can we not offer some kind of help? What would the Senator from Vermont say about an amendment that said, "You cannot spend money to enforce sanctions until Congress amends the law," and just state the section of the law that we are working with? That lets them go ahead and work together, but they have an option of looking at it kind of carefully and saying, "Well, they cannot bring the whole house down on us if we do not do it, and we are kind of looking up to Washington to see what they are going to do with the law."

Mr. HART. Mr. President, will the Senator yield?

Mr. DOMENICI. I would be pleased to yield.

Mr. HART. First of all, the Senator misstated, I am sure unintentionally, when he said the Administrator could not provide flexibility insofar as imposing inspection and maintenance.

I remind my colleague that the law says if you want an extension beyond 1982 in areas that exceed what have been determined scientifically to be in excess of public health air quality standards then you have to have an inspection and maintenance program. If you can meet the standards without it, if you find some other way to do it, you do not need it.

What the Congress found in 1975, 1976, and 1977 was that there were just a lot of areas that had two choices, shut down traffic or clean up the cars, and we found the best way to clean up the cars, the most effective method for doing that, was the i/m program.

The fact of the matter is, to respond to

the Senator, I suspect the Congress will adopt some flexibility measures here to eliminate marginal cases. But I would wager, in opposition to the Senator, that a majority of Senators are going to support the requirement that continues inspection and maintenance programs. There is no other choice if we are to have clean air in this country.

Mr. DOMENICI. Senator, I do not think we are disagreeing. Would you say you have confidence in the recommendation of your commission?

Mr. HART. I certainly do.

Mr. DOMENICI. In this area?

Mr. HART. I certainly do. But I do not know whether the committee will adopt them or not.

Mr. DOMENICI. All right.

When you say we are going to keep them are you suggesting we are going to keep them like they are now or the way they were recommended by your superb study group?

Mr. HART. Well, the way they are now is a great deal of flexibility on the part of any State of this Union as to what kind of an inspection and maintenance program they can have. It does not say "Here is an i/m program and you are going to adopt it or we are going to cut off your funds." You can have any one of a dozen i/m programs to pick from.

Mr. DOMENICI. I thank the Senator.

I would repeat to the Senate once again that even though the commission that Senator HART chaired said the way you have a primary air violation in cities of CO and ozone that inspection and maintenance was a good approach, I suggest to you that they have also found that there are some problems with the rigidity of it because they have also recommended that that is not enough; that you only ought to apply it to cities that exceed the primary by 50 percent, and they have also suggested that cities of 500,000 and less not be included.

Now, we are not operating in a vacuum. There are a number of American cities that are under this threat that are 5,000 and less. There are a number that are under it that do not violate primary by 50 percent as recommended by the study commission.

What are we doing to those cities in the meantime? We are saying, "Go right ahead. Everybody knows there is going to be some change but, city councilman, you fight those people. You have those recall votes out there. They want to throw you out of office. You have those referendums. You have lost them, but you have got to go ahead and we are going to change it in some way."

I hope that we can work out something here which would let the administrator proceed and let the cities continue where they are working well with the director, but not impose the sanctions until we have a new Clean Air Act.

I will tell you what my city will probably do, if you are wondering about Albuquerque. The distinguished chairman probably also already talked to Albuquerque because he knew I might come down here and join with Senator HEINZ. My mayor says, "I think we will go ahead with it, even if you don't mandate it." But his experts are saying, "We might do it a little differently if you weren't there with a hammer. We might defer it for some period of time. We might try some other things to mix with it."

But their problem is this: They are going to have to enter into a contract with a private sector company very soon. To get a reasonable deal, they are going to have to sign long-term contracts and they will have it regardless of what the Congress of the United States does.

I imagine if we look across the country that we have this coloration of a problem in hundreds of cities. It would seem to me that 6, 7, or 8 months of leaving it in some sort of limbo would not be doing violence to anyone.

I am going to suggest to the distinguished Senator from Pennsylvania—and I will circulate to the other Senators an amendment that approaches it differently. I am not going to insist on it now. I will yield the floor momentarily. But it will say, basically, that you cannot expend funds to impose the sanctions for a period of time or until we have enacted legislation amending the section or addressing the section that we refer to. I would hope that we could get some agreement.

Mr. RANDOLPH. Will my colleague yield?

Mr. DOMENICI. I am pleased to yield.

Mr. RANDOLPH. Mr. President, I am appreciative, as always, for the privilege of joining with the able Senator from New Mexico, (Mr. DOMENICI) on many projects, programs, and issues within the Environment and Public Works Committee.

I shall make remarks on the pending amendment a little later, but I believe that I heard the Senator say that referendums were going against the programs that are now in effect. If I am in error about what the Senator said, I would like to be corrected.

But I call the Senator's attention to this fact: We have checked this matter of referendum and it is only in Phoenix, Ariz., that the matter has been before the people. I say to my friend that there the men and women, the citizenry of that city, voted not to repeal this program. I am thinking that I am correct about this being the only city that has had this subject before them for determination.

Mr. DOMENICI. Mr. President, I say to the Senator that, in terms of specific votes by the populace of a city or region. I have no specific information and, therefore, no reason to doubt the Senator.

I only know that in a number of cities, including mine, where the public has been asked in some kind of questionnaire, some kind of "Will you support?", that it seems to be rather overwhelming that they do not want this mandated type of program.

The Senator knows that that does not mean they are conclusive. They could be wrong, too. In my State legislature, they are refusing to go along because they felt they were being dictated to and if they had some flexibility they might go along. So if I left the impression that there were a lot of them, I do not know about them.

My hunch, however—and I will stand on this last part because it is nothing more than mine—is that if you put the facts before the public, in terms of smaller-sized cities, medium-sized cities, if you put the facts before them as to what it will cost and what the ultimate good is and all the problems you know about in getting it repaired properly, how much are they going to get charged, I think you would have a very difficult time passing those in populous cities.

Mr. RANDOLPH. Will the Senator yield further?

Mr. DOMENICI. I am pleased to yield.

Mr. RANDOLPH. I want to be careful in commenting on a statement that the Senator has made. I think that if he checks the record he will see that he indicated what I have said that he told the Members of the Senate a few minutes ago and that is the reason I called attention to it. The word "referendum" was used and that communities were turning i/m down.

The reading of the record will so indicate that. That is the reason I said that in only one city, Phoenix, has there been a direct vote of the people. And in Phoenix there was no repeal of the program.

If I may be indulged for just this further comment. Surveys clearly indicate that citizens in States that have been considering the i/m program have been solidly in favor of these programs. I point to Denver, Colo., 81 percent; Los Angeles, a vote of over 65 percent, I do not have the exact figure; New York City, 80 percent; Miami, Fla., 70 percent; and in New Jersey, as a State, 87 percent.

I am sure that we have differences of opinion on these matters, and we want to fully and realistically do what we should do in reference to the pending amendment here today. But we must not permit the record to indicate that there has been a deterioration in the support for this type of program across America; quite the opposite is true.

A recent Harris survey indicates that the Clean Air Act has the support of 86 percent of the American people. They believe that it should not be changed or only changed to strengthen it.

I do not say any poll is correct. Democratic and Republican Parties use them to support either their strengths or hoped for strengths. But, in this matter, we have that poll that indicates the figure that I have just stated of 86 percent are against the tearing apart of the basics of the Clean Air Act, passed first in this Congress, not yesterday, but in 1963.

Mr. DOMENICI. Mr. President, let me respond to the Senator. I think he knows the record of the Senator from New Mexico in the Clean Air Act. I have been with you, I have been through the conferences with you, I have battled for the last one here on the floor. I think you will recall that Senator MCCLURE and I were staunch allies with Senator Muskie or we would not have passed the last one. Looking back at some of the interpretations, I wonder whether we should not have been a little reluctant then.

Mr. RANDOLPH. I am counting on it in the future.

Mr. DOMENICI. I am going to be a strong supporter in the committee, as I have always been.

I want to get a new Clean Air Act and I am not for gutting it, as some people have been suggesting we ought to do. But, I say to the Senator, on this specific problem, I really think we ought to consider some way to build in some flexibility for a few months while we consider the whole section of attainment. This is in the attainment section. There is no question it is going to be one of the most difficult ones for us to look at.

I would hope that we might be able to come up with some compromise for the period of time from now until we actually amend that section in any way so that those cities can truly have the option of seeing what Congress is ultimately going to do and not be forced into one approach only to find that it is not necessary a few months from now or that even before this year is out we might have this resolved.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in opposition to the amendment sponsored by Senator HEINZ to prohibit EPA from enforcing the auto inspection and maintenance program.

In this whole debate, if it proves nothing else, it proves that this amendment should not be on this particular bill. The subject of auto emissions belongs in the debate on the Clean Air Act.

The distinguished Senators from New Mexico, Vermont, and West Virginia have great expertise in this area. They have had hours and hours of hearings before the Committee on Environment and Public Works.

They should be allowed to come forward in the Senate with a bill directed at the Clean Air Act based on the record, based on the testimony, and permit Members of the Senate to prepare for that bill, prepare for that debate. To pull it in as a rider does not make sense at all.

Among those testifying before the committee was the former secretary of the Wisconsin Department of Natural Resources. He stated that 36 percent of the hydrocarbons and 87 percent of the carbon monoxide in southeast Wisconsin comes from automobile emissions.

Sampling by the department showed that over 80 percent of all cars on the road in that area did not meet their intended levels of pollution control.

But with simple repairs, generally costing no more than $25—though in some cases costing more—most cars could meet the standards and get better gas mileage as well.

In addition, a city of Milwaukee study estimates that an inspection and maintenance program would reduce hydrocarbon emission by 40 percent and carbon monoxide emissions by 50 percent.

Clearly these regulations produce benefits. As the Senator from West Virginia pointed out so well, they won overwhelming popularity in city after city where citizens have had the opportunity to act on them.

They may need some improving. There may even be changes which could make them more efficient or cost effective. But such changes should be discussed as part of the general Clean Air Act debate and not rushed through as an appropriations rider.

There is a committee for it. They have the jurisdiction, the expertise, the knowledge. They ought to handle it.

Mr. CHAFEE. Mr. President, I rise in opposition to the amendment presented by the Senator from Pennsylvania. This amendment, as has been pointed out, would prohibit the use of EPA funds to require or enforce auto inspection and maintenance programs under the Clean Air Act.

I think the principal reasons against this amendment have been very well set forth, not only by the Senator from Wisconsin but the Senator from Colorado, the Senator from West Virginia, and others. The key point is we have a committee that has held hearing after hearing on this very complicated piece of legislation. We had a distinguished commission, headed by the senior Senator from Colorado, which met for over a year and a half on it. They came forward with a report.

This is a matter that should not be brought in as it has been brought in, as an amendment to an appropriation bill.

Mr. President, if we are going to amend the Clean Air Act, let us not amend it piecemeal on appropriation legislation but address it within the context of the changes that should take place.

Second, Mr. President, this amendment would not eliminate the i/m requirement for States and, therefore, the States would legally have to comply with the i/m provisions or risk having a citizen file suit in which case the EPA could apply sanctions against the State.

So, Mr. President, based on the very forceful arguments that have been presented here this afternoon, plus these points, I would urge that my colleagues reject this amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in opposition to the amendment offered by my good friend, the Senator from Pennsylvania.

I must say that I do so with great reluctance, in light of the good relations I have had with my good friend from Pennsylvania on several other measures during the past 2 weeks.

Before getting into the substance of my argument, Mr. President, the Senator from New Mexico (Mr. DOMENICI) suggested that maybe something else ought to be done while we wait for the Clean Air Act to move through committee and come to the floor of the Senate. I think the best thing we might do in this particular circumstance is not to do anything until the committee of jurisdiction has the opportunity to work its will and to bring before this body its suggestions when they are dealing with the Clean Air Act amendments.

We have, under the law presently, until the end of 1982 before any of the jurisdictions not in compliance would have to come into compliance. So we have a good year and a half, in effect, before this provision would take effect anyway. If there is, as I suspect, a sense of urgency about the Clean Air Act amendments, then I think the best course of action would be to wait until that piece of legislation comes before us.

Certainly, as has been mentioned by the Senator from Wisconsin and others, it is highly questionable, I think, to bring up a matter of such importance as this particular suggestion on an appropriations bill.

But more importantly than the legislative vehicle, Mr. President, is the impact that this amendment would have on both the environmental quality and the economic recovery in many metropolitan areas across this country.

The Heinz amendment would bar the Environmental Protection Agency from using funds from the HUD and Independent Agencies Appropriations Act to enforce the auto inspection and maintenance provisions of the Clean Air Act. That is the effect of this amendment.

The inspection and maintenance programs are required after 1982 under the Clean Air Act for highly polluted areas to be eligible for a 5-year extension of the deadline for meeting the national ambient air quality standards. That is the law. That is what the Clean Air Act says.

So we are operating under that particular provision of law.

The Environmental Protection Agency anticipates that areas in 25 States will not meet the clean air standards by January 1, 1983, and they will be required to implement inspection and maintenance programs in order to qualify for deadline extensions.

Let me be very candid with my colleagues. My own State of Connecticut is one of those 25 States that is not going to be able to qualify given our present air quality problems. But the point is, despite what Connecticut is doing—and we have some of the toughest air quality standards in the country—we still have some of the worst air quality in the country. Despite the fact that the State legislature, the localities, industry, have been striving very, very hard to improve our air quality, our problem just does not originate in Connecticut. It comes from other parts of the country, particularly the greater New York metropolitan area. So we have problems. We will need some time to deal with these problems.

All four of Connecticut's air quality regions violate the air quality standard for ozone, the chief source of which is auto emissions. Also, many cities in Connecticut regularly exceed carbon monoxide levels which are safe for humans.

We have determined that the implementation of the inspection and maintenance program is absolutely essential to achieving the air quality standards by the end of the deadline extension, 1987. Connecticut is depending on its planned i/m program to achieve 35 percent of the hydrocarbon and a substantial portion of the carbon monoxide reductions

needed to adequately reduce emissions under its control.

The immediate response would be, I suppose, from my good friend from Pennsylvania or others, "If Connecticut wants an i/m program to clean up its air, it can go ahead with one. They have the right to do that. Why do you have to impose this on other jurisdictions?"

Well, the answer to that question is, in part, the response I gave a minute ago, that is, that our air pollution just does not originate in Connecticut. Such a response would also deny the Federal assistance to States using the inspection and maintenance program to combat air pollution.

It is a small amount, $150,000 in the case of Connecticut. More importantly, the amendment ratifies interstate pollution. This is the most important point.

Studies show, for example, that two-thirds of the extremely high and dangerous ozone levels observed across Connecticut on warm, sunny days during the summer when the winds are from the southwest come from emissions generated in the New York area and other points to the southwest of Connecticut. I do not go so far in these remarks to say Pennsylvania, but it is possible that we are also getting some of our problems from that part of the country.

Connecticut, in this regard, is by no means atypical. It does provide, however, a clear example of the broader implications of this amendment. A study done for the National Commission on Air Quality only last year found that if sources of all ozone-forming emissions in the State of Connecticut were shut down, the State would still not meet the health standards for ozone. The point is that the people of Connecticut and other States will continue to be subjected to unhealthy levels of ozone pollution until the surrounding States also reduce their auto emissions substantially. Inspection and maintenance programs in those areas that cannot meet the 1982 deadline for achieving the national ambient air quality standards are vital to reducing the dangerously unhealthy air pollution levels in most of our metropolitan areas.

Without inspection maintenance programs, there is no assurance whatsoever that the emission control equipment installed in Detroit will continue working on the highways.

The point has been made that new car emissions are 90-percent lower than in automobiles manufactured prior to implementation of emission control standards, but that is true only if the emission control system on recent model cars is working. It is also true only if motorists keep their cars reasonably well tuned.

It was suggested earlier by the distinguished Senator from New Mexico that these costs could be skyrocketing. I am not going to argue that they cannot go up. We know that most costs are rising.

I believe it is worth pointing out to those interested what the experience has been with respect to programs currently operational in the country—in States that already have an inspection and maintenance program—what their costs have been. In New Jersey, in Oregon, in Los Angeles, and in Arizona, the average inspection and maintenance repair cost has been between $18 and $35. That is not insignificant, but it certainly is not a staggering sum, considering the tremendous benefits that could be achieved in terms of cost with respect to human health. It is difficult to anticipate exactly how much money that would save by keeping people healthy. It is trying to prove a negative, I suppose. There has been tremendous improvement in the health of people as a result of this act.

It is well known that emission controls on automobiles cost several hundred dollars per vehicle. Those controls are not simply to raise the price of a car, although I have had my suspicions about the cost of automobiles recently. I do not believe that is the reason they are going up in price. These emissions control costs are to prevent poisonous emissions and protect human health.

I can hardly think of any greater waste of money on pollution control measures than to require several hundred dollars of pollution control equipment and then prohibit measures to keep them working. That would be a total waste of money.

As I have pointed out, experience in the four States that already have voluntarily implemented i/m programs demonstrates that maintenance costs have not been great.

The Heinz amendment, in addition to being bad environmental policy would totally disrupt efforts already under way in many States to meet the requirements of the Clean Air Act.

This amendment—and I want to make this point, because I believe we have been off the point on several occasions in talking about the effect of this amendment—will not relieve any State from the obligation to meet established deadlines presently in the clean air bill. Nothing in this amendment is going to relieve any State of that obligation. Whether they get the money or not, they still will have to meet the requirements of the law, unless we change the law.

So this amendment is not even going to address that particular point. It would not lift the sanctions contained in the Clean Air Act that would be imposed against any State that does not comply with the law. Those sanctions include a cutoff of Federal funds for highways and sewage treatment projects.

A failure to meet the requirements of the Clean Air Act—which, I repeat, will not be lifted by this amendment—could also result in blocking all new industrial permits in the affected States.

This would be devastating to the economies and the workers in the 25 States that have not implemented the i/m provisions under the Clean Air Act after December of 1982.

I emphasize: We want to clean up our air in Connecticut. We do not want to find sanctions imposed upon us by having the loss of funds for Federal highways and sewage treatment facilities, which we need badly.

Our air quality—and I believe this is true of most other jurisdictions in the country—is impacted by what goes on in other States. It is not an issue that can be resolved by creating some imaginary borders that block out poor air coming into a jurisdiction.

So, Mr. President, I sincerely hope that my colleagues on both sides of the aisle will recognize that the proper way to proceed is as suggested by the Senator from Vermont, the Senator from Wisconsin, and the Senator from West Virginia, and that is to wait until the legislation comes up. That is the way to deal with it. That is the proper way to approach this problem.

This amendment is bad law with regard to the environment and is certainly bad law with regard to economic planning in our metropolitan areas.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HEINZ. Mr. President, the Senator from Connecticut is not alone in making the statement that this legislation would have no effect on any State that is subject to the inspection and maintenance program mandate. I strongly disagree with what the Senator is saying.

A few moments ago, the Senator from New Mexico gave a very practical, real life case history of what the existing law and its enforcement without any discretion by EPA is doing to a city in his State and what it is doing in my State of Pennsylvania. It is forcing some 12 counties into a program that is written here in Washington, without any exceptions.

You cannot include or exclude a certain particular set of cars. You cannot exclude the pre-1975 cars. You cannot write a program just to have the pre-1975 cars. You cannot include or exclude the set of cars built and marketed between 1975 and 1980 or the 1981 or 1982 models. There is absolutely no flexibility at all.

The practical effect of this amendment is to buy some time until there is a new law, and we hope one will be written very shortly.

The practical effect on those States that are not under court order would be to tell EPA that they cannot force or coerce this kind of program on the States. Some States are under court orders or consent decrees, such as Pennsylvania and Kentucky.

Let me tell the Senator what the issue is in Pennsylvania. The issue in Pennsylvania is time. We are supposed to have our entire program in by May 1, 1982. The Governor and the legislature have practically unanimously asked for a delay because certain testing equipment will not be available for some time.

The Senator may say, "Well, Senator, you are under a court order. This is a court decision. What possible effect would this amendment have?"

I suggest that the effect would be that EPA would go to the judge in question and say, "Your Honor, we have a message here from Congress, and we suggest that, at a minimum, you modify your order to do one of two things: in Pennsylvania, either wait until October 1, or wait until Congress decides the issue in the Clean Air Act, 3, 6, 8, or 9 months from now."

That, I submit, is the practical effect, and it is not inconsiderable, nor is it unreasonable.

I thank the Senator for yielding.

Mr. MITCHELL and Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I understand that the Senator from Oregon wishes to speak at this time.

Mr. HATFIELD. I thank the Senator from Washington.

I should like to interject at this moment in the debate. I say to the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), and others who are debating this issue that I oppose the amendment—not on the substance, even though I have a particular viewpoint on the substance of the amendment, but on the procedure.

I indicated earlier, in the Republican Conference, as the Senator from Pennsylvania recalls, that it would be my hope, as the chairman of the Appropriations Committee that, under the Republican majority in this Congress, we could refrain from offering amendments using the appropriations as a vehicle for legislative matters.

I fought a losing battle on the abortion question earlier on in this Congress, I gathered from that vote that that was not to be declared as a precedent to break faith, in effect, with what had been generally agreed in the Republican majority caucus.

However, I do want to reemphasize that this is not an appropriation matter. This is not relevant in that sense or germane to the appropriation bill that is pending before the Senate at this time.

I will be happy to argue the issue on the substance or the merit of the case at a later time through the authorization process. But I must say that I speak at this time to oppose this amendment purely on the procedural basis that this constitutes legislating on an appropriation vehicle.

I wish to reiterate one point I made earlier: I can recall 1 year when we went from June until December in a total stalemate in the appropriations process purely because we are trying to legislate a controversial subject on the appropriation bill.

So I must remain true to the commitment I made and the agreement I thought we had reached in the caucus of the Republican Party.

I realize that no one is bound unequivocally, because there are always emergencies and there are always unforeseen issues that arise. I am not suggesting in any way that the Senator from Pennsylvania is reneging on a commitment.

I am saying that we tried to establish it with that caveat—under most extraordinary circumstances, we would all be released from that commitment—that the Republican majority committed itself to the particular proposition that we were going to resist, as much as possible, the action that is being taken here today—putting a legislative issue on an appropriation measure.

With respect to the earlier remarks and the opening remarks made by Mr. BAKER today on the floor, in commending the Appropriations Committee for the expeditious way of having this HUD program on the floor so quickly in the appropriations process, I must say that that is due in part to the fact that we in the subcommittee and in the full Appropriations Committee have resisted the traditional, historic effort to try to affix legislative issues to the appropriation bill.

So I oppose this proposal at this time. Again, I want to make it clear that I recognize the total, legitimate right of the Senator from Pennsylvania to offer this amendment. But I must say that I resist it because it does, in a sense, break away from a general policy that we were trying to establish at the beginning of this Congress under a new majority status leadership, and to expedite the appropriations process.

Let me say one closing word.

We have probably 2 additional working days before the recess: today, Friday, and Saturday. We come back on September 10. We have about 18 working days in September before the end of the fiscal year.

This is the first of 13 appropriations measures. We cannot act in the Senate until the House of Representatives has acted. We have marked up the Interior appropriations measure in the Senate appropriations process. We are ready to move on the legislative, Agriculture, and a few others.

But I must say that under the most desirable circumstances that we could imagine, I still do not see how we can move the appropriations process by September 30 to the point where we will not have to have a continuing resolution.

That was one thing that the new majority party status of the Republicans had tried to commit themselves to, and that is let us get out of this old business of continuing resolutions. They are disastrous, really. They are, I think, one of the worst things that could happen to the legislative process to get ourselves into a continuing resolution where we are locked into the previous year's funding levels.

If we are going to minimize that probability and I must say, in all honesty, I do not know how we can avoid it, at least, on the defense bill and the health and human resources, and maybe two or three others, but let us minimize the encumbrances that we make for ourselves by legislating on appropriations at this time so we can try to expedite the whole appropriation process and come out on September 30 with at least the overwhelming number of the 13 Senate appropriations measures passed, acted upon and thereby escaping the continuing resolution vehicle that we may have to adopt for maybe two or three at the most.

So I must say this pains me to find myself on the other side of the issue with the Senator from Pennsylvania and probably our voting records are more similar than dissimilar on controversial issues. I do rise to oppose this amendment on this procedural basis.

I thank the Senator from Washington for yielding.

Mr. GORTON. I thank the Senator.

Mr. President, I stand to oppose the amendment proposed by the Senator from Pennsylvania, both as inappropriate procedure and as a dangerous policy.

The Senator from Oregon has already indicated in eloquent fashion one of the reasons that this procedure is inappropriate: it is legislation in an appropriations bill.

It is inappropriate, also, because of the fact that the Committee on Environment and Public Works has spent more of its time during the course of this Congress on a careful examination of the Clean Air Act, leading toward its revision and reenactment, than it has, in all probability, on all other matters which have come before that committee combined.

In addition, the amendment proposed by the Senator from Pennsylvania represents, I am convinced, bad policy.

No new direction chartered by Congress during the course of the last decade has been more enthusiastically accepted by the people of the United States than has been the Clean Air Act. It is the legitimate desire of the people of this country to breathe air as clean as it is reasonably possible for us to create.

This acceptance is evidenced by a recent Harris poll, which showed the percentage of acceptance of the Clean Air Act to be in the high 80. The mail which I have received from my constituents in the State of Washington, and I rather suspect from citizens from every one of the States of the United States, confirms the Harris poll. The poll results clearly accord with my own experience at home in the kind of questions which people ask me about the work of Congress during the course of this year.

During the decade of the 1970's, the United States made significant progress toward cleaning up industrial air pollution. In some parts of the country that progress could better be described as vast than as merely significant. Many billions of dollars have been put into creating clean air for the people of the United States and most of it spent by business and industrial concerns.

But the quality of the air in metropolitan areas in almost every part of the United States is still worse than it is in less heavily developed areas. Most of the future improvement in the quality of that air in most metropolitan areas of the United States depends upon control over auto emissions. Even in this field, there have been clear gains due to constantly more stringent requirements on the manufacturer of automobiles.

The single area in which there has been the least progress is in the actual emissions of automobiles as they are driven and used on the streets and roads of the United States as opposed to abstract requirements dealing with their manufacture.

Inspection and maintenance is one of many, but nevertheless very important, tools in the continuing battle to create clean air. It has, of course, as the Senator from Pennsylvania pointed out, created apprehension on the part of a number of people in a number of metropolitan areas, often I am convinced because they do not understand precisely what it will require of them. Nevertheless, if we are to control auto emissions in the long run we are clearly going to be required to have an inspection

and maintenance system at least in a number of major metropolitan areas. One of the scare tactics, one of the reasons for apprehension on the part of many individual citizens in the United States results from the fact that people fear unlimited inconvenience and almost unlimited cost in bringing their automobiles into compliance.

I submit that that simply will not be the case in fact. The Senator from New Mexico, who is sympathetic with this amendment, though he, I believe, wants a slightly different one, pointed out already that many metropolitan areas in States limit the amount of money which any individual may be required to invest in order to comply with an inspection and maintenance system, $50, $60, perhaps $75. That, of course, is one very effective way of seeing to it that a disproportionate load is not imposed on any individual.

The State of New Jersey, on the other hand, which has an inspection and maintenance system and which encourages its continuation, charges a fee, according to testimony before the environment and Public Works Committee, of $2.50 for the inspection. The average repair cost in that State is $19 per rejected vehicle, an investment which I am convinced the vast majority of the people of the United States would be willing to make in clean air.

In addition to the fact that inspection and maintenance is, while a controversial set of proposals, one which is likely to be successful and one which may well be necessary in a number of major metropolitan areas, it is important to point out that the amendment proposed by the Senator from Pennsylvania may very well not have the effect which he desires since it does not go to the actual requirements of the Clean Air Act themselves at all, but simply to what the EPA can do in order to enforce it. Enforcement actions, at least to a certain degree, could certainly continue to be brought by individual citizens or by environmentally oriented organizations.

The subordination of the committee process, as the chairman of the Environment and Public Works Committee, pointed out, is particularly serious in this case, it seems to me, where it is a certainty that this body will have before it by no later than early next year a comprehensive proposal for the updating and renewal of the Clean Air Act.

The Senator from New Mexico spoke, I think, very eloquently about some problems in connection with the present system, the fact that there may be some changes in the course of the renewal of the act.

I suggest to the Senator from New Mexico, for that matter I will suggest to the Senator from Pennsylvania, that they vote against this amendment which I think very clearly goes far beyond what any changes in the Clean Air Act will actually cost. If the Senator from New Mexico feels that there are some areas in which we will march up the hill of an inspection and maintenance program and then very likely march down the hill within 6 or 8 months or so, that he propose an amendment carefully crafted to deal only with those relatively smaller communities and not with the larger ones which are involved in this kind of program.

I am inclined to think, as a matter of fact I am convinced, that even such an amendment would be inappropriate at this time and under these circumstances, but it would at least be not so damaging, not so inappropriate, and not so destructive of our demand for clean air in the United States as would that of the Senator from Pennsylvania, whose amendment I believe should be rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Maine is recognized.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MITCHELL. I yield.

Mr. KENNEDY. Mr. President, I am use its full authority to implement the amendment of the Senator from Pennsylvania.

This amendment would forbid EPA to use its full authority to implement the inspection and maintenance program required by the Clean Air Act.

I consider this the first major vote on the Clean Air Act which will be considered in great detail later this year. By my vote against this amendment I want to make clear to the people of Massachusetts that I intend to be a firm supporter of the act.

I believe that the Clean Air Act is essential to protect the health of our people, the integrity of our environment, and the health of our economy.

I intend to vote for and to work for the Clean Air Act.

For all my years in the Senate public health protection has been one of my foremost concerns.

I would like to point out to my colleagues that the only areas in which inspection and maintenance programs can be required is where minimum public health standards are not met. It is fashionable now to attack bureaucracy and redtape. But one man's redtape is another man's life line.

The OCS drilling protections which the oil industry calls red tape are the only protections of thousands of fishermen's jobs.

The clean air requirements the polluters call "excessive bureaucracy" are the key of freedom and life itself to tens of millions of Americans.

Dirty air imprisons asthmatics in their homes.

Dirty air afflicts the elderly with pneumonia.

Dirty air attacks the health of our children.

I believe it is time to move forward not back.

I believe it is time to enforce the law not repeal it.

Mr. MITCHELL. Mr. President, I join my colleague from the Committee on Environment and Public Works in opposing this amendment. As others have said many times here today, the issue of inspection and maintenance of automobiles and its role in maintaining air quality in America is an issue which is and which should be part of the comprehensive review of the Clean Air Act. That review is presently occurring in our committee. It would be wrong to simply remove this subject from the jurisdiction of our committee by this amendment for the 1-year moratorium suggested. So that our review of the Clean Air Act in the coming months would be less than comprehensive.

The inspection and maintenance programs are an important pollution reduction tool for areas which have the most unhealthy air in the country. EPA only has the authority to require implemention of such a program if an area cannot meet the health-related air quality standards by 1982. As a condition of receiving a 5-year extension of the 1982 deadline, a State must set up inspection and maintenance programs.

Mr. President, this is not an unreasonable requirement. It is but one method, shown to be cost effective, which can contribute to achievement of healthy air. This amendment will result in the anomolous situation in which EPA could not enforce the inspection and maintenance requirement, or aid States in setting up these programs.

Failure of a State to comply would leave EPA with no choice but to impose the sanctions in the Clean Air Act for failure of an area to comply with the conditions of its extension. I remind my colleagues that these sanctions are not trivial: A State stands to lose all funds made available through the Environment Protection Agency, including millions in sewage treatment grants, as well as Federal highway funds. The Congress has given the States with severe air pollution—flexibility in the form of the 5-year extension—to deal with that problem. Adoption of this House amendment will in effect remove that flexibility.

One witness who testified recently before the Committee on Environment and Public Works likened the strategy of the Clean Air Act to a diversified investment strategy. He was referring to the diversified approaches of the act to cleaning up and maintaining the quality of the air we breathe. Inspection and maintenance is one of those strategies. To follow the analogy the effect of this amendment is to prohibit investment in a particular form of security. Such a decision would be unwise if it made it more difficult to achieve future investment objectives. This amendment is similary unwise.

Another witness who testified before the Committee on Environment and Public Works recently. Tom Austin, executive officer of the California Air Resources Board, explained the contribution of automobile pollutants to smog. Every one of those pollutants, hydrocarbons, oxides of nitrogen, fine particles, and notably, sulfur dioxide, also contribute to the problem of acid rain. If automobile inspection and maintenance programs can reduce any of those pollutants, then the problem of acid rain will be similarly mitigated. I am committed as I hope the Senate will be to the resolution of the acid rain problem.

I encourage all Members to vote against the Heinz amendment.

Mr. SYMMS. Mr. President, I would

first like to say to the distinguished chairman of the Environment and Public Works Committee (Mr. STAFFORD) whom I see here on the floor—if I could have the distinguished chairman's attention—I rise in opposition to his position with a great deal of personal regret. I would like to also say and pledge to him that when the issue on which we are now starting to work—we have been very busy with the President's economic package and I have been busy with my other committee assignments—but it is my intention to put a top priority on working with the chairman, although I might have a differing point of view, with the hope that we can work out something in the remainder of this year and resolve this issue.

I was quite interested in the proposition that the Senator from New Mexico, another member of our committee, brought up here, and I am sorry he is not on the floor right at the moment. I was wondering if he was planning to offer his amendment. Does the Senator from Pennsylvania have an idea?

Mr. HEINZ. I will say to the Senator from Idaho that I do not know what Senator DOMENICI's present intention is.

Mr. SYMMS. I yield to the chairman of the committee.

Mr. STAFFORD. If the distinguished Senator will yield to me, I can only say as he left here for a meeting on the other side of the Capitol in connection with budget matters, I believe, the Senator was not sure whether he would offer the amendment or not.

Mr. SYMMS. I thank the distinguished chairman of the committee for that comment.

Mr. HEINZ. I think that is an accurate statement made by the Senator from Vermont. I do know the Senator from New Mexico intends to come back. He has a great interest in this subject and, as apparent from his remarks, he will be back in the not too distant future.

Mr. SYMMS. I will just say to my friend from Pennsylvania, and I know, I was here on the floor and heard our distinguished chairman of the Appropriations Committee make his remarks, that procedurally I guess I would have to say that I agree with the Senator from Oregon that it may be bad legislative procedure but, on the other hand, I would say over the last several years that the Environmental Protection Agency has attempted as much as any other agency in Government to coerce the State legislatures of nearly 30 States into adopting legislation which imposes an annual inspection and maintenance program upon their citizens who, in many cases, do not want to do it, and I think if you talk to the State legislators in the States, you will find they are outraged by it.

In my own State they have become so outraged with EPA that they have done away with the Idaho Clean Air Commission. They say, "If EPA wants to run everything, we will let them come in and run it." So there has been a great deal of outrage expressed.

It is, as I view it, as much as any other thing fundamentally an issue of federalism versus States' rights, and I think for that reason I would feel constrained to support the amendment even though maybe I do not like the procedure, and I think I personally would prefer the approach that the Senator from New Mexico has suggested, and I hope he will bring it in here and offer it so that the Senate can dispose of that first. I think it offers somewhat of a compromise between the parties on both sides of this argument to which I have listened in this debate here on the floor.

Ironically, as the Federal effort to force States into line has intensified, it has become increasingly clear that for most areas to which it applies, inspection and maintenance is a marginal or unnecessary control measure. In the words of the head of the Division of Air Pollution Control of the Illinois Environmental Protection Agency:

> For many localities where the law now mandates I and M, careful examination of the costs and benefits of the program may lead to a conclusion that it is simply not warranted.

The Clean Air Act generally allows the individual States to determine how they will achieve national air quality standards. It is now clear that there is no justification for excepting inspection and maintenance programs from this policy.

I think it has been asserted that the Heinz amendment would deny Federal technical and financial assistance to areas which do seek to implement I/M programs. I am not convinced that there is any basis for that assertion. The amendment, as I understand it, and the Senator from Pennsylvania can correct me if I am wrong, only applies to funds expended for the purpose of requiring States to set up programs. Funds expended for States, to assist States, will clearly not be covered; is that correct?

Mr. HEINZ. The Senator is entirely correct. The amendment applies only to actions by EPA to force or coerce States into this inspection and maintenance program.

Mr. SYMMS. I thank the Senator very much for clarifying that. I think that is a point that needs to be well taken by our colleagues here, as to just exactly what it is you are trying to get at.

It has also been asserted that the Heinz amendment would not change the Clean Air Act, which provides the statutory basis for mandatory i/m. Unquestionably, the Clean Air Act will have to be amended to adequately address this problem.

I think, I hope, that we have an understanding that we are going to get that done this year. I personally was concerned earlier that it might be difficult to get that accomplished. We have made better progress. I think, on the President's economic program than many of us had hoped for earlier, so I am very optimistic.

Mr. HEINZ. Let me say to the Senator if I was really confident that the Environment and Public Works Committee and Congress would complete action on the Clean Air Act this year I probably would not offer this amendment because, there being only a few months left, I doubt that much damage would be done.

But, unfortunately, there just are no assurances that we are going to get a thorough review of the act, notwithstanding that the National Commission on Air Quality has recommended specifically numerous changes and much more flexibility in the inspection and maintenance program we are discussing here.

Mr. SYMMS. I think the Senator also is not—and those of us who support his position are not—trying to say this is going to solve the problem. But it may help us get a revision of the Clean Air Act passed which, I think, if for no other reason, makes the amendment laudable.

Mr. HEINZ. I would say further to the Senator that it is this Senator's intent not to try to make policy through this amendment. What I am trying to do very simply is buy some time until the Environment and Public Works Committee finally comes to a conclusion on this issue. As a matter of fact, I personally prefer the wording of Senator DOMENICI's amendment, even though he has not introduced it, because it is entirely consistent with this Senator's intent.

It is entirely possible that I could support in some modified form a vehicle emission i/m program.

I have a very open mind on that, and I do not think that support for this amendment commits anybody either for or against the program per se.

Mr. SYMMS. But it would give the opportunity for the people in the respective States to have a little breathing room for the next 6 to 8 months until something can be done here later this fall.

I think if one looks at the timetable—and our majority leader has made it very clear we are talking about hopefully an early adjournment this fall, so that the economic recovery program can have a chance to take effect—it may be that this will not be possible, even with the good intentions of our committee and all the other Senators in this body.

So for that reason I feel constrained to go against the two chairmen who have spoken here, and support the Senator from Pennsylvania's amendment. I hope it is adopted.

Mr. HEINZ. Mr. President, will the Senator yield further?

Mr. SYMMS. I yield.

Mr. HEINZ. I thank the Senator for his support. I think his points are excellent and well-taken, and I very much appreciate his very thoughtful analysis of the problem.

Mr. SYMMS. I thank the Senator.

Mr. BAUCUS. Mr. President, frankly, I am a little perplexed why this amendment is here. I fully understand that the Senator from Pennsylvania and other Senators have interests in their own States to be here on the floor in support of this amendment. But, Mr. President, this amendment purely and simply does not belong here for various reasons.

First of all, this is an appropriations bill; purely and simply an appropriations bill. We all know the troubles we have had in the past years with so-called limitations on appropriations bills, which are essentially authorizing in nature, which have stalled this body many, many times, speaking primarily of Federal aid to abortion and other such issues.

I thought that this year we were em-

barking upon a policy of not stalling the Senate, not setting a precedent again of adopting limitations if you call it on appropriations bills, and certainly not adopting authorizing amendments in nature on appropriations bills. It just does not make good sense. And that is what this is. It is in the nature of an authorizing amendment, styled as a limitation on an appropriations bill and it should not be here today.

Second, it does not belong here because this is the wrong committee. The Committee on Environment and Public Works is presently very deeply and thoroughly conducting hearings and coming up with a new bill on the Clear Air Act. The amendment before us deals very, very much with the act that we are now considering in the Environment and Public Works Committee. It goes, if not to the heart of the Clean Air Act, certainly to a very integral part of the Clean Air Act.

We have had many days of hearings. We have very thoroughly explored the question, that is the Clean Air Act. We have had hearings on the i/m program and the i/m program is a program which should not apply specifically to one city or to another but should be a program that applies to the country. And that is why the proper forum, the proper place and the proper manner in which we should consider this question should be in the committee in the national context, not in the piecemeal context when we look at this question city-by-city.

The third reason this amendment should not be heard is because, as the chairman of the Environment and Public Works Committee has stated, we should not destroy the Clean Air Act piecemeal. And that is what this amendment will do. If this amendment is adopted, then other special interest groups will be tempted to use this appropriations bill process or some other process to try to, if not gut the Clean Air Act, certainly try to dismantle it.

Mr. President, I suggest that the American people do not want to gut the Clean Air Act. There are some problems with it. There are some unnecessary delays. But America wants clean air. All polls show that and all discussions with people indicate that. They do want clean air.

I do not think the American people want to jeopardize the act by adopting, let alone considering, amendments in this fashion; that is, amendments on the appropriations bill and also amendments to the Clean Air Act before the committee has had a chance to report out a comprehensive bill.

I think it would be a sad day, frankly, if this body adopts this amendment here today. It violates the process, it violates the spirit, and it violates the substance of the act.

Mr. President, I strongly urge that the Members of this body reject this amendment. This question will come up. It has come up in the proper place and in the proper forum. And this question will come up at the appropriate time on this very floor in this very forum when the Clean Air Act bill is reported out of committee. That should be the time and place that we consider this question, not now.

I commend the chairman of the committee for opposing this amendment. It does not belong here and he has, I think, taken a very responsible approach to this question.

Again, I urge that the Members of the Senate do not adopt this amendment. I thank the Chair.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I understand that the Senator from Pennsylvania has indicated that Tom Quinn, former director of the California Air Resources Board, had reservations about the i/m requirement. The fact is that Mr. Quinn and his replacement, Mary Nichols, the present director of the ARB in California, supports strongly the i/m requirement. The ARB opposes this amendment, as do I.

On June 3, Mrs. Nichols testified before the Senate Environment and Public Works Committee, indicating that control of auto emissions was the heart of California's air quality strategy. No single program was more important, she said.

Yet, without i/m, the auto emissions strategy in California would have limited future effect.

On June 23, Tom Austin, executive officer of the California ARB, supported i/m as a means of future control of auto emissions, which is absolutely critical to California eventually achieving clean air standards.

The Senator from Pennsylvania is not on the Environment and Public Works Committee and probably did not have the benefit of this testimony when he made his statement.

But that is why the Clean Air Act and the i/m requirement should be handled in an orderly fashion in committee, and not as a rider on an appropriations bill.

I oppose this amendment beyond that for the following reasons:

The 1977 Clean Air Act Amendments allowed States which will not meet Federal air quality standards by the end of 1982 to get a 5-year extension on the deadline provided they submit an implementation plan which includes an annual vehicle emission inspection and maintenance program.

Why have such a requirement?

Because in those States which contain areas that will not be able to comply with Federal air quality standards by 1982, auto emissions—almost without exception—are a significant contributing source of air pollution.

In my State, control of auto emissions is vital in all major metropolitan areas if we are ever to meet Federal air quality standards. And without annual inspections, there is now no effective way or insuring that in-use vehicles continue to meet emission standards.

I am not convinced by the arguments for repeal of the i/m requirement: The benefits of this program far outweigh its costs.

While there is some cost, the result is a reduction in the health hazards to the heart, lungs and eyes—particularly among children, the elderly and those with respiratory and heart ailments—which many scientists believe are caused by concentrations of carbon monoxide and other automobile-related pollutants in the air.

Another benefit of the inspection and maintenance program is a 4-percent increase in fuel economy.

The Senate Environment and Public Works Committee has heard testimony from States where i/m programs are now operating, indicating that i/m programs significantly reduce emissions with only moderate average vehicle costs.

As part of its comprehensive review of the Clean Air Act, the Environment and Public Works Committee will evaluate the effectiveness of the i/m requirement in accomplishing the purpose of the act.

This piecemeal attack on this portion of the act is ill-advised, and certainly premature.

The argument for increasing State flexibility in this instance is merely an argument for weakening the Clean Air Act.

Although my State has been a leader in other phases of the fight to improve air quality, I deeply regret that it is in noncompliance with the i/m requirement.

As a result, EPA last December undertook to impose sanctions—by withholding certain Federal highway and construction funds—as provided for in the act.

Despite the sanctions, the California Legislature—encouraged by the changing Federal administration and the introduction of proposals like the pending amendment to eliminate the i/m requirement—has not yet adopted i/m legislation.

I believe the proposal to eliminate the i/m requirement is misguided, and I have repeatedly urged the California Legislature to move forward on the i/m legislation.

I believe they will if the requirement is maintained.

But if it is effectively eliminated by cutting off funds for its implementation and enforcement—as this amendment would do—California's legislature will probably not adopt an i/m program, and the effectiveness of the State's vehicle emissions control program—the very heart of its clean air program—will be severely damaged.

I urge that the amendment be defeated.

● Mr. D'AMATO. Mr. President, I support the amendment offered by my distinguished colleague from Pennsylvania. As a member of the Appropriations Committee and a supporter of the committee system, my decision to support the 1-year moratorium on the auto emission inspection and maintenance program is not an easy one. Certainly, it is important that we not make a common practice of attaching legislative riders to appropriations bills. Just as important is my belief that the Senate Environment and Public Works Committee should be given the opportunity to properly address the reauthorization of the Clean Air Act. But this program has

been the subject of great controversy and a source of continuous difficulty to carowners and service station operators in the Metropolitan New York area.

In New York, so many problems and controversies have arisen in regard to this program that the State department of motor vehicles is currently considering withdrawal of its financial support for the monitoring of the program. The New York State Senate has adopted four separate bills this year which would have altered the boundary lines of the auto emission inspection and maintenance program. This action is an indication of how disturbed some of our State officials have become concerning the problems which have arisen in regard to enforcement of this program.

In Rockland County, which is just north of New York City, the regulations that the Environmental Protection Agency has issued under the Clean Air Act, and the implementing program adopted by the State, have proven exceptionally unpopular. This county has been arbitrarily made a part of the New York City metropolitan zone, even though it is 25 miles from downtown New York City and does not have a significant concentration of vehicular traffic. The auto inspection stations in the county have been required to purchase testing equipment at costs of up to $6,000, with no assistance from either the Federal or State government.

As for the cost-effectiveness of this program, I believe the report of the National Commission on Air Quality makes clear there are better ways to achieve clean air goals. According to the NCAQ, in the New York metropolitan-Connecticut region, inspection and maintenance is estimated to cost between $1,035 per ton of hydrocarbons removed in Connecticut and $1,563 per ton of hydrocarbons removed in New York City. Many of the controls currently proposed for implementation are more cost-effective, such as can coil, wire, fabric, paper, and large appliance coating activities, with costs ranging between $25 and $350 per ton. Other controls, such as those on degreasing activities, cut-back asphalt, miscellaneous refinery sources, bulk plants, and gasoline terminals, may result in savings, up to $450 per ton.

Furthermore, the mandatory inspection program penalizes the inspection station owners and automobile owners, neither of whom are responsible for the manufacture of the cars on the road. I believe that this program is just another example of unwanted government regulation into our everyday lives. Last November, the people said, enough is enough.

I submit for the RECORD a letter from New York State Senator Linda Winikow, illustrating the problems I have described below.

THE SENATE,
STATE OF NEW YORK,
February 20, 1981.

Hon. ALFONSE D'AMATO,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR D'AMATO: Earlier this year I wrote to you regarding the New York State automobile emission inspection and testing program. This program, established to comply with the State Implementation Program, mandated by the United States Environmental Protection Agency to enforce the Clean Air Act, is causing serious problems for Rockland County.

It is the feeling of many residents, and I agree, that Rockland should not be included in this program.

If New York State acts to exempt Rockland, either legislatively (I have introduced a bill, S. 906, to that end) or administratively (assuming that the state D.E.C. could fund the needed testing to determine that Rockland's air was good enough—an unlikely, at best, assumption), the EPA will still have to approve the amendment to the SIP reflecting exemption of Rockland.

It does not appear that EPA will, on the merit of the issue, approve any such amendment to the SIP.

Thus, the only hope for Rockland County lies with you. Only your efforts, in coordination with your colleagues, can bring about the pressure on EPA needed to gain acceptance of an amendment to the SIP. If New York acts without EPA approval, it is likely that EPA will take retaliatory action, through the courts to enforce the emissions program in Rockland and/or administratively through the withholding of federal funds for highway and sewage treatment construction. This latter course was recently taken against California and Kentucky.

On behalf of my constituents, and yours, in Rockland County, I urge you to do everything that you can to convince EPA to acquiesce in the removal of Rockland County from the emissions inspection program.

Thank you for your cooperation and consideration. If I can be of any assistance to you, please do not hesitate to contact me. Best personal regards.

Very truly yours,

LINDA WINIKOW,
State Senator.

Mr. President, my vote on this particular amendment does not reflect an opposition to the goals of the Clean Air Act. In fact, I, along with an overwhelming majority of my colleagues and constituents stand firmly behind the commitments we have made to a clean and healthy environment. Recent nationwide polls on the quality of the environment show that 75 percent of Americans believe it is possible to maintain strong economic growth in the United States and still maintain high environmental standards. Nearly 60 percent believe that government regulations and requirements to protect the environment are worth the extra costs added to the products and services the average person buys. But this inspection and maintenance program is not the proper way to go about achieving the goals we all desire.

It had been my hope, and I have expressed it to the chairman of the Senate Environment Committee and to President Reagan, that the Clean Air Act could have been reauthorized and amended this year. But given the time we have necessarily spent on budget and tax measures, and the absence of a program submitted to the Congress by the administration, this seems all to unlikely. I even doubt whether we will seriously consider this law during the second session of this Congress. Therefore, it is incumbent upon us to deal with this problem today, and not force the States to proceed with an unpopular program that may be modified anyway during the reauthorization of the Clean Air Act.

Mr. President, finally, this amendment will merely put a moratorium of 1 year on the spending of money by EPA to enforce this law against the States. It does not preclude a State from adopting an inspection and maintenance program if it so chooses. And it gives Congress the opportunity to address this controversial program during the debates concerning the reauthorization of the Clean Air Act. But it does remove the interference of the Federal Government in the rightful domain of the State governments. I believe it is in the interest of the consumers of this Nation that we adopt the amendment.●

Mr. GARN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside so that the Senate may consider two amendments which I believe will be agreed to.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. GARN. Mr. President, the Senator from Washington has an amendment which he has discussed with me. I have not been willing to accept any add ons to this bill. However, he will present an amendment and I will then offer an offsetting amendment.

The PRESIDING OFFICER. The Senator from Washington.

UP AMENDMENT NO. 342

(Purpose: To increase funding for the Council on Environmental Quality)

Mr. GORTON. 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 Washington (Mr. GORTON) proposes an unprinted amendment numbered 342:

On page 19, line 6, strike "$1,044,000" and insert in lieu thereof "$1,544,000".

Mr. GORTON. Mr. President, this simply makes the appropriation for the Council on Environmental Quality equal to that authorized by the Committee on Environment and Public Works. There will be a much larger EPA R. & D. account, which has also been utilized for some other changes the Appropriations Committee made.

This was carefully considered in the Environment and Public Works Committee, and I ask for its approval.

Mr. GARN. Mr. President, I am willing to accept the amendment of the Senator from Washington.

Mr. HUDDLESTON. Mr. President, we have no objection to the amendment.

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

The amendment (UP No. 342) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 343

(Purpose: Reduction of $500,000 in EPA's R. & D. account)

Mr. GARN. 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 Utah (Mr. GARN) proposes an unprinted amendment numbered 343.

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:

On page 16, line 22, strike "$181,250,700" and insert in lieu thereof "$180,750,700".

Mr. GARN. Mr. President, this amendment would delete $500,000 from EPA's R. & D. account to provide funds for the amendment just proposed by the Senator from Washington, which was agreed to. I am obviously willing to accept my own amendment.

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

The amendment (UP No. 343) was agreed to.

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

Mr. HUDDLESTON. 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 West Virginia.

UP AMENDMENT NO. 341

Mr. RANDOLPH. Mr. President, for a brief time earlier this afternoon I had the privilege of a colloquy with the able Senator from New Mexico (Mr. DOMENICI), a valued member of our committee.

I indicated at that time that I would desire later, as the debate proceeded on the pending amendment of the Senator from Pennsylvania (Mr. HEINZ), perhaps even after including language of the Senator from New Mexico (Mr. DOMENICI), to address my remarks in opposition to the effort being made in this body to begin what I sense as a demolition of the basics of the Clean Air Act.

I want to say in the presence of my friend from Pennsylvania, and I note he is on the floor at this time, that I would like to have him agree with me that when we had the legislative effort begun last year in the 96th Congress to have a necessary stretchout to aid the steel industry, it was on a case-by-case basis. That was a modification of the Clean Air Act.

We did that, however, not in any amendment offered to an appropriations bill in this body. We did it after careful and extended hearings. The Senator from Pennsylvania, knowledgeable in matters of steel and coal, and the products of the State that he represents, was active in bringing to passage that legislation.

I am only stressing the fact that on an important matter of that kind it was not through an amendment offered in this body to an appropriations bill, but it was through the orderly process of hearings within the Committee on Environment and Public Works.

Because of that process, we were able to work out a reasoned approach which called upon almost all segments intensely interested in the steel industry and the Clean Air Act to have a uniformity of support for the measure. The Senate action on the bill demonstrates that support.

I am regretful that the Senator from Pennsylvania would now deviate from a course which he followed in that earlier action, in which we both joined because we felt it was very important. But I remind him it was an amendment to the Clean Air Act. Here, this afternoon, we face not an amendment that comes from the committee, or on a bill where jurisdiction would lodge within the committee, but, as has been said by other Senators who oppose the bill, what we face is certainly an illogical way to consider the amendment.

For that reason, Mr. President, I have used perhaps more time than I should to refer to the fact that the Clean Air Act came into being not overnight; the Clean Air Act came into being over a long period of years.

The first statute, to begin that which earlier, we should have done with the support of the American people, the first step along the road of cleaning the air came in the Senate in 1963.

That legislation came out of the committee of jurisdiction.

In 1965 we included for the first time Federal auto emission standards. This was a matter that came before us. We considered it carefully and legislation was brought to this body and was passed.

The same was true, in a sense, 2 years later, in 1967, when further attention as a result of hearings, discussions, debates, differences that were compromised, consensus was brought into being. In the 1970 legislation, I say to those in charge of this legislation, those handling this bill, Senator GARN and HUDDLESTON, this was a departure. It was a move forward. So the 1970 act was a major development in the evolution of the Clean Air Act.

But we were not to stop there. We came back in 1974. Then we were discussing a subject very close, I am sure, to the interests of many Members of this body. We believe very much in the conversion of utility plants from gas and petroleum to the use of coal; and in that matter, the Senator from Pennsylvania and I are joined, that that should take place. It should take place, however, so that you could burn coal, use coal, cleanly, without damaging either the health or the safety of people.

That was the subject of the 1974 act. At the same time, we were to consider that matter which was very controversial—the matter of emissions from automobiles that operate across America, on our roads, including the vast interstate system. We took a very important vote when that came before us. Then, in 1975 and on through 1977, we made revisions to the Clean Air Act. They should have been made. They had the support of not only the Senate but also the House of Representatives. They became the law of the land.

Frankly, I am disappointed that that procedure, which has always been productive, over a period from 1963 to and including the action just a few weeks ago in this body, in 1981, of making those necessary, well-reasoned changes within a law which is basic to the well-being, the safety, and the protection of the people of the United States of America.

I wish the amendment had not been offered. I am sorry that I have to be rather vigorous—but I do not call it vigorous. I am very earnest in my opposition to the amendment. I hope that the Members of the Senate will turn back the effort of the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I am delighted to yield.

Mr. HEINZ. I thank the Senator for yielding.

I wonder how the Senator would answer the following semihypothetical question.

Let us assume, for the moment, that there is a State or a city that has to enter into a contract or to pass enabling legislation, has to do something to comply with this EPA mandate by January 1, 1982; that, in fact, privately we could all agree today that the mandate as currently written in the law really did not make all that much sense; that there are some modifications that should be made. For example, the National Commission on Air Quality has suggested that the vehicle emissions maintenance inspection program should be applied only to densely populated cities, cities of 500,000 or more.

Let us assume that we all privately agree that the National Commission on Air Quality, which is chaired by Senator HART, was actually right in that; but at the same time, for other reasons, the Clean Air Act being an inherently contentious piece of legislation, we knew that we were not going to pass the Clean Air Act until April, May, or June of next year—not that we wish it to be so, but that for the purpose of this hypothetical example it is so.

How would the Senator from West Virginia or, for that matter, the Senator from Vermont, suggest that we address this kind of issue? I should like to know that.

Mr. RANDOLPH. We cannot agree, of course, that the act's requirement for this type of program is not wise or that it will be detrimental, as the Senator seems to indicate it would be.

It is difficult to answer the Senator, because the Senator is working on an assumption, and he has so said. And we do not share his assumptions.

Mr. HEINZ. I am just giving the Senator a hypothetical example.

Let me restate the example, so that there is no misunderstanding. I am not trying to entrap the Senator or any other of my colleagues. It is simply a practical question, when it comes to dealing with something with which we might disagree.

If an agency has a certain set of

powers and, hypothetically, we are going to modify or restrict those powers or limit them in some way and we know we are going to do that—this, again, is hypothetical—but we know that the enabling legislation is going to take a long time to pass——

Mr. RANDOLPH. Who says we are going to do that?

Mr. HEINZ. It is a hypothetical example.

Mr. RANDOLPH. I understand.

Mr. HEINZ. How do you deal, in the meantime, with what, in this hypothetical example, we all could agree was an inequity, that our wisdom had caught up with our previous actions, as so often happens around here? How do you deal with that?

I am not in the habit of offering riders on appropriations bills. I may have offered one, but I cannot think of one I have offered before.

How do you deal with this kind of situation? The Senator from Vermont has said that this is the wrong way to deal with this. How would he deal with this?

Mr. RANDOLPH. Does the Senator from Vermont wish to answer? I am speaking on my time, and I am delighted to yield.

Mr. STAFFORD. I say to the Senator from Pennsylvania that I do not really see any great point in rehashing all the arguments that have been going on here this afternoon. I am not going to respond to a hypothetical question.

The problem is that the committee, which I have the privilege to chair in this Congress, is hard at work on the Clean Air Act. We have had 23 days of hearings, 1 day devoted to the i/m issue. We had a meeting today with the committee staff to discuss the work coming up in the next few weeks.

In the judgment of this Senator, the i/m issue, as the Senator from Pennsylvania is raising it, is a very small part of a very large, complex, and difficult question with which the committee is trying to deal. We do not want to deal with it bit by bit. If we deal with any single bit of the legislation now, we distort the equities of the whole measure and make it that much more difficult for our committee to come to an equitable result.

We are moving as fast as we can, I say to the Senator from Pennsylvania, and the deadline he refers to is not until January 1, 1982. One reason for an inspection and maintenance program is to get 5 more years, to 1987, in which to reach compliance with the national standards.

Mr. HEINZ. I thank the Senator.

Mr. RANDOLPH. Let me respond further, since the matter has been raised and has been partially answered from our standpoint—although it is difficult to work on a hypothetical question—we cannot pass or defeat legislation on hypothetical levels. I cannot agree that the act's requirement for the i/m programs is not wise. I do not think it is going to be greatly changed.

The sanctions for changes in State schedules to install i/m programs are not mandatory, I say to the Senator. They are discretionary, and he knows that to be a fact.

If a city with, let us say, a minor clean air problem wishes to defer signing a contract or taking some other steps, I do not believe that EPA will impose further sanctions. I would work with EPA and its officials to see that that would not be done.

Mr. HEINZ. I appreciate the Senator saying that. Perhaps he and Senator STAFFORD together would prevail.

I say to the Senator from West Virginia that our Governor requested a delay until October 1, 1982. To the best of my knowledge, EPA did not support that delay; and, as a result, the judge decided on a May 1, 1982, date. The result is that we run the risk of having a very arbitrary and not very well run inspection and maintenance program in our State, because the equipment that the State would like to have in order to run it properly will not be available until the fall of 1982.

Do I correctly understand the Senator to say that he and Senator STAFFORD would be willing to try to prevail upon EPA to go to the judge and try to get him—without any guarantee that he will do so—to change his mind on the date?

(Mr. ABDNOR assumed the chair.)

Mr. RANDOLPH. First of all, I am sure that Senator STAFFORD and Senator RANDOLPH would not go directly to the judge.

Mr. HEINZ. No.

Mr. RANDOLPH. I understand.

Mr. HEINZ. I said go to the EPA.

Mr. RANDOLPH. I understand. I certainly have many, many times talked to the Administrator of EPA. I am sure that every Senator almost who has had problems in connection with EPA feels no reluctance to discuss the matters with the Administrator. We have had several of them. By and large I would say they are, if not eager, certainly understanding of the problems that are brought by individual Senators in reference to certain conditions that exist within certain plants, we will say, or certain political jurisdictions such as a city, in this case, and would discuss those problems with us if we felt that the case was a matter of timing, as the Senator indicates he is concerned about in reference to the problems of inspection and maintenance.

Mr. HEINZ. Let me be as direct as I can in my question. Will the Senator from West Virginia together with, if he agrees to it, the Senator from Vermont, be willing to join me in urging EPA to go on record here for what amounts to about a 5-month delay?

Mr. RANDOLPH. First of all I would not be possessed of the facts to be able to say that this afternoon. The Senator would not expect me to.

But it is certainly appropriate for the able Senator from Pennsylvania to talk to the chairman of the committee and with the ranking minority member of the committee to go into the problem that we discuss today in connection with the matters that the Governor of the State of Pennsylvania and presumably the courts would have to cope with.

Is that sufficient, to talk it over, the three of us as the Senator talks matters over in connection with other agencies of the Federal Government? This agency is not isolated. There are no walls around it and those Administrators that we have had, both in Democratic administrations, I will remind the Senator, as well as Republican administrations, have by and large, although disagreeing often with the legislation, seen the need to modify positions in connection with some pending matter of concern.

Mr. HEINZ. I appreciate what the Senator from West Virginia says.

I note the Senator from Vermont has been temporarily called away from the Chamber. I yield the floor.

Mr. QUAYLE. Mr. President, will the Senator yield to me?

Mr. HEINZ. I yield the floor.

Mr. RANDOLPH. The Senator does not have the right to yield. I have the floor.

Mr. HEINZ. I apologize.

Mr. RANDOLPH. That is all right. I am delighted to yield to my colleague for the asking of a question or speech. I am only observing the rules of the Senate. That is all.

Mr. HEINZ. That is right.

Mr. RANDOLPH. I am delighted to yield for the purposes of the Senator questioning or discussing any matter.

Mr. QUAYLE. Let me explain to the Senator. I wish to associate myself with the Senator from Pennsylvania, if the Senator will yield for that purpose. I wish to have some time for this moment. Or if not I will request it. Is it all right to have this time?

Mr. HEINZ. If the Senator will yield, it is my understanding there is no time limitation.

Mr. RANDOLPH. There is no time limitation. Is that correct?

Mr. GARN. That is correct.

Mr. RANDOLPH. That is my understanding. I know that Senator QUAYLE certainly should be heard in the matter of this kind and others who have perhaps different viewpoints than those of us who are in the committee, and I will say that in this matter there is no majority or minority within the committee. The committee itself feels strongly, both Republicans and Democrats. That does not mean there is any solidarity within the committee—we would not expect it upon this floor in a question of this kind—but I frankly hope that with no time limitation those Senators who feel deeply about this matter will come into the Chamber and express themselves as the Senator who is now on his feet is prepared to do. I feel that that is important.

If I may continue in the remarks that I was making when the hypothetical question was asked, I am joined with the chairman of our committee, Senator STAFFORD, and other members of the committee, both Republican and Democrat, in connection with our desire to turn back, if there is a rollcall, the amendment offered by Senator HEINZ.

We know that there are some members of the Appropriations Committee, who feel as do we on the authorizing committee, but I will not attempt to speak for the Appropriations Committee.

I believe, and I have said this over and over again, that inspection and maintenance programs are a very vital and valuable part of the Clean Air Act.

Later this year, as the committee begins its markup, I say to the members who are on the floor, particularly the Senator from Pennsylvania, as we begin not months away, but we begin the markup on the Clean Air Act amendments, we certainly have every right and responsibility, because of what Senators may feel in this matter, to check into the value of requiring inspection and maintenance programs.

The committee and Congress certainly will make its collective judgment on the wisdom or a lack of wisdom in retaining this requirement which I believe is important.

I expect that this program will be continued. That is my expectation, that it will be continued to be required, certainly for the larger metropolitan areas which have much greater distances to go to meet the health protective air quality standards of our country. That is nothing against the big city. It is only because of the congestion of people. It is only because of the impact of the business and commerce of the city itself that these problems surface and are felt in the larger metropolitan areas of the country.

But that should not be the subject of a debate in the Senate today on an appropriation bill. This is not the hour for that decision. We are, and that has been said before, discussing a bill with appropriation funds for EPA's operations, not a bill, I reinforce, that makes or remakes regulatory policy of the Environmental Protection Agency.

Senator HEINZ' amendment is—I do not wish to speak perhaps too strongly—but I think it is out of place here this afternoon. In fact, by restraining EPA funding and behavior on this matter, his amendment would actually complicate matters for the communities that are required by the Clean Air Act to develop inspection and maintenance programs.

They really, I say to my friend from Pennsylvania, would be left in limbo, without assistance to carry out the programs to which they are already committed.

And if affected States pull back from the i/m program, I say it will make a shambles of the State implementation plans which depend upon vehicle inspection for sizable emission reductions.

Every State which requires a program of vehicle inspection has complied except for California, which is trying to comply, and parts of Kentucky. The only sanctions under the Clean Air Act which would apply to a State which is committed to a program and tries to adjust its schedule for compliance, are discretionary sanctions.

So it seems to me that the Administrator of EPA will not impose discretionary sanctions on States where the vehicle inspection programs will make a minor contribution, if they choose to reasonably delay implementation.

I think we must be very, very careful, I say especially to my colleague from Pennsylvania, not to send a wrong signal out to the States by supporting this amendment. This is not the time, as I have indicated earlier, to indicate to the States a premature abandonment of vehicle inspection programs, that we have done something here on an appropriation bill.

These programs, I repeat and repeat, are basic. They are valuable. They improve the air quality by assuring that emission control systems meet the standards when in actual use. They are protective of the consumers—I speak of the consumer investment in pollution control equipment—making sure that they work. And they will be helpful in giving a basis for warranty claims.

They will yield fuel economy benefits to the owners of automobiles across America. If there is any relaxation, I say to my colleagues, of motor vehicle emission standards or of new car certification or assembly line testing, as the auto industry has suggested, we will need vehicle inspection and maintenance programs even more than we need them as we discuss this matter today.

I again say we should not even send up a little flame or signal to the States to back away from these programs and lose the momentum for clean air, clean cities, health and safety hazard protection under which people can build their lives. If we do so, the advances we have made, the momentum under which we are operating, if once stopped or thwarted or we turn aside from it would be difficult to regain. We have done much on the plus side since 1963, including the most recent bill supported by the Senator from Pennsylvania to help the steel industry on a case-by-case basis.

I hope the pending amendment, therefore, will not have the approval of the Members of this body.

Mr. HEINZ. Mr. President, I ask unanimous consent that the Senator from Indiana be added as a cosponsor.

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

Mr. QUAYLE. Mr. President, I want to commend the distinguished Senator from Pennsylvania for introducing this amendment. The amendment is very simple and straightforward. It says that none of these funds may be expended for the purpose of requiring any State to adopt, implement, or enforce a vehicle emission control inspection and maintenance program.

There has been a justified argument, perhaps, that this is not the right time, the right place. But some time has to be the right time and the right place. I certainly congratulate the Senator for offering this amendment and presenting it to the attention of the Senate.

I would just like to tell him what has happened in Indiana. At the last session of the general assembly in Indiana they decided to eliminate the vehicle inspection program as costly to consumers, and it was overwhelmingly decided by the Indiana General Assembly that they would do away with the program.

Then, in comes EPA and "Big Brother" and says, "Well, if you are going to do that then we are going to take away your highway funds."

So what we are experiencing today, Mr. President, is "Big Brother" terrorism in this country where the States are not allowed to make their own decisions.

If these automobiles are not properly attaining the emission controls, maybe we ought to take it up with Detroit or the people that are manufacturing them. Why do we have to take it out time and time again on the consumers of this country?

In March of 1980, Indiana faced the cutoff of $50 million in Federal highway funds because the general assembly failed to enact an inspection and maintenance program. Only through negotiations with EPA, the Indiana attorney general's office and the State air pollution control board could the withdrawal of funding be forestalled. The attorney general's office determined that the air pollution control board had the authority to promulgate rules and regulations for a vehicle inspection and maintenance program. Indiana is in the precarious position of maintaining its good faith efforts in the eyes of EPA for implementing this program in the four counties.

The Indiana Air Pollution Control Division expects the program to be self-supporting. Vehicle owners will be charged a fee, approximately $8.50, for the inspection. These fees are expected to total $6 million per year and will cover the cost of operating the program. The initial capital cost for inspection stations and equipment will be around $10 million, which must be supplied by the independent contractor chosen by the State to operate the facilities. Indiana is now in the process of requesting bids from contractors to operate the program.

The inspection program in Indiana is expected to reduce hydrocarbon emissions in the participating fleet by 25 percent. The overall hydrocarbon emission reduction will only be around 3 percent in the northwest counties and around 6.5 percent in the southeast counties.

The adoption of an inspection program will not guarantee attainment of air quality standards according to the Indiana Air Pollution Control Division. During public hearings held by the air board it became clear that the program is not popular.

The Indiana General Assembly is concerned that a mandatory inspection and maintenance program would be costly to Hoosiers and would not accomplish the goals for which it is intended. Many legislators view the program as an unnecessary intrusion by the Federal Government. I concur in this view. The Clean Air Act in 1970 was written with the intent that the Federal Government could set the standards, but the States would be left to design programs fitting the individual needs of the States; 28 States and the District of Columbia must institute inspection and maintenance programs because they have not attained standards. This is a poor record for an agency which is supposedly worked with the States and not against them.

Legislation was introduced during the last session of the Indiana General Assembly to prohibit the State air pollution control board or the State board of health from implementing the inspection program. Although the legislation enjoyed considerable support, the assembly is hopeful that Congress will take action this year as it reviews the Clean Air Act. I am informed by members of the assembly that should the Congress fail to act, it is possible that action will be taken in Indiana early in the 1982 session to prevent the implementation of such programs.

I want to be associated with the Senator from Pennsylvania, and again I congratulate him for bringing this to the attention of this body.

Mr. HEINZ. Mr. President, if the Senator will yield, I just want to thank him for his support of this initiative. I want to thank him for his very supportive words. I know he has a problem in Indiana like we have in a number of States.

This amendment is not an attempt to rewrite the act, as I know the Senator understands, but is an attempt just to achieve some commonsense, some regulatory moderation, pending disposition of this issue by all of us later.

Mr. GARN. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily laid aside while we consider an amendment of the Senator from Nevada.

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

UP AMENDMENT NO. 344

(Purpose: To increase the appropriation for housing assistance)

Mr. CANNON. 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 Nevada (Mr. CANNON) proposes an unprinted amendment numbered 344.

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

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

The amendment is as follows:

On page 2, strike out all after "by" on line 13 through line 21 and insert in lieu thereof the following: "$906,985,000 of which $25,112,000 shall be for assistance in financing the development or acquisition cost of low-income housing for Indian families as authorized by section 5(c) of the aforementioned act and of which $75,000,000 shall be for the modernization of existing low-income housing projects: *Provided*, That budget authority obligated under such contracts shall be increased above amounts heretofore provided in annual appropriation acts by $18,087,370,000".

Mr. CANNON. Mr. President, my amendment will increase assisted housing by $272 million. This will bring it to the level provided for in the budget reconciliation bill. This level of funding will support approximately 159,000 units which is still 16,000 units below what President Reagan has requested. I feel this is a modest amendment but one which will show that even in this time of major effort to reduce the Federal budget we still have a level of concern for those who must live in dilapidated or overcrowded housing.

Mr. President, the need remains enormous. According to the Congressional Budget Office, over 11 million Americans are income eligible for housing assistance, yet Congress has assisted only about 600,000 of those needing housing aid. Mr. President, at the present time we are helping less than 10 percent of our Nation's citizens. And, what are we doing with this bill, Mr. President? We are cutting assisted housing even below the conference report on the reconciliation measure.

Now, let me say, I am and always have been one of the strongest supporters of efforts to reduce runaway inflation by sharply cutting Federal spending. But, Mr. President, where else can these people go to get relief? My amendment would meet both goals of keeping within the reconciliation dollar figures and at least helping those who need housing assistance by an additional 3,000 units.

I want to commend the distinguished Senators from Utah and Kentucky for their leadership in fashioning this bill to help meet the goals we have set for ourselves in balancing the Federal budget. I entirely agree that this must be one of our urgent priority efforts. However, we have already cut the housing programs by some 40 percent and I find it most reasonable to provide assistance for assisted housing to the level we have deemed appropriate through the budget reconciliation process.

Mr. President, I ask the Senator from Utah if he might be willing to accept this amendment.

Mr. GARN. Mr. President, I would love to accommodate my friend from Nevada, my fellow Senator from a State where we share an entire boundary together north and south, but, unfortunately, I am not able to accept the amendment and the reason is simply dollars.

The House has appropriated $19,742,645,500, and that is $1.9 billion more than the Senate Appropriations Committee has appropriated. That is far, far beyond what we were able to assimilate as far as the reconciliation process is concerned. It increases our outlays considerably, and this bill is already slightly over what we are allowed in outlays for fiscal year 1982.

There is no doubt that when we get into conference that the Senate position that much below will not be able to hold. So there is going to be additional money provided in housing.

But if I accept more where there is such a very large difference between the House and the Senate here on the floor and add money to it, it reduces the bargaining power and puts me in a difficult position versus the House in conference.

But I expect there will be additional housing money made available. I certainly cannot accept it here in the Senate version with that large difference between the House and the Senate.

Mr. CANNON. Mr. President. I understand what the Senator is saying. I am sure he is supportive of our trying to get more housing in this area. He has certainly indicated he will try in conference to come up with a higher figure. I certainly hope that will take place and I would be very pleased—I think we ought to at least have a voice vote on this issue.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. HUDDLESTON. I would say to my friend from Nevada that the distingushed subcommittee chairman, The Senator from Utah, has been interested in attempting to increase the number of unit reservations. This is an area in which I, too, have had some interest. I regret that we are not able to add additional funding at this particular time.

But, as I said in my opening statement, we do hope that we will be in a position in conference to come out with a better figure. The House appropriation figure is higher so we do have some room for compromise. At this time, however, I will have to reluctantly join in opposition to this amendment because of the situation that has been described by the floor manager of the bill.

Mr. CANNON. Vote.

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

The amendment (UP No. 344) was rejected.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, may I just ask my colleagues if they will do everything they can in conference to take care of this need that is a very urgent need, keeping in mind our overall budgetary situation.

Mr. GARN. Let me respond that, in fact, I think it is inevitable. I doubt very much that the House will accept our figure. So I am sure it will be a compromise some place between the House and Senate figures.

Mr. CANNON. I thank my colleagues.

Mr. GARN. Mr. President, I understand we will now return to the Heinz amendment. 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. 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, I understand that the present business before the Senate is the Heinz amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, I have listened carefully to the debate here this afternoon. I think I can accurately say that the arguments pro and con on the amendment fall in two camps. There is a considerable body of people who understand the thrust of the amendment and

the reason for offering the amendment; namely, to try and rein in regulatory excess.

I would say, based on the substance of the amendment, that we probably have a substantial majority of the Members of this body in favor of the policy. I also sense a number of Senators, particularly those on the Appropriations and the Environment and Public Works Committees, who have very grave procedural reservations. As I have listened to some of the comments, some of the members of the Environment and Public Works Committee have gone out of their way to stay either neutral on the substance of the amendment or, in some instances, support the substance, but even in those cases on procedural grounds indicate strong reservations.

This amendment was defeated in the House of Representatives by only 7 votes. Frankly, I think we would have a very, very close vote here in the Senate with the number of people who might vote against it simply on procedural grounds. Frankly, I would hate to risk seeing this amendment defeated by 1 or 2 votes simply on procedural grounds and thereby create a record that somebody might misconstrue. I think, in this instance, that that would be a mistake.

I have discussed this with some of my other colleagues. Rather than run the risk of sending the wrong message to the Environment and Public Works Committee, I am going to withdraw the amendment. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment (UP No. 341) is withdrawn.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I wish to express my deep appreciation to the Senator from Pennsylvania. It has been a good debate. I think, for many of us, the issues have been clarified.

I wish to tell the distinguished Senator from Pennsylvania that I invite him to work with our committee in trying to work this out as expeditiously as possible so that the guidelines that he is concerned about may be modified as quickly as possible, if that is necessary and if that is the will of my committee.

But, in any event, the Senator from Pennsylvania has an open invitation to work with us in the committee.

Mr. HEINZ. I thank my friend and colleague from Vermont. I look forward to working with him in that regard.

PUBLIC HOUSING AGENCIES

Mr. D'AMATO. Mr. President, I would like to address my remarks to the distinguished floor manager.

I have been extremely concerned about the adequacy of the resources which we are providing to public housing agencies to operate and maintain their existing housing stock.

In recent years, Federal operating subsidies have not kept pace with the growing discrepancy between public housing income and operating costs; and public housing agencies in New York and across the country have had to cut back basic maintenance and security services to dangerously low levels. The accumulation of deferred maintenance and growing tenant dissatisfaction are making ongoing operations increasingly more difficult and are creating a backlog of major capital costs.

In recognition of this problem, the Banking Committee conferees approved a level of $1.5 billion for public housing operating subsidies: An amount which is nearly $300 million above the administration's request. Yet the bill before us contains an appropriation of only $1.2046 billion: The amount requested by the administration.

Now, I recognize that this bill contains a method for covering past and future unanticipated increases in public housing operating subsidies by providing discretion for the Secretary to transfer budget authority from public housing development funds to cover shortfalls in operating subsidy amounts, and I believe that this is an innovative approach to the problem. But, my concern is this:

Although HUD's own figures show that there is a shortfall of $247.7 million in funding for operating subsidies for fiscal year 1981, at no time did the administration come forward to request funding for this purpose; in fact, they withdrew the $100 million supplemental request which had been put forth by the Carter administration. I further understand that the administration is opposing this bill based upon their opposition to this very provision. I am concerned that we make the committee's intent clear.

Mr. GARN. Mr. President, if I may respond. The bill before us requires the Secretary to use no less than 6.3 percent of the budget authority allocated for public housing development to make up the balance of the shortfall in fiscal year 1981 operating subsidies, estimated at $147.7 million when adjusted for the $100 million supplemental already allocated.

We have provided the Secretary discretion to use up to 17 percent of the funds available, which totals a little over $400 million, because it is not clear at this time exactly how much will actually be needed to fund housing authorities in fiscal year 1982. One of the principal purposes—and, in fact, the principal appeal—of this provision is that it provides the flexibiilty to respond to needs as they arise, without having to go through the flurry of emergency supplemental appropriations as we have done over the past 2 years.

Mr. D'AMATO. I understand and appreciate the wisdom of this provision in dealing with the troublesome problem of the past of accurately projecting operating subsidy needs. I am just concerned, in light of the administration's serious opposition to this provision, that we make it clear that it is the committee's intent that the Secretary use the discretion provided under this section to the extent required to fund public housing agencies in accordance with the performance funding system.

Could I ask the distinguished chairman if it would be possible to amend the committee's report language to clarify this point, so that there is no question as to the intent of the committee. Otherwise, I fear we may have developed a very innovative solution to a very difficult problem which will end up being no solution at all, because it will not be put into effect by the Department.

Mr. GARN. I would be pleased to add the clarifying language, if my colleague on the other side of the aisle agrees; and I appreciate the Senator's suggestion.

Mr. HUDDLESTON. The intent of the committee in providing this transfer provision was certainly as the Senator described it: that public housing agencies be funded as required under the performance funding system in fiscal years 1981 and 1982. I believe that the clarifying language could be very helpful in light of the administration's opposition to this provision. I would be pleased to accept it.

Mr. DOMENICI. Mr. President, as chairman of the Senate Budget Committee, I must comment on the HUD-independent agencies appropriation bill, H.R. 4034. This legislation is important not only because of the many billions of dollars in public funding which it provides for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the National Science Foundation and other independent agencies, but also because it is the first appropriation bill considered by the Senate for fiscal year 1982. Since this is the first of the regular fiscal year 1982 appropriations bills to be considered by the Senate, we must undertake the consideration of this bill with the utmost care and caution.

Mr. President, 1981 has been a most remarkable year. It has seen, at long last, a congressional response to the cries of the people for lower Government spending and a lessening of the terrible tax burden imposed on our citizens. Time after time this year in the House and the Senate, we have voted for spending controls which virtually no one thought possible 6 months ago. Led by our courageous President, we have forsaken the spending habits of the past. On the most difficult and sensitive issues, this body has made hard choices. It has followed the President. It has done what had to be done. As we stand here today, with final action underway on the omnibus reconciliation bill of 1981, we are faced with another hard choice: the choice of whether or not to stand with the President and stand with the people, and enforce the spending restraint we have publicly pledged ourselves to time and again this year.

This is the moment when the need for spending restraint is greatest. We must not fail now lest we begin to renounce the progress we have made to this point. Mr. President, the Congress has put the Nation on a spending diet in 1981. This bill essentially follows that prescription.

Outlays under this bill, together with spending already approved and anticipated supplementals, will breach the HUD Subcommittee's allocation under the section 302(b) Budget Act crosswalk for outlays by about $300 million. The conference with the House could increase this figure. Please observe, though, that this bill holds the line properly on budget authority, coming in $230 million under its target.

Chairman GARN has crafted this appropriation in the spirit of his outstanding work on the reconciliation bill. While the product before us is not perfect on the outlay side, careful administration of the funds by this tightfisted administration, coupled with our staunch resistance to unnecessary supplemental appropriations next year, should repress spending sufficiently. It is imperative that the Appropriations Committee and the Senate continue to enforce restraint in conference and next year if we intend to win the ultimate victory for the President's economic recovery plan.

Throughout 1981, the Members of this body, on both sides of the aisle, have risen repeatedly to express their support of the President and his program for economic recovery. We have proudly associated ourselves with the battle to control Government expenditures.

Mr. President, the Senate conferees must staunchly defend their position in conference in the spirit of reconciliation and the President's program.

Now is the time to stand firm and make good on our commitments. Now is the time to reaffirm the message that the Senate will endure in this fight and hold the line against spending.

Mr. President, I ask unanimous consent that a table showing the relationship of H.R. 4034, the HUD-independent agencies appropriation bill, 1982, to the first budget resolution for fiscal year 1982 be inserted in the RECORD.

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

HUD-INDEPENDENT AGENCIES SUBCOMMITTEE
[In billions of dollars]

	Fiscal year 1982	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed		23.4
H.R. 4034, as reported in Senate	60.5	32.7
Possible later requirements:		
Veterans' compensation and readjustment benefits	1.1	1.0
October 1981 pay raise	.2	.2
Environmental Protection Agency construction grants pending reauthorization	2.4	(1)
Total	64.2	57.1
Subcommittee crosswalk 302(b) allocation under First Budget Resolution	64.4	56.8
Possible underage/overage	−.2	+.3
H.R. 4034:		
President's request	63.2	32.5
House-passed	62.6	32.7

[1] Less than $50,000,000.

Note: Totals may not add due to rounding.

NATIONAL SCIENCE FOUNDATION

● Mr. GLENN. Mr. President, I believe we should provide additional appropriations for the National Science Foundation's research and related activities account, above the funding provided by the committee in H.R. 4034, the HUD-Independent Agencies Appropriations Act.

The National Science Foundation's research and related activities appropriation account supports the Foundation's science, engineering, policy, international research programs, and expenses. NSF's January budget request for fiscal year 1982 for this account was cut by $218 million or 17.6 percent in the administration's revised budget—from $1,238,100,000 to $1,202,100,000.

As the Committee on Appropriations report indicates, the committee, as I do, disagrees with many of these cuts. Specifically, the committee recommended increases totaling $17.75 million as follows: $12.6 million for biological, behavioral and social sciences; $2 million to fund the U.S. contribution to the International Institute for Applied Systems Analysis; $3 million for intergovernmental programs; and $150,000 for the Alan T. Waterman award.

In addition, the committee report states that it "expects the Foundation to find funding" for the experimental program to stimulate cooperative research (EPSCOR), the small-scale instrumentation program for 2- and 4-year colleges, and the planning and evaluation program, all of which the administration zeroed out in its revised budget—although the January request for these three programs totaled $10.05 million.

Thus, the committee's report language could be interpreted to mandate that NSF spend as much as $27.8 million in these targeted program areas, but provides it with only $4 million above the administration's request level—a short fall of $23.8 million. What will be the logical result of this action? We will simply be robbing Peter to pay Paul. If we have this shortfall of $23.8 million, then other basic research areas funded by NSF will suffer. We will, in effect, be aiding and abetting the diversion of funds from such worthwhile areas of basic research as mathematical and physical sciences; engineering; astronomical, atmospheric, earth, and ocean sciences; and the antarctic research program.

While I may not agree with some of the committee's specific recommendations for these funds, I do not believe that we should require other worthy basic research programs supported by the Foundation to suffer. I would point out that the House allowance for the NSF research and related activities appropriation account is $40.9 million more than the Senate's recommendation—more than enough to cover the potential $23.8 million shortfall. I would hope that my colleagues would join with me in supporting the higher level of funding in the conference committee—at least enough to insure that the funding levels of NSF's other basic research programs will not be decreased.●

GREAT LAKES RESEARCH CENTER

Mr. RIEGLE. Mr. Preident, I would first like to thank the committee for approving the funding for Great Lakes research and second for realizing the value of the research performed at the Large Lakes Research Station at Grosse Ile, Mich.

In 1978, the United States signed a water quality agreement with Canada. Under the terms of the agreement, the United States is required to perform surveillance and research on pollution in the Great Lakes, and to participate in a mutual exchange of data with Canada. The Large Lakes Research Station at Grosse Ile, Mich., enables the United States to uphold the agreement.

Along with providing information on water quality, the lab conducts a large portion of all freshwater research in the Nation. Because of the potential impact on the general public health, the research of the lab is vitally important to all of us. Its work covers toxic substance transport and waste disposal, both of which are critical to water quality.

Grosse Ile also has a substantial impact on the economy of the entire region. Employing the data from the lab, decisions are made as to how restrictive discharge permits for factories should be. It is through this procedure that Grosse Ile can be a major factor to economic development in the Great Lakes States.

Mr. President, I am glad to see that the committee has realized the critical importance that the Large Lakes Research Station has for the entire Nation. Without the data that the lab provides, the United States would suffer an irreparable loss both nationally and internationally.

Mr. GARN. Mr. President, I know of no further amendments to be offered. I ask for third reading and I ask for the yeas and nays on passage.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Georgia (Mr. MATTINGLY), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Alabama (Mr. HEFLIN) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 87, nays 6, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—87

Abdnor	Byrd, Harry F., Jr.	DeConcini
Andrews	Byrd, Robert C.	Denton
Baker	Cannon	Dixon
Baucus	Chafee	Dodd
Bentsen	Chiles	Dole
Biden	Cochran	Domenici
Boren	Cohen	Durenberger
Boschwitz	Cranston	East
Bradley	D'Amato	Exon
Bumpers	Danforth	Ford
Burdick		Garn

Glenn	Levin	Riegle
Gorton	Long	Roth
Hart	Lugar	Rudman
Hatch	Mathias	Sasser
Hatfield	Matsunaga	Schmitt
Hawkins	Melchers	Simpson
Hayakawa	Metzenbaum	Specter
Heinz	Mitchell	Stafford
Hollings	Moynihan	Stennis
Huddleston	Murkowski	Stevens
Inouye	Nickles	Thurmond
Jackson	Nunn	Tower
Jepsen	Packwood	Tsongas
Johnston	Pell	Wallop
Kassebaum	Percy	Warner
Kasten	Pressler	Williams
Kennedy	Pryor	Zorinsky
Laxalt	Quayle	
Leahy	Randolph	

NAYS—6

Eagleton	Helms	Proxmire
Grassley	Humphrey	Symms

NOT VOTING—7

Armstrong	Mattingly	Weicker
Goldwater	McClure	
Heflin	Sarbanes	

So the bill (H.R. 4034) was passed.

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

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

The motion to lay on the table was agreed to.

Mr. GARN. Madam President, let me just thank those who participated in the passage of this bill, particularly the staff, Wally Berger, Carolyn Fuller, Colleen Fisher, and Cathy O'Connor, and my high regard for the chairman of the Appropriations Committee, Senator HATFIELD. It has been a great pleasure to serve with him this year. He has done a remarkable job as the new chairman of the Appropriations Committee. He has treated each subcommittee chairman with great respect and fairness.

Madam President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 4034.

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

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

The motion was agreed to; and the Presiding Officer (Mrs. KASSEBAUM) appointed Mr. GARN, Mr. WEICKER, Mr. LAXALT, Mr. SCHMITT, Mr. D'AMATO, Mr. SPECTER, Mr. HATFIELD, Mr. HUDDLESTON, Mr. STENNIS, Mr. PROXMIRE, Mr. LEAHY, and Mr. SASSER conferees on the part of the Senate.

THE SENATE AGENDA

Mr. ROBERT C. BYRD. Madam President, I take the floor to inquire of the distinguished majority leader as to what the program is for the remainder of the day, for tomorrow, for the week, and if he can foresee it.

Mr. BUMPERS. Madam President, may we have order?

The PRESIDING OFFICER. There will be order in the Chamber.

The Senator from West Virginia is recognized.

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

Madam President, I am getting a lot of questions on my side of the aisle from my colleagues as to what the program is for the remainder of the week and as far into next week as possible, if the Senate is going to be in next week, and I am sure the distinguished majority leader may not be able to answer all questions, but we would appreciate it if he could tell us what he can at this time with respect to the program for the remainder of the week and if we are in next week what it will be then.

Mr. BAKER. Madam President, I thank the minority leader.

I, indeed, have had some informal conversations on this subject. I wish now to give an overview of where we are and where I think we are heading.

The major business, of course, to be dealt with is the reconciliation conference reports on the budget and the tax bill. As a result of meetings that have gone on for much of the day today and consultations with the minority leader and others, it appears now likely that an arrangement will be reached which will permit us to go to final consideration of the budget reconciliation conference report this week, tomorrow. I expect a vote on that conference report tomorrow.

In addition to that, on tomorrow I expect that I will ask the Senate to proceed in executive session to the nomination of Rex Lee whose name has been on the calendar for some time.

Beyond that, the situation is less clear. For the remaining item, the conference on the tax bill and the disposition of the conference report is something that will require further examination from the standpoint of time required to deal with it by the distinguished chairman of the Finance Committee, Mr. DOLE, and his counterpart on the House side, Congressman ROSTENKOWSKI, the chairman of the House Ways and Means Committee.

There seems to be a division of authority or a division of opinion on whether we can finish the tax bill conference report and have it back to the Senate in time to dispose of it by Saturday. Frankly, that is my hope. I hope we can have it back and complete action on the tax bill conference report by Saturday night late.

But, if it is clear that we cannot do that, if it is not possible to do that on Saturday, I would not presume to ask the Senate to be in on Sunday. Instead, I would ask that the conferees proceed to do the best they can and set a day in the following week, this coming week, for disposition of that conference report. The estimates are either Tuesday or Wednesday of next week. And we would not then be in on Saturday or Sunday, but I reiterate that has not yet been finally determined, and I ask Senators to bear with me for a little while longer while Senator DOLE and Congressman ROSTENKOWSKI attempt to get a better reading on how long it will take them to complete the voluminous details attendant on passage of the tax bill.

Madam President, if I could yield at this point to the distinguished chairman of the Finance Committee. I will do this so he may give us some additional information.

Mr. DOLE. I thank the majority leader and I thank the minority leader for asking the question.

Madam President, it is my view that we can finish our work on the conference sometime on Saturday. It is not the problem of the conference. It is the problem of drafting, and I have just discussed this with the Joint Tax Committee. They believe they can tell me later this evening whether or not it is humanly possible—there is a lot of drafting involved—to have that back in form for us to act on it if we were still in session Saturday evening.

I will be able to report that to the majority and minority leaders late this evening or early tomorrow morning.

Mr. BAKER. Madam President, I thank the distinguished chairman of the committee.

Then either tonight, more likely in the morning shortly after we convene, I will try to have a definite statement for the Senate on whether we will be in on Saturday, and if we are in next week what day we will be in next week.

Mr. KENNEDY. Madam President, will the Senator yield?

Mr. BAKER. Let me make one further remark if I may.

Madam President, the Rules Committee of the House of Representatives will meet at 6 p.m. tonight to try to deal with certain aspects of the arrangement we have attempted to work out with the Speaker and others. Dependent on the outcome of that meeting and the construction of the language for the agreement that has been discussed in respect to the budget reconciliation conference report and the tax bill, I expect to be able to ask the Senate to consider the tax bill and appoint conferees either tonight or tomorrow. I will give all Senators notice at the time of the incoming of that message from the House of Representatives so that they may be present if they wish and in the Chamber.

In the meantime, I have a unanimous-consent request, since we have kept the House messenger at bay for some time, that I believe has been cleared. In any event I hope so.

Madam President, I ask unanimous consent that the bill H.R. 4242 when received by the Senate be held at the desk and the majority leader after consultation with the minority leader be authorized to call it up without debate any time thereafter.

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

Mr. BAKER. I thank the Chair.

Madam President, did the Senator from Massachusetts wish me to yield?

Mr. ROBERT C. BYRD. Madam President, I ask one further question, with the Senator's indulgence. As I understand the distinguished majority leader, there will be no business other than the action on the tax legislation, the conference report, the action on the reconciliation measure, and the action on the nomination of Mr. Lee?

Mr. BAKER. Yes; with the exception of any matters that we might agree by

unanimous consent that could be dealt with in the meantime.

These are the major items that remain to be done before the Senate adjourns for the August recess.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader and I thank the distinguished Senator from Kansas.

Mr. BAKER. Madam President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank the majority leader.

He has answered my question by indicating that we would have some notice prior to the time the conferees or at the time the conferees were going to be appointed on behalf of the Senate.

Mr. BAKER. I am sorry. I was distracted.

Mr. KENNEDY. Will the Senator advise us as to when the conferees are going to be appointed by the Senate to the Finance Committee bill?

Mr. BAKER. Yes. I might say to the Senator that it is possible that we will do that tonight. It is more likely that we will do it in the morning.

I am advised by the Speaker that the House of Representatives will appoint their conferees on tomorrow.

Mr. BUMPERS. Madam President, will the Senator yield further?

Mr. KENNEDY. Madam President, if the Senator will yield further, I hope to be able to make a statement at the time the conferees are appointed, but I wish to just indicate, since the majority leader is trying to give some guidance to the Members of the Senate on this issue, about when we might consider the final disposition of the tax bill. I respect the rights of the conferees to make judgments and decisions on those matters that will be considered in conference. But this one Senator, and I think there are a number of other Senators, who believe very strongly that if there is a substantial or significant yielding to the House position on the additional tax relief to the major oil companies, that issue will be debated and discussed at some length.

I make this observation recognizing the conferees are going to have to do their job, but I also make it as one who voted in opposition to the tax bill because of that particular provision.

I thank the Chair.

Mr. BAKER. Madam President, I understand and appreciate the interest of the Senator in the subject, particularly in the procedure that will lead to the final resolution of the tax bill.

He has my personal assurance that I will give him notice to the extent that it is humanly possible to do so of the time when I will ask the Senate to proceed to the consideration of this measure.

Mr. KENNEDY. Madam President, the majority leader and the chairman of the Finance Committee have been extremely fair during the whole discussion and debate with both those who supported their position and those who opposed it.

I thank the Senator and am grateful.

Mr. BUMPERS. Madam President, will the Senator yield?

Mr. BAKER. I yield first to the Senator from Arkansas.

Mr. BUMPERS. Madam President, let me inquire of the leader, I do not think anybody has any glimmering doubts about what the outcome of the vote will be once the conference report on the tax bill is sent back here. Has the majority leader considered, in light of the fact that there are an awful lot of schedules involved here, getting some request to have a voice vote on that?

Mr. BAKER. Madam President, I personally would not object to that. But we are dealing with the biggest tax bill, I guess, in history.

Would the Senator permit me to consult a little with others before I give an answer to that? I will examine that and give him a further answer as soon as possible.

Mr. CHILES. Madam President, would the leader give any indication, if he can, when we can look for the conference report vote on the reconciliation?

Mr. BAKER. Yes, Madam President, it would be my hope that the conference report would be before the Senate sometime late tomorrow afternoon, and we could dispose of it during the day.

Mr. CHILES. Late in the afternoon?

Mr. BAKER. It depends really on when the House gets through with it. I really just do not know how soon it will turn its attention to the conference report, but sometime in the afternoon, probably late afternoon, would be my best judgment at this time.

I will also try to have more information for the Senator from Florida when the House will act on the conference report either later today or the first thing in the morning.

Mr. LEAHY. Madam President, I may have missed part of this, but is it the intention of the distinguished majority leader if he feels these matters can be disposed of, say, by Saturday, even a late Saturday session, to do it then rather than coming back on a day certain next week?

Mr. BAKER. That is my distinct preference.

Mr. LEAHY. Has consideration been given—I almost hestitate to ask this question—concerning the fact that, as the Senator from Arkansas stated, it is almost a preordained thing as to what will happen in the final vote on the tax bill both here and in the other body, and has consideration been given to the possibility of voting on it in September if conferees are still working into the middle of next week?

Mr. BAKER. No, Madam President. I will say in all candor and deference to my friend from Vermont it is my determination to dispose of the tax bill in August.

Mr. LEAHY. Madam President, I appreciate the candor of the majority leader and I thank him very much.

Mr. DOLE. Could I just respond to the Senator from Vermont?

Mr. BAKER. Yes.

Mr. DOLE. We have made a quick check of the differences between the Senate-passed tax bill and the so-called Conable-Hance proposal. Many of the provisions are identical. In fact, the major provisions are identical. We have identified about 17 or 18 areas where we think there will be some controversy, whether it is straddles, whether it is oil or whether it is refundable credits in day care. There are about 16 of them that I think will take some time. So we are not talking about a big conference on an abnormally large tax bill, because the rates are the same, the business cuts were substantially the same, and it is only the so-called add-ons that will take some time.

There are some of those that will take a little time. I hope we can have this finished if we start tomorrow—Chairman ROSTENKOWSKI must be gone tomorrow in the morning, he has a prior commitment, but he will be back at 1 o'clock. We will have an informal meeting of myself, Senator LONG, Congressman CONABLE, and Congressman ROSTENKOWSKI, and then meet later with all the other conferees, and I think we can work this out by tomorrow night.

Mr. BAKER. Madam President, I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the majority leader for yielding.

Am I correct in understanding that if we dispose of the reconciliation conference report and the Lee nomination, which you mentioned, at some time between now and the close of business on Saturday, if we are in Saturday and get those things done, will we still have to carry over until next week with the tax bill conference report, which everybody hopes will not happen, but it may happen; is the majority leader saying that that will be the only matter taken up in the subsequent week or whenever we finally take it up, the tax bill?

Mr. BAKER. Yes, Madam President, that is what I am saying, except by unanimous consent where there might be other matters that we can deal with an should deal with, but I do not anticipate any effort to schedule other business.

In that connection, I responded to a query from the minority leader as to whether this would be the only business, and I answered in the affirmative, with the exception of items which we can do by unanimous consent.

I wonder if I may ask the minority leader if he will share that view with me, that no other business be presented to the Senate except those measures?

Mr. ROBERT C. BYRD. Madam President, I hope that would be the case.

Mr. MATHIAS. Madam President, will the majority leader yield before this gets cast in concrete?

Mr. BAKER. Yes, I yield.

Mr. MATHIAS. I have one small item, the President's nominee to be the Public Printer who has been waiting a long time to be confirmed. The Rules Committee is going to make a very special effort this afternoon to report that nomination, and I hope the Senate will agree to consider it. I do not believe it is a controversial matter.

Mr. ROBERT C. BYRD. Madam President, will the Senator yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Because I want to change the answer I gave to the majority leader. I said I hoped it would. The answer is, "yes," to his question, that

this is the only business remaining, as he has said, the conference report on the tax bill, the conference report on the reconciliation bill, and the nomination of Mr. Lee. That is all.

Mr. BAKER. May I say to the Senator from Maryland that I will make an effort to clear that nomination by unanimous consent, and assuming we can gain that consent in the time we have left before we go out.

YEAS AND NAYS ORDERED ON LEE NOMINATION

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. METZENBAUM. First, I would like to ask with reference to the position of those of us who want to have a rollcall vote on the Lee nomination that, perhaps, could be agreed upon now.

Mr. BAKER. Yes. I ask unanimous consent that it be in order to ask for a rollcall vote on the Lee nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Madam 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. METZENBAUM. Would the majority leader be good enough to indicate whether the Senator from Ohio is correct in his understanding that when the conference report comes to the floor of the Senate the rules require that it be printed?

Mr. BAKER. Madam President, I assume the Senator is speaking of the tax bill conference report?

Mr. METZENBAUM. I am.

Mr. BAKER. Madam President, once again I would not presume to interpret the rules of the Senate. That is a matter that addresses itself to the Chair, or in some cases to the entire Senate.

I hope the Senator is not suggesting that he would ask for the conference report to be read. It may indeed be voluminous, and I will be glad to supply him with a copy in advance in order to reduce the possibility, if he would make that request.

Mr. METZENBAUM. Well, the Senator from Ohio has always tried to be very candid and very clear with the distinguished majority leader, and the majority leader has always been candid with the Senator from Ohio. The majority leader and the chairman of the Finance Committee have been extremely cooperative in the handling of this measure.

I think the majority leader is aware of the fact that a number of us have had some very strong views with respect to the extra $26 or $32 billion that is to be included in the House bill for the oil companies over and above the $20 billion that is in the Senate bill.

Since the Senator from Ohio has definite feelings that our Nation is concerned about getting this tax bill brought to an early conclusion, but also recognizes that the people of this country are not aware of what the House bill contains in this respect, I wanted to advise the majority leader that I think it may take some time to let the people of the country become aware of what the whole issue is about, and by putting it over during the printing period it might very well give them an opportunity to digest better what the actual facts are. So I thought I ought to let the Senator know what my thinking is.

Mr. BAKER. Madam President, as always I am grateful for his consideration and concern and for the advance notice. I know what I am about to say will be accepted in the best of spirit, and since he has been kind enough to give a preview of what he has in mind, I think he should know it is not beyond the realm of possibility that it will be necessary to file a cloture motion to limit debate on the bill. So I think we sort of understand each other.

As in the past, the Senator from Ohio is a worthy adversary, when he is an adversary, and a great ally when we are together, but always a distinguished Senator. So one way or the other we will resolve this issue, and I would only express the hope that we will do it very promptly.

Mr. METZENBAUM. The majority leader may or may not know that I voted for the Senate bill. It was a little difficult to digest. It was quite a bit more than I thought should have been in it. But I think we will address ourselves clearly on the subject tomorrow, and we will see what happens at that point.

I hope the Senate conferees will do such a superb job with the leadership of the Senator from Kansas and the Senator from Louisiana that we will be able to get out of here very promptly, which would be my wish, and I know reflects the views of my fellow Members of the Senate.

ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6 o'clock and that Senators may speak therein for not more than 5 minutes each.

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

Mr. BAKER. Madam President, I wish to announce again that there will be no more record votes tonight and I will not make an effort to appoint conferees on the tax bill tonight.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator from Illinois.

OMNIBUS RECONCILIATION ACT—UNEMPLOYMENT COMPENSATION PROVISIONS

Mr. PERCY. Mr. President, last month when the Senate had under consideration the Omnibus Budget Reconciliation Act of 1981, I offered an amendment on behalf of myself and my colleague from Illinois, ALAN DIXON, to qualify Illinois for the cap, provided for in the Finance Committee section, on the Federal penalty tax which is imposed on employers in States which have defaulted on their debts to the Federal Unemployment Trust Fund. The Finance Committee language would have frozen the penalty tax, which normally escalates at a rate of 0.3 percent a year, at 0.6 percent provided certain requirements were met. Our amendment was modified by the Senator from Pennsylvania (Mr. HEINZ) and subsequently passed by the Senate.

Although our amendment moved the State of Illinois closer to a position of qualifying for the cap, it did not accomplish all that we had hoped for. I was considerably reassured by the commitment made to me at the time by the distinguished chairman of the Finance Committee that he would seek to accommodate the needs of the State of Illinois to the greatest extent possible when the reconciliation bill reached conference.

I am very pleased that the Senate and House conferees have reached agreement on this issue in a way that measurably will assist the State of Illinois.

Under the compromise agreed to, Illinois will be eligible for a cap of 0.6 percent on the penalty tax for the first 2 years during which the provisions are in effect, provided that it neither reduces State UI taxes nor increases State UI benefits. During the final 2 years of the UI legislation, Illinois will undoubtedly continue to qualify for a cap under other requirements adopted by the conferees with respect to the state's tax-benefit ratio and a prohibition on net new borrowing.

Mr. President, like many of the Northern and Midwestern industrial States, Illinois has suffered high unemployment in recent years which has required State borrowing from the Federal trust fund in order to meet benefit payments. While the State clearly intends to repay its debt and has taken dramatic steps in recent weeks to get its own UI system in order, we still have a State economy in bad condition. An escalating penalty tax on Illinois employers over the next few years would hamper even more the effort we are all making to improve the Illinois business climate and turn its economy around. The sooner we recover, the sooner we will be able to have a stronger State trust fund and this will be of benefit to everyone. Therefore, it was of critical importance that Illinois qualify for this cap.

At this time I would like to extend my sincere thanks to the chairman of the Finance Committee for all he has done to resolve the matter in Illinois' favor. It has been a special privilege to work with him on this issue and, in light of all the responsibilities he has had over the last few weeks, I particularly appreciate his attention to a matter that meant so much to my State.

I would also like to thank my distinguished colleague and friend, Senator DIXON, for his splendid cooperation and for the diligence with which he worked his side of the aisle to convince them of the genuine need for relief in our State. Finally, I am grateful to both the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Pennsylvania (Mr. HEINZ) for their assistance and attention to this matter in conference.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, yesterday President Reagan won easy approval of

his 3-year tax cut, virtually assuring enactment of his entire economic program. After the vote, which passed by margins of 238 to 195 in the House and 89 to 11 in the Senate, President Reagan said that he believes the first 6 months of 1981 "will mark the beginning of a new renaissance in America."

Let me state here that I believe the tax cut passed yesterday will serve to strengthen the American economy, but only if something is done to lower the present high rates of interest which will only serve to stifle any of the benefits provided by the tax cut. We cannot afford to have our fiscal and monetary policies running on a collision course.

Virtually everyone seems to agree that we need a massive program of investment in new plant and equipment in order to boost productivity, lower costs and make American products more competitive. But how much investment is going to take place with the prime rate hovering at 20 percent?

Thus, we see that we are placed in a no-win situation, Mr. President. There is widespread agreement on the need for major investments in the construction of housing, industrial capacity, energy facilities and public works. Yet, we have a monetary policy which makes investment incredibly costly. The Congress is granting major new tax incentives to try to lower the cost of investment. At the same time, the action of monetary authorities are raising investment costs. The Government has stated its intention to make controlling inflation a top priority, yet the present interest rate policy may be the single greatest contributor to inflation.

IN SUPPORT OF THE ECONOMIC RECOVERY TAX ACT OF 1981

Mr. MURKOWSKI. Mr. President, as the Senate completes its consideration of the Economic Recovery Tax Act of 1981, we stand at the threshold of fundamental change in the economic policies of this country. This bill represents a critical part of a comprehensive plan to solve our Nation's economic problems of high inflation and low productivity. I am confident that the provisions contained in this bill will work to solve both of these problems and will bring much-needed relief to the taxpayers of this Nation.

The President in his forthright proposals for economic recovery, and the Senate in its endorsement of these proposals, are offering a program that will benefit both individuals and businesses in the United States. Our Nation has needed a long-term, commonsense approach to treating our economic ills. Previous attempts to fine-tune our economy have not worked. I commend the President for his courage in addressing the problems in our economy in a comprehensive manner.

This bill will reduce marginal tax rates for individuals by 25 percent across-the-board in the next 3 years: A 5-percent reduction on October 1, 1981, 10-percent reduction on July 1, 1982, and a further 10-percent reduction on July 1, 1983. At the same time, the top marginal rate of 70 percent will be reduced to 50 percent, regardless of source, eliminating the distinction between earned and investment income.

The bill also provides for an accelerated cost recovery system that will help business in America to keep pace with inflation. This provision allows an accelerated write-off of capital expenditures for tangible property by means of simplified rules. Businesses will be able to depreciate machinery, equipment, and real estate in 3, 5, and 10 or 15 years, respectively.

I am confident that these changes in our tax laws will encourage savings and provide relief from the effects of inflation that push individuals into higher and higher tax brackets. By allowing wage-earners to keep more of their real income, we can rein till the incentive to work. On the business side, accelerated depreciation schedules and other tax cuts will allow all businesses, both big and small, to keep pace with inflation and to make greater investments that will encourage expansion. The result of this tax relief will be a higher level of productivity and a growing economy that will benefit everyone.

Also, both the House of Representatives and the Senate adopted a provision which will index tax rates to increases in the Consumer Price Index. To take effect in 1985 this will eliminate the effect of inflation pushing wage earners into higher tax brackets which robs Americans of their real income.

In addition to these provisions of the bill, I am pleased that the Senate included measures to encourage a greater level of savings, reduce the marriage tax penalty, allow a greater level of contribution to retirement accounts, encourage charitable contributions, and reduce the estate and gift tax. These additional tax cuts will help to reduce further the effect of inflation on everyone.

Mr. President, the performance of our economy has fallen far below its potential. Without this tax cut package, the performance of our economy would continue to decline. The real growth of the economy—a true measure of our economic health—slowed in 1978 and again in 1979, and came to a halt in 1980. At the same time interest rates and inflation rose to exceptional levels. I share the belief of the President that a program of multiyear tax cuts and Federal budget reductions will reverse this situation. It will, in brief, revitalize our economy.

I would like to express my admiration for Senator DOLE, chairman of the Finance Committee, for his dedicated leadership in guiding this bill through the Senate.

THE SOURCES OF TERRORISM IN TURKEY

Mr. HAYAKAWA. Mr. President, I call to your attention an article which appeared in the Wall Street Journal on June 22, 1981, "The Sources of Terrorism in Turkey." It illuminates a most distressing and serious problem. A small but radical and violent group of terrorists is following a policy of worldwide violence to further their Marxist war of liberation against Turkey. The Secret Liberation Army of Armenia's latest act of violence involved the assassination of two Turkish diplomats in Paris on March 4, 1981. This raises the number of victims killed by this group to 17 since the assassination of the Turkish Consul General and Consul in Los Angeles in 1973.

Turkey, in the past beset with various economic and political problems, is now finding its way to a freer, firmer future. As a NATO ally, we should provide sympathy and support to help stop this kind of violent terrorism.

These Marxist terrorists do not represent the true and legitimate concerns of the Armenian people in Turkey. Bombings and assassinations do nothing to help the Turkish Armenians, and can serve only to promote international hostility. Acts of violence such as these violate fundamental standards of international and diplomatic behavior, and must be universally condemned. The inviolability of diplomatic personnel is essential in maintaining international order, and must be rigorously defended in these uncertain times. Public recognition and understanding is the first step in supporting that order. I therefore ask unanimous consent that Professor Yalcin's article be printed in the RECORD.

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

[From the Wall Street Journal, June 22, 1981]

THE SOURCES OF TERRORISM IN TURKEY

(By Aydin Yalcin)

ANKARA.—General Kenan Evren, the Turkish head of state declared in one of his speeches recently that 5,000 people had been killed by terrorists in Turkey in the last two years, a heavier toll than that of the Sakary Battle in 1921, which was one of the bloodiest fights in Turkey's war of independence. The shooting of Pope John Paul II by Mehmet Acqa, and the unsuccessful hijacking recently of a Turkish airliner to Bulgaria further dramatize the agony Turkey has been going through the last few years.

The deep transformation that has been taking place in Turkish society the last three decades was bound to have repercussions. To suggest the breadth of the social change that has occurred in the last 25 years, I would mention the fact that almost 50% of Turkey's 45 million population now live in urban centers, compared to 25% in 1960. The rise in literacy and in the numbers of students and industrial workers in urban centers brought many unanticipated social, psychological and political consequences.

INTENSE MARXIST PROPAGANDA

One outgrowth of this upheaval was that the emergence of terrorism in Turkey followed on the global wave of student disturbances in the late 1960s. The disturbances here resulted in no small part from intense Marxist propaganda on Turkey's university campuses. Though contemporary Marxism is considered by many social historians to be a childhood disease of Western industrial society, it has scored some success with Turkish intellectuals.

Campus demonstations, boycotts of classes, the use of force against professors, destruction of furniture and laboratories, defamatory writing on walls, the disruption of curriculums and collapse of discipline all became routine here in the 1970s. In the last

three years this anarchy and lawlessness spread beyond university campuses, accelerating the rate of killing throughout the country.

Communism as an *electoral* force, however, has been negligible and ineffective in our parliamentary politics. Marxist parties have never obtained significant support beyond 2.9% of the vote in their best period, the 1965 general elections. Yet in the media and university circles they have been vocal and militant. Their intense campaign of propaganda, depicting Turkey as "a country occupied by American imperialists" prepared the ground psychologically for a "war of liberation to be "carried out by the enlightened leadership of the working class under the guidance of the proletariat." The terror followed.

A "war of liberation" started inside the country in the late 1960s, not only against a regime considered a "stooge of Western imperialism and its arm, the NATO alliance," but also against Turkish representatives in foreign countries by the Armenian "liberation army," Asala. Turkish ambassadors were assassinated in Paris, Rome, and Vienna.

As this terrorism spread within the country and abroad, Turkish public opinion became more aware of the identity of the forces of "national liberation." On April 6, 1980, a press conference was held in Sidon, Lebanon, under the protection of the Palestinian Liberation Organization (PLO), by Armenian and Kurdish organizations from Turkey. According to a Reuters account, the Kurdish Marxist secessionists, in collaboration with the Armenian organization Asala, were making common cause to "liberate their land under Turkish occupation"; in other words, to dismember eastern Turkey which borders the Soviet Union.

(The spokesman at this joint press conference said that the liberation of Soviet Armenians was out of the question, on the theory that the area is a separate Armenian state.)

The Marxist terrorist organization "PKK," whose spokesman in Sidon, Lebanon, last year declared a war of liberation on Turkey, has today been almost wiped out by Turkish security forces in the area near the Syrian border. Its underground organization was unearthed entirely a few months ago, and one of its captured spokesmen was interviewed on Turkish television March 2. He said openly that they had been trained in PLO camps in Syria and Lebanon and received all sorts of help from "friendly socialist countries."

Indeed the Soviets have been quite outspoken recently in their full support for the Kurdish secessionists through their proxies in East Berlin, where the Turkish Communist party's clandestine radio broadcasts are directed daily into Turkey. The outlawed Turkish Communist party operating in East Germany gave instructions to underground party members about the recent May Day celebration slogans, which included for the first time, "Independence to Turkish Kurdistan."

The number of weapons of Eastern European origin discovered in terrorist dens up to now has further established this Eastern European connection. Kalashnikov automatic weapons had become almost a part of normal household instruments here. (A Turkish social anthropologist reported from eastern Turkey bordering Soviet Russia that Kalashnikovs were offered as valuable dowry for young brides in that region.)

Two years ago, a report in the Turkish newspapers about a large cache of arms and 44S Soviet made anti-tank rockets found in the mountain caves near the Syrian border town of Mardin became the vivid subject of joke, when Bulent Ecevit, then prime minister, said that the rockets were probably passing in transit through our country.

In a speech early this year Gen. Evren commenting on the number of arms captured since the army took over last September 12, said the value of this enormous amount of weaponry was more than 25 billion Turkish lira (about $250 million).

Such a huge financial deal is impossible, he said, without outside help, as the total of the proceeds of terrorist bank robberies in Turkey does not add up to 2 percent of the 25 billion Turkish lira worth of armament.

A Turkish daily in Instanbul, Hurriyet, published in December 1980 a feature series on arms smuggling from Bulgaria, depicting quite clearly the close collaboration of Bulgarian state agencies with a Turkish mafia of arms smugglers.

The Bulgarian government's involvement in arming Turkish terrorists became a subject of a sharp diplomatic exchange three years ago, when the foreign office asked the Bulgarian ambassador to give an account for some arms originally purchased from Argentina by a Bulgarian government agency. These arms ended up a short time later in the hands of Turkish terrorists captured by the police.

Turkey's right wing terrorist groups developed after 1973 as a countervailing power against Marxist violence. Supported and trained by the right-wing National Action Party through some front organizations, right-wing extremists have given the Marxists a valuable pretext for continuing the bloodshed with reciprocal killings. They have also given the Marxists an opportunity to propagandize further about the "threat of fascism."

The National Action Party leadership has indeed been implicated in quite a number of political crimes and mass killings.

FACING THE DEATH PENALTY

But the right-wing's underground and its legal organizations have been completely disbanded, and there has been almost no right-wing violence since the army takeover. They are now waiting for the result of their prosecution, and about 100 of them face the death penalty for their terrorist activities.

The threat of Communist terrorism, however, is far from eradicated. It is true that the terrorists can no longer kill 25 people daily as they did before last September. Gen. Evren pointed out the other day that their strength has been reduced at least 90 percent. However, they have done much harm to our social and political institutions and caused complications in our international relations.

They succeeded in disrupting our parliamentary institutions and civil government, and they fulfilled their aim of installing a military government as a preliminary for their second stage of struggle. But they seem to have miscalculated.

The military, far from alienating large sections of the Turkish population through harsh rule, enjoys full public support. The left's second aim of isolating Turkey from the West seems also to have misfired. The terrorists expected the repudiation of a Turkey depicted as being under a military regime, with no respect for human rights or the rule of law, and therefore eligible for punishment and isolation by her friends. That has not happened.

The Turks have recovered their self-confidence and regained their poise after dealing effectively with terrorism and making absolutely clear their vow to abide by the principles of Western civilization and to restore free institutions as soon as possible.

A strong stand by the Western alliance on the question of international terrorism and subversion among NATO members will strengthen Turkey's hand in its struggle against terrorism and will dissuade certain powers from resorting to indirect aggression against the members of the alliance.

Mr. HAYAKAWA. Mr. President, on July 22, 1981, Dr. Guy J. Pauker, a senior staff member of the Rand Corp., and an internationally recognized expert on Southeast Asia, testified before by Subcommittee on East Asia and Pacific Affairs on trade, investment, and general economic relations between the United States and the Association of Southeast Asian Nations (ASEAN). His observations and recommendations were most informative and helpful to the subcommittee.

Dr. Pauker had just returned from Tokyo where he attended the regional consultative meeting on energy alternatives held at the United Nations University. For the meeting he prepared a paper to be used as a guideline at the United Nations Conference on New and Renewable Sources of Energy, which is to be held in Nairobi in August of this year. The paper, entitled "What Can the Asia-Pacific Region Expect From the the Nairobi Conference?", provides an analysis of the problems of global management with respect to agrarian reform and rural development, science, and technology, and the most recent crisis—locating and developing energy resources now and in the future.

Mr. President, as I believe that Dr. Pauker's insights are important for the development of the Asia-Pacific region, I ask unanimous consent that this paper be printed in the RECORD.

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

WHAT CAN THE ASIA-PACIFIC REGION EXPECT FROM THE NAIROBI CONFERENCE?

(By Guy J. Pauker)

The contemporary human predicament is marked by some absurd paradoxes. By 1980 the five-fold increase in the price of crude oil in real terms since 1972 had resulted in an annual expenditure of $50 billion for oil imports by developing countries. The World Bank, concerned about the considerable strain on the balance of payment of oil importing developing countries, initiated a modest $13 billion program of loans for the development of energy resources over the five-year period 1981-1985. Yet, according to SIPRI, the Stockholm International Peace Research Institute, in 1980 the Third World spent $80 billion on defense.

The ten-year investment schedule for an expanded energy program in the oil importing developing countries, which the World Bank considers desirable and feasible, would require $450 to $500 billion (in 1980 dollars). According to SIPRI, the world spent $500 billion in 1980 alone on defense. Obviously, the energy crisis is not due to an absolute lack of resources but to their misallocation. A modest transfer of ten percent of global defense expenditures—which would not leave any nation at the mercy of its enemies—to an energy resources development fund would advance considerably the modernization of the Third World and also reduce international tensions caused by the sharpening competition for natural resources.

Unfortunately, the time is not yet ripe for such a global "energy tithe." The proposal to transfer resources from armaments to development is not new. It has even been the object of special studies within the United Nations system.

It is easy to be angered or discouraged by the wasteful use of resources on military expenditures to the detriment of the world's poor, especially in developing countries. Pessimism is the prevailing mood of our times

and belief in progress has given way to despair among those concerned with the human condition. Yet, factual evidence will support the assertion that humanity has recorded great achievements in the decades since World War II.

Unlike some contemporary prophets of doom and gloom, I believe that the eighteenth century philosophers of the Enlightenment would be thrilled to witness the role that reason is currently playing in human affairs. Despite the many horrors and inequities with which we are all familiar, greater numbers of people, everywhere, live better than ever before. Except for a few anarchronistic aberrations, which cannot last, colonialism has been abolished, and so has slavery. There are, to be sure, some fifteen million refugees in the world today, or one out of every three hundred people alive, but they are not ignored by the international community. Neither are those who are the victims of drought, floods, or other calamities. Famines killing millions of people are a thing of the past, and so are major epidemics.

Slowly, public health and education are reaching remote backward areas which never had a clinic or school before. Few people live in total isolation from the outside world in this age of electronic marvels. While human rights are still in jeopardy in many places their violation causes a global hue and cry. Few knowledgeable people would trade their present circumstances for those of their ancestors.

The accumulation of knowledge is making it possible to apply reason to the solution of human problems. It takes, of course, giant steps to translate insights into policies, but until very recently even the facts were not known. Only in the last three decades have innumerable national institutions and the United Nations system developed humanity's capacity to monitor global developments.

This recent information explosion and the growth of the technology facilitating the use of accumulating data is bound to have a beneficial impact in the long run. Without getting involved in a simplistic debate concerning the respective merits of market decisions versus central planning. It is clear that no rational solutions of global problems could be expected as long as humanity remained ignorant to its true circumstances.

The United Nations Conference on New and Renewable Sources of Energy should be viewed in this perspective. The very fact that it is being held is one of the rays of hope marking the dawn of a new historical epoch, the future era of global management. We need not be reminded that prior to the twentieth century only a few superior minds, endowed with bold imagination, were able to see the human condition in global perspective.

It took centuries of seemingly utopian speculations and then the shock of World War I before it became possible to establish the League of Nations. Although that first experiment in international organization was unable to carry out its limited peace-keeping mission, its short existence was valuable. After World War II there was widespread readiness to establish and support a similar institution, the United Nations. Besides its peace-keeping functions, the new organization was given the broader task of enhancing human welfare.

The lessons of the Great Depression, which had spread misery from the industrialized nations to the rest of the world, the widespread suffering caused by World War II, and the indignation generated by the misery in which colonialism had left the great majority of the human race created awareness that the urgency of economic and social planning transcended national and ideological boundaries. International public opinion had become committed to the concept that all nations should modernize and all people should share in the benefits of that process. But how this could be achieved was far from obvious. Economic and social planning was new and controversial. Experience was lacking and factual knowledge almost nonexistent. The efforts of a whole generation of students of human affairs had to be concentrated on overcoming humanity's ignorance of its situation. The United Nations system played a major role in the accumulation of factual data, analytic insights, and theoretical conceptualizations. Undoubtedly much more is known about the human condition at present than a generation ago.

While we were all learning, the world's rapidly increasing population and the growing requirements of expanding economies generated demands of unprecedented magnitude on the life-sustaining systems of our planet. Lacking cohesion as well as comprehension of the significance of exponential growth, the international community did not even attempt to develop a rational and efficient resources policy.

Global mismanagement prevailed unchecked until astronauts and cosmonauts gave us a first chance to see our small "Spaceship Earth" from afar and made us realize how fragile the basis for human survival was. Reflecting this awakening, the United Nations initiated the historical series of world conferences of which the first was the 1972 Stockholm meeting on the human environment. These are extensive surveys which are making a major contribution to the broadening of the scope of human consciousness on issues that require global management, such as environment, food, population, water, desertification, habitat, the NIEO, disarmament, agrarian reform and rural development, science and technology and most recently energy.

Participating nations which represent an overwhelming majority of the world's population have been induced by these conferences to examine these global problems from the perspective of their domestic interests, to develop national policies, and to define their positions in the broader setting of the international community.

Pessimists and skeptics could argue that the practical impact of this first decade of global stocktaking has been very limited. This is not so. Actually, a vast store of factual data, analytic insights, and innovative ideas has been accumulated as the result of these world conferences. Many governments have created new agencies, committees, and study groups concerned with major issues of global relevance. Besides their intrinsic educational value, such efforts, without precedent in many countries, are creating the human and institutional foundations for the new patterns of global management, which will make it possible to enhance the welfare of the world's population in the twenty-first century and beyond.

Far from being slow, the preparatory stage for this new era of global management has made amazingly fast progress in a very short time. Issues that were only discussed in small circles of specialists are now well understood items of the global agenda.

Viewed in this broader historical perspective, the forthcoming Nairobi Conference is a link in a long chain of actions that is preparing a better future for all humanity. Naturally, the August meeting cannot be expected to solve the world's current energy problems. Like the preceding world conferences sponsored by the United Nations, if it is successful the Nairobi gathering will plant seeds that should bear fruit in the twenty-first century. What then, can the Asia-Pacific region expect from the Nairobi conference?

The needs of the Asia-Pacific region are clear. Like the rest of the world, it has to achieve in the most rational and efficient way possible the transition from dependence on petroleum products to reliance on alternative sources of energy. But the crisis caused by the oil price increases does not have the same significance for the developed and the developing countries of the region.

In the developed countries, more than three-quarters of the population is urban. Its modern life style requires energy for a wide variety of end-uses. Electricity for household amenities and liquid fuels for transportation seen indispensable. Alternative sources of energy would have to supply the same end-uses as are currently established in these industrial societies, if major socioeconomic dislocations are to be avoided.

Yet the energy needs of developing societies should perhaps have higher priority, because it is imperative that they overcome extreme poverty through rapid modernization. In the developing countries of the Asia-Pacific region about three-quarters of the total population is rural. Their agricultural economies are still primarily dependent on traditional sources of energy namely fuelwood and organic wastes. In the villages, transition to the use of petroleum products for cooking and lighting is a mark of progress. Electrification is still beyond the means of most village households and even of many city dwellers.

Could the development of new and renewable sources of energy help the developing countries of the Asia-Pacific region to bypass the age of oil and create new patterns of modernization and industrialization? Or should the developed countries of the region use their superior economic and technical resources to speed up their transition to new and renewable sources of energy, reduce their dependence on petroleum products, and thus liberate larger quantities of nonrenewable fossil fuels for the economic growth needs of developing countries? This dilemma obviously raises a host of ethical, political, economic, social, and technical questions.

The preparatory work for the Nairobi Conference has focused primarily on the state of the art of new and renewable energy technologies. This Regional Consultative Meeting has the task to identify central issues of particular concern to the region, develop regional options for transition to a broader mix of energy sources, seek to develop a regional consensus on proposals for consideration in Nairobi and specify what assistance is considered necessary from the United Nations system for the development of a well-balanced program.

To place the contribution that new and renewable sources of energy can make in perspective, we have to understand the immense potential energy demand of the Asia-Pacific region. Its growth will be determined by two major trends, namely the conservation policies of the mature industrial countries of the region and economic growth of the developing countries.

Conservation will not reduce the absolute volume of demand in the industrial countries but only slow down the rate of growth of their energy demand. Meanwhile demand in the developing countries will increase. Therefore the total volume of energy demand of the Asia-Pacific region will increase considerably. The long-term implications of this process are graphically illustrated by a study completed in November 1980 by the Institute of Energy Economics located here in Tokyo.

The Japanese analysts established that the level of commercial energy consumption per capita in 1978 in various countries of the region corresponds to their respective stages of economic development. Measured, in accordance with United Nations practice, in kg of coal equivalent per person, the values were 302 kg for Indonesia, 347 kg for Thailand, 364 kg for the Philippines, 726 kg for

Malaysia, 1,178 kg for Taiwan, 1,384 kg for South Korea, 4,822 for New Zealand, and 6,819 kg for Australia.

The Institute of Energy Economics compared these figures with the per capita energy consumption of Japan at various points in time and concluded that Indonesia's per capita energy consumption is equivalent to that of Japan in the take-off period of the 1880s, that of Thailand and the Philippines very close to Japan's around 1915, that of Taiwan and South Korea, which have reached a stage of economic development equivalent to that of Japan between 1930 and 1960, is close to the Japanese per capita consumption in the latter half of the 1950s, that in New Zealand, where industrialization is lower than in Japan, per capita energy consumption is also lower, whereas in Australia, where per capita GNP and automobile ownership ratios to total population are higher than in Japan, energy consumption per capita is also higher.

Economic forecasts of future energy demand in the Asia-Pacific region would have to determine future rates of economic growth and population growth for each country and elasticities of energy consumption with respect to GNP or GDP. The reliability of such estimates is open to question. Many factors can distort the trends from which one extrapolates. But one should assume that eventually the rest of the Asia-Pacific region will reach a stage of economic development comparable to Japan's in the 1980s, although neither the paths that these processes of economic growth will follow nor the time they will require are predictable. There is no reason to believe that all possible paths by which the scientific and technological revolution of the last two centuries is spreading have been exhausted. Also, although the stage of economic development of certain countries, say Indonesia, may be comparable to that of Japan in 1880, it may not take those countries a century to reach Japan's present stage of economic development.

The present situation, where people in the United States and Canada use more than five times the global average of per capita energy consumption, while the people of the developing countries of Asia use only one-tenth of the global average of per capita energy consumption cannot last. It is merely a manifestation of the early stages of the economic revolution which is spreading around the globe at an uneven rate.

After seven years of research, involving 140 specialists, the Energy Systems Program Group of the International Institute for Applied Systems Analysis concluded that "it is possible to provide enough energy for a world of eight billion people in the year 2030." But the study assumed that fifty years from now the people of the developing countries of Asia would use only 25 to 30 percent of the global average of per capita energy consumption, whereas the people of North America would still use four to five times the global average.

One need not anticipate with prophetic vision the shape of things to come in half a century, to assume that electronic mass-media, global air travel, and international education are creating everywhere attitudes and expectations which will make it impossible for people in North America to consume in the year 2030 fifteen to twenty times as much energy per capita as the people in the developing countries of Asia.

Differences in energy consumption of such magnitude would maintain a gap in life styles that the future generations in the Third World would find intolerable. The grandchildren of the present generation of villagers who are still living predominantly without the basic amenities that electricity provides—particularly light, TV, and food refrigeration—will not accept the perpetuation of these conditions.

Energy specialists argue that low demand is a major constraint on the expansion of electricity-generation capacity in developing countries. Evidently, poor people cannot afford the cost of connecting their homes to the distribution grid, the purchase of electrical appliances, and the charges for the electricity they would consume. Poverty is indeed an obstacle to electrification under current market conditions. But, looking fifty years ahead, the clamor for modernization is bound to reach such intensity that electricity will probably have to be provided to the poor as a social service.

The political pressure that this demand will put on the governments of developing countries will in turn have international repercussions that will make new global patterns of energy allocation imperative. To assume that global energy demand in 2030 will be determined by the market mechanisms of 1980 requires excessive lack of imagination and vision. In fairness to the authors of the IIASA study, it should be mentioned that they observe, in passing, that failure of the developing countries to achieve their economic growth targets would increase global instability and "the probability for economic warfare in ways that are difficult to anticipate."

There is widespread agreement among energy specialists that new and renewable sources of energy will not provide a substantial substitute for conventional energy sources in the near- and medium-term. Coal and nuclear energy, the two major resources that can replace in part oil and gas during the next two decades, raise complex risk assessment, environmental and economic problems.

The Nairobi Conference is not scheduled to discuss the transition from petroleum products to coal and nuclear power, but the Asia-Pacific region will undoubtedly face in the next twenty years a number of issues requiring co-operation among nations, on matters such as the creation of a coal market and of coal liquefaction plants, uranium enrichment facilities nad nuclear waste disposal sites, to name just a few salient ones.

The rational and efficient use of energy is also not on the Nairobi agenda, but the Regional Consultative Meeting could profitably exchange information on some very successful conservation policies implemented in the Asia-Pacific region in recent years.

The Governments of the Asia-Pacific region could make a genuine contribution to global energy management if they agreed on ways to remind the participants in the Nairobi Conference that new and renewable sources of energy can only contribute to the solution of the world's energy problem as part of a broader mix. If not in Nairobi then at a later date members of the United Nations will have to discuss how to facilitate the expanded use of coal and nuclear power in ways that would reduce to acceptable levels the various risks associated with these primary energy sources. How to maximize the rational and efficient use of energy should also be discussed eventually on a global basis under United Nations auspices, as conservation is of crucial importance in gaining the time needed for the eventual creation of a sustainable global energy system.

In view of the excellent preparatory work of the Secretariat of the Nairobi Conference, this Regional Consultative Meeting could concentrate its attention on the discussion of action-oriented priorities. Although from a technical point of view the development of all new and renewable energy sources deserves attention and is challenging to specialists, the practical importance of these energy sources varies greatly. In the developing countries of the Asia-Pacific region fuelwood and charcoal are still a dominant energy source for cooking and heating, and draught animals are still extremely important for agriculture and transportation.

Any significant contribution to a more efficient and rational use of these two energy sources would have an immediate impact on the lives of hundreds of millions of people. It would also reduce very substantially the rate of growth of demand for petroleum products, by slowing down the transition from fuelwood to kerosene and from the use of draught animals to mechanized agriculture and transportation.

Hydropower is an important renewable source of energy, but the technology for its utilization is mature. Knowledge of potential resources is usually adequate at the national level and international cooperation for the development of that resource has a well-established tradition.

Several other new and renewable sources of energy are only of marginal significance in terms of the total volume of energy that they could contribute under current conditions. There is danger in misunderstanding or overestimating the possible role of solar, wind, geothermal, and ocean power, or of oil shale, tar sands, and peat, because of the diversionary effect that excessive reliance on these energy sources could have.

What the Nairobi Conference could do for the Asia-Pacific region with regard to these exotic sources of energy is to help countries avoid duplication in research, development, and demonstration and coordinate collection of meteorological, geophysical, and oceanographic information. But these activities, although useful, will have only a marginal impact on the region's energy situation in the next two decades.

By contrast, fuelwood and draught animals are of such importance to a vast majority of the region's population, who live mostly in villages, that a successful international effort concerning these major energy sources would have an immediate and widespread impact. Obviously, forestry, animal husbandry, and home economics do not have the glamor of futuristic technology such as solar satellite power stations or ocean thermal energy conversion (OTEC).

But reforestation in accordance with sound ecological principles, and energy plantations whose quick-growing trees and shrubs are cultivated for areas suffering from extreme fuel shortages are of vital importance to villagers who cannot afford the cost of kerosene and to governments lacking the foreign exchange to import petroleum products.

Draught animals have many advantages over mechanized agriculture in the specific circumstances of Asian agriculture. Rural underemployment, the cost and availability of fuel especially in remote areas, the problem of maintenance and spare parts for machinery in societies lacking industrial infrastructure and technical skills make draught animals economically and socially attractive alternatives. For short-distance transportation, draught animals will also remain a useful option for a long time to come. As modern breeding methods and veterinary care can greatly improve the quality of the livestock, there is clearly room for regional cooperation in this field.

The efficient use of fuelwood and of draught animals can be substantially increased by the diffusion of simple technological innovations. Conventional cooking stoves use only about ten percent of the thermal energy of fuelwood. Improved stoves can be twice as efficient and would thus conserve half of the fuelwood currently used for cooking. The problem is technically simple but socially difficult, because of the lack of extension services for the promotion of the more efficient stoves. Similarly, the productivity of draught animals could be greatly improved by the development and distri-

bution of more efficient agricultural implements, harnesses, hitching devices, vehicles, and frames for pack animals.

In the July 7, 1981 version of the "Preliminary Draft of a Programme of Action", the alternate text proposed by China provides a particularly clear statement on what should be done to meet rural energy requirements:

(a) Cultivate fast-growing trees that can be used as fuelwood; make rational use of forest by-products and agricultural wastes;

(b) Popularize small-scale biogas digesters for use in peasant households to solve the problems of fuel and fertilizer and also to improve environmental hygiene;

(c) Improve traditional rural cooking stoves; increase heat efficiency; conserve fuels;

(d) Wherever possible, make full use of solar energy, e.g., solar cooker, solar water heater, agricultural by-product desiccator, passive solar house etc., as well as use of solar cells in outlying pastures.

(e) In the light of local conditions, make full use of indigenous energy sources; develop independent small-scale electricity supply system such as small-scale hydropower, wind power and use of geothermal energy and industrial residual heat;

(f) Improve animal husbandry practices to produce an increase in the quantity and quality of draught animals and improve different types of equipment used in conjunction with draught animals;

(g) Enhance public scientific knowledge concerning rural energy; mobilize the masses to actively participate in the reform of rural energy.

The goal of the programme is to ensure that during a rather long period, the energy needs of the rural areas can be met on a sustainable basis in the light of the different situations in all countries so that by the year 2000, the surface of the Earth will be covered with more vegetation, the vicious circle of soil erosion can be broken and the ecological imbalance can be gradually redressed. Within the next 5 years, emphasis should be placed on overcoming the serious shortage of fuelwood in the rural areas so as to start building up people's confidence that they can solve the rural energy problem in a self-reliant way.

Vigorous action concerning cultivation and use of fuelwood, breeding and employment of draught animals would contribute greatly to the welfare of the rural population of the Asia-Pacific region. It should be given top priority at the Nairobi Conference. Need we be reminded that the spraying of stagnant waters by WHO teams was also not a glamorous activity, but it virtually eliminated malaria and made an enormous contribution to human welfare? If the Nairobi Conference succeeds in the adoption of action programmes that would solve the fuelwood crisis which is threatening particularly the Asia-Pacific region and would increase the availability and efficiency of draught animals, it will become a historical landmark on the road toward a sustainable global energy system, even if it does not contribute significantly to the development of advanced energy technologies.

TRIBUTE TO DR. JOSEPH H. McLAIN

Mr. MATHIAS. Mr. President, with the death of Dr. Joseph H. McLain earlier this week, Maryland and the Nation have suffered a great loss. Dr. McLain, who had been president of Maryland's historic Washington College for the past 8 years, was only 65 years old. In view of the demographic changes that have taken place in our society, he was still in his prime and his death must be accounted untimely.

However, even in the foreshortened span allotted him, Dr. McLain compiled a record of achievement in so many different areas of human endeavor that he leaves a heritage few can match. He was a scientist who loved sports; a declaimer of poetry who guided the destinies of banking institutions, an educator with an abiding interest in pyrotechnics sparked at a young age by the gift of a home chemistry set. And, perhaps above all else, he was a family man, very much in the Scottish tradition of his forebears of whom it has been said:

The home was an educational institution where the intellect was stimulated. In Scotland they say they have five universities—Edinburgh, St. Andrews, Glasgow, Aberdeen and the Scottish home.

Several years ago, I had the opportunity to address the graduating class at Washington College and to spend the day there as Dr. McLain's guest. It was a source of deep satisfaction to me to see that historic educational institution maintaining its singular commitment to an education in the liberal arts and sciences under the aegis of this very remarkable man.

It is a source of deep regret to me that Dr. McLain did not live to participate in Washington College's 200th anniversary observances to which he had devoted so much of his time in the recent past. In October, when the college inaugurates its bicentennial year with a great convocation, Dr. McLain's presence will surely be felt in every aspect of the celebration. Perhaps more than anyone else, Dr. McLain was in a position to appreciate the great institution he headed, the Nation's 10th oldest college, for he knew it as an undergraduate, as a professor and finally as its president.

So that my colleagues may gage the extent of our loss, I ask unanimous consent that the article from the Baltimore Sun detailing Dr. McLain's life and accomplishments be printed in the RECORD at the conclusion of my remarks.

Mrs. Mathias joins me in sending our deepest sympathy to Mrs. McLain, their children and grandchildren. In speaking to them of Dr. McLain, I am reminded of Emerson's description of Thoreau at the latter's funeral:

His soul was made for noble society . . . wherever there is knowledge; wherever there is virtue; wherever there is teaching, he will find a home.

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

WASHINGTON COLLEGE'S DR. JOSEPH McLAIN DIES

Dr. Joseph H. McLain, scientist, inventor and president of Washington College on Maryland's Eastern Shore since 1973, died yesterday at Johns Hopkins Hospital after a short illness. He was 65.

Dr. McLain, who was widely known here and abroad as an expert in solid-state chemistry, was an active conservationist. He was also chairman of the Governor's Advisory Science Council and served as chairman of the Maryland Water Pollution Control Commission for its first six years.

A former president of the Maryland Independent College and University Association and a trustee of the Chesapeake Bay Foundation, he organized and was the first chairman of a state task force to study the puzzling disappearance of subaquatic grasses in the bay and possible links to either silting or chemical pollutants.

He was the author of three textbooks on pyrotechnics, the field of research and invention in which he specialized from the time he was a second lieutenant at the Army's Edgewood Arsenal during World War II.

His more than 30 patents included smoke grenades used by the Army to camouflage the movements of advancing troops; specially treated metals used in computer memory systems; improvements to underwater torches used by the Navy that allowed them to cut through up to 4 inches of stainless steel in fractions of a second, and land and sea rescue and warning flares—including types used on hundreds of highways throughout the country.

He also helped develop rocket propellant formulas and pyrotechnic actuation devices used for stage separations in space flights.

A member of Washington College's class of 1937, he was a magna cum laude graduate, class president in both his junior and senior years and a member of Omicron Delta Kappa, a national leadership fraternity.

Dr. McLain became a professor of chemistry at Washington College in 1946 after earning his Ph. D. at the Johns Hopkins University, where he was elected to Phi Beta Kappa. He became head of the chemistry department in 1955, and also held the W. Alton Jones chair in chemistry. He was an acting dean for a brief period.

In 1973, he became the 22d president of the college, which is in Chestertown in Kent county. He was the first alumnus to hold that post.

Dr. McLain combined scholarship with a lifelong interest in athletics. He won varsity letters in four sports: basketball, football, lacrosse and track. From the time he was a young professor, he was almost always on the sidelines as a fan during sports contests in the college, and often accompanied the lacrosse and basketball teams to away-from-home games.

He relaxed on hunting trips for ducks or geese, and on the golf course. He also played bridge and took part in a weekly poker game with a group of Chestertown residents that included Bill Nicholson, a onetime all-state athlete at Washington College and National League home-run king during an earlier baseball era.

Reading—from the Bible and Shakespeare to works on advanced theories of solid-state chemistry and other scientific subjects—was another favorite avocation. Adopting the Scottish accent of his forebears, he often entertained students on informal occasions with readings from the poetry of Robert Burns.

He won a Lindback Foundation award for distinguished teaching in 1965, and in a campus poll was voted the most popular professor on campus.

Dr. McLain's most recent book—"Pyrotechnics from the Viewpoint of Solid-State Chemistry"—was published last year by the Franklin Institute. More than 200 pages of his summer lectures over a period of years at the Franklin Institute Research Laboratories in Philadelphia were published in 1968 as a book on pyrotechnics, a field he once described as "a poor cousin or worse" in the field of science.

The Franklin Institute seminars were attended by experts from many countries, and led to lecture invitations that took Dr. McLain to Europe, Asia and Africa. He spent a sabbatical year in 1962 at the University of Edinburgh in Scotland and in 1970 at the

University of Munich as a visiting professor, lecturing and helping to guide research projects.

His latest book, family members said, was an attempt to define and explain pyrotechnics as an integral and important part of solid-state chemistry.

For more than a year before his death, Dr. McLain spent much of his time on preparations for Washington College's 200th anniversary observances, which will start with a convocation in October. They will bring four winners of the Nobel Prize to Chestertown, along with the head of Scotland's Aberdeen University, where Dr. William Smith, founder of the college, the 10th oldest in the country, was educated.

Most of Dr. McLain's research was conducted on the campus in Chestertown. For some projects, he enlisted the aid of students who later distinguished themselves academically while obtaining their own graduate degrees. "He loved teaching. He loved to see a spark [in students] and have it ignite," said Dr. McLain's wife of nearly 40 years, the former Ann Hollingsworth of Church Hill.

Except for the two sabbaticals, Dr. McLain was away from Washington College only once after 1946—as research liaison manager for Olin Mathieson Corporation in the New York area during parts of 1950 and 1955. He returned to the college "because he missed teaching so much," his wife said.

For years after that, he remained a consultant to Olin Mathieson—carrying a full teaching load in Chestertown, commuting to New York or Connecticut Thursday nights for committee meetings and consultations each Friday and returning to teach classes Saturday mornings.

He was a consultant for other major corporations and for the Navy on many safety aspects of pyrotechnics.

Dr. McLain had been a director of the Baltimore branch of the Federal Reserve Bank of Richmond since 1978 and was elected chairman for the Baltimore district less than a year ago. He was also a former president and board chairman of the Maryland National Bank in Chestertown.

He was also appointed by Governor Hughes to represent Maryland on the national Education Commission of the States.

A native of Weirton, W. Va., Dr. McLain grew up in Baltimore and graduated from Poly in 1933. His interest in pyrotechnics—"the art of fire"—was sparked when, as a youngster, he received a home chemistry set as a gift. The set, he said, enabled him to create rudimentary "red and green fires."

That interest revived when he majored in chemistry at Washington College and during his graduate studies at Johns Hopkins, which were interrupted by World War II.

Dr. McLain's home is on Chestertown's Water street, near the banks of the Chester river.

Funeral services will be held at 11 a.m. Wednesday in Chestertown's Emmanuel Episcopal Church.

Besides his wife, he is survived by two daughters, Elizabeth Deppman, of Middlebury, Vt., and Lynn Cook, of Baltimore, a brother, John McLain, of St. Augustine, Fla.; and three grandchildren.

The family requests that memorial gifts be made to Washington College's Third Century Fund.

REFLECTIONS ON ATATURK CENTENARY

Mr. MATHIAS. Mr. President, this year marks the 100th anniversary of the birth of one of the remarkable leaders of our time. Mustafa Kemal Ataturk, "Father of the Turks," was the man responsible for shaping the State of Turkey from the ruins of a decaying empire into the modern state we know today. It is to him that Turkey owes its national identity and cultural unity, to him that the world owes the establishment of a stable Western power bridging the European and Asian continents.

Ataturk was a charismatic leader with a passion for rationalism and organization, and it was this unique combination which enabled him to achieve a dramatic national revitalization. His extraordinary determination, dedication, and dynamic leadership combined with an unwavering vision of Turkey's role in the world drove him to a relentless reform of Turkey's social and political structure. From a defeated, divided dynasty torn between East and West, he created a modern democratic republic with an unwavering commitment to the West. In Alex Toynbee's words:

> It was as if, in our Western world, the Renaissance, the Reformation, the secularist scientific, mental revolution at the end of the 17th century, the French Revolution, the Industrial Revolution had all been telescoped into a single lifetime.

The Kemalist revolution was secular in nature; it called for the separation of church and state, and thereby allowed scope for the sacredness of all religions. The Ataturk movement successfully replaced theocracy, Koranic education, and antiquated Islamic laws with parliamentary government, Western legal institutions, and secular education.

In concentrating much of his energy on cultural reform, Ataturk demonstrated the type of insight which made him a remarkable leader. His genius lay in perceiving the primacy of culture in national life and its interrelationship with socioeconomic factors. By altering Turkey's cultural base, he gave the country a national identity and consciousness which allowed it to embrace democratic participatory institutions. He was successful because he recognized that a strong national culture can provide a nation with sufficient stability to undergo radical modernization without irrevocably disrupting the fabric of everyday life.

Ataturk's pragmatic and enlightened approach to reform can be seen in his attitude toward the role of women. He wrote:

> To keep women secluded is to waste one-half of Turkey's most precious resources. The two sexes must progress together on terms of equality.

Ataturk was equally pragmatic in the sphere of political reform. In forming a republic, he followed his instincts, his vision of Turkey, and his keen understanding of the Turkish people. He observed:

> The fundamental reality of our present-day existence has demonstrated the general tendency of the nation, and that is populism and people's government. It means the passing of the government into the hands of the people.

Ataturk stressed popular sovereignty and civic participation; his reforms provided the base for Turkey's later evolution into a full-fledged democracy.

Freedom was one of the tenets upon which Ataturk based his revolution. Inspired by the ideals of the American Revolution, he fought for individual liberty applying equally to all. "The Republic," Ataturk asserted, "wants new generations whose intellect is free, whose conscience is free, whose learning is free."

George Washington served as a symbol of leadership for Ataturk; this, combined with his commitment to democratic principles and international peace, prompted him to forge the strong and lasting bonds between Turkey and the United States which continue to hold fast today. In addressing the American people, he made clear his belief in the commonality of interests on which a lasting friendship could be based:

> You have expelled tyranny and despotism from your country. You have obtained and established your freedom and independence after a long and sanguinary struggle, and you have built up a civilized, strong, and democratic state based on the sovereignty of the people.
>
> Keep your hearts open to the Turkish people, who are fighting for freedom and independence, and sincerely striving to become an element of progress and justice in the world, like yourselves.

On the strength of this commitment to democracy, individual freedom, and the Western style of life, Turkey has also proved an invaluable and steadfast NATO ally. The strength of Turkey's loyalty to the West grew out of its participation in the League of Nations during Ataturk's rule, which established Turkey as a member unwavering in its cooperation and support.

It was with the support provided by this international body that Ataturk made the first decisive moves to resolve the historical conflict between Greece and Turkey. In this, as in other situations, he exercised restraint in the use of force because of his ultimate dedication to and sincere desire for international peace. He is noted for saying, "There certainly is a right, and right is above force."

Similarly, although Ataturk was a fervent nationalist, his nationalism was of a unique nature. He recognized the nation as the emerging unit of political and cultural unity, but he also recognized the necessity and desirability of establishing an international system of cooperation. His watchword was, "Peace at home, peace abroad," and his vision encompassed an era when a federation of nations would pave the way to international harmony:

> We must think of the whole of mankind as being a single body and of each nation as constituting a part of that body. . . . We must not say, "If there is sickness in a certain place in the world, what does that matter to me? . . . If there is such sickness, we must be just as much concerned with it as though it happened right in our midst."

This year, UNESCO is sponsoring an international symposium in tribute to Ataturk's achievements. He is being officially recognized as a successful cultural reformer, as the first national leader to actively oppose colonialism and imperialism, and as a visionary striving to create a harmonious world free from discrimination based on race, religion, or sex.

The most appropriate monument to Ataturk's memory, however, in both the Turkish and the international spheres,

will be positive and decisive measures to make the dreams for which he worked lasting realities.

The mark of success in the founder of a commonwealth is the strength of his legacy or his ability, in Rousseau's words, "to toil in one century and to reap in another." The challenge Turkey faces continues to be the realization of Ataturk's vision.

INTERSTATE IDENTIFICATION INDEX (III)

Mr. MATHIAS. Mr. President, last March, Attorney General William French Smith formed a task force on violent crime to recommend what the Federal Government should do to combat violent crime. At that time, the Attorney General announced that the task force would report its recommendations in two phases:

The first phase will focus on what can be done within existing statutory law and existing resources, and I will ask that this phase be completed within 60 days of the formation of the group.

The second phase of the report will focus on recommendations for necessary and appropriate changes in Federal laws, funding levels and allocation of resources which would increase the coordinated Federal-State-local fight against violent crime.

On July 17, 1981, the Attorney General's task force issued its phase 1 recommendations. Among the recommendations is that the Federal Bureau of Investigation establish the Interstate Identification Index (III), a national criminal records system through which arresting States could learn of the out-of State criminal history of their arrestees. The goal of this recommendation—timely exchange of accurate criminal history information among agencies and jurisdictions—is a laudable one. How that goal is achieved and whether III is an appropriate vehicle to achieve that goal are legitimate topics for public discussion.

One of the first articles to appear in the press regarding III was written by Kenneth C. Laudon, professor of sociology and statistics at the John Jay College of Criminal Justice of the City University of New York. In his article in the New York Times entitled "A Risky Index of Crime," Professor Laudon expresses concern about the privacy implications and accuracy of the data maintained in such a system.

So that my colleagues may have the benefit of Professor Laudon's views on the creation of such a criminal record system, I ask unanimous consent that his article be printed in the RECORD.

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

A RISKY INDEX OF CRIME

(By Kenneth C. Laudon)

CROTON-ON-HUDSON, N.Y.—The Attorney General's Task Force on Violent Crime recently approved the Federal Bureau of Investigation's 10-year-old proposal to create a national computerized criminal-history system—a system that President Reagan should reject.

The system, known as the Interstate Identification Index, would link together existing state criminal-record systems to form one massive Federal register of perhaps 30 million names. Because the system would record arrest information for virtually any sort of crime from misdemeanor to felony, more than one-fourth of the labor force could be included.

The Federal Bureau of Investigation's proposal would have an infinitesimal effect on violent crime, be indiscriminate in purpose and content, and threaten other important national values such as due process, equity, and the goal of full employment.

In addition, taking into account state and local expenditures, as well as Federal outlays, the final system could cost an estimated $350 million.

Most Americans want a society in which violent recidivist felons receive swift justice, but the Federal Bureau of Investigation's system would not help achieve this goal.

Prosecutors estimate that well over 90 percent of violent street crime is committed by local criminals who are already known both to cities' and states' computerized systems.

The F.B.I. system would not give local crime fighters any new information and therefore would be irrelevant to the solution of local violent crimes.

Worse, the Bureau's electronic dragnet would needlessly make many of us public "enemies" overnight.

There are an estimated one million serious career criminals in the United States with multi-state arrests. But the proposed 30-million-record F.B.I. system would indiscriminately include millions of people who were arrested once for misdemeanors—many of whom were never convicted.

Furthermore, the criminal records that would be fed into the system contain so many errors that millions of citizens would be wrongly labeled as criminals.

In research that was supported by the Office of Technology Assessment of the Congress, from 1979 to 1981 I conducted an audit of 1,500 records that were randomly selected from three states' computerized record systems. An incredible 90 percent, 82 percent, and 50 percent of the records in the states were either incomplete, inaccurate, or ambiguous.

In a similar sample that I took from the 22-million-record F.B.I. manual system, 74 percent of the records suffered from these problems.

How these poor-quality records could be used by the police, prosecutors, and judges to fight violent crime remains a mystery.

Although the Federal Bureau of Investigation's plan would have a minuscule effect on crime in the United States, the system might have a considerable, and undesirable, effect on employment practices.

The fastest-growing use of criminal records in the United States is for employment screening by Federal, state, and local authorities. Currently, of the three million requests for criminal information that the Bureau receives from the 50 states each year, one million are for employment screening by states and localities. Federal agency use of the Bureau's criminal records is more extensive: 40 percent of the agency requests received by the F.B.I. are for employment purposes.

With more than one-fourth of the labor force on file, the proposed Interstate identification Index would spur use of these records but not for criminal-justice purposes. The index would be enormously tempting both to public- and private-sector employers.

In states all over the country, business and industry have sought, often successfully, to obtain access to state systems. Existing safeguards, often weak, crumble.

Many of the 30 million people in the F.B.I. system would be denied access to even the most menial public- and private-sector jobs. Since many of them would be poor or members of minority groups, the goal of integrating these individuals into the economic life of the nation would be jeopardized.

Why would a conservative Administration want to build such a Federal octopus? Although the F.B.I. has been pursuing this scheme for 10 years, the final decision will hinge on the politics of crime.

The Reagan Administration can still drop the Federal Bureau of Investigation's proposal as just another Federal boondoggle inherited from the past.

Or, the Administration could make the F.B.I. Interstate Index the centerpiece of its own war on crime. Realizing that the F.B.I. cannot do much about local violent street crime, but convinced that it must "do something," the Administration could support the F.B.I. proposal as a symbol of its tough line on crime, and as a further demonstration of its support for the F.B.I. If this path were chosen, we all would have to wonder if the public itself was not the enemy.

TAX REFORM

Mr. BRADLEY. Mr. President, yesterday I stated for the record my concerns that the administration's tax legislation would prolong inflation and high interest rates and lead to slower economic growth. These concerns are shared by many of the American people—in particular, retired persons and others with fixed income. I ask unanimous consent that the statement of the National Retired Teachers Association and the American Association for Retired Persons be printed in the RECORD.

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

STATEMENT

Sustained high rate inflation is the chief threat to, and concern of the elderly. Consequently, the 13 million member National Retired Teachers Association—American Association of Retired Persons are mandated by their leadership to oppose all actions which promise to increase inflation, and to evaluate fiscal and monetary policies, as well as other actions, in terms of their effects on inflation. Viewed from that perspective, the Economic Recovery Tax Act of 1981 is at variance with the kind of fiscal policy the nation needs at the present time.

The across-the-board cuts in personal income taxes for which this legislation provides, although reduced somewhat from the administration proposal, are still too large, particularly in conjunction with the planned very large increase in defense spending. This is so even taking into accout the approved expenditure reductions in other budget categories. The basic policy approach of relying on stringent monetary policy to (hopefully) restrain inflation while pursuing a stimulative fiscal policy is the wrong policy combination.

It is simply asserted, without convincing proof, that large personal income tax rate cuts, which will certainly increase federal budget deficits, will quickly generate large gains in output and incomes, the taxes on which will more than offset the initial re-

nue loss. It seems far more likely that the revenue loss will not be offset, because taxpayers are not likely to change their behavior radically and save a significantly larger proportion of their incomes—especially in the current, high inflation economic environment.

While wo do not share the belief that federal deficits have been the only cause of inflation, they have certainly contributed to it in a major way. Large federal budget deficits, year-after-year, are not something that can safely be ignored. Inflation is much too high. The federal budget must be brought into balance and the sooner the better.

Apparently, thinking is that budget deficits can be ignored because monetary policy can and will be used to restrain inflationary pressures. While monetary policy certainly has an important role to play in restraining inflation, all the burden cannot be put on monetary policy without severe damage to the economy. The "tight" monetary policy which is now being pursued by the federal reserve, and which it apparently intends to continue, works through restricting credit, specifically by limiting the growth in bank lending capacity.

The natural tendency of this limitation and its accompanying high interest rates is to curtail investment, both by business in new or modernized production facilities and by consumers in housing and automobiles. Although the tax bill contains provisions intended to encourage business to devote a larger share of profits to investments, the effect of monetary policy, which will make credit more expensive, will discourage investment.

All of these factors lead to the conclusion that a better policy mix would be to have a less stimulative fiscal policy and a less restrictive monetary policy. There is, however, an even more fundamental failing of current policy, and that is that it assumes that the primary cause of inflation is excess demand—"Too much money chasing too few goods".

There is ample evidence to suggest that the cost-push (wage-price spiral) part of the inflation is the larger and more intractable part. The abolition of the Council on Wage and Price Stability removed whatever stabilizing influence the wage-price guidelines supplied, and it may not have been much, but nothing has been put in their place.

It is vitally important not to be lulled into complacency by the recent slackening pace of inflation as measured by the CPI. This is due largely to the current weakness in prices of oil, not to any abatement of the underlying or "core rate of inflation." As we have found out before, the only constant in oil prices is their volatility.

The U.S. has been lucky in the current weakness of oil and other commodity prices, but it has made little or no progress in reducing the basic inflation rate, and the tax package now being considered in the Senate offers no promise that it will do so.

Proponents of this tax package make much of its supposed beneficial effect in increasing employment, but this misses the point. The economy has been quite successful in creating jobs over the past decade. What it has not done, in addition to bringing inflation under control, is maintain an adequate level of productivity growth, the basis for the increase in standards of living we all want.

One way to stimulate productivity growth is to invest in more productive facilities, but investments in human capital—education and training—are also necessary, and these are not being increased. Some of the budget cuts, in fact, would reduce them.

If we are going to invest more we will have to save more, and the tax bill does not do nearly enough to stimulate savings. It reduces the $200/$400 exclusion of dividend and interest income, which is much too low to begin with, in favor of an untried instrument that, to the extent it does stimulate savings, does so at a very high cost to the Treasury in order to furnish a barely concealed subsidy to the thrift industry. We acknowledge that the thrift industry has severe problems (most of which are the result of inflation), but the "so-called" "all-savers" certificate is a very poor way to try to solve them.

We also question the utility of the indexing provisions added to the Senate's bill at the last minute. While we agree that "bracket-creep" is an undesirable product of inflation, the solution is to curb inflation, not to set up a new rigidity in the tax system.

It is past time for Congress and the administration to establish a comprehensive and effective anti-inflation program, unconstrained by ideology. Inflation is seriously damaging the economy and social fabric of the nation, and the elderly in particular.

Signed,

PETER W. HUGHES,
Legislative Counsel.

MESSAGE FROM THE HOUSE

At 1:18 pm., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 304. An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2120. An act to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes.

H.J. Res. 223. Joint resolution to provide for the awarding of a special gold medal to Fred Waring.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 1100) to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans Administration, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 1098) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, disagreed to by the Senate, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. FUQUA, Mr. FLIPPO, Mr. GLICKMAN, Mr. NELSON, Mr. BROWN of California, Mr. WINN, Mr. GOLDWATER, and Mr. HOLLENBECK as managers of the conference on the part of the House.

HOUSE JOINT RESOLUTION REFERRED

The following joint resolution was read twice by unanimous consent, and referred as indicated:

H.J. Res. 223. Joint resolution to provide for the awarding of a special gold medal to Fred Waring; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE BILL HELD AT THE DESK

The following bill was held at the desk, by unanimous consent, pursuant to the order of July 30, 1981:

H.R. 2120. An act to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation with amendments:

S. 1096. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes (Rept. No. 97–172).

By Mr. WEICKER, from the Committee on Labor and Human Resources: S. Res. 195. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1533; referred to the Committee on the Budget.

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 1549. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes (Rept. No. 97–173).

By Mr. WARNER, from the Committee on Armed Services:

S. Res. 196. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1549. Referred to the Committee on the Budget.

By Mr. DOMENICI, from the Committee on the Budget, without amendment and without recommendation:

S. 43. A bill to amend the Congressional Budget Act of 1974 to require the Director of the Congressional Budget Office to prepare and submit, for every bill or resolution reported in the House or the Senate which has certain specific economic consequences, an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution (Rept. No. 97–174).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Kathleen M. Bennett, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

John P. Horton, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

Thomas Morgan Roberts, of the District of Columbia, to be a Member of the Nuclear Regulatory Commission.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Robert G. Dederick, of Illinois, to be an Assistant Secretary of Commerce.

Rear Admiral Herbert R. Lippold, Jr., NOAA, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration.

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission.

Henry M. Rivera, of New Mexico, to be a Member of the Federal Communications Commission.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported 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.)

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S. Res. 178. A resolution to commemorate the two-hundredth anniversary of the birth of Robert Mills.

H.J. Res. 141. A joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 4, 1981, through October 10, 1981, as "National Schoolbus Safety Week".

S.J. Res. 98. A joint resolution to authorize and request the President to issue a proclamation designating October 16, 1981, as "World Food Day".

S. J. Res. 87. A joint resolution to authorize and request the President to designate September 13, 1981, as "Commodore John Barry Day."

S.J. Res. 62. A joint resolution to authorize and request the President to designate the week of September 20 through September 26, 1981, as "National Cystic Fibrosis Week".

S.J. Res. 53. A joint resolution to provide for the designation of September 6, 1981, as "Working Mothers' Day".

By Mr. WEICKER, from the Committee on Small Business:

Frank S. Swain, of the District of Columbia, to be Chief Counsel for Advocacy, Small Business Administration.

(The above nomination from the Committee on Small Business was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

Frank H. Conway, of Massachusetts, to be a Member of the Foreign Claims Settlement Commission.

Richard S. Cohen, of Maine, to be United States Attorney for the District of Maine.

A. Melvin McDonald, of Arizona, to be United States Attorney for the District of Arizona.

R. Lawrence Steele, Jr., of Indiana, to be United States Attorney for the Northern District of Indiana.

Thomas E. Dittmeier, of Missouri, to be United States Attorney for the Eastern District of Missouri.

Richard A. Stacy, of Wyoming, to be United States Attorney for the District of Wyoming.

John C. Bell, of Alabama, to be United States Attorney for the Middle District of Alabama.

J. B. Sessions, III, of Alabama, to be United States Attorney for the Middle District of Alabama.

Joseph J. Farnan, Jr., of Delaware, to be United States Attorney for the District of Delaware.

James A. Rolfe, of Texas, to be United States Attorney for the Northern District of Texas.

Michael R. Spaan, of Alaska, to be United States Attorney for the District of Alaska.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Robert A. Rowland, of Texas, to be a Member of the Occupational Safety and Health Review Commission.

Daniel Oliver, of Connecticut, to be General Counsel, Department of Education.

(The above nominations from the Committee on Labor and Human Resources were reported 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.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Joseph A. Sickon, of Virginia, to be Inspector General, General Services Administration.

By Mr. MATHIAS, from the Committee on Rules and Administration:

Danford L. Sawyer, Jr., of Florida, to be Public Printer.

(The above nomination from the Committee on Rules and Administration was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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–1691. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1692. A communication from the Deputy Director of the Defense Mapping Agency, transmitting, pursuant to law, information concerning a study to convert to contract performance commercial or industrial functions now being performed by Department of Defense employees; to the Committee on Armed Services.

EC–1693. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, copies of the Pennsylvania Avenue Development Corporation's Annual Report for 1980; to the Committee on Energy and Natural Resources.

EC–1694. A communication from the Acting Secretary of the Department of the Interior, transmitting, pursuant to law, information concerning the proposed leasing program for the United States Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC–1695. A communication from the United States Trade Representative, transmitting pursuant to law, the semiannual report for the prior six month period on the cases pending, new petitions received, and actions taken by the President; to the Committee on Finance.

EC–1696. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of an Act of the Council, dated June 30, 1981; to the Committee on Governmental Affairs.

EC–1697. A communication from the Chairman of the Council of the District of Columbia, transmitting pursuant to law, a copy of an Act of the Council, dated July 14, 1981; to the Committee on Governmental Affairs.

EC–1698. A communication from the Administrator of the General Services Administration, transmitting pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1699. A communication from the Secretary of Education transmitting, pursuant to law, a copy of final regulations on the College Housing Program; to the Committee on Labor and Human Resources.

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. NICKLES (for himself, Mr. WALLOP, and Mr. HATCH):

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; to the Committee on Finance.

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1542. A bill to amend the Mineral Lands Leasing Act of 1920; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. JEPSEN, Mr. LEAHY, Mr. D'AMATO, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. GARN, Mr. BURDICK, and Mrs. HAWKINS):

S. 1543. A bill to amend the Federal Alcohol Administration Act to require a health warning on the labels of containers of certain alcoholic beverages; to the Committee on Commerce, Science, and Transportation.

By Mr. McCLURE (for himself and Mr. DOMENICI):

S. 1544. A bill entitled "The State and Local Energy Block Grant Act of 1981"; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 1545. A bill for the relief of Monchito O. Entena, Antonio V. Entena, Robert Entena, Cathleah Entena, Arvin Entena, and Eliza R. Ayala; to the Committee on the Judiciary.

By Mr. SYMMS (for himself and Mr. McCLURE):

S. 1546. A bill to define and clarify terms used in that patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 1547. A bill for the relief of Alberto Hernandez Perez; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. ABDNOR, Mr. CHAFEE, Mr. GORTON, and Mr. HATFIELD):

S. 1548. A bill to repeal the Federal outdoor advertising control program, and for other

purposes; to the Committee on Environment and Public Works.

By Mr. WARNER from the Committee on Armed Services:

S. 1549. An original bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes placed on the calendar.

By Mr. HELMS (for himself, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. LAXALT, Mr. SYMMS, and Mr. THURMOND):

S. 1550. To amend the Federal Election Campaign Act to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

By Mr. MATHIAS (for himself and Mr. PRYOR):

S. 1551. A bill to amend title 5, United States Code, to extend the period within which physicians comparability contracts may be entered into, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUMPHREY:

S. 1552. A bill to lower the duty on certain imported sachet parts; to the Committee on Finance.

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1553. A bill to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. WILLIAMS, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. NUNN, Mr. CHILES, Mr. HEFLIN, Mr. STENNIS, Mr. JOHNSTON, Mr. TOWER, Mr. MATSUNAGA, Mr. COCHRAN, Mr. CRANSTON, Mr. METZENBAUM, Mr. CANNON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LONG, Mr. MITCHELL, Mr. BENTSEN, Mr. INOUYE, Mr. BIDEN, Mr. HAYAKAWA, Mr. COHEN, Mr. EAST, Mr. KENNEDY, and Mr. DURENBERGER):

S.J. Res. 103. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the seven calendar days beginning October 4, 1981, as "National Port Week."; to the Committee on the Judiciary.

By Mr. MELCHER:

S.J. Res. 104. Joint resolution directing the President to consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within the next 90 days; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself, Mr. WALLOP, and Mr. HATCH):

S. 1541. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to consolidate and simplify the administration of the provisions of law relating to retirement income arrangements, to provide for incentives for pension plan coverage and increased retirement savings, and for other purposes; to the Committee on Finance.

(The remarks of Mr. NICKLES on this legislation appear earlier in today's RECORD.)

By Mr. McCLURE (for himself and Mr. JACKSON):

S. 1542. A bill to amend the Mineral Lands Leasing Act of 1920; to the Committee on Energy and Natural Resources.

MINERAL LANDS LEASING ACT AMENDMENTS

● Mr. McCLURE. Mr. President, Senator JACKSON and I are today introducing legislation which will allow railroad companies as well as their affiliates to acquire Federal coal leases.

Our bill will repeal a provision of the Mineral Lands Leasing Act of 1920—section 2(c) presently codified in title 30, United States Code, section 202—which prohibits a company operating a common carrier railroad from holding Federal coal leases unless the coal is used for railroad purposes.

While the legislative history of the provision of the 1920 act, which restricts the rights of railroads, is not particularly clear, Congress apparent concern was that the western railroads would dominate the production of coal if they were permitted to hold Federal coal leases. In addition, there was general concern at the time that railroads were economic giants which threatened to control the economy of the West.

While such concerns about railroads may have had some validity in 1920, it has become obvious in recent years that there is no longer any reason for the blanket prohibition embodied in section 2(c). Several laws and regulations enacted during the 1970's enable Federal agencies to respond effectively to any competitive questions which might arise as a consequence of the proposed acquisition of Federal coal leases by railroad companies.

These conclusions are supported by a number of current analyses of competition in the coal industry. One recent study was prepared by the Department of Justice in connection with its responsibility to provide an annual assessment of competition in the coal industry under the Federal Coal Leasing Act Amendments of 1976. The Department's 1980 report, which was the culmination of nearly 4 years spent analyzing competition issues, studying railroad coal reserves in the West, and surveying utilities, concluded:

Plainly, whatever the merits of a general prohibition on leasing to railroads in 1920, the broad sweep of section 2(c) is now an impediment to rather than a bulwark (sic) of competition. The Department therefore recommends that section 2(c) be repealed.

In recommending repeal of section 2(c), the Justice Department report acknowledged that there have been numerous changes in the Federal statutes which make the general prohibition of 2(c) not only unnecessary but anticompetitive in its effect. One of the most important changes occurred as a part of the sweeping reforms embodied in the Federal Coal Leasing Act Amendments of 1976. This change, contained in section 15 of the act, requires the Justice Department to review each Federal coal lease prior to its issuance and to make a determination whether issuance would create or maintain a situation inconsistent with the antitrust laws. As the Justice Department stated in its 1980 report to Congress:

Competitive concerns embodied in section 2(c) could be handled on a case-by-case basis under the antitrust review procedure without the detrimental effect on competition that arises from prohibiting Federal coal leasing to all railroads.

While the policy conclusions and recommendations of the Justice Department's report are very clear, the same report creates an ambiguous, and I believe urgent, situation with respect to the proper interpretation of section 2(c)—a situation which I believe requires the legislative action I am proposing today. Because of a legal interpretation included as a part of the Justice Department's report, a question has arisen whether the barrier of section 2(c) allows further development of Federal coal leases by companies that are separate from but affiliated with railroads as part of a corporate holding company structure.

The Interior Department's solicitor has held repeatedly that section 2(c) does not automatically disqualify affiliates of railroad companies from holding Federal coal leases. The Justice Department has developed a different interpretation of the provision, arguing that railroad affiliates (including companies owned by a parent that also owns a railroad company) are ineligible to hold Federal coal leases under section 2(c).

On its face, this dispute appears to be a totally legalistic one, since the Justice Department has reported to Congress its policy conviction that both railroad affiliates and railroads themselves should be allowed to participate in Federal coal leasing. Unfortunately, however, the legalistic dispute between the two agencies stands as an invitation to opponents of new Federal leasing, disgruntled losing bidders, and others to tie up the leasing program in controversy over the validity of participation by railroads or their corporate affiliates in the bidding and leasing process. This result would be unjust, would restrict competition, and would frustrate the planning of companies which plan to compete in competitive bidding.

Section 2(c) repeal legislation has been passed by the Senate on three occasions since 1957, but each time the legislation has been stalled in the House. At the time of the most recent attempt at repeal in 1975, Members of Congress were preoccupied with several developments of significance, the competitive implications of which were not then totally clear.

These included the explosive escalation in demand projected for coal as a result of the 1973–74 OPEC oil embargo, the revelation of widespread acquisition of Federal coal reserves for apparently speculative purposes during the 1960's, and the entry of the oil companies into Western coal. All of these factors combined to cause Members of Congress to be

wary of any legislative changes which might affect this rapidly evolving and, at the time, ill-defined environment.

In addition, when repeal was considered in 1975, the comprehensive studies of the structure of the coal industry and the potential effect of railroad participation were not available to Members of Congress.

Mr. President, given the fact that nearly a decade has passed since major Federal lease sales have occurred, I believe it is especially important that this coal leasing program should now proceed. Congress, through a series of reforms, including the abolition of preference right leasing, the requirement that fair market value be received for all Federal coal, and provisions for extensive public review and comment on leasing plans, has set the stage for coal development to occur in an orderly and competitive environment. In this new environment, section 2(c) is an anachronism that is now anticompetitive in its effect. It is time for it to be repealed. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 2(c) of the Act of February 25, 1920 (41 Stat. 438), as amended (62 Stat. 289) (presently codified in 30 U.S.C. sec. 202), is hereby repealed.●

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. JEPSEN, Mr. LEAHY, Mr. D'AMATO, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. GARN, Mr. BURDICK, and Mrs. HAWKINS):

S. 1543. A bill to amend the Federal Alcohol Administration Act to require a health warning on the labels of containers of certain alcoholic beverages; to the Committee on Commerce, Science, and Transportation.

HEALTH WARNING LABELS FOR ALCOHOLIC BEVERAGES

Mr. THURMOND. Mr. President, along with my distinguished colleagues, Mr. HATCH, Mr. JEPSEN, Mr. GRASSLEY, Mr. LEAHY, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. D'AMATO, Mrs. HAWKINS, Mr. GARN, and Mr. BURDICK, I am pleased to introduce today legislation that will require a health warning label on all containers of alcoholic beverages which have more than 24 percent alcohol by volume. The warning would read as follows:

Caution: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency or addiction, and can contribute to other major serious health hazards.

Alcoholism and alcohol abuse are together recognized as one of the most serious health problems in our Nation. Alcohol is not only a prevalent beverage in our society, it has become a much abused drug, as have cocaine, heroin, barbiturates, amphetamines, and others. The consequences of alcohol abuse are a serious national problem in terms of the number of individuals affected, the cost to society, and the damage to the human body.

Alcoholism is a disease that can strike persons of any social or economic level with tragic results. No one really knows how many lives this disease has ruined, or how many healthy people it has adversely affected. The behavior of the abuser often harms not only himself, but also his family, employer, and society at large.

Mr. President, perhaps the most serious health consequences of alcohol abuse are those resulting from the consumption of alcoholic beverages by pregnant women. In 1980, the Department of Health, Education, and Welfare and the Bureau of Alcohol, Tobacco, and Firearms reported that as little as two drinks a week during pregnancy increases the chance of having a miscarriage.

The Surgeon General, in a recent report to Congress, summarized current scientific knowledge about health hazards associated with alcohol consumption during pregnancy, and concluded that such consumption can: First, significantly decrease birth weight among the children of some women who average only 1 ounce of absolute alcohol per day during pregnancy; second, significantly increase spontaneous abortions in women with alcohol consumption levels as low as 1 ounce of absolute alcohol twice a week; and third, increase the chances of birth defects.

The report also concluded that the fetal alcohol syndrome (characterized by various deformities and mental retardation) may result from alcohol consumption. This syndrome of birth defects is frequently associated with retardation and is also characterized by central nervous system disorders, growth deficiencies, a specific cluster of facial abnormalities, and other malformations, particularly skeletal, urogenital, and cardiac. Alcohol consumption by a nursing mother can produce in an infant the pseudo-Cusling syndrome, evidenced by such abnormalities as a "moon" or "balloon" face, truncal obesity, and easy bruising.

Alcohol abusers are also subject to a disproportionate number of violent deaths. The American Council on Alcohol Problems, in a 1976–79 Iowa study, found that between the hours of 9 p.m. and 3 a.m. alcohol-related, fatal traffic accidents accounted for 56.9 percent of the total number of traffic deaths in that period. In a 1978 report to Congress, the Department of Transportation stated that more than 23,000 individuals died in automobile crashes in which a drinking driver was involved.

Mr. President, I believe it would actually be in the best interest of the liquor industry to place these warnings on the labels of their products. According to the president of the U.S. Distilled Spirits Council, who appeared before the Senate Subcommittee on Alcoholism and Drug Abuse last year, the warning label would cost "less than a penny" per label. By using such labels, it seems to me the manufacturers of these products would be protecting themselves against the legal liability which may very well accompany an absence of warnings. This possibility was addressed in an article in the spring, 1981 edition of the American Issue, a quarterly news magazine of the American Council of Alcohol problems. That article poses the questions:

Is there a duty on the part of the manufacturer of alcoholic beverages to warn the public in some way of the dangers in the use of the product? Is there a duty on the part of the private and governmental seller of the product to see that the purchaser of the product is warned? When a youth who has just reached legal drinking age goes into a store to buy a bottle of liquor, is there a duty on the part of the seller to see that the person is informed of dangers? We believe the courts will so hold when cases come before them where there has been no warning and a youth is injured or killed.

Whether or not the premise advanced by the American Issue ultimately proves true, I believe it raises a valid point, one which the liquor industry would do well to consider. Apparently, however, the industry has chosen to ignore this potential danger.

This legislation will serve to provide individuals with the knowledge necessary to make an informed decision on whether or not to consume alcoholic beverages. This label provides for no restrictions or penalties to be imposed on those who do not choose to heed its warning. It merely gives notice that the consumption of alcohol may entail serious consequences in certain situations.

I feel it is important that these consumers, particularly pregnant women, should at least be aware of the dangers associated with the use of alcohol. The legislatures of Utah and Kansas have both passed resolutions endorsing the idea of alcohol warning labels, and similar resolutions are being considered in the legislatures of Oregon, Missouri, Minnesota, Iowa, Illinois, and Michigan.

Doing something to curb the growing abuse of alcohol is what this bill is all about. If such a warning label deters a potential abuser of alcohol from taking a drink, or prevents a casual drinker from climbing behind the wheel of a car when he has had "one too many," or prevents a pregnant woman from potentially causing harm to her unborn child, then this legislation will be effective and worthwhile.

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

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

S. 1543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 5(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended—

(1) by striking out "and" before "(5)";

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the following: "and (6) as will require, in the case of any container of distilled spirits, wine, or malt beverage con-

taining more than 24 per centum of alcohol by volume, the following statement to appear on the label of any such container in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such label: 'CAUTION: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency or addiction, and can contribute to other major health hazards.'.".

ALCOHOL WARNING LABELS

Mr. HATCH. Mr. President, I rise to support the bill introduced today by my friend and colleague, the distinguished Senator from South Carolina, Senator THURMOND, which would require a warning label on containers of alcoholic beverages. I would like to recognize Senator THURMOND's leadership on this significant issue, both in the current Congress and during the 96th Congress. I know that Senator THURMOND has introduced this bill out of a genuine interest in the health and well being of our people, which I certainly share; and I am pleased to work together with him on the issue of warning labels, as I have in the past.

Mr. President, alcohol use is widely accepted in our society and considered by many to be a part of their social activities. Personally I am a teetotaler, but I have no quarrel with those who choose to consume alcoholic beverages. However, the misuse and abuse of alcoholic beverages can and does pose a most serious threat to the economic, social, and emotional health of our society, and I feel that the magnitude of the problem of alcohol misuse and abuse is so large that it cannot be ignored by Congress. Indeed, during the past decade we have developed a significant national thrust in understanding the problems of alcohol abuse, and in treating and preventing those problems. Partially as a result of the research that has been conducted by the National Institute on Alcoholism and Alcohol Abuse we are coming to understand the scope of the alcohol abuse problem. As our understanding has increased we have been confronted with facts which wisdom dictates should be presented to all of our people. It is with a desire to educate and disseminate information, that I am pleased to be a principal cosponsor of this alcohol warning label bill.

Our distinguished colleague in the House of Representatives, Congressman GEORGE E. BROWN of California introduced an alcohol warning bill earlier this year in the House. We are also pleased to be able to join with him in what is truly a bipartisan effort to inform consumers about the hazards of alcohol misuse. Congressman BROWN has been a leader in the House for this warning label issue in both the 96th and 97th Congress. His foresight and concern in promoting this idea set a good example for us to follow. I know he will continue to work from that side of Capitol Hill to get support from other Members of the House for this idea.

Mr. President, the idea of a warning label on alcoholic beverages is likely to generate some differences of opinion, though I believe that all responsible parties would agree that efforts to combat alcohol abuse must be strengthened. I would like to give some of the reasons why I am supporting this initiative at this time.

We have a long tradition of Government-mandated warning labels as a means of providing information about potential hazards associated with using certain products. Warnings about dosage for drugs are considered to be necessary even for such common substances as cough drops and headache remedies. Occasionally when research indicates that a substance may cause health problems with continued use, warnings to that effect have been required on packages and containers.

The most recent and relevant examples are the saccharin warnings, and the warning label required on tobacco products. Research with animal models indicated that there was a slight chance of saccharin's contributing to the development of cancer. Even though susbtantial evidence was not available that saccharin would cause cancer in humans, it was considered advisable to warn of the potential relationship between saccharin use and cancer. After considerable study in the late fifties and early sixties, the Surgeon General issued a health advisory about the potential harmful effects of tobacco smoke on health.

The Surgeon General's initial report was considered to be sufficiently strong in evidence linking smokers to increased heart problems, lung cancer and other health problems that Congress decided to act and require warnings on cigarettes. I would note in passing that at the same time of the Surgeon General's initial report there was some controversy about the direct link between cigarette smoking and health problems. That action of Congress in requiring warning labels has been clearly vindicated.

Over the years, evidence linking tobacco smoke and health hazards has continued to mount. The health warning on tobacco products has been strengthened, and has undoubtedly contributed to increasing awareness of these health hazards in the minds of our population. Partially as a result of these warnings, overall per capita cigarette consumption in the United States has declined significantly since 1964 when the first Surgeon General's report was issued.

On three occasions declines have been particularly marked, and each of these declines occurred following the release of information regarding the negative consequences of smoking. A recent report published jointly by the Departments of Health and Human Services and the Treasury concluded:

The cigarette warning label has undoubtedly contributed to changes in health beliefs and smoking behavior.

Though the report goes on to note that a warning label by itself will not contribute to those changes as effectively as when such a warning is combined with an array of media and other education efforts.

The same HHS-Treasury report declared that warning labels are, "one of the Government's most important forms of health alert." And the report further expressed concern that warning labels not be overused. With this I completely agree. Warning labels are a powerful tool because they bring the weight of the consensus of Congress to bear on the specific problem. I also agree that they should not be over-used. In the instance of alcohol warning labels, I believe that the case is so strong that it would be irresponsible should Congress not require them.

Many of us are concerned with Government over-regulation and redtape. We would like to see the heavy hand of Government bureaucracy lifted from our personal lives and our business pursuits. Some may question the advisability of a warning label because it seems like another form of Government regulation. In fact, I see a warning label as an appropriate mode of Government action.

A warning label educates, without requiring a particular behavior, leaving the individual free to govern his own conduct, while better informed about the consequences. A warning label requires a minimum of Government intrusion into industry.

According to testimony of the president of the Distilled Spirits Council (the Liquor Trade Association) before the Senate Subcommittee on Alcoholism and Drug Abuse, the cost of a label would be less than a penny per bottle, so the cost is not really an issue either.

From the perspective of the alcohol industry, there are other considerations which need to be raised. I personally believe that the alcohol industry is very interested in preventing the misuse of their product. I know they have long engaged in advertising against alcohol abuse, and I have every reason to believe they will continue in these efforts, and in fact, increase them in the months and years to come. Beyond the obvious issue of social responsibility which the industry must consider, there are issues of legal liability which may be relevant.

I would like to insert into the RECORD at this point, if there is no objection, excerpts from an article in the American Issue, in which the author, Mr. William Plymat, a lawyer from Iowa, argues that the liquor industry could be held liable for failing to warn about the dangers of alcohol misuse.

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

THE APPARENT LEGAL DUTY OF PRIVATE AND GOVERNMENTAL SELLERS OF ALCOHOLIC BEVERAGES TO WARN OF THE DANGERS IN THE USE OF THEIR PRODUCTS AND THEIR POSSIBLE LEGAL LIABILITY FOR FAILING TO DO SO

These days the multiplicity of court decisions imposing legal liability on manufacturers of products has raised the consciousness and concern of all businessmen. The applicable principles are these:

(1) Under products liability law, the maker of a product may be held liable to one injured due to a defect in that product—whether in design or manufacture, or which results from the lack of adequate warning—that renders the product "unreasonably dangerous to normal use."

(2) The term "normal use" is a term of the art in the parlance of products liability law, delineating the scope of a manufacturer's duty and consequent liability. It

encompasses all reasonably foreseeable uses of a product.

Is there a duty on the part of the manufacturer of alcoholic beverages to warn the public in some way of the dangers in the use of the product? Is there a duty on the part of the private and governmental seller of the product to see that the purchaser of the product is warned? When a youth who has just reached legal drinking age goes into a store to buy a bottle of liquor, is there a duty on the part of the seller to see that the person is informed of dangers? We believe the courts will so hold when cases come before them where there has been no warning and a youth is injured or killed.

The lengths to which courts have gone in imposing duties of this kind is manifest by a court decision handed down by the United States Court of Appeals for the Fifth Circuit on August 11, 1980 in a case involving the Ford Motor Company. Ford marketed a sports car with a recognized appeal to youthful drivers, equipped with a 425 hp. engine. It provided a capability of speeds over 100 miles per hour. It was foreseeable that the car would on occasion be driven in excess of 85 miles per hour, which was the proven maximum safe operating speed of the tires on the car. Ford did not warn the purchaser of the limitations of the tires and that the car could not be safely driven over 85 miles per hour. In this case the buyer of the car was driving the car while obviously intoxicated (blood alcohol level .18 percent) and exceeded 100 miles an hour.

There was a separation of tread from a tire, resulting in a fatal accident. The lower court held that the use of this tire on the car, in absence of an adequate warning of the danger of tread separation at the high speeds which were foreseeable, rendered the car and tire unreasonably dangerous. The court further held that while excessive speed was a contributing cause of the accident the intoxication was not, and that neither plaintiff (the driver and passenger) in the action voluntarily assumed the risk of the tragedy that befell them. The appeal court affirmed the lower court decision and held the Ford Motor Company liable for failure to warn the purchaser of the tire limitations. (LeBouef vs. Goodyear Tire & Rubber Co. and Ford Motor Company.)

If the Ford Motor Company is to be held to have a duty to warn in these circumstances, is there not a duty on the part of the manufacturer of alcoholic beverages to warn of the dangers in the foreseeable use of its product? Is there not a similar duty on the part of the seller of the liquor to the purchaser? We believe that the courts will so hold when a proper case comes up.

Mr. HATCH. Mr. President, I believe that the argument Mr. Plymat makes here has some merit. Since I know the industry wants people to act responsibly in using their products, I believe they will want to avoid any potential accusations that they have not done all they could do to encourage people to use their products with reason, and on the basis of the best information available as to the potential hazards involved.

The warning label we have proposed is specific and addresses the major issues that have been identified with alcohol problems. The label reads:

Caution: The Surgeon General has determined that consumption of alcoholic beverages during pregnancy can cause serious birth defects. Alcohol can also impair driving ability, create dependency, or addiction and can contribute to other major health hazards.

The HHS-Treasury report on health hazards associated with alcohol identified five major health hazards, and discussed each of these in detail. They are: First, fetal alcohol syndrome (FAS) and other alcohol-related birth defects; second, alcoholism; third, major medical consequences; fourth, alcohol-drug interactions; and fifth, accidental death and injuries.

Our proposed label specifically identifies all of these issues, combining the problem of alcohol drug interactions under "other major health hazards." I believe a brief comment is in order relating to each of these.

In July 1981 the Surgeon General issued an advisory on alcohol and pregnancy. If there is no objection I ask unanimous consent to submit a copy of this advisory to be printed in the RECORD.

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

SURGEON GENERAL'S ADVISORY ON ALCOHOL AND PREGNANCY

The Surgeon General advises women who are pregnant (or considering pregnancy) not to drink alcoholic beverages and to be aware of the alcoholic content of foods and drugs.

A recent report to the President and Congress [1] summarizes current scientific knowledge about health hazards associated with alcohol consumption, including those during pregnancy. The report concludes that alcohol consumption during pregnancy, especially in the early months, can harm the fetus.

Among the findings of the report are the following:

Significantly decreased birth weight has been observed among the children of some women who average only one ounce of absolute alcohol (two standard drinks) per day during pregnancy.[2]

Sizeable and significant increases in spontaneous abortions have been observed at reported alcohol consumption levels as low as one ounce of absolute alcohol twice a week.[3, 4]

A woman who consumes alcohol at amounts consistent with a diagnosis of alcoholism risks bearing a child with a specific cluster of severe physical and mental defects known as the fetal alcohol syndrome (FAS) (See September-October 1977 Drug Bulletin). This syndrome of birth defects is frequently associated with mental retardation, and is also characterized by central nervous system disorders, growth deficiencies, a specific cluster of facial abnormalities, and other malformations, particularly skeletal, urogenital, and cardiac. Many of these characteristics are individually subtle but are readily apparent to trained dysmorphologists.

Even if she does not bear a child with full FAS, a woman who drinks heavily is more likely to bear a child with one or more of the birth defects included in the syndrome. Microcephaly, which is associated with mental impairment, is one of the more common of these defects.

The reported effects of pregnancy outcome appear to be independent of potentially confounding variables including nutrition and smoking.

In addition, it has been demonstrated that alcohol readily enters breast milk and thus is transmitted to the nursing infant. Heavy alcohol consumption is known to decrease the mother's milk.

Research to establish the mechanisms by which alcohol consumption affects fetal and neonatal growth and development is underway.

Health professionals are urged to inquire routinely about alcohol consumption by patients who are pregnant or considering pregnancy. This information should be included in their medical records.

Each patient should be told about the risk of alcohol consumption during pregnancy and advised to not drink alcoholic beverages and to be aware of the alcoholic content of foods and drugs.

Interested practitioners can obtain material about techniques for obtaining accurate drinking information from patients, as well as written material for pregnant patients, by contacting the National Clearinghouse for Alcohol Information (NCALI).[5, 6]

Mr. HATCH. Mr. President, this advisory is equivalent to the advisory in the 1960's which generated the interest in getting tobacco warning labels. The major difference between them is that the scientific evidence is much stronger that alcohol is a causal agent for birth defects in humans, than was the original evidence that smoking was related to health hazards.

We know it is a scientific fact that alcohol can cause birth defects in humans. The Surgeon General advises women who are pregnant, or considering pregnancy, not to drink alcohol at all. There is no known safe level of alcohol consumption during pregnancy. Alcohol and pregnancy do not mix. Even small amounts of alcohol can interfere with normal developmental processes in the fetus. During pregnancy the baby is completely dependent on the mother to provide the nutrients for physical development. The first 70 days after conception are particularly important because it is then that the vital organs and other body parts—legs, arms, fingers, and so forth—are formed. Growth of the body and brain continue throughout pregnancy, and the building blocks for this growth continue to be taken from the mother's blood stream through the placenta. Alcohol in the mother's blood passes directly through the placenta into the baby's blood stream, and can adversely affect the baby's development.

Since pregnant women are typically highly motivated about insuring the well-being of their children, it is felt that they may be very susceptible to warning labels. Quoting again from the HHS-Treasury report:

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[1] *Report to the President and Congress on Health Hazards Associated with Alcohol and Methods to Inform the General Public of these Hazards.* U.S. Department of the Treasury and U.S. Department of Health and Human Services, Nov. 1980. Available for $4.25 from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[2] Little RE. Moderate alcohol use during pregnancy and decreased infant birth rate. *Am J Public Health.* 67: 1154, 1977.

[3] Kline J., Shrout P., Stein Z. *et al.: Lancet,* 2: 176, 1980.

[4] Harlap S and Shiono PH: Alcohol, smoking and incidence of spontaneous abortions in first and second trimester. *Lancet,* 2: 183, 1980.

[5] Sokol RJ and Miller SI: Identifying the alcohol abusing obstetric/gynecologic patient: a practical approach. In *Alcohol Health and Research World,* 4: 36–40, 1980. Available as document RPO 258 from NCALI, P.O. Box 2345, Rockville, MD 20852.

[6] *Alcohol and Your Unborn Baby,* Pub. No. PH–90, NIAAA, 5600 Fishers Lane, Rockville, MD 20857.

Women of childbearing age are thought to be particularly susceptible to a message concerning the health of their unborn child. A warning label would alert the family and friends of pregnant women, as well as the women themselves, helping to develop a support system for the short-term behavior change required. A warning label directed toward alcohol consumption during pregnancy may fit some of the conditions under which such labels tend to be effective—the threat to health is unequivocal, will be manifested relatively quickly, and requires only a short-term behavior change.

Mr. President, the problems of alcohol consumption during pregnancy are extremely serious. In a task force report to the Governor of New York on fetal alcohol syndrome, it was estimated that in New York State alone 386 babies were born with FAS, and approximately 1,563 more babies were born in 1978 with alcohol-related birth defects (ARBD). The lifetime costs of caring for babies born in New York State with FAS/ARBD in a single year were estimated at almost $155,000,000. Using those figures and considering that in 1979 New York State had fewer than 10 percent of the 3,473,000 live births in the Nation, it is reasonable to estimate that the lifetime costs of the children born throughout the Nation in a single year with FAS/ARBD would be about $1.5 billion. When we consider that that is multiplied by the number of children born each year, year in and year out, who are adversely affected by alcohol related problems, the cost to society of this one alcohol hazard becomes truly staggering.

We have heard considerable concern during the past few months from colleagues on both sides of the aisle about how important it is to take care of our handicapped individuals, and how important it is to take care of those with mental retardation. In these sentiments I heartily agree. But, Mr. President, I cannot understand how anyone can be concerned for these individuals and not be concerned with reducing the major preventable cause of these conditions. Not only do birth defects affect the victim, but parents, siblings, and society at large are adversely affected. Quoting from the New York Task Force report:

Data now suggest that FAS is among the three leading congenital disorders associated with mental impairment, along with Down's syndrome and spina bifida. Of these only alcohol related birth defects are preventable.

Mr. President, surely it is time for Congress to take a stand and warn people about a preventable problem.

The second issue our warning label addresses is auto accidents. Let me quote from the fourth special report to the U.S. Congress on alcohol and health.

In the United States traffic accidents are the major cause of violent death and a significant factor in serious injury. Between 35 and 64 percent of the drivers in fatal accidents . . . had been drinking prior to the accident. Motor vehicle crashes caused by alcohol abuse cost American society $5.14 billion a year.

This is a particularly serious problem for our young people. Accidents are the most common cause of death for youth, and alcohol is related to far too many of these needless tragedies. I feel we need a constant reminder that these accidents can be prevented when they are alcohol related, just by a little prudence and caution.

The third problem is alcoholism itself. It is estimated that there are 10 million alcoholics in America today. This makes alcoholism our No. 1 drug problem. Approximately 15 percent of those who drink report behaviors and characteristics associated with alcohol dependence or loss of control during the 12 months prior to one national survey. Considering only levels of consumption, and knowing of the high correlation between alcohol consumption and alcoholism, the NIAAA estimates that about 15 percent of the adult male drinkers and 3 percent of the adult female drinkers are drinking at levels that indicate substantial risk for the development of either alcoholism or serious problem drinking. Alcoholism is both preventable and controllable. I believe we need to move ahead with education programs, of which warning labels are an important part, which will promote prevention and reduce the need for treatment.

Finally, our warning label recognizes the substantial risks involved with other areas of health when too much alcohol is consumed. These risks are very well documented in the HHS-Treasury report, and elsewhere in NIAAA publications, so I will briefly allude to them here. They include:

Esophageal, gastric and duodenal lesions; pancreatitis; liver disease; nutritional deficiency; nervous system disorders; peripheral neuropathy; endocrine system malfunctions; cardiovascular prolems; and cancer of the mouth, pharynx, larynx, esophagus, and liver.

Mr. President, the evidence regarding the health hazards associated with alcohol is overwhelming. Alcohol abuse costs our great Nation between $40 and $50 billion each year. We know what the cause is. We know it is preventable.

This year in my home State of Utah, both houses of the legislature passed, and the Governor signed, a resolution petitioning Congress to require a warning label on alcoholic beverages. The legislature in Kansas has passed a similar resolution. One house of the legislatures in Oregon, Missouri, Minnesota, Iowa, Illinois, and Michigan have passed similar resolutions. There is a great ground swell of agreement developing about the need for educating and reminding people about the potential hazards of alcohol abuse. If there is no objection I ask unanimous consent to submit a copy of the Utah resolution for printing in the RECORD.

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

[State of Utah]

ALCOHOL WARNING LABEL RESOLUTION

Be it resolved by the Legislature of the State of Utah, the Goveror concurring therein:

Whereas, consumption of alcoholic beverages constitutes the United States' most severe drug problem, resulting in more illness, injury, and death than from all other drugs combined;

Whereas, the consumption of alcoholic beverages presents a special danger for youth;

Whereas, the National Institute on Alcohol Abuse and Alcoholism in its Fourth Special Report to Congress on Alcohol and Health of 1979, estimated that the excessive consumption of alcoholic beverages in that year alone cost the United States approximately $42,750,000,000, breaking down the cost as follows:

Lost production	$19, 640, 000, 000
Health and medical	12, 740, 000, 000
Motor vehicle accidents	5, 140, 000, 000
Violent crime	2, 860, 000, 000
Social responses	1, 940, 000, 000
Fire losses	430, 000, 000
Total	42, 740, 000, 000

Whereas, the United States Department of Health and Human Services and the Bureau of Alcohol, Tobacco and Firearms reported in 1980 that the consumption of alcoholic beverages by pregnant women can be hazardous to the health of unborn children;

Whereas, the Comptroller General of the United States has stated in his report to Congress that the consumption of alcoholic beverages is the single largest factor in highway deaths with some 25,000 persons dying annually in drunk driving or drinking related accidents;

Whereas, it has been medically established that the consumption of alcoholic beverages over a short period of time can cause sickness or death;

Whereas, lack of public awareness concerning the dangers of alcohol use and abuse is widespread and there is an urgent need to educate the public concerning those dangers;

Whereas, warning labels are now required on other drugs and products and have been helpful in warning the public of potential health hazards caused by the use of those products;

Whereas, the health warnings on cigarette packages and in advertisements have produced many beneficial results;

Whereas, a proper, concise limited warning on the labels of alcoholic beverage containers would be beneficial and cause people to seek detailed information about the dangers in the use and abuse of alcohol, and in many instances would be preferable to other forms of government action, which might be more intrusive or more costly; and

Whereas, warning labels can effectively supplement other private and public health education efforts.

Now, therefore, be it resolved, that the General Session of the 44th Legislature of the State of Utah, the Governor concurring therein, urge the Congress of the United States to pass a bill that mandates a warning label on all alcoholic beverage containers sold in interstate commerce, and that due consideration be given to a proposed warning which includes the following:

"WARNING

"Using this product may be hazardous to your health; may impair driving ability; may create dependence or addiction; and during pregnancy may harm the unborn. Legal age required for purchase."

Be it further resolved, that the Lieutenant Governor forward copies of this resolution to members of the Utah Congressional Delegation, the Speaker of the United States House of Representatives, the President of the United States Senate, and the chairpersons of the Senate and House Committees to which such bills may be referred.

Mr. HATCH. Mr. President, we are not proposing alcohol warning labels as a cure-all. We know that other public awareness campaigns are necessary and essential. We agree with the HHS-Treasury report that Government and industry should develop and conduct a broad based, diverse and highly visible public information campaign on alcohol re-

lated problems. We will support and encourage such efforts. I hope that they are underway right now, and if they are not, I hope that our encouragement here today will provide an added incentive to move in these directions.

Congress cannot now stand idly by, and trust that things will work out for the best. We have acted in the past to put warning labels on potentially dangerous products. The Senate has voted in the last Congress to put a warning label on alcoholic beverages, even before the Surgeon General's advisory about alcohol consumption during pregnancy being related to birth defects. While we do not know exactly the extent of the effect such a warning label will have in reducing alcohol-related health hazards, most experts agree that in combination with other public awareness campaigns the effect will be positive.

Certainly no one would argue that warning labels would make matters worse. If one baby could be spared the agony of going through life hampered by an alcohol-related birth defect, or if one teen could be saved from a fatal car accident, the trivial expense of a warning label would be well worth it.

But in fact, Mr. President, we have every reason to believe that many thousands of babies could be so spared, and many thousands of lives saved if we can increase the awareness of the problem via warning labels. We need the sense of the Congress and the Government that alcohol health hazards are real, and that we stand behind efforts to educate the public to them. Such evidence of congressional interest and concern is best witnessed by a warning label.

A warning label on hard liquor does not mean that alcohol in beer and wine is any less damaging to the fetus or less of concern to driving and other health risks. An alcohol warning label does not mean that we believe that this is all we must do to deal with these serious problems. An alcohol warning label does not mean that we want the heavy hand of big Government controlling our lives. What an alcohol warning label does mean is that Congress feels obligated to address the problem of alcohol abuse head on. A warning label is a clear indication that Congress trusts Americans to make the right decision, when they are provided with accurate information. I know that is my determination, and I believe that this bill will have significant positive value in our continuing efforts to reduce the economic, social, and emotional toll that alcohol misuse and abuse takes from our society.

The case for issuing a warning label has never been so strong, the evidence so persuasive, and the potential good that can be done so great as they are with this issue. I urge all my colleagues to consider this issue carefully. I hope they will give it their full support.

By Mr. McCLURE (for himself and Mr. DOMENICI):

S. 1544. A bill entitled "The State and Local Energy Block Grant Act of 1981"; to the Committee on Energy and Natural Resources.

STATE AND LOCAL ENERGY BLOCK GRANT ACT OF 1981

● Mr. McCLURE. Mr. President, the administration has submitted two reports to the Committee on Energy and Natural Resources regarding S. 1166, the "National Home Weatherization Act." The reports were received from David Stockman, Director of the Office of Management and Budget, and R. Tenney Johnson, General Counsel of the Energy Department. Both reports state the administration's opposition to S. 1166 and to the reauthorization of the numerous existing Federal categorical energy conservation grant programs, as proposed by S. 1166.

The existing Federal categorical programs include weatherization assistance for low-income persons, energy extension service, State energy conservation plans, energy conservation in schools and hospitals, State emergency conservation activities and several other programs. Both reports, however, propose as an alternative a new energy block grant program at an authorized level not in excess of $200 million per year. In order to provide the Senate with a fully developed legislative proposal of the energy block grant alternative, I requested the Energy Department to prepare a legislative draft reflecting details of the program envisioned by the administration.

Today, I am introducing the DOE draft legislation to establish an energy block grant, "The State and Local Energy Block Grant Act of 1981." It is my hope that this bill will facilitate the Senate's consideration in this Congress of the most appropriate and fiscally responsible approach to any continued and local energy programs. As chairman of the Energy and Natural Resources Committee which authorizes these programs and as chairman of the Interior Appropriations Subcommittee which appropriates annually the funds for these programs, I am convinced, as I am sure many other Senators are, that it is time now for a thoughtful review of this proliferation of Federal categorical programs. I believe that the DOE-drafted bill I introduce today will facilitate that review.

Mr. President, I ask unanimous consent that Mr. Stockman's letter of July 17, 1981, Mr. Johnson's letter of July 24, 1981, the text of the DOE drafted bill, and an outline of the bill prepared by DOE be printed in the RECORD.

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

S. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Energy Block Grant Act of 1981".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term "State" means the 50 States, the District of Columbia, and Puerto Rico.

SEC. 3. ALLOCATION OF FUNDS.

(a) For the purposes of providing the financial assistance authorized by this Act, the Secretary of Energy shall allocate annually the sums available for financial assistance under this Act among the States in the following manner—

(1) 75 percent shall be allocated on the basis of the resident population of the States; and

(2) 25 percent shall be allocated equally among the States.

(b) Notwithstanding subsection (a) of this section, the Secretary of Energy may set a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 4. PAYMENTS TO STATES.

(a) Upon annual application, the Secretary of Energy shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. § 4213) to each State, not to exceed its allocation under section 3 of this Act, for use by the State as provided in section 5 of this Act.

(b) Any State receiving financial assistance under this Act shall provide matching funds from non-Federal sources in an amount equal to—

(1) 30 percent of the amount awarded, for fiscal year 1982;

(2) 50 percent of the amount awarded, for fiscal year 1983; and

(3) 50 percent of the amount awarded for fiscal year 1984.

SEC. 5. USE OF GRANT MONEY.

(a) A State may use amounts paid to it under section 4 for energy conservation and supply activities, including but not limited to—

(1) energy conservation,

(2) energy conservation measures and weatherization in public or nonprofit institutional buildings, including schools, hospitals, public care institutions and local governmental buildings,

(3) weatherization for low-income persons,

(4) residential and commercial building conservation,

(5) residential and commercial energy audits and technical assistance,

(6) energy emergency preparedness.

(7) renewable energy research, development, and demonstration,

(8) energy supply, research and development,

(9) transportation energy efficiency, and

(10) energy conservation and supply development in the agricultural sector.

(b) Amounts described in subsection (a) may not be used for costs of administration in excess of 10% of the amount awarded under section 4.

(c) A State shall obligate amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which those amounts were appropriated.

SEC. 6. REPORTS AND AUDITS.

(a) The Secretary of Energy, by general or special orders, shall require any grantee, subgrantee or other recipient of financial assistance under this Act to provide, in the form the Secretary of Energy prescribes, whatever reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary of Energy to ensure that funds made available by this Act are properly spent.

(b) Each person responsible for the administration of any project receiving financial assistance under this Act shall keep whatever records the Secretary of Energy prescribes in order to assure an effective financial audit and performance evaluation of that project.

(c) The Secretary of Energy, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this Act that are pertinent to the financial assistance received under this Act.

(d) Payments under this Act may be made in installments and in advance, or by way of

reimbursement, with necessary adjustments on account of overpayments or underpayments.

SEC. 7. APPROPRIATIONS AUTHORIZATION.

There is authorized to be appropriated for purposes of section 4 of this Act $200,000,000 for each of the fiscal years 1982, 1983, and 1984.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Energy Security Act is amended—

(1) in title V, by striking out subtitle F (42 U.S.C. §§ 8285–85c.), relating to energy auditor training; and

(2) by striking out the items in the table of contents relating to subtitle F of title V.

(b) The National Energy Conservation Policy Act is amended—

(1) in title II, by striking out parts 1 (42 U.S.C. 8211–26) and 5 (42 U.S.C. 8235–351) and section 233 (92 Stat. 3227), relating to residential energy conservation and weatherization assistance for low-income persons:

(2) by striking sections 303 and 304 (92 Stat. 3248) and section 312 (42 U.S.C. 6371j.), relating to energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions;

(3) by striking out title VII (42 U.S.C. 8281–84), relating to the commercial and apartment conservation service; and

(4) in the table of contents, by striking out the items relating to—

(A) parts 1 and 5 and section 233 of part 2 of title II,

(B) sections 303, 304 and 312, and

(C) title VII.

(c) The Energy Research and Development Administration Appropriation Authorization Act of 1977 is amended by—

(1) striking out section 112 (42 U.S.C. 5907–a), relating to the appropriate technology grants program; and

(2) striking out title V (42 U.S.C. 7001–7011), relating to the Energy Extension Service.

(d) The Energy Policy and Conservation Act is amended—

(1) by striking out parts D (42 U.S.C. 6321–27), and G and H (42 U.S.C. 6371–721.) of title III, relating to State energy conservation plans and energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions; and

(2) by striking out the items in the table of contents relating to parts D, G and H of title III.

(e) The Energy Conservation and Production Act is amended—

(1) by striking out part A of title IV, (42 U.S.C. 6851–72), relating to weatherization assistance for low-income persons; and

(2) by striking out the items in the table of contents relating to part A of title IV.

(f) The National Housing Act of 1949 is amended by striking out section 504(c) (42 U.S.C. 1474(c)), relating to the rural weatherization grant program.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 17, 1981.

Hon. JAMES A. MCCLURE,
U.S. Senate, Washington, D.C.

DEAR JIM: Thank you for requesting a statement of the Administration's position on S. 1166, the National Home Weatherization Act of 1981.

This bill is intended to reauthorize certain categorical grant programs administered by the Department of Energy, including weatherization assistance for low-income people, energy extension service activities, State energy conservation planning, State energy emergency plans and activities and energy conservation in schools and hospitals, as well as any other State energy conservation program authorized by Federal law. States would be authorized to submit a single annual application for financial assistance to implement the programs authorized under this Act. Unless waived by the Secretary of Energy, States would be required to utilize not less than 65 percent of such assistance for low income weatherization. Funding for these programs would be authorized at a level of $400,000,000 in FY 1982, FY 1983 and FY 1984.

The Administration is in agreement with the findings of this bill that the public sector has an important role to play in supplementing private energy conservation initiatives, particularly in assisting low-income persons adjust to higher energy costs, and that the existing energy conservation grant programs include a myriad of unnecessary, costly and redundant Federal requirements which constitute an inefficient use of scarce Federal financial resources.

The proposed bill would have the advantage of improving the process of applying for assistance under the existing categorical programs. Yet, we believe that more far-reaching reforms can and must be taken to address the concerns we share. The President's budget reform plan has sought to consolidate as many narrow categorical grants as possible into a few block grants to facilitate reduction of State and local overhead and to permit State and local officials to allocate funds to the most urgent areas of need. In keeping with this principle, and in light of the powerful market incentives being created by higher energy prices, the Administration has proposed to terminate the categorical grant programs that would be reauthorized by S. 1166.

Where institutions or individuals are clearly less able to adjust to higher energy prices without undue hardship, we have proposed to continue providing Federal assistance through State and local governments. In particular, the Administration has supported continuation of the schools and hospitals grant program and of weatherization and fuel payment assistance for low-income households. Moreover, assistance for low-income weatherization would be available both through the $4.2 billion Community Development Block Grant administered by the Department of Housing and Urban Development and through the $1.9 billion Low-Income Energy Assistance Block Grant administered by the Department of Health and Human Services.

Because the Administration has already taken these steps to address the concerns raised by S. 1166 and because the spending levels proposed for the bill substantially exceed those we have proposed for Department of Energy conservation programs, we oppose this particular bill. However, the Administration recognizes that the House-Senate budget reconciliation conference now underway is seriously contemplating conservation spending levels in excess of those we have requested, particularly for grants to State and local governments. Under these circumstances, in a spirit of compromise, the Administration would not oppose legislation authorizing a State and Local Energy Block Grant for energy supply, conservation and low-income weatherization activities which would repeal and replace all the existing categorical conservation grant programs, including the Residential Conservation Service, and for which funding would be authorized at a level not in excess of $200 million per year.

Thank you again for providing us with an opportunity to express our views on this important matter.

Sincerely,

DAVID A. STOCKMAN,
Director.

DEPARTMENT OF ENERGY,
Washington, D.C., July 24, 1981.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your July 17 request for Department of Energy (DOE) views on S. 1166, the "National Home Weatherization Act of 1981".

The bill would reauthorize certain energy conservation grant programs to the States. The programs include weatherization assistance for low-income persons, energy extension service activities, State energy conservation plans, State emergency conservation plans and activities, energy conservation in schools and hospitals, and any other State energy conservation program authorized by Federal law. A State could submit a single annual application for funds to implement these programs. The State would have to spend at least 65 percent of the grant funds for low-income weatherization assistance. These programs would be authorized to be funded at a level of $400,000,000 in FY 1982, FY 1983 and FY 1984.

The Administration agrees with the bill's findings that the public sector has an important role to play in supplementing private energy conservation initiatives, particularly in helping low-income persons to adjust to higher energy costs, and that the existing energy conservation grant programs include a myriad of unnecessary, costly and redundant Federal requirements which constitute an inefficient use of scarce Federal financial resources.

S. 1166 would improve the process of applying for assistance under the existing categorical programs. Yet, we believe that more far-reaching reforms can and must be taken to address the concerns we share. The Administration favors consolidation of as many narrow categorical grants as possible into a few block grants to facilitate reduction of State and local overhead and to permit State and local officials to allocate funds to the most urgent areas of need. In keeping with this principle, and in light of the powerful market incentives being created by higher energy prices, the Administration has proposed to terminate the categorical grants programs that would be reauthorized by S. 1166.

To prevent undue hardship to those less able to adjust to higher energy prices, the Administration has supported continuation of the schools and hospitals grant program and of weatherization and fuel payment assistance for low-income households. Assistance for low-income weatherization would be available both through the $4.2 billion Community Development Block Grant administered by the Department of Housing and Urban Development and through the $1.9 billion Low-Income Energy Assistance Block Grant administered by the Department of Health and Human Services.

We oppose enactment of S. 1166 because of its high spending levels and because these conservation measures can be accomplished in other ways. However, we understand that the House-Senate budget reconciliation conference now underway is seriously contemplating conservation spending levels in excess of those we have requested, particularly for grants to State and local governments. Under these circumstances, in a spirit of compromise, the Administration would not oppose legislation authorizing a State and Local Energy Block Grant for energy supply, conservation and low-income weatherization activities which would repeal and replace all the existing categorical conservation grant programs, and for which funding would be authorized at a level not in excess of $200 million per year.

The Office of Management and Budget has advised that, from the standpoint of the President's program, there is no objection to

submission of this report for the Committee's consideration.

Sincerely,

R. TENNEY JOHNSON,
General Counsel.

OUTLINE OF BILL'S MAJOR PROVISIONS

Secretary of Energy makes payments to States for energy block grants:

Allocation formula for payments to States; 75 percent of total allocated on basis of resident population, 25 percent of total allocated equally among States.

No allocation required for payments by States to locals.

State matching requirement: 30 percent in fiscal year 1982, 50 percent in fiscal year 1983, and 50 percent in fiscal year 1984.

States may use funds for:

Energy conservation and weatherization in public or non-profit institutional buildings, including schools, hospitals, public care institution and local government buildings.

Weatherization for low-income persons.

Residential and commercial buildings conservation.

Residential and commercial energy audits and technical assistance.

Energy emergency preparedness.

Renewable energy research, development, and demonstration.

Energy supply, research and development.

Transportation energy efficiency.

Energy conservation and supply development in the agricultural sector.

Reports and audits required.

Authorization level of $200,000,000 for each of fiscal years 1982, 1983, and 1984.

Following programs repealed:

Residential energy conservation.

Weatherization assistance for low-income persons.

Commercial and apartment conservation service.

Energy auditor training.

Appropriate technology grants program.

Energy extension service.

State energy conservation plans.

Rural weatherization grant program (at Farmer's Home Administration).

Energy conservation for schools and hospitals and for buildings owned by units of local governments and public care institutions.●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 1546. A bill to define and clarify terms used in the patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho; to the Committee on Energy and Natural Resources.

HEYBURN STATE PARK

Mr. SYMMS. Mr. President, today I join my colleague, Senator MCCLURE, in introducing legislation to resolve an unfortunate situation which has been troubling our State and many of our constituents for over 6 years. The bill which we introduce at the request of the Idaho Attorney General will serve to define and clarify terms used in that patent from the United States dated June 29, 1911, granting certain lands to the State of Idaho for use as a public park. The language merely states that for purposes of this patent, use of the land as a public park shall be deemed to include leasing of certain parcels within the park boundaries to the general public for recreational homesites, and granting of permits for float homes on waters within the park. It is similar to legislation introduced in the House and Senate during the 96th Congress.

Mr. President, the land in question encompasses the Heyburn State Park, which has been owned, maintained, and operated by the State of Idaho as a public outdoor recreation area since its purchase from the Federal Government in 1911. It is a uniquely beautiful site encompassing approximately 5,000 acres in the Idaho panhandle. The park is named for Senator Weldon Heyburn, who represented Idaho in this body from 1903 until his death in 1912, and who was the prime mover behind the park's creation. Senator Heyburn had initially hoped to create a national park on this site; and while the Senate approved his plan, efforts to bring the House into concurrence were not successful. What was finally agreed to was language allowing the State of Idaho to buy the tract for use as a park. Soon after Congress had opened the way, the State purchased the park for the sum of $11,379.19, the appraised value of the site.

In June 1911, title to the land was issue to the State; however, Secretary of the Interior Walter L. Fisher had prepared a patent that not only required the land to be used in perpetuity as a public park, but also included other restrictions. Breach of these provisions would result in reversion of the land to the Federal Government. Senator Heyburn was outraged by the limited deed; and with the support of Governor Hawley of Idaho, he introduced Senate Joint Resolution 114 directing the Secretary of the Interior to issue a good and sufficient conveyance, in lieu of the conditional patent which had been given. The Senate quickly passed this resolution.

In October 1912, Senator Weldon Heyburn died in office. His resolution had not been considered in the House, and without the Senator to push it, the resolution and the issue it represented dropped from sight. Heyburn State Park continued under the conditional deed granted to Idaho in 1911. I have obtained a copy of that patent, which I shall ask to have printed in the RECORD at the conclusion of my remarks.

Mr. President, history has proven Senator Heyburn's concern about this conditional patent was well-founded. It is uncertainty about this conditional language which necessitates the legislation we are introducing today.

Almost from the outset, the State, as a part of its park operation, began leasing cottage sites on a small portion of the park lands. This practice continued from that time uninterrupted and unchallenged, until March 3, 1976, when the Solicitor of the Department of the Interior, notified the State that in the Solicitor's opinion, the cottage leases do not carry out the required public park purposes, and that the State has therefore violated the conditions of the patent. The Solicitor has opined that the reversionary interest is held by the United States on behalf of the Coeur d'Alene Indian Tribe, and that title to the park land should be confirmed in the United States in trust for the tribe. On December 30, 1976, the State filed suit to obtain a declaratory judgment on the status of Heyburn State Park, and the Federal Government later filed a quit title action against the State. The situation has been further complicated by intervention of the tribe and leaseholders as parties to the actions.

Last year, Federal District Judge Callister ruled in favor of the State in the suit in which the United States and the Coeur d'Alene Indian Tribe requested the Heyburn State Park lands revert to the United States in trust for the tribe.

Subsequently, the tribe filed an appeal from that decision. All of the briefs have been filed in the case with the Court of Appeals for the Ninth District in San Francisco, but the parties have been advised by the court that because of the court's calendar, oral arguments on the case may not be set until the fall of 1982.

Even if the decision is upheld, there will always be uncertainty as to whether or not the State of Idaho is in violation of the terms of the patent because of questions arising from the opinion itself. At any time in the future, the tribe and/or the United States might again file suit based upon leasing practices that were in effect at that time, or other park management practices which they would contend violated the patent restriction. Such an action would again cost leaseholders and the State of Idaho many thousands of dollars in litigation expenses. Also, it would once again subject that State of Idaho to the prospect of the loss of the entire park, as the leaseholders would again face the prospect of the loss of their leaseholds and the improvements which they have constructed pursuant to their leases with the State of Idaho.

Consequently, the leaseholders and the State of Idaho will continue to incur legal expenses in connection with the case, and continue to wait for the opportunity to present their oral arguments in the court of appeals. Even after those arguments are made, perhaps in the fall of 1982, it will be sometime thereafter before the court of appeals renders its decision, and if there is an appeal to the U.S. Supreme Court, there could well be additional years of uncertainty even as to the outcome of the present litigation. During those years and even after a final decision in this case is reached, assuming the district judge's opinion was not reversed and the park turned over for the benefit of the tribe, the leaseholders and the State of Idaho will continue to live under the shadow of the loss of their improvements and the park in the future.

There is another problem that underscores the importance of a legislative solution in this matter. On the 13th day of March 1975, the Idaho State Board of Land Commissioners for the State of Idaho declared a moratorium against further improvements on cabins and float homes situated on the leaseholds at Heyburn State Park because of the patent claims and the uncertainty that action caused. The action in the Federal court was filed in December of 1976, and the litigation has continued since that time. The board of land commissioners at that time also advised the leaseholders that they would not consent to any assignment or sale of the leaseholds until such time as the litigation was concluded.

The moratorium prohibiting improvements continued at this time, as well as

the moratorium against assignment or sale of the leaseholds, although the leaseholders may now make necessary repairs and maintenance on their cabins and float home sites. Because of the uncertainty arising out of the continuing litigation, however, the leaseholders and cabin site holders are justifiably reluctant to invest moneys for the repair and maintenance of the cabins and float homes since they may well be forced to vacate and abandon them in the event the litigation is finally decided against the State of Idaho and the leaseholders. As a result, the cabins and float homes in Heyburn State Park are continuing to deteriorate. Since the moratorium has now been in effect for 5 years, I think one can imagine the effect upon the cabins and float homes. Such deterioration constitutes a problem for the leaseholders, and also constitutes a problem for the State of Idaho which has the responsibility for the management and the esthetics of Heyburn State Park.

Another problem caused by the litigation, and which is not as apparent as the others, is the fact that the State of Idaho is restricted in implementing its continuing and future plans for development of the park. Since the possibility that the State will lose the park remains, it is very difficult to justify the expenditure of additional moneys by the State of Idaho for development of the park at this time. Those matters will continue to be affected during the future because of the uncertainty mentioned above, even assuming that the present litigation and any appeals therefrom are concluded favorably to the State of Idaho.

The purpose of our legislation is to preserve the park for the use and enjoyment of all the people of Idaho, including members of the Coeur d'Alene Tribe who are now, and have always been able to enjoy the park, just as equally as the other citizens of the State. Even though the State is fully confident in the correctness of its legal position, the matter has already gone on for 5 years without resolution. If the litigation is allowed to drag on it could be many more years before the status of the property is resolved. This bill merely attempts to provide equity for the people of Idaho whose tax dollars purchased the park in the first place, and for those people who have entered into the leases in good faith and have invested significant amounts in improvement of the lots in question.

The portion of the park which has been subject to lease constitutes less than one-third of 1 percent of the total park area. In all cases, the leases provide that public access to the sites shall not be inhibited. It is unconscionable that the Government should reclaim this State park, important to the economic and recreational life of the region as it is, after all these years on the basis of such a questionable violation of a faulty patent. The situation has already cost the parties a great deal of time and money, and it is, in our judgment, utterly ridiculous that it has gone as far as it has. It is time for us to resolve this matter, as it should have been in 1911, and we are certain our colleagues will agree. I ask unanimous consent that the bill and a copy of the patent be printed in the RECORD.

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

S. 1546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of that patent dated June 29, 1911 and recorded with the General Land Office as Patent Number 213295 wherein the United States conveyed to the State of Idaho for value received those certain lands now encompassing the Heyburn State Park of Idaho, and for no other purpose, use as a public park as required by such patent shall be deemed to include leasing of certain parcels of land therein to members of the general public for homesites and granting of permits to the general public to operate and maintain float homes on the waters of said Heyburn State Park, which acts shall be deemed not to constitute an alienation, as described in the aforementioned patent, of said lands or any portion thereof; provided such definition shall apply only to those parcels which have been subject to lease up to and including January 1, 1979, and shall apply to and thereby allow only that number of float home permits which does not exceed the maximum number of float home permits issued and outstanding at any one time up to and including January 1, 1979.

RESOLUTION

Whereas, the act of Congress approved April 30, 1908—35 Stat., 70, 78—, authorizes the conveyance to the State of Idaho of the following described subdivisions or any part thereof, formerly a part of the Coeur d'Alene Indian reservation in Idaho, viz: sections one, two, and twelve, township forty-six north, range four west, Boise meridian: sections thirty-five and thirty-six, township forty-seven north, range four west, Boise meridian; all of those portions of sections two, three, four, five, six, seven, eight, nine, ten, and eleven, township forty-six north, range three west, Boise meridian, lying south and west of the Saint Joe River in said township; all of those portions of sections thirty-one and thirty-two, township forty-seven north, range three west, Boise meridian, lying south and west of the Saint Joe River in said township, to be maintained by said State as a public park, for such consideration and upon such terms and conditions as the Secretary of the Interior shall prescribe; and

Whereas, by appraisement under direction of and approved by the Secretary of the Interior, the purchase price to be paid by the State of Idaho for the said lands has been fixed at $11,379.17, and said Secretary has directed that said lands be conveyed to the State, upon payment by it of said sum, upon the following terms and conditions, to wit: the lands are to be by said State held, used, and maintained solely as a public park, and for no purpose inconsistent therewith, the title to revert to the United States of America, absolutely if the said lands, or any portion thereof, shall not be, or shall cease to be, so used and maintained by the State, or shall be alienated by said State; and

In event of the violation by the State of any of the conditions or covenants herein contained, or its failure to carry out the same, then the United States may thereupon or at any time thereafter enter upon, and into the exclusive possession of, the said lands and the whole thereof, and of all improvements thereon, and have, hold, seize, and possess the same: Expressly excepting and reserving to the United States of America, however, all valuable mineral deposits in the said lands, together with the exclusive right to mine and remove the same, and to permit, license, or authorize the mining and removal thereof, in such manner, upon such terms, and under such conditions as the Congress may prescribe; and also the right to flood or overflow the said lands, and to permit, license, or authorize the same, for domestic, irrigation, and power purposes; and

Whereas, the State of Idaho, by the act of the legislature thereof approved March 16, 1909, has appropriated out of the public moneys of said State, and made available, the aforesaid sum so fixed by the said appraisement, for the purchase from the United States of the lands aforesaid; and

Whereas, the State of Idaho has applied to purchase, under and by virtue of the said acts of Congress and the legislature of the State, all of the above described lands and has made full payment therefor:

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the said act of Congress, has given and granted, and by these presents does give and grant, unto the said State of Idaho, all and singular the tracts above described; to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said State of Idaho forever; upon and subject, however, to the terms, conditions, and reservations prescribed by the Secretary of the Interior and hereinabove set forth.

By Mr. STAFFORD (for himself, Mr. ABDNOR, Mr. CHAFEE, Mr. GORTON, and Mr. HATFIELD):

S. 1548. A bill to repeal the Federal outdoor advertising control program, and for other purposes; to the Committee on Environment and Public Works.

BILLBOARD DEREGULATION ACT OF 1981

Mr. STAFFORD. Mr. President, I am introducing a bill today, the "Billboard Deregulation Act of 1981," which will return the control of outdoor advertising to the States. I am very pleased that my distinguished colleagues, Senator ABDNOR, Senator CHAFEE, Senator GORTON, and Senator HATFIELD are cosponsoring this legislation.

When the Highway Beautification Act was passed in 1965, I strongly supported its goal of significantly reducing the number of billboards permitted along our rural interstate and primary highways. I still strongly support programs which enhance the scenic quality of our highways.

However, changes which have been made to the Highway Beautification Act over the years have made attainment of its original goals impossible. The act has become a protection for billboards rather than the cause for their removal. Not only does the act protect billboards that have any commercial value, but it also permits new signs to be erected.

In 1978, the billboard industry was successful in extending the act's original requirement for cash compensation for signs removed under the act to cover even those signs that State or local governments decided to remove for reasons unrelated to the Federal program. I believe this is an unacceptable intrusion into the traditional zoning and police powers of State and local jurisdictions.

The effect of the 1978 amendments has been to increase the potential cost for removing nonconforming signs to over $1 billion. The Carter administration and the Reagan administration have

requested no funding for this program for the past 3 years. Congress has provided a minimal amount of funding during these years. Until Federal funds are available, no signs come down. At current funding levels it will take over 100 years to remove all nonconforming signs.

The Federal Highway Beautification Act has served its purpose. After more than 15 years, 100,000 nonconforming signs have been removed. But over 200,000 nonconforming signs remain and new signs are still being erected. Most of the signs that have come down were removed in the early, enthusiastic days of the law, and were those of little value or importance to the industry.

Those States committed to highway beautification have completed their programs. Those States that have preferred to leave their billboards in place or erect new signs have not been dissuaded by the federal law, despite the threat of the loss of Federal highway construction funds.

Mr. President, the Highway Beautification Act, in its present form, has put the States in an untenable position. With nonconforming billboards still standing, States are not in compliance with the law. Without Federal funds, however, no nonconforming billboards can be taken down unless the State is willing to pay 100 percent of the cost of removing the sign.

The Environment and Public Works Committee held hearings on the Highway Beautification Act during the last session of Congress. Spokesmen for the billboard industry were the only witnesses who testified in support of continuation of the Federal billboard program. State, county and local governmental organizations, environmental groups and garden clubs urged that the program be returned to the States.

In committee hearings in South Dakota on June 29 and 30 of this year, witnesses representing a wide variety of roadside businesses supported State, not Federal, control of outdoor advertising.

Recognizing that the Highway Beautification Act was not working, the Department of Transportation established the National Advisory Committee on Outdoor Advertising and Motorist Information to evaluate the effectiveness of the act. At its final meeting on June 19, 1981, the Advisory Committee voted 13 to 11 in favor of repealing the act.

What would be the effect of repealing the Federal controls on outdoor advertising?

Federal decontrol would provide greater freedom for those States who want to achieve highway beautification.

Those States which depend on the tourist industry would have flexibility in determining which signs should remain. Under current Federal law, consideration of such hardship cases must be dealt with through costly and complex Federal regulations. States would also have the ability to experiment with alternative tourist information systems.

Some States may permit billboards to flourish along the roadside. However, these are the same States that have not removed nonconforming billboards under current law. Repeal would permit proliferation of billboards in these States if that is their decision.

Mr. President, this legislation will save the taxpayers money, reduce Federal spending, and eliminate complex and costly Federal regulations. I believe repeal of the Highway Beautification Act, in its current form, is the kind of deregulation the American taxpayers are demanding.

I believe environmental organizations will agree that the existing law no longer promotes highway beautification. I also believe that Federal, State, and local officials who have to work with the changes and complexities of the present law will agree it is time for a change. And, finally, I am sure we can expect that the outdoor advertising industry will welcome the opportunity to free itself of Federal regulation under a law it has opposed for so long.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, together with a section-by-section analysis, and a brief statement on the effect of the most recent amendment of 1978 to the Highway Beautification Act.

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

S. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Billboard Deregulation Act of 1981".

SEC. 102. (a) Subsection (a), (b), (c), (d), (e), (g), (h), (k), (l), (m), (n), (o), (p), and (q), of section 131 of title 23, United States Code, are hereby repealed.

(b) Subsection (j) of section 131 of title 23, United States Code, is amended by striking the last sentence.

(c) Subsection (j), (f), and (i) of section 131 of title 23, United States Code, are relettered as subsection (a), (b), and (c) of new section 131 of title 23, United States Code, respectively.

(d) The analysis of chapter 1 of title 23 is amended by deleting "131. Control of Outdoor Advertising," and inserting in lieu thereof "131. Roadside Information.".

SEC. 103. All authorizations of appropriations for section 131 of title 23, United States Code, remaining unappropriated upon enactment of this section are hereby rescinded.

SEC. 104. Section 136 of title 23, United States Code, is amended by adding the following new subsection:

"(n) Not later than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, the Secretary shall give written notice to the State of the proposed determination and a statement of the reasons therefor, and during such period the State shall be given an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth the final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section, the amount so withheld shall not be reapportioned to the other States so long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.".

SECTION-BY-SECTION ANALYSIS

Section 101. Title of the Act.

Sec. 102. (a) Removes Federal requirements for controlling outdoor advertising.

(b) Deletes reference to control of outdoor advertising from the Bonus Program.

(c) Retains payments to States which entered into agreements with the Secretary to control signs along the Interstate System under the Bonus Act. Requires the Secretary to provide within the Interstate right-of-way for signs giving information of use to travelers and permits the Secretary to provide for such signs along the primary system. Permits States to provide travelers' information and advertising at safety rest areas and provides for Federal assistance in establishing information centers or systems.

(d) Renames section.

Sec. 103. Rescinds all unappropriated authorizations for section 131 upon enactment of this Act.

Sec. 104. Moves the notice and appeal process which now applies both to the outdoor advertising control program and the junkyard control program, to section 136, to apply only to the junkyard control program.

BACKGROUND

The Highway Beautification Act, enacted in 1965, requires the states to pass laws prohibiting billboards along Interstate and primary highways, except that signs can be permitted in commercial and industrial zones. The Act further requires compensation for signs removed, on a 75–25 federal-state matching basis. A state that fails to pay for signs removed faces the loss of 10 per cent of its Federal highway funds.

Several state courts have ruled that signs removed pursuant to local ordinances stricter than, and not related to, the Federal Highway Beautification Act, are not entitled to compensation, whether or not the signs are adjacent to Interstate or primary highways.

EFFECT OF 1978 AMENDMENTS

The amendment in the 1978 Surface Transportation Act requires payment of compensation for removal of any off-premise sign adjacent to an Interstate or primary route. This would severely restrict zoning practices in urban areas where billboards, along with other types of nonconforming land uses, have traditionally been removed under the police powers of the jurisdiction, without compensation, but with provision for amortization.

One example of the effect of the change can be seen by looking at a recent decision by Maryland's Court of Appeals. An urban renewal ordinance in Baltimore's oldtown area required removal of all off-premise signs in the area after a five-year amortization period. Sign owners challenged the ordinance, claiming that two signs adjacent to a Federal-aid primary street had to be compensated under the Highway Beautification Act. Both signs were in commercial or industrial zones and thus were permissible under

the Act. The Court decided that the control exercised by the city, which was stricter than required by the Act, was not subject to the Act's compensation requirements. Had the 1978 amendment been in effect, the sign owners would have had to receive compensation or Maryland would have lost 10 per cent of its Federal-aid highway funds. Similar situations exist in many States.

One point to be noted in connection with the amendment is that it will substantially increase the costs of the Highway Beautification Act without promoting highway beautification. Signs which previously were removed for local purposes without compensation may have to be paid for out of very limited Highway Beautification funds. The change greatly increases the number of signs covered by the compensation requirement, thus slowing down sign removal along rural portions of the Interstate where the Federal program was intended to have its greatest effect.

By Mr. HELMS (for himself, Mr. EAST, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. LAXALT, Mr. SYMMS, and Mr. THURMOND):

S. 1550. To amend the Federal Election Campaign Act to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

UNION DUES FOR POLITICAL PURPOSES

● Mr. HELMS. Mr. President, in recent years a deluge of legislation has been introduced to regulate the election process in the United States. Among these various proposals have been efforts to regulate cash contributions from individuals and private organizations of citizens and to require full disclosure of the sources of all campaign money. We have even created a new Federal regulatory bureaucracy to administer the increasingly complex Federal election campaign laws.

In such a climate of campaign regulation, one might conclude that our electoral system is perhaps better protected from the abuses of political power-mongers. But the evidence clearly stands to the contrary. In all of the zeal to reform our political processes, the power source driving the biggest political machine of all has been overlooked. I refer to the use of compulsory union dues for politics. Millions of Americans are forced against their will every year to support political candidates and causes which they would individually oppose. Congress has so far failed to address this great threat to the political freedom of American voters.

Recently enacted and currently proposed campaign reforms have been based on the fallacious notion that all special interest groups contribute to political candidates in the same way. But while business, trade, and issue-oriented organizations contribute voluntary money through direct cash and reported in-kind contributions, the officials of organized labor funnel the bulk of their political efforts into direct in-kind political services spent on behalf of candidates.

These political services, of course, cost money. And the greatest bulk of that money comes from workers—workers who would be fired if they refused to pay their union dues.

Only labor unions, out of all the private organizations in the country, can require that a person pay dues to that organization as a condition of getting and keeping a job. Under this unique grant of special privilege, unions collect an estimated $3.5 billion a year from individuals who have to pay up or be fired.

The Federal Election Campaign Act, as amended in 1976, gives the appearance of restricting the use of compulsory union dues for political purposes. The law prohibits the use of compulsory dues for direct and indirect "in-kind" cash contributions to political candidates.

It does not, however, prohibit the use of forced union dues for a number of other indirect means of supporting union-backed political candidates and causes.

The FECA specifically permits union officials to use money taken from workers as a condition of employment to communicate with union members and their families, to urge their support for a particular candidate, to conduct unquestionably partisan get-out-the-vote drives, and to operate and administer the extensive union PAC's.

In short, the law prohibits union officials from giving a worker's dollars directly to a candidate which the worker may oppose—although the often substantial cost of raising those funds (salaries, parties, raffle prizes, et cetera, are paid with forced dues). The law does, however, permit these union officials to use the worker's compulsory dues dollars to support that same candidate through numerous indirect means.

In light of this dichotomy created by Federal legislation, union officials have divided their political expenditures into two categories.

The first is commonly referred to as union hard money. It consists of money given directly to candidates in the form of cash or in-kind contributions, taken from funds given voluntarily by union members.

The second category is referred to as union soft money, spent by union officials on behalf of—but not contributed directly to—political candidates.

"Soft money" comes directly from compulsory union dues. It finances the operations of union PAC's and provides extensive "in-kind" political services. While it represents the overwhelming bulk of union political expenditures, it is neither documented nor reported to the FEC.

A relatively small portion of the millions of dollars in "soft" compulsory union dues money is used to operate the union PAC's. This portion pays the salaries of numerous full-time union political operatives across the Nation. It provides PAC supplies, finances mass mailings and travel expense accounts, and purchases sophisticated office machinery and computers.

Even voluntary PAC contributions from union members originate with this compulsory dues "soft money." Compulsory dues bankroll the administrative overhead costs of union partisan political fundraisers. And the overhead for the average union political fund totals close to 50 percent of the fund's total expenditures.

Compulsory dues "soft money" used for financing union PAC's runs well into the millions every year. In July 1976, AFL–CIO public relations director, Bernard Albert, admitted that the annual budget of the national COPE alone ran to approximately $2 million.

But in spite of the vast sums of compulsory union dues which finance the operating costs of union PAC's the bulk of compulsory dues "soft money" goes for unreported, unlimited "in-kind" political expenditures.

An example of this misuse of compulsory union dues has recently come to light in Federal court in Maryland, where Harry Beck, 18 of his fellow nonunion employees of the Chesapeake & Potomac Telephone Co., and one nonunion employee of American Telephone & Telegraph Co. are suing the Communications Workers of America Union. Mr. Beck and his coworkers object to the union's use of compulsory agency shop fees for purposes not directly related to collective bargaining, contract administration, and grievance adjustment; in other words, for political purposes.

In a landmark decision released in March 1979, the U.S. District Court for Maryland held that the union's use of agency fees for purposes unrelated to collective bargaining violated the first amendment rights of employees who object. The court ordered the union to refund to the nonunion employees the percentage of its budget not related to collective bargaining. A special master was appointed to take evidence and compute the percentage.

The union alleged that more than 86 percent of the agency fees collected were used for collective bargaining, contract administration, and grievance adjustment. But the special master found that only 19 percent of the agency shop fees collected were used for these permissible purposes. The master found that the union spent 81 percent of the compulsory agency shop fees for impermissible purposes, such as support of political candidates, legislative lobbying, charitable and social activities, and organizing drives.

Another example of these kinds of expenditures is the 1976 controversy involving the AFL–CIO's 60-million-piece political mailing. That mailing was paid for with compulsory dues, and at 10 cents a piece, that amounts to $6 million in one shot.

The July 1979 issue of Steelabor, the official newspaper of the United Steelworkers of America, offered its readers a surprisingly candid and straightforward explanation of "in-kind" political spending. Union dues money, reported the union paper, "can't go for direct political contributions—but it can do a lot; mailings supporting or opposing political candidates, phone banks, precinct visits, voter registration and get-out-the-vote drives."

In spite of these admissions, Steelabor's account only tells half of the story. To fill out the picture, several key expenditures need to be added to the list: Weeks, sometimes months, of the staff

time of literally tens of thousands of union employees devoted almost solely to partisan politics; election day workers, paid overtime rates from compulsory dues; millions of political pamphlets and flyers; and paid election day carpools and babysitters, to name a few.

Once again, these indirect union "in-kind" political expenditures are not subject to any limitations under the FECA. They are paid for with dues money taken from workers as a condition of employment. And without question they represent the overwhelming bulk of union political expenditures. AFL-CIO COPE director, Alexander Barkan, has boasted that "money is just a minor feature of the support we can give a candidate." No official statistics for total union "in-kind" expenditures are available, because the FECA requires no documentation or reporting of "soft" union "in-kind" political spending of compulsory dues. Labor columnist Victor Riesel, however, has put the 1976 total at $100 million—not including cash donations.

Any meaningful campaign reform must deal with this abusive use of compulsory union dues. The time has come to return to individual workers the right to choose for themselves which political candidates and causes their dollars will be used to support.

In the final analysis, to simply focus on the amount of money spent by union officials would be to miss the point. I do not question the right of union officials to communicate with their members on behalf of a candidate. If we were to refuse to permit unions to operate political phone banks, to mount get-out-the-vote drives or to engage in precinct visits, we would be guilty of gross violations of freedom of speech.

But because of my commitment to freedom of speech for all Americans, I must object strenuously to the widespread practice of using forced union dues for partisan politics. Until we act to put an end to this abuse, millions of American workers will continue to be forced to finance the campaigns of political candidates chosen by union officials—regardless of the worker's own convictions.

Many union members resent having their union dues used for political business and for other activities not related to union business. The average union member wants to vote as he pleases; he wants to support the candidates of his—not the union's leaders—choice. He does not want his political decisions to be dictated to him; he does not want the dues that are extracted from him to be used for political purposes.

Because of the continuing menace of the use of involuntary union dues for political purposes, I am introducing legislation today, the purpose of which is to guarantee that all political expenditures will come from money voluntarily contributed.

The situation which I seek to correct is the result of the exceptions to title II, United States Code, section 41(b)(2) and (4), which appear at first glance merely to insure the full exercise of first amendment rights of communication.

In actuality, these provisions allow corporations and labor organizations to use general treasury moneys for blatantly partisan political activities such as sending partisan communications, conducting registration and get-out-the-vote campaigns, to cover the overhead cost of a political action committee, and to solicit stockholders, executive or administrative personnel, union members, and the families of such individuals. I include registration and get-out-the-vote campaigns. Although the statute requires that they be nonpartisan, Federal Election Commission regulations allow the sponsoring corporation, or labor organization, to urge registration with a particular party, or voting for a particular candidate or candidates. Partisan pressure is, therefore, exerted during such drives.

Congress should be neutral in matters of political conscience. We should seek neither to favor nor to elevate certain groups as a result—intended or unintended—of Federal law.

But as I pointed out earlier, labor unions have been favored and elevated because they are the only organizations involved here which can collect money for their treasuries through the use of force.

Enactment of this important legislation will guarantee the voluntary nature of each person's participation in the political process by prohibiting the use of compulsory union dues for political purposes. This bill will insure that in matters of political conscience, Federal election laws will be neutral while voluntary participation will continue to be protected. I respectfully urge my colleagues to give this legislation their fullest consideration.●

By Mr. MATHIAS (for himself and Mr. PRYOR):

S. 1551. A bill to amend title 5, United States Code, to extend the period within which physicians comparability contracts may be entered into, and for other purposes; to the Committee on Governmental Affairs.

BONUS PAY FOR FEDERAL PHYSICIANS

Mr. MATHIAS. Mr. President, today I am introducing a bill to extend for 1 year the authority under which Federal physicians may enter into service agreements for the purpose of bonus pay.

It is important that our Federal Government attract and retain highly qualified physicians, and it has become increasingly difficult to do so as the ceiling remains on Federal salaries and private sector salaries continue to rise. We have had a program in place that provides a means of compensating those physicians employed by an agency experiencing recruitment or retention problems. The program allows these Federal physicians to enter into contractual agreements to receive increased, or bonus, pay for a specific period of time. Simply, it is a means to providing incentive awards.

After September 30 of this year, no such agreement may be entered into and, further, no current agreement may last longer than September 30, 1983. My bill will amend section 5648 of title 5 to extend both these deadlines for 1 year.

Inadequate salaries should not be considered an intrinsic condition of Federal employment. And the reality of skyrocketing medical school costs will prevent bright young doctors from entering Federal service unless we provide some necessary incentives. The merits of this policy have been proven time and again. My bill would tackle the problem of recruitment and retention of well trained physicians, and would not undermine the asutere budget we have just put into place. I am aware that these are times of fiscal caution and restraint, but I firmly believe this legislation represents a sound investment. I urge its early consideration, and I ask that the text of the bill be printed in the RECORD.

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

S. 1551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948 (d) of title 5, United States Code, is amended—

(1) by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1984".

By Mr. HUMPHREY:

S. 1552. A bill to lower the duty on certain imported sachet parts; to the Committee on Finance.

FAIR DUTY ON EMBROIDERED GOODS

● Mr. HUMPHREY. Mr. President, I am introducing legislation today that will amend the tariff schedule of the United States (19 U.S.C. 120) to establish fair duty on sachet parts of cotton and/or man-made fibers, embroidered.

Sachet parts are presently being imported into the United States from Switzerland. The reason for importing these sachet parts is the unique Swiss "Schiffli" embroidery. To my knowledge, this type part is not produced by anyone in this country. The item in its finished condition, after processing in the United States, would be considered a sachet. Only the outer covering is imported, which is a small round or square piece of cloth with Schiffli embroidery thereon made of two layers of material. Previously, the chief component of the cloth was cotton, resulting in a classification under the tariff schedules of the U.S. Annotated Item No. 386.40 at a 40-percent rate of duty. The back and embroidery thread has now been changed to man-made material resulting in a lower classification under item 386.09 at 25 percent ad valorem. The specific tariff provision is one for articles of textile materials not covered elsewhere in the tariff schedules and the subheading is lace or net articles, whether or not ornamented, and other articles ornamented. This sachet part falls into this catchall category by default rather than by design, since the assessed tariff items cover only items in chief value of man-made fiber which are not specifically provided for somewhere else in the tariff schedules.

A duty rate of 7.5 percent on embroidered sachet parts would be commensurate with the duty on handkerchiefs, cosmetics and other toilet preparations.

No less than seven U.S. companies provide materials required to finish the

sachets. Many hours go into the stuffing and packing of this item. In addition, U.S. materials, to include cotton, pellets, perfume, trays, lids, cards, and cartons, are used to complete the final product. It can be clearly seen that the imported sachet parts generate considerable employment in the United States. Therefore, an amendment to the tariff schedule is required to establish fair duty on embroidered sachet parts.

Mr. President, the bill I am introducing will accomplish this objective.●

By Mr. ABDNOR (for himself and Mr. PRESSLER):

S. 1553. A bill to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; to the Committee on Agriculture, Nutrition, and Forestry.

SOUTH DAKOTA WATER DEVELOPMENT

● Mr. ABDNOR. Mr. President, today Congressman CLINT ROBERTS and I are introducing legislation to reauthorize the WEB rural water development project, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to authorize the Secretary of the Interior to make available Missouri Basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power. We are joined in cosponsorship by Senator PRESSLER and Congressman DASCHLE.

This measure has been drafted pursuant to long and arduous discussions with the administration, congressional officials, the Governor, and officials of the South Dakota Department of Water and Natural Resources, South Dakota's conservancy subdistricts, and local citizens. There have been extensive discussions among the members of the congressional delegation and among our staffs, and this measure reflects our best thinking as to how the needs and wishes of South Dakotans may be served. Our legislative proposal today should be considered an extension of last year's agreement between the delegation and the Carter administration, and the primary provisions appear to have the support of the Reagan administration.

Mr. President, I ask unanimous consent that a summary and brief analysis of the provisions of the bill be printed in the RECORD at this point.

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

SUMMARY

Section 1.—Reauthorizes the WEB Pipeline Project to eliminate the pass-through of funds to the Department of Agriculture. Funding is authorized by Section 9 of P.L. 96-355 to be appropriated to the Secretary of the Interior and transferred to USDA. In view of budgetary limitations, objections have been raised to the expenditure of Interior funds by Agriculture. While the intent of the transfer was to have the Farmers Home Administration oversee construction of the project in light of the agency's expertise in the development of rural water systems, which department administers the authority is not so important as is actual funding for the project itself.

One million nine hundred thousand dollars ($1.9 million) has been appropriated to Interior for the WEB project in fiscal year 1981, and OMB and Interior have indicated that substantial funding is available for the project in fiscal year 1982 as well. Thus, eliminating the pass-through to Agriculture appears to be the logical way to address the funding jurisdictional dispute and enhance chances for prompt construction of the project.

Section 2.—Authorizes the Secretary of the Interior to study in cooperation with the State of South Dakota the possible development of a number of water projects in lieu of the Oahe and Pollock-Herreid irrigation projects, as previously designed and authorized.

Specifically, potential alternative uses of the already-constructed Oahe Unit facilities would be investigated in a effort to achieve productive utilization of the substantial sum of federal funds already expended and to determine whether the so-called CENDAK irrigation proposal, which has a great deal of local interest and support, is feasible.

Second, the possibilities would be investigated with respect to the use in South Dakota of water delivered to the James River by the Garrison Unit in North Dakota. South Dakota is scheduled to receive return flows from the project, and Canada has not been willing to agree to do so. Many South Dakotans would be pleased to have a stabilized flow in the James, however, and it appears the Garrison Unit could provide the means.

Third, a modified version of the Pollock-Herreid Unit would be investigated. The Bureau of Reclamation has determined that much of the acreage in the authorized plan is not certifiable for irrigability under federal standards. Interest has been expressed by the local people in the possible development of a reformulated plan which overcomes some of the problems with and objections to the authorized plan of the development.

Fourth, the Secretary would be authorized to consider and recommend to Congress for construction authorization any water project proposed by the State of South Dakota under the State water planning process. The State planning process was given emphasis by the Carter Administration, which promised to give prompt consideration to proposed projects, and the Reagan Administration, too, has admonished the State to "get its act together." Section 2(a)(4) would provide express statutory recognition for the State planning process, so that the avowed intent of the present and past administrations will be observed.

The Secretary would report back to Congress on the results of the studies and would make recommendations on the disposition of the Oahe Unit and the possible development of a reformulated Pollock-Herreid Unit. In determining the feasibility of projects identified for consideration and in making his recommendations to Congress, the Secretary would take into account South Dakota's sacrifice of over 500,000 acres inundated to provide flood control for downstream States and the promise of Federal irrigation assistance to offset the great economic loss suffered by the State.

Since the Bureau of Reclamation has closed its Huron, South Dakota office, the Secretary would be authorized to contract with the State to facilitate the prompt and efficient completion of the necessary studies. Projects proposed by the State would be considered for feasibility on the same bases as the Oahe Unit was authorized; but, if the Secretary does not feel that he can recommend development of projects on those bases, in light of current budgetary and other realities, he could negotiate with the State to use more acceptable criteria. The incentive for the State, of course, would be to gain a favorable recommendation from the Secretary for construction.

Section 3.—Would permit the Secretary to cancel immediately the existing contracts on the Oahe Unit and release the reserve funds being held by the Oahe Conservancy Subdistrict. Some members of irrigation districts feel the contracts constitute an encumbrance upon their land for a project that will not be built, and the subdistrict would like to devote the reserve funds to more productive use. Subsection (b) would specify that no construction should occur on facilities designed solely to serve the Spink and West Brown irrigation districts, but that the Secretary could recommend construction of other features of the authorized plan in conjunction with alternative uses identified under section 2(a)(1).

Section 4.—Would authorize the Secretary, in cooperation with the Department of Energy, to make available Missouri River Basin pumping power to irrigation projects authorized by the Flood Control Act of 1944 to receive such power. Subsequent acts of Congress to limit appropriations to initiate new construction under the Missouri Basin Program have been interpreted to deny the authorized pumping power as well. This language will clarify that those projects authorized to receive such power are indeed eligible to receive it, since they have never been deauthorized nor have they been expressly precluded from receiving the authorized power.

This legislative clarification is important most directly and immediately to the Lower Brule Sioux Tribe, which is in the process of developing the Grass Rope irrigation project with non-Reclamation funding, but it could be important for other projects as well. Local project sponsors should not be penalized through the denial of authorized pumping power when, due to the lack of Reclamation funding, they proceed to construct their project with other funds.

Section 5.—Will contain an authorized funding ceiling yet to be determined and set during committee action on the bill. The only new funding authority provided is for study purposes and may be offset by savings in scaling back the Pollack-Herreid authorization and in deauthorizing the Oahe Unit at the appropriate time. Furthermore, it seems likely that the Secretary would require a State and/or local financial commitment as a condition for undertaking studies of previously unauthorized projects.

Mr. ABDNOR. Mr. President, as I said, we have had intensive discussions with the administration on this proposal and believe that it represents the best and most realistic legislative actions which can be taken at this time. The following article entitled, "South Dakota Has 'Edge' in Water-Funding" from the Friday, July 10, 1981, edition of the Sioux Falls Argus Leader is evidence of our discussions with the administration and our progress in gaining the support of the Department of the Interior, and I ask unanimous consent that the article be printed in the RECORD at this point.

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

S.D. HAS "EDGE" IN WATER FUNDING

(By Chuck Raasch)

Although Gov. William Janklow's widely anticipated water plan is still secret, South Dakota has done enough in recent months to put it ahead of other states for future fed-

eral money, a top Interior Department official said Thursday.

Some discussions have also been about the need for South Dakota to chip in money for future water projects, said Garrey Carruthers, undersecretary for water in the Department of the Interior.

On the surface, South Dakota's water plans appear as muddled as ever, with divergent groups arguing over priorities and funding possibilities. But Washington and South Dakota officials said a series of state-federal negotiations—including a secret meeting last week in Washington, D.C., between Janklow and key federal water officials—have been going on for some time.

Although President Reagan's budget cuts have priority over water funds, states that plan for water projects in the meantime will get the first wave of federal money if Reagan's economic plan works, Carruthers said.

"Right now, South Dakota has a slight edge in that regard," Carruthers said.

But Janklow said there will be "no magical moment in time" his plan is revealed to South Dakotans, and warned that people should not make too much of his impending water announcement.

Janklow said three weeks ago that he'd announce in about three weeks a comprehensive water plan for South Dakota.

But he said that his work has been hampered by "a press release battle" and refused to discuss specifics earlier this week.

Janklow acknowledged that he and state Water and Natural Resources Secretary Warren R. Neufeld met with Carruthers in Washington last week. It was later learned that the meeting included Bureau of Reclamation Commissioner Robert Broadbent and Owen Ambur, an aide to Sen. James Abdnor, R-S.D.

The two federal officials control crucial funding and construction arms of the administration's water body.

One participant described the meeting as "a further discussion toward specifics" of what federal water development help South Dakota could reasonably expect from the tight-money Reagan administration.

The secret gathering came a week after Interior Secretary James Watt told Janklow and the congressional delegation that there would be no major federal water money until the mid-1980s or 1990.

Janklow said the proposed Cendak Project was the result of groundwork he laid two years ago, and would be included in his plan. However, he warned that others interested in water should not hold up their work for his plan.

"It will be an attempt to get things moving off dead center, but if you build it into something it isn't, it's going too far," Janklow said.

Even South Dakota's congressional delegation doesn't fully know what to expect.

"We understand the governor has been working intensively on a very specific proposal for some specific project authorizations and we're waiting anxiously to see that," Ambur said.

Some recent discussions have apparently been over Reagan's desire for states to provide more up-front water money.

"His (Janklow's) comments lead me to believe he thinks South Dakota probably ought to look for some financing opportunities within the state," Carruthers said.

If South Dakota is to get future water projects, they will probably be smaller than the crippled Oahe—at least initially, Carruthers said.

He said Reagan's water plan will include cost-sharing and "phase-in" approaches. The administration would also like to cut down on the amount of construction time, he said, which would indicate a possible easing of federal environmental and planning requirements.

Although Reagan officials have said they're sympathetic toward water development, congressional sources said states are rapidly learning that the administration means what it says about tight water money for at least the near future.

"The meeting with Watt may have been enlightening to the governor (Janklow) insofar as he didn't realize before how tough the budget really is down here," Ambur said.

Mr. ABDNOR. Mr. President, Secretary Watt's July 10 letter offers a more formal statement of the Department's position, with the pertinent points being first, continued support for WEB; second, support for studies of CENDAK and the Garrison extension into South Dakota; and third, affirmation of the prerogative of Congress to determine the disposition of the Oahe Unit. I ask unanimous consent that the Secretary's letter be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 10, 1981.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, D.C.

DEAR JIM: This is in response to the letter of April 22 signed by you and the other members of the South Dakota delegation concerning the $1.9 million of fiscal year 1981 funding for the WEB Pipeline Project (WEB) in South Dakota.

The Appropriations Committees of Congress, in their deliberations on a combination of general supplementals and rescissions in the fiscal year 1981 budget, directed that the $1.9 million for WEB be deferred until the Oahe Unit has been deauthorized. Further, the Committees directed that the project be reauthorized through the Farmers Home Administration and that appropriations be authorized to be made to that organization. Although this action has not affected the Department of the Interior's support for WEB, we are deferring obligation of the funds until these conditions are met.

With regard to other matters of mutual interest, we recognize that the deauthorization of the Oahe Unit is a matter best left to the Congress to decide, but we do not intend to ask for construction appropriations if it is not deauthorized. In addition, we are not opposed to undertaking new studies for South Dakota water resources development, including CENDAK and Governor Janklow's proposal to irrigate 100,000 acres in the James River Basin from the Garrison Diversion Unit.

We look forward to working with you on those matters.

Sincerely,

JIM,
Secretary.

Mr. ABDNOR. Mr. President, it would be less than honest to deny that a portion of the blame for the failure of the Federal Government to live up to its commitment to South Dakota lies in the failure of South Dakotans to speak with clarity through their governmental entities and their elected officials. We are attempting to correct that problem, particularly in section 2 of our bill, which directs the Secretary to look to the State for guidance; but the following editorial from the Wednesday, July 1, 1981, edition of the Huron Daily Plainsman discusses the problem, and I ask unanimous consent that the editorial be printed in the RECORD.

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

TO SILENCE A BABEL

One thing South Dakotans should have learned about water development over the past decade is that a babel of voices demanding myriad projects, some of dubious feasibility, is not an effective approach.

If there were any lingering doubts about such an approach they should have been put to rest last Friday by U.S. Interior Secretary James Watt. Watt, after admitting that the federal government has a moral obligation to give the state a hand with water development, bluntly told our congressional delegation and Gov. Bill Janklow that the state must get its act together and speak with one voice before it can expect anything.

Watt was quoted as saying, "I keep hearing different voices from different regions out there. Until you decide what you want, it's unlikely that you will get anything."

This week Rep. Tom Daschle is touring the conservancy sub-district boards in an effort to gather information on the projects those boards have in mind and the priorities that might be developed. We suspect that he will come up with the same 30-odd projects that the Legislature wrapped into a package called The State Water Plan last winter. And we presume each of the subdistricts will want its projects first.

That sort of survey will probably produce the same sort of babel that the state has just been warned against.

The problem in recent years is that we have had not only conservancy subdistricts but numerous other groups purporting to speak for the state. As a matter of fact many of these groups speak only for special interests. The Oahe subdistrict board for example does not speak for the majority of people within its borders.

Late last month Gov. Bill Janklow promised to unveil a comprehensive state water plan that has been in the works for months. And his original timetable called for that plan to be ready for public exposure within 10 days or so. At least the time interval is short enough that it would seem wise to test reaction to that plan before proposing alternatives.

If the state is ever going to speak with one voice it is going to have to unite behind one course of action and one set of priorities. And those will not be developed in any one single conservancy subdistrict, nor will they be worked out by any one special interest group.

Janklow's comprehensive water plan seems to offer the only visible solution to the problem of how to achieve unity on priorities for water development. That plan should be given a fair hearing before any other action is considered.

Mr. ABDNOR. Mr. President, in addition to its focus on the planning activities and priorities of the State, our bill would direct the Department to consider the possible reformulation of plans for the Pollock-Herreid and Oahe irrigation projects, in line with the wishes of the local people.

My colleagues will note the emphasis the Governor places upon local support and his belief that CENDAK has garnered ample support to be considered as a potential reformulation of the Oahe Unit plan:

I ask unanimous consent that the text of a May 11, 1981 letter from Governor Janklow to Mr. Don Faulstich of the

CENDAK Steering Committee be printed in the RECORD.

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

STATE OF SOUTH DAKOTA,
Pierre, S. Dak., May 11, 1981.

DON FAULSTICH,
President, Hyde County Water Association, Highmore, S. Dak.

DEAR MR. FAULSTICH: This is in response to your recent letter in which you requested my support for the Cendak project. As I stated at the meeting with members of the Cendak Steering Committee on May 1, 1981, I feel that the local support shown for the Cendak project has been outstanding, and that the concept has been developed and is being pursued in the proper manner at the local level. This has confirmed my faith in the ability of the citizens of this State to develop an irrigation concept that is acceptable to a majority of the people. I endorse the Cendak concept and strongly support its further study. I am willing, upon your request, to do whatever I can to assist in development of the concept; however, I want the people to be assured that the government will not coerce them into building a project they do not want.

As to your concern about retaining the benefits of the Oahe authorization, Senator Abdnor has proposed a bill that would basically protect the benefits of the Oahe authorization but would release the obligations of the Oahe Conservancy Subdistrict and the West Brown and Spink County Irrigation Districts. I have asked Secretary Neufeld to work with Senator Abdnor on this bill. If you have any comments on this matter, please feel free to communicate your comments to Mr. Neufeld.

I appreciated the opportunity to listen to your proposal and view the areas that farmers have expressed an interest in irrigating. I believe that your further study of the concept needs to include an analysis of how the potential users of Cendak would prefer to fund the study, construction, operation and maintenance of the project. This funding concept could then be pursued in any negotiations with the Department of Interior on the Oahe authorization. Other project aspects that should be analyzed and negotiated include: soil irrigability standards, construction design, development schedule, repayment schedules, interest rates, power rates, and operation and maintenance provisions. A valuable lesson should have been learned from the problems that occurred with the Oahe project in that the local people must be involved throughout the study and development of the project. Thus it is important that the local people, the State and the Congressional delegation work together in establishing an acceptable package for implementing this concept.

Please contact me or the Department of Water and Natural Resource if further assistance is needed.

Sincerely yours,

WILLIAM J. JANKLOW.

Mr. ABDNOR. Mr. President, the prospective beneficiaries of the Pollock-Herreid Unit have recently, in response to a bill introduced by Senator PRESSLER to deauthorize their project, expressed a rekindled interest in attempting to identify an acceptable plan of development. The following correspondence will document the local view and my reactions to it.

I ask unanimous consent that certain correspondence relating to this be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., July 27, 1981.

Mr. ROGER HANSON,
Rural Director, Campbell and McPhereson Counties, Oahe Conservancy Sub-District Board, Pollock, S. Dak.

DEAR ROGER: Thank you very much for the copy of your letter to Senator Pressler of July 7th concerning his bill to deauthorize the Oahe and Pollock-Herreid units.

As the original sponsor of the Pollock-Herreid authorization, I would certainly be dismayed to see it fall by the wayside, and I am pleased to learn that there is local interest in trying to rejuvenate it in a modified form. As you know, that is exactly what the CENDAK Steering Committee is trying to do with respect to the Oahe authorization—convert it to a form which will provide irrigation water for their area.

It would not be proper to imply that it will be easy to achieve development of either a reformulated Pollock-Herreid plan or a reformulated Oahe-CENDAK plan. I will be introducing very soon a bill designed to serve the local wishes with respect to both Pollock-Herreid and CENDAK, however, and your support would be very much appreciated.

As you know, I circulated a draft bill months ago (in April) and have actively solicited suggestions ever since that time as to how best to preserve the WEB project and to maximize any gain to the people of South Dakota through the use of the Oahe authorization. During the time we have had repeated contacts with Administration and Congressional officials, as well as with South Dakota officials and citizens. I believe these contacts and our long and careful deliberations have enabled us to focus more realistically the intent of the draft which was circulated in April.

Again, I shall be introducing my bill very shortly (prior to the August recess), and I hope that it will gain your active support.

The time for unachievable proposals and for bickering is past. We now must come together for the good of the people.

With best wishes,

Sincerely,

JAMES ABDNOR,
U.S. Senator.

OAHE CONSERVANCY, SUB-DISTRICT,
Pollock, S. Dak., July 7, 1981.

Re: Pollock/Herreid Project.

Senator LARRY PRESSLER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PRESSLER: I am writing you on behalf of the Pollock/Herreid Irrigation Project, which is located in Campbell County. I represent Campbell and McPherson Counties on the Oahe Conservancy Subdistrict Board.

Senator Abdnor's office proposed that the Pollock/Herreid Project be deauthorized to provide the first portion of funding for the WEB Pipeline, or other projects. Recently, you drafted legislation which called for deauthorization of the Oahe Project and the Pollock/Herreid Project to provide funding for projects in the State Water Plan. I am concerned that this action was taken apparently without consulting the local Pollock/Herreid Irrigation District Board. While the Oahe Conservancy Sub-district Board is in support of deauthorization of the Oahe Project, and efforts to negotiate an Oahe settlement which might provide funding for other projects in the state, the Sub-district Board has never proposed nor supported deauthorization of the Pollock/Herreid Irrigation Project. In fact, in my opinion, there is still interest in developing irrigation in the Pollock/Herreid area. Rather than deauthorize the Pollock/Herreid Irrigation Project to provide funding for some other project in the state, it is my opinion that the people in this area would rather try to adjust the federal authorization so that funding could be secured for a private irrigation development using more buried pipe delivery systems and possibly serving a smaller area.

In my opinion, there were several problems associated with the project plan developed by the Bureau of Reclamation. First of all, local people became frustrated because the planning process was extended over a period of 15 years, and the only funds secured were used for study and re-study of the project plan. There would have been more support for the Bureau plan had they responded to local desires and included more buried pipe in the proposed delivery system. Excessive cost estimates by the Bureau of Reclamation were also a problem. Bureau estimates showed the per acre project cost at about $3,000 an acre, whereas private irrigation development has been constructed in the last year along the Missouri River at a cost of less than $700 an acre, using a practically buried pipeline delivery system. It was hard to understand why the federal project would have to cost so much more. Another potential problem was that the federal plan called for acquisition of some 2,000 acres of farmland in Campbell County for wildlife mitigation purposes.

In short, I feel the local people had some difficulty working with the Bureau of Reclamation in securing an acceptable plan, but that does not diminish the fact that there is interest in developing irrigation in this area. Certainly, Campbell County, which lost thousands of acres of land to the construction of the Oahe Reservoir, deserves some sort of water resource development.

Presently, the local irrigation district, the county agent, and others are looking into the possibility of hiring a private engineer and attempting to convert the Pollock/Herreid Irrigation Project into a private development. No action should be taken by the Congressional Delegation or state officials to deauthorize the Pollock/Herreid Irrigation Project until (1) local interests have had an opportunity to pursue the "private development" option, (2) possibilities for converting the Pollock/Herreid authorization into federal funding for a "private development" are exhausted, and (3) the locality elected Pollock/Herreid Irrigation District Board endorses such action. Until such time as these three points are met, it would be premature to talk of deauthorizing the Pollock/Herreid Irrigation Project either separately or as any part of an Oahe deauthorization settlement.

Sincerely yours,

ROGER HANSON,
Rural Director.

Mr. ABDNOR. Mr. President, our bill provides authority for the Secretary to contract with the State of South Dakota to conduct the necessary studies of Pollock-Herreid, CENDAK, the Garrison extension and other priority projects identified by the State. Besides more accurately reflecting the local viewpoint, this may be a necessity due to the closure of the Huron, S. Dak., office of the Bureau of Reclamation.

Back in April Congressman ROBERTS and I conveyed to the regional administrator our view of the role of the Bureau in our State. Since that time, the Bureau has reverted to its traditional name and has decided for budgetary and personnel reasons to close the Huron office.

I ask unanimous consent that my letter to the regional administrator be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., April 10, 1981.

M:. JOE MARCOTTE,
Acting Director, Upper Missouri Region Water and Power Resources Service, Billings, Mont.

DEAR MR. MARCOTTE: This is in response to your inquiry regarding the role of the Huron office of the Water and Power Resources Service in the investigation and development of water projects in our state in the years to come.

Obviously, the activities of Water and Power Resources Service in South Dakota have been characterized by controversy and less than satisfactory results—for a number of reasons, most of which have been beyond the control of anyone. We would hope, however, that there could be a productive role for WPRS in the future of water developments in our state. Certainly, the role WPRS was to have played in our state under the Pick-Sloan Missouri Basin Program—development of federal assisted irrigation—has not been fulfilled, and we must insist that every effort be made to see that it is fulfilled, if not by WPRS, then by other means.

In our view, the scope of WPRS activities in South Dakota should be based upon the degree to which your agency can assist in achieving prompt and complete consideration of water development projects proposed by the State and by local, sponsoring groups and to achieve prompt development of those projects which are feasible under the terms of the Pick-Sloan Missouri Basin Program. In our view, the State must set the priorities in this regard and our role should be to help ensure that those priorities are observed in terms of federal authorizations and funding.

The State Water Plan sets forth the projects which have been identified to date for potential development and ascribes a general priority rating to each. Hopefully, the State water planning process will continue to be sharpened and will become able to identify specific priorities in relation to federal planning and development capabilities and funding for each subsequent fiscal year.

At this point, however, and lacking such specific direction from the State, it seems to us that there are several projects and studies in which WPRS involvement would be useful in the near-term future. Those are:

(1) Development of a reauthorized Belle Fourche irrigation project as a unit of the Missouri Basin Program. It is our hope the necessary reauthorization can be accomplished during the 97th Congress;

(2) Possible development of the Slip Up Creek Unit, depending upon the need and expression of local support for the project;

(3) Study of the feasibility of Governor Janklow's proposal to derive irrigation and domestic water supply benefits in South Dakota from the Garrison Unit. We have had legislation drafted to authorize a feasibility study, but WPRS involvement in this project should be guided by the requests of the State. The preliminary indication we have is that Congress may look with favor upon the feasibility study authorization, but it would be helpful if there were some documentation which could pass for an appraisal study report;

(4) Study of potential uses of existing facilities constructed and property acquired for use in conjunction with the Oahe Unit. In our view, the previous administration was remiss in ignoring this issue in the context of its "termination study." We believe Congress would be remiss, too, in acting on deauthorization without considering potential uses of the existing federal investment; and we certainly would oppose any such action. We believe that the CENDAK and Lower James-Ft. Randall projects in particular ought to be considered from a technical standpoint as potential uses of the existing facilities. Obviously, the political question of whether the facilities will actually be used for these purposes is not for WPRS to decide, but your agency may be in a position to provide technical advice in the context of the Lower James-Ft. Randall feasibility study and additional legislative authority we are pursuing to direct that potential uses of the existing facilities be investigated;

(5) As you know, there is a great deal of support for irrigation development in Gregory County, South Dakota. We are planning to offer legislation to authorize a feasibility study of the Landing Creek and Whetstone Bay irrigation projects and intend to endeavor to see that potential irrigation development in conjunction with the Gregory County hydropower project is fully investigated as well;

(6) There are a number of potential Indian water development projects in which WPRS involvement may be helpful. As you know, our first choice for development of the Grassrope irrigation project has been that it be accomplished as a WPRS unit of the Missouri Basin Program. Due to the lack of movement through WPRS channels, though, we have been forced to pursue other means toward development, and it appears that BIA funding will continue to be more expedient. Of course, we shall endeavor to do whatever is necessary to ensure the availability of low-cost Missouri River Basin hydropower for the project as well.

In addition, we will be pursuing feasibility study authorizations and funding for the proposed Isanti and Little White River units on behalf of the Flandreau Santee and Rosebud Sioux tribes, respectively; and, finally,

(7) While it is our intent to convert the Oahe authorization to a form which is useable in the best interest of water development in our state and that form at this point would, in our preference, have the State do the planning and selection of projects, we would hope that WPRS could play a substantial and active role from a technical standpoint in assisting the state in achieving fulfillment of the irrigation commitment made to us in the Flood Control Act of 1944.

We hope that this expression of our point of view is helpful to you in planning for the scope of WPRS activities in our state in the years to come. Please let us know if you have additional questions or comments and especially if you have suggestions as to how we might be of greatest influence in seeing that the water development interests of our state are served.

Sincerely,

JAMES ABDNOR,
U.S. Senator.
CLINT ROBERTS,
Member of Congress.

Mr. ABDNOR. Mr. President, on June 18, 1980, then-Secretary Andrus sent the South Dakota delegation a letter confirming our agreement with respect to the authorization and first-year funding of the WEB project. One of his commitments related to the point of Congressman ROBERTS and my letter to Acting Director Marcotte; namely, that the Bureau would maintain an active role from a technical standpoint in assisting with the development of South Dakota's water resources.

I ask unanimous consent that the Secretary's letter be printed in the RECORD.

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

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., June 18, 1980.

Hon. JAMES ABDNOR,
House of Representatives,
Washington, D.C.

DEAR MR. ABDNOR: I am writing in response to your letter of May 12, 1980, and pursuant to the consultations which have occurred between us since that time.

I want to begin by thanking you for the constructive nature of your letter, and the extraordinary effort and care you have given to resolving the difficult questions regarding the future water resource needs of South Dakota. In spite of differences which may exist regarding some specific issues, I am convinced we share a commitment to meeting South Dakota's needs through sound water management and development, and seeing that the Federal role is a major and cooperative one.

The Administration has made clear its view that it cannot support the permanent authorization of the WEB project in the absence of a deauthorization of the Oahe Unit, and I believe the reasons for this are well understood. You have made clear, in return, two central points. First, that if Oahe is to be deauthorized, you must consider and address other water development needs in the state in addition to the WEB project. Second, that additional time is needed to identify and analyze other proposals and to permit adequate public consideration of them.

Our reaction to these points is favorable, and with some variation, we are able to accept the basic premise of your May 12 letter. What we propose is a process which would create the time and opportunity for development of other responses to state needs, yet leave you in a position in mid-1981 similar to that which exists today—a choice between the continued authorization of Oahe (but without an authorization for WEB) or a deauthorization of Oahe, predicated on authorization and funding for WEB plus other proposals which might be agreed upon in the interim.

Specifically, we would not object to the authorization of the WEB project immediately, as well as first-year funding of approximately $1.9 million if provided within the Administration's overall budget request for the Department. By mutual agreement with you, a provision would be included in the WEB authorization which would establish a "trigger date" of September 30, 1981 (the end of FY 1981), at which time the future of the WEB and Oahe projects would be firmly decided. Should Oahe be deauthorized by this date, WEB automatically would be authorized for completion, including adequate authority for all necessary funds. (A copy of the proposed language to achieve these purposes is enclosed as amendments to H.R. 6320.)

As you suggest, a "clean" deauthorization bill for the Oahe project will be introduced immediately with the joint sponsorship of the delegation (a draft of such legislation is enclosed). We would have no objection to the introduction of such a bill on request. While the Administration favors passage of such a bill, it would be understood that actual passage is not anticipated until mid-1981, after consideration of other South Dakota water needs. Accordingly, the "clean" bill for Oahe deauthorization would be agreed to be introduced again at the beginning of the net Congress.

During the period between now and mid-1981, when a definitive choice on Oahe deauthorization will be required, a concerted and cooperative effort will be made to better assess South Dakota water resource needs, and to develop agreement on other possibilities for development in addition to the

WEB pipeline. We realize that, within the State and even within the delegation, views may differ on various alternatives and priorities, and the Administration has strong view as well. We should use the next 12 to 14 months as a period of working together toward agreement on issues important to the water resource needs of South Dakota and the appropriate contribution of the Federal Government to those needs.

We would approach this effort with great but realistic expectations, and expect all others to do the same. A common initial understanding of the conditions which will determine ultimate agreement will vastly improve our capability to work together. Obviously, there must be a mutual understanding that the package put together in the coming months will require Administration agreement. From the Administration's viewpoint, you should understand that support for any additional future projects or programs will be based on established planning and evaluation procedures, consistency with existing Federal programs, standards set forth in the President's water policy message of June 6, 1978, and consistency with existing budgetary constraints. Such standards are indeed more demanding, in some cases, than those being applied to the WEB proposal itself.

It should also be understood that, the prior decision to authorize and fund the Oahe unit, or any speculative evaluation of that authorization, cannot serve as a measure of what might be agreed upon in coming months. While no reasonable alternative can be ruled out at the beginning of this process, it is equally important to understand that agreement is unlikely if it is predicated on unresolvable budgetary, legal or political bases. We have previously indicated our feeling that the formulation advanced by the South Dakota legislature cannot be the basis of agreement, and although you may initially wish to use it for discussion, we believe it is important for our views to be known at the outset.

The greatest opportunity for success rests in an effort to focus on water resource needs and sound planning to address them, rather than on settlement of legal or political differences. We are willing to take a number of steps to facilitate this effort, and ensure that it is as constructive as possible. For instance, we will support a decade-long reservation of Missouri River water for the state, as proposed by Senator McGovern, in an amount of water equal to that anticipated for the Oahe unit. In addition, we will take several specific steps related to the role of the Water and Power Resources Service in South Dakota. We will retain adequate staff in the Huron office to assist in this effort, and will review all presently authorized planning in South Dakota, and where possible, accelerate work on individual projects.

Most importantly, we want to contribute to the establishment of a new atmosphere of cooperation among state, Federal and local interests to address common problems. We will gladly enter into such an effort at the field and policy levels with the possibility of identifying new appraisal and feasibility level studies which can be supported for authorization by all the parties concerned.

Overall, we believe this approach meets the basic objectives set out in your May 12 letter, and does so in the manner most likely to yield subsequent agreement based on cooperative efforts over the coming months. We would appreciate an early response from the delegation, as time is drawing short to address the various legislative matters which are essential.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CECIL D. ANDRUS,
Secretary.

Mr. ABDNOR. Mr. President, let me comment briefly on several points of our agreement with the Carter administration, per the Secretary's letter:

First, Secretary Andrus stated that the Carter administration could not support WEB unless the Oahe unit is deauthorized. There is nearly unanimous agreement in South Dakota that such a trade would not be fair and should not be accepted. The Governor and all four members of the congressional delegation are in full agreement on that point.

Furthermore, President Reagan's Secretary of the Interior, James Watt, has, in his July 10 letter to the South Dakota delegation clearly stated that deauthorization of the Oahe unit is for Congress to decide. His Assistant Secretary for Land and Water Resources, Garrey Carruthers, has been even more explicit in our discussions in saying that he could see no reason why the two projects should have been linked in the first place.

If my colleagues would like further clarification of my State's position on the Carter administration's linkage of WEB and Oahe, I would refer them to page 25342 of the September 15, 1980, RECORD, containing my remarks on the WEB authorization. I would call their attention in particular to my June 30, 1980, letter to Governor Janklow, which is reprinted on pages 25343–440.

There should be absolutely no doubt that we have preserved South Dakota's options to consider alternative uses of the Oahe authorization, as provided by the bill we are introducing today; and our right to do so has been acknowledged by both the Carter and the Reagan administrations.

Second, Secretary Andrus explicitly acknowledged in his June 18 letter that the South Dakota delegation—

must consider and address other water development needs in the state in addition to the WEB project and that additional time is needed to identify and analyze other proposals and to permit adequate public consideration of them.

He proposes a "process under which other proposals * * * might be agreed upon in the interim" between authorization of WEB and deauthorization of Oahe, but that process has not reached fruition to date. Our bill is drafted to facilitate the realization of the process to which we agreed with the Carter administration.

The need for this legislation is apparent because the Secretary's commitments do not square with the results over the past year. For example, the Secretary promised to retain adequate staff in the Huron office, but the office is being closed. Secretary Andrus promised to review all presently authorized planning in South Dakota, and where possible, accelerate work on individual projects, but none have been accelerated. In fact, the Grass Rope and Belle Fourche projects have been delayed by the Carter administration's so-called water policy initiatives.

Secretary Andrus supported first-year funding for WEB to be obligated immediately and unconditionally, but the $1.9 million which was to have been provided without delay has been deferred by Congress at the insistence of House Interior Appropriations Subcommittee Chairman YATES. Thus, the essence of last year's agreement with Secretary Andrus, that is to accelerate development of WEB, has been contravened by Congress. What is more, the Secretary himself failed to live up to the spirit of the agreement by failing to include funding in the Carter administration's fiscal year 1982 appropriations request specifically to continue construction on WEB.

One other offer made by Secretary Andrus which has not been upheld, thankfully in this case, is to provide a limited, 10-year Federal reservation of water for South Dakota. Doing so would be no service to South Dakota because, if the Federal Government does not honor its commitment to provide irrigation development assistance to my State, the water will not be used in the next 10-year period anyway and what the Federal Government gives, it can also take away. Having set the precedent, with which the State does not agree, that the Federal Government has the right to allocate water for use in South Dakota, the Federal Government would be in position to allocate the water elsewhere when, after 10 years of nonuse in South Dakota, it is needed by Exxon, ETSI, or some other energy concern or when it is needed by other States of the High Plains which are already irrigating to excess and drawing down the Ogallalla aquifer.

The phrase "use it or lose it" is undeniably true when it comes to water, and South Dakotans are wary of Greeks bearing gifts. We have been burned too often, and we are not about to concede to the Federal Government a right which it does not have, to control South Dakota's water resources. We know all too well how we have been baited and switched, promised one thing and given another, under the Pick-Sloan Missouri Basin program and I am greatly relieved that we now have a new administration which is not going to be pursuing back-door efforts to gain control of South Dakota's water resources.

I am hopeful, too, that with the support of the Reagan administration, particularly Secretary Watt and Assistant Secretary Carruters, that the Federal Government will begin to live up to its commitment to my State. The most recent commitment which has been broken is for first-year funding for WEB, but that broken promise is indicative of the much larger failure of the Federal Government to live up to its promise to my State under the Pick-Sloan Missouri Basin program.

One June 3, I wrote Chairman YATES on the issue of first-year funding for WEB. He has not responded, and it can only be assumed that he would not support funding for WEB through his subcommittee under any circumstances, regardless of whether the Oahe unit is deauthorized. In other words, we are being asked to buy a "pig in a poke," to give up the Oahe authorization and get nothing in return.

Mr. President, I ask unanimous consent that my letter to Chairman YATES and the enclosure be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 3, 1981.

Hon. SIDNEY YATES,
Chairman, Subcommittee on Interior, House Committee on Appropriations, Rayburn Building, Washington, D.C.

DEAR SID: As you know, the history is not good with respect to the Federal Government living up to its commitment to South Dakota to provide water development assistance to offset our sacrifice of over 500,000 acres for the flood control benefit of downstream states. It is a history of changing authorizations through appropriations to delay and deny the water development needed and promised to my state.

You are well aware that I consider the action just taken by the appropriations conference committee to be a continuation of that history, as per the seven points on the attached sheet. Be that as it may, however, can we be assured that if the conditions of Section 9(b) of Public Law 96–355 regarding deauthorization of the Oahe Unit have been met, that you will support funding the WEB project to completion?

More specifically, officials at OMB have indicated to WEB that $33 million is available for their project in the FY82 budget, under the Interior Secretary's contingency fund. I have attempted to obtain some assurance from Interior and OMB that these funds will, in fact, be made available to WEB. The language which you moved in conference would seem to imply that WEB's funding problems will be resolved when continued authorization is assured. Is that the case as far as your subcommittee is concerned, and will you support the provision of $33 million for WEB in FY82?

Again, Sid, I sincerely believe that the interests of my state are being deeply wronged. In fairness, any further consideration you can give us will be appreciated, particularly with respect to the prospect of FY82 funding for WEB.

With best wishes,
Sincerely,

JAMES ABDNOR,
U.S. Senator.

ENCLOSURE

(1) Per section 9(a) of P.L. 96–355, fiscal year 1981 funding for the WEB project in the amount of $1.9 million is *not* contingent upon deauthorization of the Oahe Unit.

(2) The agreement between the Carter Administration and the South Dakota Congressional delegation and enacted by Congress provides for a period, ending September 30, 1981, during which the terms of deauthorization of the Oahe Unit should be negotiated.

(3) In view of critical water supply needs, now aggravated by the drought, the WEB project was to be initiated without delay as part of the Oahe "settlement."

(4) The South Dakota Congressional delegation is working to achieve an acceptable settlement and has requested Congressional field hearings on the necessary legislative action.

(5) Deferring FY81 funding for WEB will contravene the intent of P.L. 96–355 and negate the agreement between the Carter Administration and the South Dakota Congressional delegation which was reached through long and arduous discussions.

(6) South Dakotans have been waiting for years for the Federal Government to live up to its commitment to provide water development assistance to offset over 500,000 acres relinquished for flood control reservoir for the benefit of downstream states.

(7) Deferring FY81 funding for WEB is not consistent with the clear intent of the authorization act and would be further evidence to the people of South Dakota that the Federal Government cannot be trusted to live up to its commitments. (The Oahe Unit was initially authorized in the Flood Control Act of 1944, which also authorized construction of the dams and reservoirs which have taken so much of our land, only to be supposedly deauthorized in an appropriations act in 1964. It was reauthorized in 1968, only to be stymied again. Now an appropriations act has been used to contravene the first year funding for WEB, in clear contradiction to the authorization.)

Mr. ABDNOR. Mr. President, as I stated earlier, South Dakotans have been baited and switched. We have been given a promise of water development, but the promise has proven empty. We have relinquished in good faith over 500,000 acres inundated to provide flood control to downstream States, only to learn that the Federal Government cannot be trusted to live up to its part of the bargain; namely, to give us irrigation development assistance in return.

Secretary Watt has privately and publicly acknowledged that the interests of South Dakota have been treated shabbily and that the Federal Government has a moral obligation to rectify the situation. That is exactly what the South Dakota delegation has in mind in introducing our bill today. We intend to continue the process we thought we had initiated with the Carter administration but which, based upon the results to date, seems in doubt. We mean to provide statutory recognition of the process to insure that it will not be further thwarted.

In closing, let me reiterate the thrust of our agreement with the Carter administration by quoting several pertinent passages from the June 18, 1980, letter from Secretary Andrus reprinted in full earlier in my remarks.

The Secretary said:

During the period between now and mid-1981 . . . a concerted and cooperative effort will be made to better assess South Dakota water resource needs.

That has not happened, as promised by the Secretary, but the State of South Dakota has made progress in its water planning and priority-setting activities. Our bill will recognize and give meaning to those activities, pursuant to our agreement with the Carter administration.

Our bill is a hearty reaffirmation of the words of Secretary Andrus:

Most importantly, we want to contribute to the establishment of a new atmosphere of cooperation among State, Federal, and local interests to address common problems. We will gladly enter into such an effort at the field and policy levels with the possibility of identifying new appraisal and feasibility level studies which can be supported for authorization by all the parties concerned.

The Carter administration, including the Office of Management and Budget, supported the agreement into which Secretary Andrus entered with the South Dakota delegation. While the terms of the agreement have yet to be realized, the bill my South Dakota colleagues and I have introduced today is a step toward that end. Based upon Secretary Watt's public and private comments on the obligation of the Federal Government to my State, I am confident the Reagan administration will help us in carrying through the process which has begun, and I urge my colleagues in the Senate to support prompt passage of this measure of great importance not only to water development in South Dakota but to the integrity of the word of the Federal Government as well.

I ask unanimous consent that the text of the bill be printed in the RECORD, as follows:

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

S. 1553

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

(a) The WEB Rural Water Development Project, authorized by section 9 of Public Law 96–355, is reauthorized.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") is directed to proceed with the development of the WEB Rural Water Development Project, consistent with the terms of section 9(e) of Public Law 96–355, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981, except that such funds shall be made available directly to the WEB Association and shall not be transferred to the Department of Agriculture.

SEC. 2. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a study pursuant to this Act which shall include consideration of—

(1) alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James division, Pick-Sloan Missouri River Basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison Unit, Pick-Sloan Missouri River Basin program, North Dakota;

(3) a modified plan of development for the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri River Basin program, South Dakota, including alternative lands or reduced acreages; and

(4) the potential for development of any other water project or projects proposed by the Governor of the State of South Dakota, in accordance with the policies and priorities of the State, which the Secretary determines may qualify for Federal construction funding under the terms of this section.

(b) In formulating his recommendations to Congress the Secretary shall take into account the land inundated in South Dakota under the Pick-Sloan Missouri Basin program and the irrigation development authorized for South Dakota by the Flood Control Act of 1944. In determining the feasibility of projects proposed by the State under this section the Secretary shall use criteria no less favorable than those under which the Oahe Unit, initial stage, was authorized, except that the Secretary may use other criteria with the consent of the State.

(c) The Secretary shall report to Congress the findings of the studies, along with his recommendations for disposition of the Oahe Unit, initial stage, for development of the Pollock-Herreid unit, and for Federal involvement in other projects proposed by the State.

(d) The Secretary may contract with the State to carry out the studies authorized by this section.

(e) The studies performed and the reports made under this section shall be of reconnaissance, appraisal, or feasibility grade as is appropriate to determine whether fur-

ther action on the development of the Secretary's recommendations is warranted.

SEC. 3. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe Unit, initial stage, and to release any and all funds accumulated by the Oahe Conservancy Subdistrict under the master contract.

(b) Those features of the authorized plan of development for the Oahe Unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2(a)(1) of this Act.

SEC. 4. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Missouri River Basin program pumping power to irrigation projects constructed in South Dakota by Indian tribes or by public entities organized under State law and which have been authorized by the Flood Control Act of 1944 to receive such power. Such power shall be made available at the request of the State of South Dakota or an Indian tribe, regardless of the source of construction funding for such irrigation projects.

SEC. 5. There are authorized to be appropriated $——— to carry out the provisions of this Act.●

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. WILLIAMS, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. NUNN, Mr. CHILES, Mr. HEFLIN, Mr. STENNIS, Mr. JOHNSTON, Mr. TOWER, Mr. MATSUNAGA, Mr. COCHRAN, Mr. CRANSTON, Mr. METZENBAUM, Mr. CANNON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LONG, Mr. MITCHELL, Mr. BENTSEN, Mr. INOUYE, Mr. BIDEN, Mr. HAYAKAWA, Mr. COHEN, Mr. EAST, Mr. KENNEDY, and Mr. DURENBERGER):

S.J. Res. 103. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the 7 calendar days beginning October 4, 1981, as "National Port Week."; to the Committee on the Judiciary.

NATIONAL PORT WEEK

Mr. HOLLINGS. Mr. President, I introduce and send to the desk a joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the first calendar week of October 1981 as "National Port Week," and for other purposes. In past years, Mr. President, Congress has seen fit to make a similar designation. Because of the vital role the Nation's ports play as economic centers this year should be no different.

Additionally, Mr. President, I am personally pleased to introduce this resolution because Mr. W. Don Welch, president of the South Carolina State Ports Authority has been elected to serve as president of the American Association of Port Authorities for this year. This association, Mr. President, is one of the driving forces behind the maintenance and improvement of the Nation's ports as vital contributors to commerce and trade.

I am pleased to introduce this resolution and urge timely consideration and approval of this recognition of our ports. Joining me as cosponsors are: Senators THURMOND, WILLIAMS, SARBANES, STAFFORD, TSONGAS, NUNN, CHILES, HEFLIN, STENNIS, JOHNSTON, TOWER, MATSUNAGA, COCHRAN, CRANSTON, METZENBAUM, CANNON, BRADLEY, MOYNIHAN, LONG, MITCHELL, BENTSEN, INOUYE, BIDEN, HAYAKAWA, COHEN, EAST, KENNEDY, and DURENBERGER. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES 103

Whereas the past development of the public ports of the United States is the result of a fruitful partnership in which State and local authorities have assumed major responsibilities for land-based port development with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States;

Whereas our Nation's commercial seaports and inland river ports are indispensable to foreign and domestic waterborne commerce and to the economic well-being and national security of the United States;

Whereas the maintenance and development of a national network of commercial ports is vital to expanded international trade and to the attainment of a favorable trade balance;

Whereas commercial ports serving the waterborne commerce of the United States are responsible for the continued employment of more than one million workers and in 1980 generated a total of $66,000,000,000 in direct and indirect dollar income from gross sales and services to their users;

Whereas there is a continuing need to focus public attention upon the value to our Nation of a viable and competitive system of commercial ports; and

Whereas the "National Port Week" observance promotes public recognition of the vital role that our ocean and inland ports have played in the economic growth and development of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the seven-day period beginning October 4, 1981, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

By Mr. MELCHER:

S.J. Res. 104. Joint resolution directing the President to consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within the next 90 days; to the Committee on Banking, Housing, and Urban Affairs.

REDUCING INTEREST RATES

● Mr. MELCHER. Mr. President, today I am introducing a joint resolution directing President Reagan to begin immediate consultations with the Federal Reserve Board for the purpose of modifying the Board's economic policies in connection with reserve requirements, open market committee control over the money supply, and Federal Reserve discount rates so as to substantially reduce interest rates within the next 90 days.

We simply cannot wait any longer to begin getting interest rates back to reasonable levels.

During most of this century, real interest rates—that is, the rate after discounting inflation—have held steady at about 2 or 3 percent. Today, real interest rates are running at 10 to 12 percent—four times their historical average.

I have been holding a series of Senate forums to document the impact that current high interest rates are having on various sectors of our economy. Farm representatives have told me that "high interest rates will cost us an entire generation of young farmers." Housing representatives have testified that "current interest rates are breaking the back of the housing industry." Economists pointed out that, "with current money supply levels there can be no growth whatsoever in the economy."

Because of current high interest rates, housing starts are at record lows, bankruptcies are at record highs, and unemployment is on the rise.

These interest rates must come down, and come down now, or they will snap the back of our economy.

I believe that the only reason there has not been more of an outcry over high interest rates in the past several months is that President Reagan keeps assuring us that approval of his economic program would quickly bring down interest rates. As recently as the Ottawa Summit, President Reagan assured other heads of state that high U.S. interest rates were only temporary.

However, that tune has now changed. In a Washington Star interview on July 8, Treasury Secretary Regan broke with earlier administration statements that the prime rate would fall to between 10 and 13 percent by the end of the year. He said:

I'd say if we got near the 13 percent level by the end of the year, we'd be lucky.

Other administration spokesmen are now echoing his belief that interest rates will stay high.

The view that interest rates will not come down as the administration earlier predicted was reinforced by Federal Reserve Board Chairman Paul Volcker's recent statement that the Board had decided to further tighten the money supply for the remainder of 1981 and for 1982, thereby insuring interest rates will stay high for the foreseeable future. Chairman Volcker announced on July 13 that the Board will only permit a 3.5-percent growth in the remainder of this year, and that money growth targets for 1982 will be cut by three-fourths of 1 percent.

Further, in testimony before my Senate forum on high interest rates held on July 27, Federal Reserve Board Governor Lyle Gramley said that the Board would have to see a "fundamental breakthrough on inflation" before easing up on high interest rates. When I asked what he would determine as a "fundamental breakthrough," he responded that one of the important signs would be a decline in wages. I find it astounding that the Federal Reserve Board has decided to keep the money supply tight, and to keep interest rate levels at record levels until they see a decline in the wages of working people. I am sure this is not Congress' attitude, and I hope it is not President

Reagan's. Further, I believe we must make this perfectly clear to the Federal Reserve Board.

The statements of Chairman Volcker and the testimony I received from Governor Gramley have persuaded me that there is no chance of convincing the Federal Reserve Board to be reasonable on the question of interest rates.

Therefore, we are left with only one choice—to direct President Reagan to press the Federal Reserve Board with the aim of reversing current monetary policies. That is what this joint resolution will do. I hope that we can quickly enact it and send it to President Reagan so that he will understand just how serious the Congress believes this problem to be.●

ADDITIONAL COSPONSORS

S. 53

At the request of Mr. HAYAKAWA, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 53, a bill to amend the Voting Rights Act of 1965 to repeal certain requirements relating to bilingual election requirements.

S. 131

At the request of Mr. INOUYE, the Senator from North Dakota (Mr. BURDICK), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 131, a bill to incorporate the Pearl Harbor Survivors Association.

S. 178

At the request of Mr. DURENBERGER, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 178, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural gas through removing excessive burdens on the production of coal.

S. 195

At the request of Mr. GOLDWATER, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 195, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 517

At the request of Mr. BENTSEN, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 517, a bill to amend the Clean Air Act to provide for further assessment of the validity of the theory concerning depletion of ozone in the stratosphere by halocarbon compounds before proceeding with any further regulation of such compounds, to provide for periodic review of the status of the theory of ozone depletion, and for other purposes.

S. 854

At the request of Mr. PERCY, the Senator from Ohio (Mr. GLENN), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 854, a bill to promote the orderly conduct of international relations by facilitating the operation of foreign missions in the United States, thereby promoting the secure and efficient operation of the United States missions abroad.

S. 961

At the request of Mr. BENTSEN, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 961, a bill to require that a Federal agency may not require that any person maintain records for a period of 5 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 5 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1338

At the request of Mr. MCCLURE, the Senator from Montana (Mr. MELCHER), the Senator from Nevada (Mr. LAXALT), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of S. 1338, a bill to amend the Strategic and Critical Materials Stock Piling Revision Act of 1979 in order to prescribe the method for determining the quantity of any material to be stockpiled under such act, and for other purposes.

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 1338, supra.

S. 1486

At the request of Mr. MITCHELL, the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 1486, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide compensation for medical expenses caused by hazardous substance releases, and for other purposes.

S. 1528

At the request of Mr. PROXMIRE, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1528, a bill to amend the Social Security Act to provide for improved management of the social security trust funds and increase the return on investments to those funds.

SENATE JOINT RESOLUTION 62

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Joint Resolution 62, a joint resolution to authorize and request the President to designate the week of September 20 through 26, 1981 as "National Cystic Fibrosis Week."

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 62, supra.

SENATE JOINT RESOLUTION 65

At the request of Mr. PELL, the Senator from New Hampshire (Mr. RUDMAN), and the Senator from Illinois (Mr. DIXON) were added as cosponsors 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 97

At the request of Mr. MITCHELL, the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week".

SENATE RESOLUTION 65

At the request of Mr. DURENBERGER, the Senator from Washington (Mr. GORTON), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Resolution 65, a resolution to promote alternative nonanimal testing procedures.

SENATE RESOLUTION 178

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Resolution 178, a resolution to commemorate the 200th anniversary of the birth of Robert Mills.

SENATE CONCURRENT RESOLUTION 25—CONCURRENT RESOLUTION TO DISAPPROVE PROPOSED RULE RELATING TO INCREMENTAL PRICING

Mr. MCCLURE submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 25

Resolved by the Senate (the House of Representatives concurring), That the Senate does not approve the proposed rule under section 206(d) of the Natural Gas Policy Act of 1978 (relating to incremental pricing) a copy of which was transmitted to the Congress on July 27, 1981.

● Mr. MCCLURE. Mr. President, I am submitting today a concurrent resolution of disapproval, pursuant to subsections 206(d) and 507(c)(3) of the Natural Gas Policy Act of 1978, relating to the proposed rule of the Federal Energy Regulatory Commission on Incremental Pricing transmitted to the Congress on July 27, 1981. The act provides that the rule shall take effect only after the first 30 days of continuous session, defined so as not to include adjournments of more than 3 days to a day certain, such as the August recess, provided that the Congress by concurrent resolution does not disapprove the rule.

Mr. President, I ask unanimous consent that the letter of transmittal and the Commission's order on the rule be printed in the RECORD at this point.

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

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, July 27, 1981.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: With this letter, the Federal Energy Regulatory Commission (FERC) respectfully submits for Congressional review a rule which provides for an exemption from incremental pricing pursuant to Section 206(d) of the Natural Gas Policy Act of 1978 (NGPA). This rule will take effect unless either House of the Congress adopts a resolution of disapproval

within the time period specified in Section 507(c)(3) of the NGPA.

Title II of the NGPA requires the FERC, within certain guidelines, to institute and administer an incremental pricing program designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the Act to certain industrial facilities that use natural gas as boiler fuel. The purposes of the program are to shield high-priority customers from the natural gas price increases permitted under Title I and to prepare the market for deregulation of natural gas pricing in 1985.

The rule submitted herein would permanently exempt all facilities subject to incremental pricing from Section 204(e) of the NGPA, insofar as that Section requires surcharges above the price of high-sulfur No. 6 fuel oil. This exemption would be accomplished by establishing a single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil.

The Commission has extensively examined the relative merits of a single-tier price ceiling as opposed to the three-tier system now scheduled to take effect on November 1, 1981. As discussed in detail in the attached rule, the Commission has concluded that the goals of incremental pricing would not be furthered by a three-tier system and that permanent adoption of a single-tier system would prevent potentially wasteful capital expenditures and, in some cases, economic failure of marginal facilities.

Sincerely,

KENNETH F. PLUMB,
Secretary.

[Order No. 167]

FEDERAL ENERGY REGULATORY COMMISSION

Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling; Docket No. RM81-27

FINAL RULE

(Issued July 24, 1981)

The Federal Energy Regulatory Commission (Commission) is amending its regulations on incremental pricing (18 C.F.R. Part 282) under Title II of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. §§ 3301-3432). Specifically, §§ 282.204(e)(2)(iii), 282.402 and 282.403 are amended to permanently exempt all facilities subject to incremental pricing from the No. 2 fuel oil ceilings and in so doing establish a single-tier, high-sulfur No. 6, alternative fuel price ceiling.

I. BACKGROUND

Title II of the NGPA requires the Commission, within certain guidelines, to institute and administer an incremental pricing program. The program is designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA to certain industrial facilities that use natural gas as boiler fuel. The purpose of the program is to shield high-priority customers from the natural gas price increases permitted under Title I and to prepare the market for deregulation of natural gas pricing in 1985.

Generally under Title II of the NGPA the incremental pricing surcharge applicable to a particular facility is the difference between the price that otherwise would have been paid for natural gas by that facility and the price at which the facility can purchase alternative fuel. The price of the alternative fuel (the alternative fuel price ceiling) is determined in accordance with section 204(e) of the NGPA. Section 204(e)(1) provides that the alternative fuel price ceiling for an incremental pricing region is the price of No. 2 fuel oil that is determined by the Commission to be paid by industrial users in that region. Section 204(e)(2) provides that the Commission may reduce the alternative fuel price ceiling to an amount not lower than the price for No. 6 fuel oil, if it determines that the reduction is necessary to prevent an increase in rates and charges to residential, small commercial, and other high priority customers.

On September 28, 1979, the Commission issued a rule in Docket No. RM79-21 (Order No. 50) implementing section 204(e) by establishing a three-tier system for alternative fuel price ceilings.[1] Under this system, three alternative fuel price ceilings are to be published for each incremental pricing region. The three price ceilings are calculated on the basis of sales in the region of No. 2 fuel oil, low-sulfur No. 6 fuel oil, and high-sulfur No. 6 fuel oil.[2] The price ceiling applicable to any industrial boiler fuel facility is the price of No. 2 fuel oil in the region in which the facility is located, unless the facility can demonstrate that it has the installed capability and legal authority to burn a lower priced fuel oil. If so, the ceiling which corresponds to the lowest priced fuel oil that the facility has the installed capability and legal authority to burn becomes the facility's price ceiling.

The Commission determined that immediate implementation of the three-tier system was inappropriate (for reasons discussed below), and, accordingly, issued a second rule in Docket No. RM79-21 (Order No. 51),[3] postponing the application of the three-tier, alternative fuel price ceilings. Order No. 51 provided that from January 1, 1980 until November 1, 1980, the alternative fuel price ceiling for each region would be established by the price of high-sulfur No. 6 alternative fuel oil. This "single-tier" system was issued under the authority of section 206(d) of the NGPA,[4] and essentially, temporarily exempted industrial facilities from incremental pricing surcharges which would otherwise result from application of an alternative fuel price ceiling above the price of high-sulfur No. 6 fuel oil.

Because the Commission subsequently foresaw that its concern regarding the three-tier system would not be resolved by November 1, 1980, it issued another rule in Docket No. RM79-21 (Order No. 81),[5] which extended the application of a single-tier, high-sulfur No. 6 fuel oil, ceiling until October 31, 1981. Presently, the three-tier system is scheduled to take effect on November 1, 1981.

On April 22, 1981, the Commission issued a Notice of Proposed Rulemaking,[6] proposing to amend its incremental pricing regulations at §§ 282.402 and 282.403 to permanently exempt all facilities subject to the program from the No. 2 fuel oil ceiling, and in so doing, to establish a single-tier, high-sulfur No. 6 alternative fuel price ceiling. Interested persons were afforded the opportunity to present data, views and comments at a public hearing held May 28, 1981 and to file written comments by May 29, 1981.[7]

A number of written and oral comments were received in response to the Commission's Notice of Proposed Rulemaking in this docket, with most of the comments supporting the proposed rule. The Commission has carefully considered these comments as well as the effect that a three-tier system would have in furthering the goals of incremental pricing and the impact it would have on certain industrial facilities and on the economy. In view of these considerations, the Commission has decided to exempt all facilities subject to the program from the No. 2 fuel oil ceiling, and in so doing, establish on a permanent basis, a single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil. The Commission's authority to establish this price ceiling is based on section 206(d) of the NGPA.

Footnotes at end of article.

II. DISCUSSION

Price shielding

As previously discussed, the incremental pricing program was designed to pass through, by surcharge, a portion of the increases in the wellhead prices of natural gas allowed under Title I of the NGPA to certain industrial facilities that use natural gas as boiler fuel. One purpose of the program is price shielding, *i.e.* the shielding of high-priority customers from the natural gas price increases permitted under Title I.

One factor the Commission must consider in implementing the incremental pricing program is that the potential impact of the program has been minimized by the relatively small number of facilities subject to incremental pricing. The number of participants in the program is limited for several reasons.

First, under the statutory scheme of Title II, facilities served by intrastate pipelines are generally not subject to incremental pricing. This factor keeps a large segment of the industrial gas market, particularly the market in the gas producing states traditionally served by intrastate pipelines, out of the program.

Second, the scope of incremental pricing has been significantly reduced. At the time of enactment of the NGPA incremental pricing program was envisioned as eventually being imposed on a wide variety, and large number, of industrial users. As required by section 202 of the NGPA, the Commission issued a rule[8] that would have expanded the incremental pricing program to cover industrial facilities not originally included in the program.[9] That rule was subject to Congressional review and was vetoed. As a result, the scope of the incremental pricing program has been significantly curtailed.

Finally, Congress has established a number of statutory exemptions including small users[10], schools, hospitals, electric generation by utilities, qualifying electric cogeneration facilities, and agricultural facilities.[11] Similarly, the Commission has promulgated rules exempting new small users[12] and mechanical cogeneration facilities.[13]

These exemptions leave only approximately 1500 facilities[14] in the incremental pricing program to bear the impact of the surcharges and to shoulder the burden of meeting the goals of incremental pricing. In most cases, this burden amounts to surcharges in the thousands or hundreds of thousands of dollars per year.[15] However, although these surcharges may be substantial there is very little benefit to consumers by way of price shielding because there are so few incrementally priced users and so many high-priority consumers to share the benefits.

The Commission promulgated the three-tier system to maximize the surcharge absorbed by industrial facilities, and at the same time prevent the loss of consumers who have the option of switching to alternative fuels less expensive than No. 2 fuel oil. However, the Commission now believes that imposition of the three-tier rather than the single-tier program will not significantly increase the price shielding impact of incremental pricing. The Commission believes that the large increases in price ceilings which would result from implementation of the three-tier system would cause facilities that do not now possess the capability for using No. 6 fuel oil as an alternative fuel to make substantial investments to acquire that capability, primarily for the purpose of qualifying for a lower incremental pricing surcharge.

Many of the comments provided information which supports the view that the additional surcharges incrementally priced facilities would have to pay under a three-tier system could economically justify in-

vestment by such facilities in high-sulfur No. 6 fuel oil capability.[16] Many of these facilities have not previously made this investment because it was not to their economic advantage given the limited need for an alternative fuel. Several areas of the country have historically experienced little or no curtailment. Facilities located in such areas either have no alternative fuel capability or possess No. 2 fuel oil capability that is used solely as a back-up. The higher priced No. 2 fuel oil has never been an economic alternative fuel for these facilities over the long run. The record shows that imposing a No. 2 fuel oil price on a permanent basis would provide sufficient incentive for many of these facilities to install No. 6 capability.

Testimony and data submitted by the commentors indicate that investments in the purchase and installation of equipment to burn high-sulfur No. 6 fuel oil can usually be recovered by means of reduced incremental pricing surcharges in less than a year, and in some cases, substantially shorter periods of time.[17] For example, comments submitted by Armour and Co. at the public hearing [18] demonstrate that if a three-tier system were implemented, the increased cost to the Armour-Dial Soap manufacturing plant in Aurora, Illinois, would be approximately $4,750,000 per year. By contrast, the cost of installing No. 6 capability would be $228,000. Armour states that it would immediately install this capacity for the sole purpose of avoiding the higher surcharges.[19] For all practical purposes, such expenditures would result in the three-tier system evolving into a single-tier system using the price of No. 6 fuel oil. Any benefits derived from a three-tier system would be short-lived as it evolved into a single-tier system.

The Commission believes that the three-tier system would not only evolve into a single-tier system, but that it would do so at great expense to incrementally priced users of natural gas. As illustrated by the above example, incrementally priced users would be encouraged to make wasteful capital investments in alternative fuel facilities for the primary purpose of avoiding the additional surcharges arising from a three-tier system. Such expenditures would divert funds from more useful capital investments.

The Commission also shares the concerns raised by several commentors about the economic consequences that implementation of the three-tier system would have on those remaining facilities that do not possess sufficient capital to install residual oil capability or whose gas consumption is too small to economically justify installation of residual oil capability. As United Distribution Companies, Process Gas Consumers Group and others commented, an additional surcharge in the range of two or three dollars per Mcf would likely force some facilities to shut down or sharply curtail their production. United Gas Pipeline Company stated that in some cases these plants are the primary source of income for the community in which they are located and their closure would have a severe economic impact on the community. The New York Public Service Commission expressed similar concerns, noting that older facilities in the state might be closed, and jobs and related taxes transferred to other regions of the country where energy costs are not as high. High priority gas customers may also experience greater costs due to the load loss on the distributor's system.

The Commission expects that those facilities which remain in business but are unable to install alternative fuel capability will encounter severe financial problems. The financial problems encountered by facilities under the single-tier program have been demonstrated by the Commission's experience with adjustment requests filed pursuant to section 502(c) of the NGPA. The number of adjustment requests filed with the Commission seeking relief due to financial hardship from incremental surcharges has increased markedly during this past winter heating season as the incremental price ceilings have increased. Many of these facilities have paid surcharges of $1 per Mcf or more in the past few months. The Commission is concerned that the number of facilities encountering financial hardships could dramatically increase if facilities were paying additional surcharges in excess of $2 per MMBtu as determined under a three-tier system.

One comment urging adoption of a three-tier system suggested that capital investment in No. 6 fuel oil burning equipment could be discouraged by providing that facilities may not qualify for the lowest-tier price unless they used high-sulfur No. 6 fuel oil on the date on which they last used a petroleum-based fuel or on a date specified by the Commission.

For the following reasons, the Commission does not accept this suggestion. Adopting a rule tying the ceiling to the alternative fuel last used would simply encourage industrial users to invest in and use alternative fuel capability for the purpose of avoiding the incremental pricing surcharge. Moreover, as to incrementally-priced users, it would discourage the use of any fuel oil other than high-sulfur No. 6.

The second alternative, fixing a date after which installation of No. 6 fuel oil capability would not qualify the facility for the No. 6 fuel oil ceiling, would simply be unfair. Such a rule would not respond to legitimate changed circumstances. The Commission believes that the price ceiling applicable to an industrial boiler fuel user should change as his fuel use capability changes.

In summary, the Commission believes that the adverse economic consequences of implementing a three-tier approach overshadow the possible benefits of any short-term price shielding. If a large number of facilities were to install No. 6 capability, as the record indicates, and if marginal firms were forced to shut down because of the increased cost of their fuel, the additional surcharges collected under the three-tier approach would be minimal. At the same time, it is likely that implementation of the program would, in many cases, promote extensive wasteful capital expenditure, and, in some cases, failure of marginal firms. The Commission therefore does not believe implementation of the three-tier approach would provide an overall benefit to high priority users.

Market ordering

Another purpose of incremental pricing is to prepare the market for deregulation in 1985. Congress recognized that under the NGPA pricing scheme interstate pipelines would be in a position to outbid intrastate pipelines in acquiring new gas supplies after deregulation. The potential of interstate pipelines to pay more for new supplies results from the fact that only a portion of all interstate gas will be deregulated in 1985 under Title I of the NGPA.[20] Because much of the "old" interstate gas will remain under price regulation after 1985 the interstate pipelines will be able to "roll in" high-priced, new gas with the lower-priced, regulated gas so that the average price will remain competitive with alternate fuels.

Incremental pricing is designed to minimize this effect by allocating a portion of the price increases resulting from deregulation to the interstate end-users who ideally are the most responsive to price changes (*i.e.*, the low-priority users). Since it was expected that these end-users would reduce their gas consumption (through conservation or fuel switching) as their gas costs increase, the interstate pipelines were expected to be faced with decreased demand and a shrinking market, and thereby to be induced to restrain their bidding for high-priced supplies. If the ability of the interstate pipelines to pay extremely high prices for new gas were so limited, the intrastate pipelines could remain in the market for such supplies. Other market-ordering functions would also be served, such as restraining the average price of interstate gas and limiting the windfall profits which producers would obtain from the high prices.

The Louisiana Resources Company (Louisiana Resources), an intrastate pipeline, filed comments expressing its concern that a single-tier system would not adequately serve this "market-ordering" function of the incremental pricing program. Louisiana Resources expects that it will be unable to obtain new gas supplies once deregulation occurs. Specifically, it is concerned that the single-tier program will minimize the market ordering impact of the incremental pricing program.

The Commission recognizes that the incremental pricing program was originally designed by Congress to serve a market-ordering as well as a price shielding function.[21] However, a number of factors undermine the program's effectiveness in meeting those goals. As previously discussed in this rule and at greater length in Docket No. RM80-10, only a small fraction of the total interstate market is subject to incremental pricing. The Commission estimates that 900 Bcf is consumed for non-exempt uses, while approximately 14 Tcf is sold in the interstate market. Thus, less than 7% of the market is subject to the program. It appears reasonable to expect that such a very small portion of the market could do little to restrain the wellhead price of natural gas.

Moreover, the relationship between the wellhead price of gas and the burner tip price paid by non-exempt customers has become quite tenuous. Because there are so few non-exempt users in the incremental pricing program and state regulatory authorities are retaining the benefits of incremental pricing within their own state, non-exempt users generally have been priced at the incremental pricing ceilings. With all non-exempt users already at the ceilings, most price increases for gas in the field flow directly to exempt users. Consequently, the customers who are least able to respond to price increases (*i.e.*, the high-priority customers) bear the effect of wellhead price increases and little bidding restraint results.

Louisiana Resources' comments indicate that they are aware of some of the practical limitations on the efficacy of incremental pricing as a market-ordering mechanism. Nevertheless, Louisiana Resources argues that: (1) a market-ordering mechanism is needed; (2) incremental pricing is the only such mechanism available, and (3) the three-tier system will probably serve to restrain interstate demand more than a single-tier high-sulfur No. 6 oil price ceiling. Louisiana Resources proposes two alternatives to implementing a single-tier system on a permanent basis. First, they propose that the Commission develop a companion rule designed to deal with the market-ordering problem. Consideration of the proposed rule in this docket would be deferred until the companion rule is developed. In the alternative, they propose that the Commission reject the proposed rule and implement the three-tier system on a trial basis. Louisiana Resources further states that the Commission should "at the very least" adopt another temporary one-year exemption to the three-tier pricing scheme.

The Commission does not accept these proposals. The first proposal offers no suggestion as to the type of market-ordering alternative the Commission should consider in a companion rulemaking. The Energy Information Administration (EIA) will require several months to implement the three-tier price ceilings. Because the three-tier ceilings are scheduled to go into effect on November 1

Footnotes at end of article.

of this year, the EIA must know within a very short period of time whether to begin the difficult and costly implementation process. The soliciting of suggestions and the development of such market-ordering alternatives in a companion rulemaking would require more time than is available.

The second proposal, implementation of the three-tier ceilings on a trial basis, is defective for other reasons. The market for gas at the wellhead is presently ordered by the ceiling prices under Title I of the NGPA. The market-ordering function of incremental pricing will not be needed until those ceiling prices are lifted in 1985. A trial period of the three-tier system at the present time, when nearly all gas is subject to price controls (well below the price of competing fuels), would be an empty exercise.

It is simply not reasonable to expect that wellhead prices would be reduced below their statutorily-mandated price ceilings by the implementation of a three-tier incremental pricing program. The ability of interstate pipelines to market gas, at least to non-exempt users, may be restrained under the three-tier price ceilings. But demand restraint for its own sake is not in the public interest at this time.

The Commission recognizes the potential seriousness of the market-ordering problem raised by Louisiana Resources. However, the Commission does not believe that imposing a three-tier incremental pricing program in November of 1981 is an appropriate response to the problem. To the extent this issue remains relevant when natural gas is deregulated, individuals may request the Commission to reconsider implementing a more effective market-ordering mechanism at that time.

Other considerations

The Commission believes that the reasons discussed above provide a sufficient basis for implementing the single-tier alternative fuel price ceiling at the level of high-sulfur No. 6 fuel oil on a permanent basis. However, the Commission is also concerned that expanding the incremental pricing surcharge to a three-tier system would exacerbate the already existing problems associated with the calculation of price ceilings. Under the single-tier program, the Commission has experienced serious difficulties, in view of the present fluctuations in oil prices, in developing a methodology that yields alternative fuel price ceilings which accurately reflect the current price of fuel oil, on a monthly basis, for the individual states. Other problems have involved price disparities among neighboring regions, and the fact that many facilities could buy alternative fuel in neighboring states at a lower price than the price ceiling calculated for their own state. If such facilities purchased lower priced alternative fuels, load loss on the system may result. Thus a higher proportion of fixed system costs will be shifted to high-priority gas customers,[1] thereby defeating one purpose of the incremental pricing program, the partial shielding of high-priority users from high natural gas costs. The Commission believes that such problems will only be exacerbated under a three-tier system.

Finally, in its Notices of Proposed Rulemaking in this docket, the Commission stated that the permanent single-tier alternative fuel price ceiling proposed in that Notice and established by this Final Rule would be issued pursuant to section 206(d) of the NGPA as were Order Nos. 51 and 81. However, interested persons were invited to submit comments and data relating to the required findings under section 204(e)(2) of the NGPA.

Many commentors expressed views on the Commission's authority to establish a single-tier alternative fuel price under section 204 (e) or section 206(d) of the NGPA. In particular, comments submitted by the National Consumer Law Center and the Midwest Fuel Oil Council questioned the Commission's authority to establish a single-tier system under section 206(d) of the NGPA.

It is the Commission's view that section 206(d) of the NGPA provides the authority to exempt all boiler fuel facilities subject to the program from section 204(e) of the NGPA insofar as that section requires surcharges above the price of high-sulfur No. 6 fuel oil. This view is supported by the statutory language of section 206(d), the legislative history and Congressional intent behind section 206(d), and the recent decision in *Ohio Association of Community Action Agencies et al.* v. *Federal Energy Regulatory Commission, et al.*, No. 81–1208 (D.C. Cir. June 15, 1981) affirming the Commission's use of section 206(d) authority in promulgating Order No. 51.

IV. SUMMARY OF THE RULE

This rule amends §§ 282.204(e)(2)(iii), 282.402, and 282.403 of the Commission's current regulations. Current § 282.402(a), which states that a facility's alternative fuel capability is to be determined in accordance with § 282.403, is deleted. Current § 282.402 (b)(1), which provides for the determination and publication of alternative fuel price ceilings based on sales of No. 2 fuel oil, low-sulfur No. 6 fuel oil and high-sulfur No. 6 fuel oil, is also deleted.

Current § 282.402(b)(2), with three changes, now becomes the general exemptive rule in revised § 282.402. The changes are: (1) all industrial boiler fuel facilities subject to incremental pricing are exempt from section 204(e) of the NGPA insofar as it requires surcharges above the price of high-sulfur No. 6 fuel oil; (2) the published price ceiling is the price ceiling for high-sulfur No. 6 fuel oil; and (3) the clause relating to the alternative fuel capability of the facility is deleted. Thus, revised § 282.402 exempts all industrial boiler fuel facilities subject to the program from any surcharge in excess of the price of high-sulfur No. 6 fuel oil, and provides that the alternative fuel price ceiling applied to a non-exempt industrial boiler fuel facility for any month is the ceiling which is published for high-sulfur No. 6 fuel oil for that month for the incremental pricing region in which the facility is located.

Current § 282.402(c), which provides the temporary imposition of a single-tier system, is deleted.

Current § 282.403(a) provides that an incrementally-priced facility is deemed to have the capability of using No. 2 fuel oil as an alternative to natural gas, unless the facility is certified to have the capability to burn other specified fuel oils. Paragraphs (b) through (i) of current § 282.403 establish the requirements for obtaining certification. Since under the proposed rule, the alternative fuel price ceiling applicable to all facilities would be high-sulfur No. 6 fuel oil, current § 282.403 is deleted in its entirety. Section 282.204(e)(2)(iii), which requires non-exempt industrial boiler fuel facilities to indicate the alternative fuel capability of each facility, is deleted because section 282.403 is deleted.

V. CERTIFICATION OF NO SIGNIFICANT ECONOMIC IMPACT

The Regulatory Flexibility Act (RFA)[2] requires certain statements, descriptions and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities."

Pursuant to section 605(b) of the RFA, the Commission finds that the provisions of that Act do not apply to this rulemaking. This rulemaking permanently establishes the program already in effect for alternative fuel price ceilings. The program continues to use the single-tier price ceiling (at the level of high-sulfur No. 6 fuel oil) and does not impose any additional requirements. Those who are required to comply with the EIA data filing requirements of this program are generally large oil dealers whose individual sales of high-sulfur No. 6 fuel oil are in excess of 4000 gallons.

Therefore, this rulemaking does not impose any regulatory or administrative burden upon small entities, nor does it require an expense of resources by such entities. For these reasons, the Commission hereby certifies that this rulemaking does not have a significant impact on a substantial number of small entities.

VI. CONGRESSIONAL REVIEW AND EFFECTIVE DATE

Rules issued pursuant to section 206(d) of the NGPA are required to be submitted to Congress prior to becoming effective. After submission to each House of Congress the rule will take effect following 30 days of continuous session of Congress (as set forth in section 507(b) of the NGPA), unless either House of Congress adopts a resolution of disapproval within the 30-day period. Accordingly, this rule will be effective on the day following expiration of the 30-day period for Congressional review.

Congress will therefore have the opportunity to review the considerations inherent in the choice between a single-tier or three-tier system. If Congress disapproves this exemption, the three-tier system will go into effect.

(Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.* Department of Energy Organization Act, 42 U.S.C. § 7701 *et seq.* E.O. 12009, 42 C.F.R. 46267 (1978)).

In consideration of the foregoing, the Commission is amending Part 282, Subchapter I of Chapter I, Title 18 of the *Code of Federal Regulations*, as provided below.

1. The Table of Contents in Part 282 is amended by deleting the title of § 284.403 and inserting in lieu thereof "[Reserved.]"

2. Section 282.204 is amended by deleting paragraph (e)(2)(iii) in its entirety, and redesignating paragraph (e)(2)(iv) as paragraph (e)(2)(iii).

3. Section 282.402 is revised to read as follows:

§ 282.402 *Exemptive rule.*

(a) All industrial boiler fuel facilities subject to incremental pricing shall be exempt from section 204(e) of the NGPA insofar as it requires surcharges above the price of high-sulfur No. 6 fuel oil in the region in which the facility is located.

(b) The alternative fuel price ceiling which shall be applied to an industrial boiler fuel facility for incremental pricing purposes for any month shall be the ceiling which has been published for No. 6 high-sulfur fuel oil for that month, in accordance with § 282.404, for the incremental pricing region in which the facility is located, except as permitted in § 282.405.

4. Section 282.403 is amended to read as follows:

§ 282.403 [Reserved.]

FOOTNOTES

[1] "Regulations Implementing Alternative Fuel Cost Ceilings on Incremental Pricing under the Natural Gas Policy Act of 1978," Docket No. RM79–21, Order No. 50, issued September 28, 1979, 44 *Fed. Reg.* 57754 (October 5, 1979).

[2] No. 2 fuel oil (also known as distillate fuel oil) is the highest priced of the three tiers. High-sulfur No. 6 fuel oil (also known as residual fuel oil) is the lowest priced of the three tiers.

[3] "Rule Exempting Industrial Boiler Fuel Facilities from Incremental Pricing Above the Price of No. 6 Fuel Oil," Docket No. RM79–21, Order No. 51, issued September 28, 1979, 44 *Fed. Reg.* 57778 (October 5, 1979).

[4] Section 206(d) of the NGPA permits the Commission, by rule or by order, to provide for the exemption, in whole or in part, or

any other incrementally priced facility or category from the incremental pricing program, subject to Congressional review.

[5] "Rule Further Exempting Industrial Boiler Fuel Facilities From Incremental Pricing Above the Price of No. 6 Fuel Oil and Applying Ceiling Prices to Forty-Eight Incremental Pricing Regions," Docket No. RM79–21, Order No. 81, issued May 7, 1980, 45 *Fed. Reg.* 31300 (May 13, 1980).

[6] "Incremental Pricing: Adoption of Single-Tier Alternative Fuel Price Ceiling", Docket No. RM81–27 issued April 27, 1981, 46 *Fed. Reg.* 23947 (April 29, 1981).

[7] The deadline to submit written comments was extended from May 22, 1981 to May 29, 1981 by notice issued May 21, 1981, 46 *Fed. Reg.* 28672 (May 28, 1981).

[8] "Rule Required under Section 202 of the Natural Gas Policy Act: Incremental Pricing", Docket No. RM80–10, issued May 6, 1980, 45 *Fed. Reg.* 31622 (May 13, 1980.)

[9] "Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978", Docket No. RM79–14 Order No. 49, issued September 28, 1979, 44 *Fed. Reg.* 57726 (October 5, 1979).

[10] A small user is one whose average daily use of natural gas was 300 Mcf or less during a statutorily-established historical period. *See* 18 C.F.R. § 282.203(a)(1).

[11] Agricultural facilities were originally exempt pursuant to section 206(b)(1) of the statute and are currently exempt pursuant to a rule adopted by the Commission and approved by the Congress pursuant to section 206(d). *See* 18 C.F.R. § 282.23(a)(2).

[12] 18 C.F.R. § 282.203(b).

[13] 18 C.F.R. 282.209.

[14] This figure includes facilities in states that have a statewide plan, i.e., in states that have raised the retail rate of natural gas to non-exempt industrial facilities to the level of the alternative fuel price ceiling established by the federal plan.

[15] *See* interstate pipeline data submitted pursuant to 18 C.F.R. § 282.603.

[16] *See, e.g.* written comments of: United Distribution Companies (and supporting affidavits), Southern California Gas Company, Northern Illinois Gas Company, Wisconsin Gas Company, Indiana Gas Company; and oral comments of Armour and Co. at the May 29, 1981 public hearing, transcript at pp. 35–45.

[17] The recovery time is further shortened by investment tax credits and other tax incentives for capital investments, thereby enhancing the economic incentive to invest in high-sulfur No. 6 fuel oil capability.

[18] See transcript of the May 29, 1981 meeting, pp. 36–38.

[19] Comments submitted by Southern California Gas Company (SoCal) confirm the economics of such investment in California. SoCal states that the California Public Utilities Commission implemented two-tier rates for low priority users. As of April 20, 1981, SoCal received affidavits from 47 customers indicating they have installed the necessary facilities to burn No. 6 fuel oil to take advantage of a 30 cents per MMBtu price differential. By comparison the price difference between No. 2 fuel oil and high-sulfur No. 6 fuel oil is generally in excess of $2 per MMBtu.

[20] *See* section 121 of the NGPA.

[21] See the discussion in the "Rule Required Under Section 202 of the Natural Gas Policy Act: Incremental Pricing," Docket No. RM80–10 issued May 6, 1980, 45 *Fed. Reg.* 31622 *et seq.*, (May 13, 1980).

[22] Peoples Gas Light and Coke Company submitted an affidavit stating that the potential price increase to residential customers from large volume load loss is almost $75 per year.

[23] 5 U.S.C. §§ 601–612 (Pub. L. 96–354, September 19, 1980).

VIEWS OF C. M. BUTLER III

(Chairman of Commissioners, Federal Energy Regulatory Commission)

The primary purpose of these separate concurring views is to consider specifically the comments of one respondent who raises, in my opinion, the most critical issues of this rulemaking. Indeed, the questions raised have implications that range well beyond the direct subject of the rulemaking, as will be pointed out.

Louisiana Resources Company (Louisiana Resources) does not describe itself in detail in its comments. However, the company is an intrastate pipeline serving Louisiana consumers, and apparently is affiliated with The Williams Companies. Louisiana Resources' interest in this proceeding is described by it as follows:

"Louisiana Resources has an interest in this rulemaking because of the proposed rule's effect on the balance between the interstate and intrastate natural gas industries. Briefly put, Louisiana resources suggests that . . . the rule . . . will . . . significantly alter the balance created by the [Natural Gas Policy Act (NGPA)] between similar classes of customers served by interstate and intrastate pipelines. Louisiana Resources thus argues that the proposed rule, resulting as it does, in light of the NGPA, in the patent discrimination against the intrastate natural gas industry, must not be adopted." Louisiana Resources Comments at 3–4 (footnotes omitted).

Louisiana Resources explains that its problems stem from the manner in which the NGPA altered competitive characteristics of the interstate and intrastate natural gas industries. Prior to the passage of the NGPA, interstate pipelines were permitted to pay only cost-based rates for natural gas, while intrastate pipelines were able to pay higher market prices for gas. Thus, prior to the NGPA, intrastate pipelines had a significant buying advantage relative to interstate pipelines, a fact which Louisiana Resources failed to point out. However, the advantage was not without its adverse consequences because, as a general proposition, the weighted average cost of gas to intrastate pipelines evolved to a higher level than that of the interstate pipelines.

Additionally, price redetermination clauses have resulted in substantially increased average gas costs to intrastate pipelines. The differential in average gas costs between interstate and intrastate pipelines combined with the effects of the NGPA has reversed the relative buying advantages of the two classes of pipelines. This is the present market-ordering problem.[1]

Under the regime of the NGPA the market-ordering problem develops this way: First, the NGPA provides for only partial decontrol of natural gas. Some gas was deregulated rather quickly. More will be deregulated by 1985. And the remainder, the so-called old gas, will remain under price controls until it is exhausted. Much of this relatively low-cost old gas is under contract to interstate pipelines, resulting in lower average costs of gas to interstate pipelines, as described above.[2] The difference between one pipeline's endowment of price-controlled gas, and thus its weighted average cost of gas, and another's, is the source of an advantage to the one with the lower average cost of gas when the two compete for incremental supplies of gas. The differential allows advantaged pipelines to bid the price of deregulated gas above the market-clearing level because high-priced gas can be averaged ("rolled in") with the low-cost gas and still be marketable.

This phenomenon can be illustrated by a very simple example. Assume that there are only two pipelines. Pipeline 1 and Pipeline 2 have gas supply contracts that provide each with 1,000 units of gas. Because Pipeline 1 got into the game when gas was still cheap, it has only one contract, which requires it to pay $1.00/unit. Pipeline 2 started later, and it has two contracts. One enables it to purchase 500 units of gas for $1.00/unit, and the other 500 units of gas for $2.00/unit. In all material respects, all of these contracts are identical except for price.

The result of these arrangements is that Pipeline 1 pays $1,000 for its 1,000 units of gas, while Pipeline 2 pays $1,500 for its 1,000 units. Their respective weighted average gas costs are $1.00/unit and $1.50/unit, and the 50-cent difference represents Pipeline 1's bidding advantage. Now assume that 1,000 units of gas are available for sale, and the alternative fuel price at the margin is $2.00, establishing the ceiling above which gas cannot be marketed. Pipeline 1 has the buying advantage since it can offer a maximum price of $3.00/unit for the gas. When it averages the cost with its gas already under contract, it can sell the gas at an average price of $2.00 and clear the market. Pipeline 2, however, can offer no more than $2.50/unit for the gas, because to offer a higher price would push its average gas costs above $2.00/unit, disabling it from clearing the market.

The real world is more complex than the example. However, the example is useful for two reasons. First, it illustrates how control of price-regulated gas creates competitive dislocations, and thus how one pipeline can be disadvantaged in purchasing natural gas supplies relative to another under the scheme of the NGPA. Secondly, it illustrates why the Commission is seeing requests by pipeline companies to include in their PGA accounts contract prices that clearly exceed market clearing levels.[3] Incidentally, this phenomenon also relates to the Commission's apparent witch-hunt under the rubric of Section 601(c)(2) in which pipelines are sought to be penalized on "fraud, abuse or similar grounds" for doing exactly what the NGPA impels them to do, and that which anyone with an iota of economic education could predict they, in their economic best interest, would do.

How does all of this relate to the incremental pricing rules? The answer is that those rules were adopted by Congress as a mechanism to reduce the magnitude of the market-ordering problem and also to shield certain classes of consumers from the higher costs of gas resulting from the NGPA. Louisiana Resources accurately describes what Congress sought to do, if not the track record and prospects of incremental pricing, as follows:

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[1] The advantages of intrastate pipelines pre-NGPA had created a market-ordering problem of a similar kind. Instead of focusing on the nature of the problem and seeking to eliminate it, the NGPA merely reversed fields, substituting a new market-ordering problem for the old one.

[2] The difference in average gas costs is much more extensive, we think, than Louisiana Resources describes. The implication of its comments is that this difference exists just between interstate and intrastate pipelines. The implication is most likely wrong. The endowment of old gas is unevenly distributed among all pipelines, interstate and intrastate. It is probable that intrastate pipelines are more disadvantaged as a class than interstate pipelines. It is also probable that some interstate pipelines are substantially disadvantaged relative to other such pipelines.

[3] See Semiannual Purchased Gas Adjustment filed by Tennessee Gas Pipeline Company, Docket No. TA81–2–9–000 (PGA 81–2, IPR 81–2, DCA 81–2, R&D 81–2, LFCT 81–2) filed May 29, 1981. One of the company's contracts represented the purchase of deregulated gas at a price of $9.60/Mcf.

"Essentially, the market-determined cost determined by Congress resulted from the legislative determination that certain large-volume industrial customers would bear a disproportionate share of the higher gas costs paid by their pipeline suppliers for 'new' gas supplies. As conceived by the Congress, the higher retail gas costs which would thus result to such customers would both encourage increased energy conservation by the customers so affected (thus reducing the demand on the pipeline for 'new' gas), and discourage interstate pipelines from paying economically unjustified . . . prices for the 'new' gas supplies that were acquired." Louisiana Resources Comments at 11 (footnotes omitted).

Problematically, however, incremental pricing is a failure. It will not accomplish either its shielding or its market-ordering goals, although for somewhat different reasons. Incremental pricing cannot accomplish its shielding objective because the number of nonexempt users is too small. Incremental pricing therefore burdens nonexempt users without significantly reducing the price paid by exempt users. In this connection, a change from a single-tier system to a three-tier system would do little if anything to increase the shielding effect, and whatever benefit did result would be purchased at too high a price in uneconomic investment and administrative complexity. We are statutorily bound, unfortunately, to implement incremental pricing, but we are also statutorily bound to implement it in the least disruptive way possible. There is clear and substantial record evidence in this proceeding to substantiate the proposition that a three-tier system will encourage substantial fuel switching, with correlative loss of markets to pipelines and imposition of fixed costs on exempt users that they would not otherwise be required to bear. For this reason particularly we are permanently adopting a single-tier alternative fuel price ceiling based on high-sulfur No. 6 fuel oil.

There are also more fundamental causes for incremental pricing's failure as a market-ordering device, causes that would not be eliminated simply by increasing the number of nonexempt users. Incremental pricing is a form of retail rate structure regulation that does in principle offer a partial solution to the market-ordering problems. It could restrain the pipelines, as Louisiana Resources points out, from bidding the unregulated price of gas above competitive market levels if it imposed a marginal-cost price on the pipeline's most price responsive customers. However, the incremental pricing scheme established by Title II of the NGPA cannot solve even this part of the market-ordering problem. The burner-tip price paid by nonexempt users is not directly related to the marginal cost of natural gas to the pipelines.

Nor does Title II's distinction between nonexempt and exempt users correspond very closely to the distinction between price-responsive and price-unresponsive customers. Large boiler fuel users are generally considered to be the most important price-responsive category of natural gas users, and large boiler fuel users are in fact generally subject to incremental pricing if they are industrial firms.

If they are electric utilities or agricultural users, however, they are exempt. Incremental pricing therefore leads to a higher price and lower consumption for industrial boiler fuel users, but a lower price and higher consumption for electric utility and agricultural boiler fuel users. An incremental pricing scheme based on such categories can favor some kinds of companies over others, but it is doubtful that it can contribute meaningfully to the alleviation of the market-ordering problems.

It is also clear that the incremental pricing scheme has no effect on the distribution of price controlled gas among the nation's pipelines. Furthermore, the unregulated field price confronted by the pipelines will vary widely even with incremental pricing. Thus the impact of partial deregulation will be unevenly distributed among both interstate and intrastate consumers depending solely on the fortuity of which pipeline serves them, and the retail rate regulation envisioned by incremental pricing will do little to even the burden.

Finally, there is a fundamental conflict between incremental pricing's two functions. Section 204(e) requires us to set the alternative fuel price at a level that will avoid excessive loss of nonexempt customers to the pipelines. This limitation is a logical adjunct to incremental pricing's shielding function. It is, however, inconsistent with incremental pricing's market-ordering function. It is precisely the danger of losing customers that could be expected to restrain pipelines from bidding for unregulated gas.

In connection with Louisiana Resources' comments, several observations should be made. First, Louisiana Resources suggests that the Commission seeks administratively to repeal incremental pricing, and that it should have given incremental pricing a "trial" to see if it worked. Louisiana Resources also suggests that the Commission take other, unspecified steps to mitigate the market-ordering problem if it adopts the rules, and that not to do so is to act in a discriminatory and capricious manner. The response is that the Commission is doing what Congress told the Commission to do if it found such necessary to avert a disaster to interstate consumers. To ask the Commission to give incremental pricing a "trial" in the face of probable massive, permanent fuel switching and the resulting imposition of heavy fixed costs on exempt consumers is like suggesting that the military test a bomb in a crowded city to see if it works. Furthermore, it is not the Commission's rule that is discriminatory, but the NGPA which merely reversed the pre-NGPA discrimination instead of seeking a more even-handed solution to the problem.

I empathize deeply with the not inconsiderable problems faced by intrastate pipelines. The unfortunate interregional bickering that characterized the last legislative debate on natural gas policy obscured serious implications of intrastate dislocations in a cloud of rhetorical smoke. It ignored the fact that much primary industry upon which the rest of the country depends is served by intrastate pipelines. Ask Detroit, for example, about the shortage of plastics that could result from dislocations in the Louisiana-Texas petrochemical complex. Ask the rubber companies in Ohio the same question.

There are other examples. Additionally, these dislocations can be predicated to occur on some interstate pipelines, whose customers could be faced with higher gas prices than they would face under total deregulation of the wellhead prices of natural gas.

The solution which Louisiana Resources asks the Commission to find can only be found by Congress and the new Administration. The choices, as I see them, are (i) regulation of all gas, (ii) an entitlements program, or (iii) complete deregulation of all gas prices. The first would be to enact as a solution what, in my view, is actually the problem. The second would be another exercise in corporate welfare that has no more prospect for success than the program devised for refiners. The third option has some hope for success if answers to numerous mechanical problems of implementation can be fashioned. A revised incremental pricing scheme could make some contribution to solving the problem, but will do nothing to prevent the uneven impact of partial deregulation. It appears that only complete deregulation offers a solution to the market-ordering problem.

Complete deregulation is not without its costs. Any honest debate over natural gas policy must begin with the recognition that decades of price controls have created a problem for which there is no easy solution. Any alternative will adversely affect the interests of many persons.

This is true of complete deregulation, but it is also true of partial deregulation now projected to occur in January 1985. There is, and will continue to be, debate over the precise magnitude of the market-ordering problem that we will confront in the absence of legislative action.

However, there is good reason to fear that it will be severely disruptive of both interstate and intrastate natural gas markets. Experience with deregulated Section 107 gas strongly suggests that the direct benefit of continued price controls on some categories of natural gas will go to producers of deregulated gas, through prices well above the level that would prevail under complete deregulation.

For customers of some interstate pipelines, the high cost of deregulated gas will be offset by the pipelines' supply of low-cost deregulated gas. Customers of other interstate pipelines and most intrastate pipelines will, however, pay more for natural gas than they would under complete deregulation. Possibly the average price of gas to all consumers will be lower under partial deregulation than under complete deregulation.

Any benefit to consumers from this lower average price will, however, be at least partially offset by the inefficient allocation of the natural gas supply, as low-valued users are served by some pipelines while elsewhere customers to whom the gas would be more valuable are priced out of the market simply because their pipeline has little price-controlled gas.

The latter customers may include many of the nation's most important industrial users of natural gas, and the resulting disruption of their operations is unlikely to be confined to the companies concerned.

Uncertainty, confusion, and delayed institutional responses are likely to further aggravate the market-ordering problem. In the end, the uneven impact of partial deregulation is likely to create a game in which many will lose and few will win.

It is against that prospect that the costs of complete deregulation must be measured. Unfortunately, incremental pricing is no solution, whether the Commission adopts a one-tier rule or a two-tier rule.

C. M. BUTLER III.●

SENATE RESOLUTION 195—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. WEICKER, from the Committee on Labor and Human Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 195

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1533. Such waiver is necessary to permit reauthorization of the Legal Services Corporation Act. The delay in reporting S. 1533 resulted from a number of factors, including the difficult consideration by the Senate Committee on Labor and Human Resources of the reconciliation legislation pursuant to section 301 of the first concurrent resolution on the budget for fiscal year 1982.

SENATE RESOLUTION 196—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. WARNER, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 196

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1549, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1982, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1549 as reported by the Committee on Armed Services.

SENATE RESOLUTION 197—A RESOLUTION REGARDING DISTINCTION BETWEEN CAPITAL EXPENDITURES AND CURRENT OUTLAYS

Mr. HART submitted the following resolution, which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977:

S. RES. 197

Whereas, the United States is in a new economic era of increased interest in the magnitude and disposition of Federal spending;

Whereas, the Budget of the United States Government, as presently submitted to the Congress, recommends funding of Federal programs according to their missions and functions, and from this the Congress and the public can judge the amount of resources that are applied to meeting various purposes and objectives of the Government;

Whereas, the Budget contains levels of total spending and levels of income from Federal taxes and presents the anticipated size of the Federal deficit, and by looking only at the Federal deficit and the Budget according to missions and functions, the public may receive an incomplete financial picture;

Whereas, under non-emergency circumstances, the Government should not borrow to pay for current programs or purposes which provide benefits primarily in the year they are made, since it is basically unfair, and financially unwise, to obligate future populations to pay for a previous population's consumption;

Whereas, if at all, the Government should borrow funds only for capital items and investment-type programs or purposes that yield benefits in future years, since a long-term investment made in one year will benefit citizens in future years and it is fair, under these circumstances, to obligate future citizens to pay for some present investments;

Whereas, it is sound financial and customary business practice to borrow funds for capital items and long-term investments;

Whereas, while Federal borrowing for long-term investments is good business practice, a Federal deficit can be inflationary under ordinary economic circumstances and thus should be avoided; and

Whereas, by providing a Budget distinguishing capital and investment spending for current programs or purposes, the President and the Congress will show the American people the degree to which a budget deficit, which may be needed in some circumstances to promote economic growth, is also appropriate from a financial management viewpoint: Now, therefore, be it

Resolved, That it is the sense of the Senate to increase the public's general understanding of the objectives of Federal spending, especially in relation to revenue-raising practices, the Budget submitted by the President for each fiscal year under section 201 of the Budget and Accounting Act, 1921, and the budget reported by the Committee on the Budget pursuant to Section 301 of the Congressional Budget Act of 1974 should prominently and accurately distinguish proposed outlays for capital items and investment-type programs and purposes from proposed outlays for other programs and purposes and should, therefore, divide proposed outlays between those for capital items and investment-type programs or purposes, those for operating or current programs or purposes, and those for other purposes.

● Mr. HART. Mr. President, today I am submitting a Senate resolution requiring the President and the Congress to structure the Federal budget in a new way. This resolution requires the President's annual budget message to Congress to distinguish between two types of Federal spending—spending on long-term investments and spending on current programs which provide benefits primarily in the year they are made.

Most people do not understand that $1 of every $5 in the Federal budget goes to long-term capital investments by the Government. Although most businesses would account for this capital expenditure separately from current outlays, the Federal Government makes no such distinction.

This resolution is designed to make the Federal Government structure its budget the way a sound business does. It is not directly related to the current debate over the nature and size of budget deficits. Rather, it will help people to understand better where their tax dollars are actually going.

First, let me explain the difference between "investment" outlays and "current" outlays.

Current programs provide benefits primarily in the year they are made. They include: Retirement, disability, and other income maintenance payments; social and employment service benefits; subsidies or other payments—to agriculture, business, transportation systems, and other institutions—that are not directly used to purchase physical assets; payments for the repair, maintenance, and operation of established physical assets; and regulatory, law enforcement, and other operating costs of the Federal Government.

Investment type or capital programs are those that yield benefits in future years, through the acquisition of physical assets, financial assets, or through expenditures for less tangible long-term benefits such as education. They include the construction, rehabilitation, or acquisition of physical assets; education, training, and vocational rehabilitation; research and development; international development; and financial investments such as loans.

The Federal Government has never produced a capital budget in which capital or investment-type programs are accounted for separately from current expenditures. However, the Office of Management and Budget does distinguish between the two types of spending in an annual volume entitled "Special Analyses, Budget of the U.S. Government."

This analysis indicates that more than $161 billion of the total estimated outlays in fiscal year 1982 are for capital or investment-type programs. We will spend about $66 billion for defense purposes, primarily for the acquisition of major equipment. Another $95 billion will be spent in nondefense areas, including $32 billion for construction of physical assets such as highways, mass transit, and pollution control facilities; $19 billion for research and development; $28 billion for education and training; $7 billion for loans.

More than half the spending for these capital or investment-type programs is for investment in physical assets such as military equipment and highways—about $83.4 billion in the 1982 budget.

Spending on these physical assets, whether they are owned by the Federal Government or by State, local or private entities, should not be considered in the same category as current outlays. On an accountant's balance sheet, they would be listed as the country's fixed assets. But in the Federal budget, they are ordinary expenditures.

Another type of investment is for education and training. In the past 20 years, economists have been working to measure the financial rewards from investment in education. As we might expect, such investments provide a return—one that is roughly comparable to the return on investment in physical assets.

Of course, a private firm cannot place a value on the education-capital invested in its workers, because workers cannot be "owned" or sold. But from a public perspective, a more highly educated work force is desirable because productivity and wages can be increased without causing inflation.

It is noteworthy that the projected fiscal year 1982 budget deficit at $37 billion is less than half of the $83.4 billion we are spending for physical investments. Nondefense spending on construction alone totals more than $31 billion, which almost equals the projected Federal deficit.

We should eliminate the deficit and balance the budget to prevent inflation. But it is obvious that if we organized the budget correctly the Federal deficit question would look very different.

The American people need a better understanding of what their tax dollars do for them. By restructuring the Federal budget to show capital expenditures separately from the current ones, the taxpayers will be better informed. In this spirit, I urge my colleagues to support this resolution.●

SENATE RESOLUTION 198—RESOLUTION RELATING TO THE IMPRISONMENT OF BENEDICT SCOTT

Mr. PERCY (for himself, Mr. DIXON, Mr. HAYAKAWA, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 198

Whereas, Benedict Scott (Vytautas Skuodis) was born on March 21, 1929 in Chicago, Illinois, and is by right of birth a citizen of the United States of America; and

Whereas Scott and his parents emigrated to the independent Republic of Lithuania in 1930, which in June 1940 was invaded and annexed by the Union of Soviet Socialist Republics; and

Whereas Scott is a highly respected scientist, having served on the faculty of the University of Vilnius as a lecturer on hydrology and geological engineering, and is a founder of the Lithuanian environmental protection group; and

Whereas Scott fully supported the work of the Lithuanian national and religious movement, assisted in the work of the Catholic Committee for the Defense of Believers' Rights in Lithuania, and joined the Lithuanian Helsinki Group; and

Whereas on January 9, 1980 Benedict Scott was arrested in his home, tried and sentenced on December 22, 1980 to seven years in a hard labor camp and five years internal exile under Article 68–1 of the Lithuanian SSR Criminal Code for "anti-Soviet agitation and propaganda," a sentence he is currently serving in a Soviet prison camp in the Mordovian ASSR; and

Whereas on June 15, 1981 it is reported that Scott began a hunger strike to protest violations of human rights and spiritual deprivations by Soviet authorities; and

Whereas the Government of the United States has never recognized the occupation and annexation of Lithuania into the Soviet Union; and

Whereas the United States has repeatedly expressed its support for the right of self-determination for Lithuania; and

Whereas it is the responsibility of the Government of the United States to protect and support its citizens unjustly held captive by foreign governments; Now, therefore, be it

Resolved, That it is the sense of the Senate that:

(1) Benedict Scott be released from prison and be allowed to emigrate to the land of his birth, if he so chooses, and

(2) the Senate urges the President, the Secretary of State and the United States Delegation to the Madrid Conference on Security and Cooperation in Europe to express at each opportune moment and in the strongest terms the opposition of the United States to the imprisonment of Benedict Scott.

Mr. PERCY. Madam President, Benedict Scott, whose Lithuanian name is Vytautas Skuodis, was born in Chicago in 1929. The next year he and his family emigrated to the independent Republic of Lithuania, which 10 years later was invaded and annexed by the Soviet Union.

Scott, a very bright fellow, grew up to be a highly respected lecturer on hydrology and geological engineering at the University of Vilnius. He was a founder of the Lithuanian Environmental Protection Group. He assisted in the work of the Catholic Committee for the Defense of Believers' Rights in Lithuania, and is a member of the Lithuanian Helsinki Group.

On January 9, 1980, Scott was arrested. Then, on December 22, 1980, he was sentenced after trial to 7 years in a hard labor camp and 5 years of internal exile for so-called "anti-Soviet agitation and propaganda." He is currently serving this sentence in a Soviet prison camp in the Mordovian ASSR, and it is reported that he has been on hunger strike since June 15 to protest violations of human rights by the Soviet Government.

With Senators DIXON, HAYAKAWA and DODD, I am at this time introducing a Senate resolution expressing the sense of the Senate that Benedict Scott (Vytautas Skuodis) should be released from prison and allowed to emigrate to the United States, the land of his birth, if he so chooses.

Scott is a U.S. citizen by birth. He deserves our protection and support. We must let the Soviet Government know that we stand by him in the ordeal he is suffering.

Mr. DIXON. Madam President, I am proud to join the distinguished senior Senator from Illinois in submitting this resolution about Benedict Scott.

On two occasions within the past 6 months I have risen to voice my concern for the welfare of the Lithuanian people. Today, we shift our focus to the plight of a single Lithuanian; an individual who reflects both the tragedy and the proud traditions of the Lithuanians.

Benedict Scott, an American citizen by birth, emigrated to Lithuania in 1930 with his family. We are all aware of the events of June 1940, when Lithuania was invaded and annexed by the Union of Soviet Socialist Republics.

Even under the yoke of Soviet oppression, the spirit of Benedict Scott flourished. Mr. Scott became a respected scientist. He served on the faculty of the University of Vilnius.

In an atmosphere of forced spiritual deprivation, Mr. Scott assisted the Catholic Committee for the Defense of Believers' Rights, in a country where the voices of free expression had been stilled, Mr. Scott joined the Lithuanian Helsinki group.

Then, as we have witnessed all too often, Benedict Scott was arrested and sentenced, in 1980, to 7 years of hard labor and 5 years of internal exile in the Soviet Union, for the offense of "anti-Soviet agitation and propaganda."

Approximately 1 month ago, it is reported that Benedict Scott began a hunger strike to protest his imprisonment.

Senator PERCY and I offer this resolution today to signal our great concern for the welfare of this brave man. I urge my colleagues to join us in this effort. Let us not forget the plight of people such as Benedict Scott.

In closing, Madam President, I would commend to the attention of my colleagues an article about Lithuania which appears in the August 3 edition of Newsweek magazine.

Moscow Bureau Chief Andrew Nagorski draws parallels between Poland and Lithuania. Unfortunately, Lithuanians can only look upon the internal Polish reforms with amazement. The Soviets are not likely to allow such liberalization in other occupied territories. Such is the state of affairs in Lithuania.

I conclude with a quote from Mr. Nagorski's article, which again points to a flicker of hope through the darkness surrounding the Lithuanian spirit. A Lithuanian dissident laments:

We can only envy the poles—and we can only be happy for them if they succeed . . . our poor Lithuania.

AMENDMENTS SUBMITTED FOR PRINTING

SECURITY ASSISTANCE, PEACE CORPS, AND OPIC AUTHORIZATION ACT

AMENDMENT NO. 525

(Ordered to be printed and to lie on the table.)

Mr. KASTEN (for himself, Mr. HATFIELD, Mr. DOMENICI, Mr. INOUYE, Mr. PROXMIRE, and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to bill (S. 1196) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize appropriations for development and security assistance programs for the fiscal year 1982, to authorize appropriations for the Peace Corps for the fiscal year 1982, to provide authorities for the Overseas Private Investment Corporation, and for other purposes.

SPECIAL DEFENSE ACQUISITION FUND

● Mr. KASTEN. Mr. President, on behalf of myself and Senators HATFIELD, DOMENICI, INOUYE, PROXMIRE, and HOLLINGS, I submit an amendment to S. 1196. The purpose of this amendment is to provide that any funds made available for the special defense acquisition fund may be made available only to such extent or in such amounts as are provided in advance in appropriation acts.●

NOTICES OF HEARINGS

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 hearing on September 23, 1981, on "interest rates and business credit needs."

The hearing will convene at 9:30 a.m. in room 424, Russell Senate Office Building, Washington, D.C. Senator WEICKER will chair.

For additional information contact Jim O'Connell of the committee staff at 224–5175.

SUBCOMMITTEE ON ADVOCACY AND FUTURE OF SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Advocacy and the Future of Small Business of the Small Business Committee will hold a field hearing on August 27, 1981, in Los Angeles, Calif.

The hearing will be in continuation of the subcommittee's examination of the extent of Government competition with the small business sector.

The hearing will convene at 10 a.m., in the Customs Courtroom, eighth floor, Federal Building, 300 N. Los Angeles

Street, Los Angeles, Calif. 90012. Senator HAYAKAWA will chair the hearing.

For additional information contact Kim Elliott of the committee staff at 224–5175, or Grace Hussie, Senator HAYAKAWA's legislative assistant for Small Business at 224–3841.

SUBCOMMITTEE ON PRODUCTIVITY AND COMPETITION

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Productivity and Competition of the Small Business Committee will hold a field hearing on August 14, 1981, in Seattle, Wash.

The purpose of the hearing will be to examine the Employee Retirement Income Security Act of 1974 (ERISA) and the Multiemployer Pension Plan Reform Act of 1980 (MPPRA) and their effects on competition and productivity.

The hearing will convene at 9 a.m., in the New Federal Office Building, Second and Marion, Seattle, Wash. Senator GORTON will chair the hearing.

For additional information contact Brian Hartman of the committee at 224–5175 or Bob Thomas, Senator GORTON's legislative assistant for Small Business at 224–2621.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER AND SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing which will be held jointly before the Subcommittee on Public Lands and Reserved Water and the Subcommittee on Energy and Agricultural Taxation regarding land protection alternatives in Teton County, Wyo. This oversight hearing will be held on Friday, August 28, beginning at 9 a.m. at the Virginian Convention Center in Jackson, Wyo.

Witnesses who have been invited to testify at the hearing will include Governor Herschler of Wyoming; Mayor Shervin of Jackson, Wyo.; Senator Clifford P. Hansen; representatives of the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service of the Department of the Interior; representatives of the U.S. Forest Service, Department of Agriculture; and representatives of the Teton County Commissioners and the Landowners Association.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Public Lands and Reserved Water, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510; or to Pam Redfield, office of Senator WALLOP, P.O. Box 1014, Lander, Wyo. 82520, by close of business Monday, August 24.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224–5161.

ADDITIONAL STATEMENTS

JUDGE SANDRA DAY O'CONNOR

● Mr. GOLDWATER. Mr. President, the town of Paradise Valley, Ariz., has added its backing to the appointment of Sandra O'Connor to the Supreme Court. On July 23, the town council unanimously adopted a resolution endorsing her nomination and I have been informed it reflects the views of all of the citizens of the town of Paradise Valley. I ask that the resolution be printed in the RECORD.

RESOLUTION 354

Whereas, Judge Sandra Day O'Connor has distinguished herself as an attorney and a legislator, and by her dedicated and competent service in the Arizona Judicial System, and

Whereas, Judge O'Connor has been an outstanding citizen of the Town of Paradise Valley, Arizona, having brought honor to the Town and its citizens through her many achievements, and

Whereas, Judge O'Connor is possessed of an uncommon intellect, and the highest degree of ability, integrity and dignity,

Now therefore be it resolved, That the Common Council of the Town of Paradise Valley, Arizona, does hereby wholeheartedly and without reservation recommend to the United States Senate the expeditious and unanimous confirmation of the appointment of Judge Sandra Day O'Connor as an Associate Justice of the United States Supreme Court.●

COUNCILMAN BILLY ROGELL

● Mr. LEVIN. Mr. President, last Tuesday was an historic day in Detroit. It was the filing deadline for the city council election, and, for the first time in 40 years, Councilman Billy Rogell did not file.

Billy Rogell has served since 1941 on the Detroit City Council, with the exception of the years 1948–49, which makes him the longest serving council member in the United States.

I sat next to him for 8 years, and they were wonderful years. He is a man who is full of spirit and fire, speaks his mind directly, and is marked by an innate modesty and fairness. He was chairman of the annual Board of Tax Review where thousands of citizens brought appeals of their tax assessments and learned to respect the evenhandedness and the patience of Billy Rogell. We called him "old ironpants" because of his legendary willingness to sit and listen to citizens.

He held and holds so many other positions in city and county government that there is no way I can do him justice in that regard. He came to the council as a legend and he leaves as a legend.

He was the Detroit Tiger shortstop from 1929 to 1940, where his great fighting spirit helped glue the team together and helped make them American League champs in 1934 and world champs in 1935. The 1934 Tiger infield holds the record for r.b.i.'s, totaling 472 that year, with Billy getting 100 of them.

We have named the airport drive after him and a golf course after him, and even a horse has been named after him—all small efforts to repay a large debt to a man who will always be young in spirit and old fashioned in values that guide his life, such as personal loyalty, patriotism, and hard work.

In fact, the hours that Billy Rogell works are part of his legend. You can go to his office at 6 or 6:30 a.m. and Billy is there. He will always be there in spirit even after the dean of the Nation's city councils leaves for his extraordinarily well deserved retirement.●

WHY THE EQUAL RIGHTS AMENDMENT IS STALLED

● Mr. GARN. Mr. President, back when the Congress passed an extension to the ratification period for the equal rights amendment, I proposed a "fairness" amendment which would recognize that States have the right to withdraw their ratification of an amendment up until the time when the necessary three-fourths have ratified.

My amendment was rejected because the supporters of the ERA were not interested in fairness, but in enforcing on the public their own views on a substantive issue. Their commitment to the substance led them to override their own good judgment and dedication to neutral principles.

Well, the ERA has not been ratified in the meantime. In fact, not a single State has been added to the list of ratifying States. Less than a year remains of the illegal and unconstitutional extension extracted from the Congress, and I predict that that year will pass without the ratification of the ERA by the requisite number of States.

Diane Ravitch, an associate professor of history and education at Columbia University's Teacher's College has some similar thoughts on the future of the ERA. In an article in the Wall Street Journal of July 20, she outlines four reasons why the ERA is stalled. They include the leadership style of the proponents, the tactics of the ERA's supporters, the attack on traditional roles, and confusion about the goals of the ERA.

These are all points I raised during the extension debate. I thought they were telling then; I think they are telling now.

Professor Ravitch does not mention the extension ploy in her discussion of tactics, but other than that her treatment is faultless. I ask that the article be printed in the RECORD.

The article follows:

WHY THE EQUAL RIGHTS AMENDMENT IS STALLED

(By Diane Ravitch)

With less than a year to go before the deadline for consideration by the states, the Equal Rights Amendment is stalled. Among the 15 states that have not ratified it, none appears to be close to approving it. Of the 35 that ratified it, five (Idaho, Nebraska, Tennessee, Kentucky and South Dakota) have tried to rescind or nullify their earlier action. Not since January 1977 has a state endorsed it.

If the amendment fails, as appears possible, its supporters are likely to claim that it lost because of sex discrimination or because of the inflammatory tactics of ERA's opponents. While there is merit in both explanations, there are others that must be

seriously considered if anything is to be learned from the ERA experience.

The amendment had some unusual advantages. It directly appealed to half the population; it received favorable treatment in the mass media; it had the support of a dedicated and tireless cadre of workers; and, when it failed to win the necessary number of states within the seven years provided in the Constitution, the deadline for ratification was extended for three years by Congress. Yet the campaign bogged down after Indiana ratified ERA in January 1977; even the support of President Carter and his wife failed to produce a single new state during his four years in office.

Future historians might consider some of the following as causes to the plight of ERA:

LEADERSHIP STYLE

Although the overwhelming majority of ERA supporters are women and men from every walk of life, during a crucial period the leaders of the campaign projected an image of association with Lesbian and radical causes. So long as this was true many potential supporters backed away. Only last December, Gloria Steinem told a meeting of the Socialist International that women could achieve equality only under socialism, an opinion scarcely calculated to gain new adherents in the states where ERA remains in limbo.

TACTICS

In their eagerness, supporters of ERA resorted to undemocratic tactics to coerce individuals and groups to go along. ERA partisans have made the secondary boycott a principal weapon in their campaign, urging organizations to refuse to meet in states where ERA has not been ratified. For years, civil libertarians have rejected the secondary boycott as an unfair tactic, when used for example by the Arab states to isolate Israel from commercial contacts. Similarly, the insistence that the Democratic Party platform specifically disavow any candidate who did not support ERA was a coercive tactic to force dissenters into line by submitting to a single-issue, ideological test. It did not help either ERA or the Democratic candidates.

ATTACKS ON TRADITIONAL ROLES

Polls show that substantial numbers of women oppose ERA. Much of this opposition is founded on the belief that its supporters deride the traditional activities of women as mothers, wives and volunteers. ERA partisans, who customarily tie their own causes to issues like abortion and day care, appear to believe that no woman would actually WANT to be with her children, whatever their age, or to forgo a "career" or to work in an unpaid job. To the extent that these attitudes were conveyed as hostility to the traditional family, potential supporters were alienated.

CONFUSION ABOUT GOALS

It never became clear whether the supporters of ERA wanted to achieve absolutely equal, gender-blind treatment for women or to win special preferences for them as a historically oppressed group. Sometimes, as in discussion about the draft, gender-blind treatment seemed to be the goal, but when affirmative action was at issue, the same people were quick to seek special treatment for women. Similarly, the surge of "consciousness-raising," which led to women's caucuses, to special facilities for women, and to something akin to separatism within institutions and organizations, contradicted the appeals to gender neutrality. This occasionally reached absurd proportions, as in professional women's meetings where men were barred or in the decision of a New England women's college to create a "women's center" in the middle of its all-female campus.

In the end, if the amendment fails, it will be because, in the eyes of both its supporters and opponents, it came to symbolize an effort to impose a new lifestyle on men and women. Those who did not want a new lifestyle felt threatened in a way that aroused unexpected passion. No amendment other than the one that outlawed alcoholic beverages tried comparably to change social mores; that it not only failed but was repealed suggests the futility of using the constitutional amendments to rearrange social patterns. The very nature of amending the Constitution requires that any change must be practically noncontroversial in order to be adopted, since approval is required by overwhelming majorities in individual states and in the nation as a whole. If we are to keep the Constitution free of amendments intended to impose solutions on difficult social issues, like abortion and busing, then women would do well to rest their case for equal rights on the Fourteenth Amendment, like other citizens, rather than on the ERA.

Whatever happens to ERA, the social and legal position of women has changed in significant ways. As David Riesman has often pointed out, there have been multiple women's movements, not just one. These will survive regardless of the fate of ERA.●

IGNORANCE OF CURRENT FEDERAL FIREARMS STATUTES CLOUDS GUN CONTROL ARGUMENT

● Mr. McCLURE. Mr. President, the arguments of those who call for more Federal restriction on firearm ownership are cast from misconceptions and a lack of knowledge about the current Federal firearms statutes.

Indeed, a poll taken in October of 1975, by the decisionmaking information organization found the following:

It is obvious that Americans are lacking rudimentary knowledge about Federal gun laws. The majority believes that a person can drive across the State line and buy a handgun and also believes that one can buy a gun by mail-order from another State.

I am afraid that misconceptions still persist, even among Members of the Senate.

On June 23 of this year, the senior Senator from Massachusetts made remarks stating his reasons for introducing his anti-handgun bill, S. 974.

The Senator made the following statement:

Substantial numbers of firearms that are sold via the mail-order route in the United States are foreign imported firearms, either of the military surplus category or the category of inexpensive, small-caliber firearms which have been termed "unsafe" and as Saturday Night Specials.

When the Senator asserts that law enforcement officials have testified that from 50 to 90 percent of confiscated crime guns fall into these descriptions he must be using old statistics, since all of these categories are illegal under the Gun Control Act of 1968.

Mail-order firearm sales were specifically outlawed by this law. No private citizen in this country has been able to pick up a catalog and buy a gun through the mail in the last 13 years.

Firearm transfers from manufacturer to retail purchasers are complex transactions. A serial numbered firearm, produced by a federally licensed and taxed manufacturer, is sent to a firearm wholesaler, who must maintain copious Federal records of each firearm he receives and transfers. Then the firearm is transferred to a federally licensed firearms dealer, who also must record the firearm's make, model and serial number as required by current Federal law.

The retail purchaser of this firearm must fill out Treasury form 4473, which is required by law to be maintained as a permanent record by the gun dealer. And of course, all transfers must be in accordance with State and local restrictions as well.

Second, military-type weapons were also specifically prohibited from importation into this country by the 1968 Gun Control Act.

Indeed, many high-quality rifles, shotguns, and handguns that are highly prized by knowledgeable firearms collectors may not be brought into the United States simply because they have been accorded "military type" firearms status.

Third, the reference to the "inexpensive small-caliber firearms, which have been termed "unsafe" and as "Saturday Night Specials," also shows a lack of understanding of firearms statutes and Federal regulations.

The Gun Control Act of 1968 outlawed the importation of all handguns which do not meet certain U.S. Government-established technical criteria. The Federal Bureau of Alcohol, Tobacco, and Firearms, the agency charged with enforcing the Gun Control Act, applies a rigid "Factoring Criteria for Weapons Test," which ascribes point values for various physical characteristics of a firearm, in order to determine whether or not it can be brought into this country.

Additionally, each foreign nation has a governmentproof house which conducts safety testing on each and every newly manufactured gun. Thus, before an imported handgun can be sold in the United States, it already has undergone foreign proof testing and has been subjected to stringent U.S. technical criteria.

The Senator from Massachusetts and his House colleague from New Jersey have introduced two bills, S. 974 and H.R. 3200, which they call the Handgun Crime Control Act of 1981. The measures called for in these bills, frankly, have little chance of thwarting violent crime.

Under this legislation, whether it would be permissible to import, manufacture, assemble, sell, or deliver a firearm would rely entirely on the judgment of the attorney general. There are no specific guidelines, no concrete standards to pin down this nebulous Saturday Night Special.

The attorney general would have only the subjective standard of usefulness for sporting purposes. An attorney general hostile to our second amendment rights could leave honest American citizens possessing firearms that they could not sell, give away, or even bequeath to their heirs.

To offer as the solution to crime a bill banning the importation of foreign handguns or handgun parts is to send

out exactly the wrong message: That the firearm, rather than the criminal is responsible for violence.

Any ban on imported handgun parts is going to prohibit the importation of replacement parts for millions of high-quality, well-made and expensive target pistols, including the $500 Walthers and Brownings. Competitive target shooters, including our future Olympic competitors, may soon find themselves unable to obtain target triggers, sights and other sporting accouterments.

How, I ask, is this going to curtail instances of violent crime in this country? It is not. It is only going to impede legitimate gun collectors and competitive target shooters. These, Mr. President, are not the people responsible for America's crime.

The Police Foundation, in a study of firearms abuse, found that there was no link between cost or configuration of a firearm and its likelihood for criminal use. By the Senator's own statistics, 73 percent of the firearms used in a crime were not what he terms Saturday Night Specials. I think these studies prove one thing—the Saturday Night Special is the person who uses a firearm in furtherance of robbery, murder or rape. Yet some of my colleagues would confiscate the tool, and turn the criminal free, lest his confinement be uncomfortable.

The thrust of S. 974 and H.R. 3200 is aimed not at the criminal but at the law-abiding citizens who wish to acquire handguns legally for collections, for sport and for self-defense.

I find it ironic that those who are ignorant of the existing gun law's provisions have called for more stringent restrictions on firearm ownership and possession.

Fifty-seven of my senatorial colleagues, and over 140 of my colleagues in the House, are well aware of the inequities and injustices created by the 1968 Gun Control Act.

Accordingly, we have introduced the Firearm Owners Protection Act, S. 1030 and H.R. 3300, which will correct the maladies of the current Federal firearms statutes and its enforcement by the Federal Bureau of Alcohol, Tobacco, and Firearms.

The bill will protect law-abiding citizens from BATF's illegal searches, unwarranted seizures of property and denial of due process, all of which have been well documented before congressional subcommittees.

There have been two major results of the Gun Control Act: The first has been a deplorable, steady erosion of American civil liberties; the second, no diminution in this country's crime rates.

The Firearms Owners Protection Act, if passed and correctly enforced, will amend both of these tragic situations. It will protect the law-abiding American gun owner while it establishes mandatory penalties for those who criminally misuse a firearm in a crime of violence.

Almost 200 Members of this Congress have cosponsored this bill because they know that this country can afford neither a continuance of the Gun Control Act nor legislation such as that proposed by Senator KENNEDY.

Reform of the Federal Gun Control Act has been supported by Members of this Congress both conservative and liberal, Republican, and Democrat. It is an idea, obviously, whose time is long overdue.●

THE SOVIET DAY OF SHAME

● Mr. HEINZ. Mr. President, August 21, 1981, will mark the 13th anniversary of the Soviet invasion of Czechoslovakia. Freedom loving Czechs everywhere are once again commemorating this date as the "Soviet Day of Shame;" a reminder that this Soviet oppression is a flagrant violation of the United Nations Charter which should not be tolerated.

The Russian invasion of this proud country not only violated article 2, section 4, of the United Nations Charter, prohibiting the use of military force in the relations between individual members of the United Nations, but also violated the principles of self-determination, sovereignty, and nonintervention in the domestic affairs of other states. Abridging these fundamental principles reveals to the world the hypocrisy of the Soviet regime.

Since 1968, when the Soviets used military force to prevent the Czechs and Slovaks from establishing an independent social and political order according to their own desires, the Russians have continually restricted basic human rights in Czechoslovakia. Freedoms guaranteed by the Helsinki Final Act, signed by the Soviets, are consistently disregarded. A systematic suppression of civil rights is accomplished by means of central management of all mass media, including publishing and cultural institutions.

As of today, more than 1,000 courageous people of Czechslovakia have signed Charter 77 which appeals to their Government to cease its repressive policies and adhere to the Helsinki Final Act. In spite of increased oppression by the Soviets, the number of signatories of this manifestation of popular discontent continues to grow and expand to reach every ethnic, professional and ideological group.

I urge my colleagues to observe August 21, 1981 as the "Soviet Day of Shame." Soviet oppression must not be tolerated and the United States must continue to object to the Soviet occupation of Czechoslovakia. We must continue our efforts to help the proud and courageous people of Czechoslovakia to secure their basic human rights.●

THE DRAFT

● Mr. EAST. Mr. President, there are few issues more divisive, more emotional, and more fraught with misgivings than the issue of compulsory military service. Opposition to the draft is not a phenomenon unique to the Vietnam war. The draft has always been controversial.

For an excellent historical perspective on this issue, I recommend to my colleagues an article by Dr. William R. Hawkins that appears in the August 7, 1981, issue of the National Review. Dr. Hawkins, a lecturer in economics at the University of North Carolina at Asheville, argues that the draft is an American tradition. Opponents could retort that many of our patriotic forebears would have driven a peacetime draft officer from their doors with a squirrel gun. Perhaps we can take some comfort from the fact that the Republic has agonized over this issue on many previous occasions—and survived.

I ask that Dr. Hawkins' article be printed in the RECORD.

The article follows:

THE DRAFT AND THE CONFUSION OF AMERICAN CONSERVATIVES

In one of his syndicated columns, James J. Kilpatrick observed that "conservatives are of two minds" on the question of military conscription. "It is an abiding principle among many of us," he wrote, "that the best government is the least government. . . . But there is another abiding principle and it is to this effect—that in terms of national affairs the first obligation of government is national security. Upon the fulfillment of these responsibilities all else depends."

This dilemma has been viewed from another perspective by Milton Mueller in Libertarian Review. He stated that "for conservatives and many liberals the draft represents a crisis of ideology. In the past thirty years, conservatives like Barry Goldwater have been sincere and heroic opponents of conscription. Yet at the same time they have been staunch defenders of U.S. military might and troop commitments. What happens now, when a choice between these two predilections is becoming inevitable?"

For Goldwater the answer is to favor a renewal of draft registration, for Mueller it is to abandon America's defense commitments, and for Kilpatrick it is still up for debate.

There is, however, no clear philosophical reason why conservatives should oppose the draft if it is necessary to the defense of American interests and if it is confined to military service. Conservatives would and should oppose the sort of national service that would induct young people into the apparatus of the welfare state; there is no obligation to serve the dogma of socialism. But an obligation to provide for the common defense does exist, and in an increasingly hostile world there is a pressing need to strengthen that defense.

There is nothing new or unique about this obligation or the use of compulsion to ensure its fulfillment. Compulsory military service was standard in the American colonies, with over two hundred laws laying out terms and conditions of service. The military historian D. E. Leach has stated that there was a general "assumption that the colonists themselves would be ready and able to serve as soldiers, an assumption resting mainly on the English tradition and practice of compulsory military obligation." This ancient English tradition dated back to the days of Alfred the Great and the Anglo-Saxon fyrol, and continued through the reigns of William the Conqueror, Edward III and Henry V (the freeman militias of Crécy and Agincourt), Elizabeth I, the Stuarts, and Cromwell. It was rebel control of the militia organization in America that provided one of the foundations for a successful revolution. Throughout this period the militia claimed the services of all healthy males.

The colonies were not always able to rely solely on patriotic fervor to supply enough Minutemen to fill out their militia units. Several states which had been in the forefront of the independence movement, in-

cluding Massachusetts, Virginia, and North Carolina, had to legislate a draft in order to field their armies. In 1778 the Continental Congress agreed to General Washington's request for the power to draft men from the militia into the Regulars. Five years later Washington could write that "It may be laid down as a primary position and the basis of our system that every Citizen who enjoys the protection of a free government owes not only a proportion of his property but even of his personal services to the defense of it."

In 1792 the Congress passed legislation to enroll "each and every free able-bodied white male citizen" in the militia and to call the militia into national service. The term of obligation to the militia was to extend from age 18 to 54. The militia was to be armed and undergo periodic training.

The Second Amendment, which is near and dear to the hearts of conservatives, embodies a direct reference to the militia. The image of the responsible, armed citizen responding to the call of the colors when danger threatened has been the most powerful of all our patriotic symbols.

Some have attempted to argue that all this was superseded by the Thirteenth Amendment, which prohibits "involuntary servitude." However, this argument has never found favor in the courts. The definitive ruling on conscription remains that of 1918 which sustained the use of the draft in World War I. Speaking for a unanimous Supreme Court, Chief Justice Edward D. White dismissed the Thirteenth Amendment in a single sentence. The Amendment, he said, was clearly enacted for an entirely different reason. It would have been a paradox indeed if slavery in the South had been abolished by a Union Army that was partially conscript, if there were not a clear difference between the two. White based the Court's decision firmly on the power of Congress to raise and support armies under Article I, Section 8 of the Constitution, strengthened by the Fourteenth Amendment, which caused "citizenship of the United States to be paramount and dominant instead of being subordinate and derivative." Using impeccable Hamiltonian logic, the Court could not conceive of Congress as having the power to raise armies without the power to provide the men, by compulsion if necessary. The Court thus maintained continuity with the spirit of the Founding Fathers.

There was wide agreement among the Founders as to the military obligation of citizenship and the utility of such service to the national security. Thomas Jefferson, in a letter to Secretary of State James Monroe in 1813, argued that "We must train and classify the whole of our male citizens and make military instruction a regular part of collegiate education. We cannot be safe till this is done." Jefferson believed that such universal military training must be implemented in peace as well as war, and he reiterated his argument two years later in a letter to Jean Baptiste Say. And this is from a statesman whose pacifist and libertarian reputation is unassailable.

Alexander Hamilton was an advocate of professional armies rather than militias because his experiences in the Revolution led him to believe that they were more reliable. Still, he could not deny that the government had a right to call the citizens to arms if necessary. In *Federalist* Number 23 he wrote: "The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. . . . the Union ought to be invested with full power to levy troops. . . ."

John C. Calhoun, a foe of centralized government, was also alert to military problems. He observed on the floor of Congress in 1816 that "All free nations of antiquity entrusted the defense of the country, not to the dregs of society, but to the body of free citizens." He called for the lengthening of the training required of the militia, though he realized that he uttered "truths unpleasant to those who wish to enjoy liberty without making the necessary efforts to secure it."

Calhoun's statement could be paraphrased today and used against those who argue vocally for a strong foreign policy, military preparedness, and containment, even victory, over Communism but refuse to support measures necessary to make these commitments credible.

There is every indication that our capability to wage conventional war is no longer credible. Since the end of draft calls in 1971, military manpower has declined by over 600,000 men (24 per cent). The Reserves and National Guard were 543,000 men (42 per cent) short of their requirements in 1978, according to a study by Kenneth J. Coffey for the American Enterprise Institute. A recent Defense Department study concluded that the United States would have to use nuclear weapons to stop the Soviets should they decide to send troops into the Persian Gulf. Since it is highly unlikely that any American Government would resort to such a first use of nuclear weapons, what the report is actually saying is that given our current inadequate force levels we could not defend a region vital to the West.

In addition to the material decline of our forces, there is the psychological aspect. The draft was abandoned under intense pressure from the New Left in the streets and the liberals in the Congress. Even though its replacement, the All Volunteer Army, was implemented by a Republican President who did not share the antiwar philosophy of the leftists, it was accepted by many conservatives not out of conviction but out of expediency, as a tactic to cool off the campuses. Hence the birth of the Volunteer Army is directly associated with the Vietnam syndrome which has paralyzed our foreign policies for a decade.

It is interesting to note that the Republican President involved, Richard Nixon, has since called for a resumption of the draft in his book "The Real War." He gives as his reasons for reversing his position the fact that the All Volunteer Force has not lived up to expectations and his belief that the draft is a necessary symbol of American resolve.

Among our major allies, only England, Japan, and Canada do not use conscription, and all three contribute less than their share to Allied defense. Sixty per cent of the forces of our other NATO allies are conscripts. Americans often complain that our allies do not do enough, but our allies have been willing to shoulder the burden of conscription in peacetime while we have not.

The essential point to remember is that conscription is not unusual. Our country has always turned to it when it proved impossible or impractical to provide what was needed for security by voluntary enlistment alone. It was used by both sides in the Civil War, and again in World War I and World War II and the wars in Korea and Vietnam. Twice in the past forty years we have implemented peacetime conscription, in 1940 and 1948, when international dangers threatened. The period of conscription begun in 1948 lasted until 1973. Conservatives can argue over the timing or the method of conscription, but I do not understand how they can reject the principle of conscription without abandoning both history and common sense, two elements to which conservatives normally and quite rightly adhere.●

THE SO-CALLED MILITARY EXPERTS

● Mr. GOLDWATER. Mr. President, now that we have a President who is determined to rebuild our military into an acceptable strength, we are beginning to have experts, or so-called experts, pop up on every side to criticize the efforts, mostly because of the money that is being spent.

Now, I do not like this money in its big amounts any more than anybody else does and I think it is incumbent upon the military committees of both Houses to eliminate every overly priced instrument of the military that exists, and I am trying to do this with my subcommittee.

But to have television networks, newspapers, and magazines come out with so-called reports on the defense that are so misleading that those of us who know a little bit about defense find it almost impossible to believe that anybody ever got near the subject they were talking about because they either write out of an inability to understand what they saw and experienced, or they write out of a sheer determination to continue to undermine the military.

We have recently had several examples of this perpetrated by CBS and some of their top reporters. Mr. Benjamin Schemmer, the editor of Armed Forces Journal International, the oldest monthly magazine that covers defense issues, has written on this subject and done it so well, I wish to place it in the RECORD.

The article follows:

THE ONE-AND-A-HALF-TRILLION-DOLLAR MISUNDERSTANDING

(By Benjamin T. Schmemer)

National defense has become the hot topic in American journalism. As Ronald Reagan begins to "rearm America," our TV sets, newspaper op-ed pages, and magazines warn us that the trillion and a half dollars he plans to spend over the next five years won't buy much more security—because the Pentagon inevitably will screw things up.

A trillion and a half dollars is a lot of money, and it makes good copy at a time when the public wonders if new tanks will come only at the expense of Social Security and welfare checks; it makes even better copy when the tanks and planes and submarines don't quite work as advertised and cost from a million to a billion dollars each.

Unfortunately, many of the media pundits bringing you all this insight into defense don't know their ass from their elbow. Take Dan Rather's hype on the CBS Evening News on June 17 boosting Richard Threlkeld's "complete investigation" of the military-industrial complex that was aired later that night. Rather showed a dramatic clip of the Air Force's F–16 fighter with this voice-over: "The planes used by the Israelis to bomb Iraq were US F–16s, developed by General Dynamics. They are widely acknowledged to be the world's best fighter-bombers; they are also the most expensive [and] technologically sophisticated, requiring massive maintenance."

Airmen the world over must be wondering whom CBS polled to conclude that the F–16 is the "world's best fighter-bomber." Pilots debate such issues endlessly, and even General Dynamics has never made such a claim for the F–16—as good as it is.

While that description of the F–16 is debatable, CBS's flat statement that it is also the world's "most expensive" fighter-bomber is not: CBS is just plain wrong. In fact, the F–16 may be the world's cheapest fighter-bomber. An F–16 bought in this year's defense budget costs about $14 million in "fly-away prices" (without spare parts or amortized research-and-development costs); an Air Force F–15 costs about $28 million; the

Navy's F/A–18 costs about $34 million; the British-German Tornado about $23 million.

As for the F–16's "massive maintenance" . . . the plane had the third-lowest maintenance man-hours per flight hour of all eight USAF first-line fighters or bombers last year. And that was its first year of operational use. Its design goal is 25 maintenance man-hours per flight hour—once the plane and its spare-parts pipeline are mature. In its first year of operational use, the F–16 beat that goal by 17 percent.

So why did CBS use the term "massive maintenance"? Was it to back up Rather's contention, when he introduced Threlkeld's "complete investigation," that what is "disturbing" about the "one-point-three trillion dollars" we will spend to defend ourselves in the next five years "besides the cost, is that many of the weapons we're already building don't work as well as they're supposed to"? Later in the broadcast, Threlkeld cited results of the Air Force/Navy ACEVAL tests at Nellis Air Force Base, Nevada, six years ago to argue that "high technology is not much help" in the air-to-air combat arena, suggesting that we should be aiming for "quantity over quality." He called ACEVAL "the most realistic dogfight in American history."

That was not the conclusion of the pilots flying those tests. The final chart of their briefing said simply, "ACEVAL Bottom Line: the tests did not achieve the objective of quantifying the influence of numbers versus performance on the outcome of our engagements." In fact, the pilots objected strenuously that the dogfights were limited to day-only visual flight rules, thus negating the impact of all-weather radar and weaponry which the technologically sophisticated F–15, F–14, and F–18 carry.

The pilots objected also because, in the tests, they were not allowed to engage their opponents until the enemy had been visually identified—a rule of engagement that Robert McNamara and Lyndon Johnson imposed on US aircrews flying over North Vietnam, and one reason the US spent three years, $22 billion, and 3,091 lives after the Paris peace talks began to bring 566 American prisoners of war home from the dungeons of Hanoi.

The visual-identification requirement further nullified any advantage of the technology that differentiates planes like the F–15 and F–16 from ones like the F–5 and Mirage 2000; Their radars were blinded and their long-range missiles rendered inert by the rules under which the planes were tested against "small, simple, and cheap" ones like the F–5.

Finally, Threlkeld failed or forgot to note, the Nellis tests were flown directly over the runways from which the planes took off—so the extra range built into America's "sophisticated" fighter-bombers counted for naught.

"The most realistic dogfight in American history"? I doubt that CBS could produce one pilot who flew those tests who would do much more than laugh at the statement. The most common way pilots describe ACEVAL is that it was like trying to evaluate a pistol against a rifle by firing them in a jail cell.

CBS's widely touted five-part study of national security rates a B+ for theater, a D for journalism, and an F for accuracy. Toward the close of Threlkeld's "investigation" into horror stories about the way the Pentagon buys weapons, he told us: "But we couldn't find a single instance of the Pentagon ever recommending canceling one of its programs."

Who does CBS use as "investigators"? Doesn't the network run even a superficial check of its "facts"? One phone call from Threlkeld or his writers would have produced a list of scores of major programs the Pentagon has canceled in recent years—on its own, not just because of congressional or White House objections. Here are a few: the Army's Cheyenne helicopter, its Infantry Manportable Anti-Tank Assault Weapons System (right after contracts to develop it were awarded last fall), and its Roland air defense missile (a decision Harold Brown made last fall, which was later reversed by Caspar Weinberger); the Navy's F–111B and its Captor mine (another Brown decision reversed by Weinberger); the Marine Corps' AV–8B jump jet (a Brown decision that Congress overruled three years running); and the Air Force's B–1 (Brown recommended that Carter kill it in favor of air-launched cruise missiles), Medium Range Mobile Ballistic Missile, Manned Orbiting Laboratory, KC–10 cargo tankers (a Brown decision overruled by Weinberger), and A–10 close-support planes (a Brown decision overruled by Congress and later by Weinberger).

CBS, in fact, could have done an entire program on the money the Pentagon has spent developing weapons that it later decided to cancel outright or quit buying far earlier than expected. That subject would have been worthy of comment: One reason defense costs so much is that under tight defense budgets there has been little constancy of purpose in the way we buy things. Even when weapons work as advertised (the F–16, Roland, KC–10, and the AV–8B are but a few examples), we buy so few of them or abort the projects so prematurely that the individual cost of what few weapons do reach the field soars higher than the apogee of some satellites.

But CBS's special series on defense was unprecedented: Never has a network invested so much prime time to ruin its own reputation. It was ironic that CBS set its new standard for defense reporting right after naming former Defense Secretary Harold Brown to its board of directors.

But CBS has no monopoly on bum dope. Some of the worst stuff is coming from people who know better, but are just as loose as CBS with their "facts." Former CIA director Stansfield Turner, for instance, wrote recently on "Why We Shouldn't Build the M–X" in the New York Times Magazine. It was a provocative, thoughtful piece, well written—and punctuated with gross errors.

For example, Turner said that building bases for the M–X missile system would "require, according to some estimates, 40 percent of the country's total cement production for three years." He must have gotten his numbers from the same sources who persuaded him in mid-1978 that the Shah of Iran would remain in power for another decade. Turner was off by a factor of 80. The largest number I can track down that anyone has ever estimated for M–X cement needs is about one half of one percent of US production. Turner is writing a book, the Times told us, on "military strategy." It ought to be hilarious.

But the subject is not funny.

President Jimmy Carter's chief speech writer, James Fallows, has just come out with a best-selling book called National Defense (Random House). Like so much of the reporting now getting into print on national-security matters, the Fallows book fails to heed an admonition Joseph Califano cites in his book, Governing America. In order to understand American politics, Califano writes, "Try to tell the difference between tides, waves, and ripples." Most of Fallow's book is about ripples. His horror stories of how the Pentagon screwed up its last five or six two-car funerals (the M–16 rifle, F–16 fighter, and so on) are fascinating, engagingly written—but not new.

It's the tides and waves that should concern America: How can we get our allies to contribute a proportionate share of their national treasuries to their own defense in Europe? If Japan refuses to increase its defense spending above nine-tenths of one percent of its gross national product (while we spend nearly five percent of ours helping guarantee Japan's oil lifeline), would Japan consider an alternative? Like investing four percent of its GNP in finding a way to gasify or liquify coal economically? If the US really wants to sell China arms, why not ask China for a friendly quid pro quo: recognize South Korea, a move that would allow us to redeploy some of our forces there to locations where they can better protect Persian Gulf oil supplies?

Those are the sorts of national-defense issues that a former presidential speechwriter should be addressing. Those are the sorts of strategic initiatives that could ease our defense burden by many billions of dollars. Fallows doesn't touch them; instead, he assaults us with trivia—for which his publisher wants us to pay six cents a page.

Fallow's indictment of the ripples that the Pentagon's way of doing business has caused in our national defense would ring truer if he had given equal time to the tidal waves that micro-management by the White House and Congress cause in national-security affairs. A President should be concerned about multi-billion-dollar issues like M–X versus Trident sub, or B–1 versus cruise missile, issues where survival is at stake. But Fallows doesn't tell us of the years his boss, Jimmy Carter, spent micro-managing a $6.5 million defense issue into a $40 million international flap—all over a little commercial air terminal in Iceland. Accounts vary somewhat even among those who were directly involved in the fiasco, but they add up to this:

Soon after Carter took office and asked NATO's fifteen nations to contribute more to their common defense, Carter turned down a $6.5 million Pentagon request to build a civil air terminal at Keflavik, Iceland—so that nation's civil air carrier, Icelandic Airways, wouldn't have to process its passengers through the small and slightly dingy US Navy terminal there.

Carter scoffed at arguments that the Icelanders have a deep-rooted disinclination toward things military, couldn't afford the air terminal out of their meager $600 million annual government budget, represented one of NATO's most critical allies, and had not asked for US aid in a long, long time.

After the rejection, Defense Secretary Harold Brown waited almost a year and then appealed to Carter to let the civil air terminal go ahead; its cost, he reported painfully, would now be $11.5 million: The Icelanders had a better design now, or something. Carter turned the appeal down. Brown's NATO advisers were aghast, but finally persuaded Brown to go back to the President once again: By this time, the terminal's cost was up to $23 million. Carter reacted quickly: "No!" During Carter's last months in office, Brown submitted the proposal a fourth time; the cost had grown to almost $40 million. To the Pentagon's surprise, Carter approved it with a hand-scrawled "OK," signed, "JC." But he told one of his military assistants: "Make sure Harold understands that I'm still against this. The only reason I'm approving it is that he's never argued with me four times on the same issue before, so I guess it must be important to him."

That's a strange way to decide important national-security issues. Writing so pejoratively about the way the Pentagon handles such matters, Fallows might have shared with his readers some insight on what happened when those decisions reached the desk of the President he served.

Like CBS, Fallows spends a lot of time indicting the F–16 for its sophistication and complexity, along with its 'high cost" Air Force counterpart, the F–15, and its sister fighters in the Navy, the F–14 and F–18. For much of this insight, Fallows relies on a Pentagon document prepared by a Defense

Department analyst named Franklin C. Spinney and formally titled "Defense Facts of Life"—a 56-page single-spaced tome, with 87 briefing charts attached, whose thesis is summarized:

"Our strategy of pursuing ever-increasing technical complexity and sophistication has made high-technology solutions and combat readiness mutually exclusive."

Spinney has been giving his briefing throughout the Pentagon for years to anyone who will listen. He gave it a few weeks ago to General Wilbur Creech, the four-star officer who heads the US Air Force Tactical Air Command. Creech told Spinney that the four-hour briefing was fascinating and contained lots fo useful data. But, Creech said, he wasn't quite sure how it related to his real-world problem of trying to field a fighter-bomber force that could cope with a Soviet air threat that outnumbers NATO by 2,850 combat planes to 1,500. Spinney didn't know either. He told Creech, in effect:

"That's your problem, General."

Creech makes this analogy: Spinney supporters are like cost analysts looking at the Oakland Raiders football team. They tell the owner: "What you should do is get rid of the quarterback and the wide receivers and buy more guards." The owner answers: "But I can't win in this league with more guards." And the cost analysts tell him: "Don't bother me with those kinds of details; you ought to get rid of the quarterback and your wide receivers—they cost too much and break too often."

Fallows would have the U.S. design its fighter forces around Spinney's prescription: simple, cheap, non-radar-carrying planes like the Korean War F–86, planes the U.S. could buy in vast quantities and fly often because they are simple to maintain and turn around quickly for more combat flights than "hangar queens" like the F–15.

Spinney and Fallows ought to read a little more history. The F–86 had an accident rate than ranged from 8 to 26 times higher than that of today's F–15: In its first seven years of use, the Air Force lost 1,972 F–86s just in accidents! (The "complex" F–15 has the lowest accident rate of any fighter ever produced, and the "sophisticated" F–16 has the lowest accident rate of any single-engine fighter ever produced.) In one single year, 1954, the Air Force lost 487 F–86s—one and a half a day—because pilots couldn't bring the simple little mother down to a safe landing. That year the F–86 had an accident rate of 61 planes lost for every 100,000 hours flown; the F–15 averages 5.

What Spinney and Fallows—and analysts they both quote widely, like former Pentagon whiz kid Pierre Sprey, now a consultant—really want is for the Air Force to go back to the propeller-driver P–47 Thunderbolts and P–51 Mustangs of World War II. A fascinating thesis: Simple is good, more simple is better.

But the facts in the case are these. Each F–15 averages two to three sorties (missions) per day in realistic wartime "surge" exercises in Germany, in weather that grounds $45 million civil airliners. The highest World War II sortie rate that the P–51 and P–47 ever attained was less than one mission per plane per day. During the Battle of the Bulge, when Omar Bradley and George Patton prayed for all the air support they could get, the planes averaged only half a sortie a day.

Like slime mold, the impressions created by all this new defense reporting will stick around for a long time. Born of the same kind of fictional alchemy that created the monster Frankenstein, Turner's cement estimate, for instance, is already taking on a life of its own. A June 22 article in New York magazine titled "$1.5 Trillion for Defense?" reads like a seven-page summary of Fallow's book, with a few new "facts." One of them reads in full, "Construction of the MX complex would tie up 40 percent of the nation's concrete capacity for three years." What the hell: If Stansfield Turner said so, it must be true. New York didn't credit Turner with the cement estimate, so investigative reporters looking into the Pentagon's corner on the cement market now have two sources to cite.

The New York article, like a Texas Monthly June feature on the F–16 ("The Plan the Pentagon Couldn't Stop"), reads straight Fallows. It's very attractively laid out. A big sell line across one two-page spread tells you, "The top military brass likes sophisticated weapons, but technology has become the new Maginot Line. . . ." Michael Kramer wrote the New York piece; Michael Ennis, the one in Texas Monthly. But their articles read as if Fallows had cloned himself.

Fallows is ubiquitous: A big interview in a recent issue of People magazine ("Is the Reagan defense boom a bust? It's flying too high on technology, warns Jim Fallows"); excerpts in the Boston Globe, the Atlantic Monthly (where he is Washington editor) and the Washington Monthly (where he is contributing editor); and prominent reviews in magazines and newspapers all over the country—all have helped turn his modest work into the Holy Writ. Fallows, CBS, and Stansfield Turner would have you believe that war now boils down to an issue of quantity versus quality, and that to win we need only to buy more simple weapons.

They don't tell you how we will pay all the extra pilots needed to fly all those simple planes, or where we will find airfields in Europe to park them.

They don't tell you that the F–15's "complicated" F–100 engine used to have major reliability and maintenance problems, but that these have been reduced almost by a factor of 10 in the past two years. They tell you that on an average day in 1978, 44 percent of the F–15s were not fully ready for combat. They don't tell you that today F–15s are fully mission-capable over 64 percent of the time; that only one Air Force plane now has a higher combat-readiness rate; and that the F–15 is now ready for combat more often the the F–4, which it replaced.

They don't tell you that one reason Navy officers prefer to hunt Soviet submarines with the costly DD–963 destroyer is that the much simpler FFG–7 frigate can't carry a sonar big enough to do more than locate schools of fish.

They don't tell you that nuclear ballistic-missile submarines cost a lot because, for one thing, they're built to last. The 41 subs have made more than 2,000 combat patrols, totaling more than 100,000 days under water since 1960.

Fallows, CBS, and Turner give you a simplistic view of an enormously complicated problem in a world that is uncertain, uneasy, and unpredictable.

You deserve to be better informed on trillion-and-a-half-dollar issues like national defense.●

THE DRAFT, THE COURT, AND THE CONGRESS

● Mr. GARN. Mr. President, when the Supreme Court handed down its decision in the case of Rostker against Goldberg, the validity of a male-only draft, it robbed me of the chance to make some really good speeches about judicial usurpation of legislative authority. Luckily, the Court did exercise some much needed restraint, upholding the right of Congress to deal, at least in this area, pretty much as it wishes.

One of the editorialists of the Washington Star agreed with me on the wisdom of the decision. Mr. Edwin Yoder plainly outlined his view, which is to a large extent mine, that the Court must cede considerable latitude to the Congress on this and other issues. As he notes, "the issue is who is to decide." I am glad that this time, at least, the decision was that Congress is to decide.

Mr. President, I ask that Mr. Yoder's article, from the Star of July 2, be printed in the RECORD.

The article follows:

THE BROADER WISDOM OF THE DRAFT DECISION

(By Edwin M. Yoder, Jr.)

Anyone who confesses relief at the Supreme Court's decision on draft registration probably convicts himself, ipso facto, of male bias. According to Bella Abzug, the Court is a "sexist institution . . . an exclusively male preserve," and that explains why it tolerates an all-male draft.

Nowhere, of course, does Justice Rehnquist say that women should leave war to men and stick to nursing and bandage-folding. He dryly confined himself to the congressional war powers and the judicial duty to defer to Congress in their exercise.

Of the many strange aspects of the draft-registration case, perhaps the strangest is that it was, in origin, a Vietnam-era case aimed at obstructing all conscription, not securing the conscription of women. That motive was not concealed by one lawyer for the (male) plaintiffs who wished, he said, to "make the political cost of declaring war much more immediate for a president and for a Congress, and much more costly."

ANTI-WAR SYMPATHIES

Judging by her comments to Ellen Goodman about last week's decision, Ellie Smeal of the National Organization for Women is sympathetic to that aim. "We are coming," she said, "to the conclusion that war is not a rational foreign policy . . . Now we're afraid our kids will be fighting for some damn oil well. By keeping women on the sidelines," she went on to say, the justices "have taken away our voice and protest. We can't even say, 'Hell no, we won't go.'"

The rationality of war is always debatable; and in a free society pacifists may agitate unmolested, embracing the exotic view (it was among those originally pressed upon the lower court in Philadelphia) that conscription is a form of "involuntary servitude" forbidden by the 13th Amendment.

But I am relieved that the people of these unworldly sentiments have been thwarted in their effort to convert the Constitution into a pacifist document and draft registration into an instrument for raising "the political cost of declaring war." That, not the rejection of mandatory registration for women, is the importance of the Court's decision in *Rostker* v. *Goldberg, et al.*

One hardly expects those who view all public matters from one parochial perspective to applaud. It would be pleasant, however, if Ms. Smeal and other scolds bothered to determine what has, and hasn't, been said about the military status of women.

Ms. Smeal told a Star reporter that the decision is "disgusting" because, among other things, its "immediate impact . . . is on women in the military, who will have their promotion and pay opportunities limited"—this, because the exclusion of female personnel from combat (which was not at issue) also excludes them from certain benefits that lead to promotion.

But a reading of the Court's opinion would reveal, to the contrary, that there is a reverse-discrimination policy, validated by the courts, allowing women officers longer time in grade to achieve promotion than men—an accommodation designed to redress any unfair male advantage arising from combat status.

But again, the decision the Court actually made is that Congress, within broad limits,

has discretion in supplying the nation's military manpower needs as it sees fit and may, to that end, choose to treat men and women differently without offending the Fifth Amendment equal protection clause. (It cannot do so whimsically or unreasonably, however, as Justice Rehnquist makes amply clear.)

SENSIBLE RULING

The holding is both sensible and fundamental. A decision to the contrary would not only have confided our military fortunes to the judges but also have involved a perverse reading of the phrase "equal protection of the laws."

Equal protection, as usually construed, has primarily to do with the fair distribution of burdens and benefits. Most of us think of liability to conscription as a burden, not a benefit, and the same may be said of exposure to shot and shell on the front lines. It is the unstated premise of critics of the Court's decision that these have suddenly become benefits, not burdens, which it is naughty of Congress and the courts to deny to women. The Court wisely balked at this weird inversion of common sense, which would have gone far to make an absurdity of the Fifth Amendment and equal protection.

It is fair to ask how one who expresses the above views actually feels about women in the military. My own views are mixed. I know of no evidence that women would be inferior performers in any military rank or function; indeed, the congressional testimony of informed military and defense officials on last year's registration bill was to the contrary. My instincts—call them chauvinist if you like—recoil at the idea of women in combat.

But the "place" of women in the military, however one feels about it, is irrelevant. The issue is who is to decide, Congress or the courts. There is no assurance that Congress will decide the issue correctly, or to the taste of all, but better that Congress decide. That is what the framers of the Constitution unquestionably intended, and wisely too. The Court has merely reaffirmed their intention. ●

NEVER GIVE MONEY AWAY TO ANYONE

● Mr. EAST. Mr. President, the American people are generous, but not foolish. They know that you cannot buy friends. Yet our Government has squandered hundreds of billions of the taxpayers' dollars for foreign aid over the last generation.

In the July 24, 1981 issue of National Review, Mr. Lawrence W. Beilenson, lawyer and historian, makes a strong argument that foreign aid does not work. I ask that his article be printed in the RECORD.

The article follows:

NEVER GIVE MONEY AWAY TO ANYONE—PARKINSON'S RULE THREE ANNOTATED

(By Lawrence W. Beilenson)

Never give money away to anyone.* Although C. Northcote Parkinson relied on historical experience in enunciating this, his Rule Three, the rule has not enjoyed the happy fate of becoming a cliché. Instead, we have turned the Founding Fathers over in their graves by stretching the general welfare clause of the Constitution to include the world and by practicing our own cardinal rule: "Always give money away to everybody."

Parkinson believed we had formed our post-World War II habit of giving to everybody in order to save ourselves the trouble of thinking. He did not do justice to the inspired leadership of our paladins of compassion. By 1977 their desire to care for all and sundry (with other people's money) had become such a habit that Jimmy Carter was able to announce that, if we "normalized" our relations with Vietnam, he would respond with "normal economic aid processes." Under such normality, putting our entire diplomatic corps out to pasture would save us billions.

For paying money to foreigners other than in trade, we have learned divers ways. We can bribe officers of a foreign government. (We have.) We can pay money to dissidents to foster rebellion against an unfriendly government. (We have, but mostly in the wrong place, in the wrong way.) We can indirectly pay Japan and our allies by bearing the cost ourselves of maintaining our troops stationed in their lands. (We are.) But although each of these methods merits attention, none falls within Rule Three or this annotation, both of which are strictly about foreign aid.

When the Marshall Plan was announced, a pessimistic friend decried my advocacy of it. In his opinion the plan would be admirable if we would stop with it, but we wouldn't. How right he was. At the end of World War II, our national debt was roughly $260 billion; when it had swollen some $600 billion more, I calculated that over one-third of the increase was accounted for by foreign aid. To avoid headaches I have stopped counting; but if we add amounts which are in fact foreign aid but otherwise classified plus loans that never will be repaid, the percentage probably is even higher.

"Giveaways" and complaints about them are old. In the sixth century the historian Procopius wrote: "On every occasion [Justinian] bestowed handsome presents upon all the barbarians alike, those of East and West, and North and South, as far as the inhabitants of the British Islands and of the whole world, nations of whom we had not even heard before, and whose names we did not know, until we became acquainted with them through their ambassadors. When these nations found out Justinian's disposition, they flocked to Byzantium from all parts of the world to present themselves to him. He, without any hesitation, overjoyed at the occurrence, and regarding it as a great piece of good luck to be able to drain the Roman treasury and fling its wealth to barbarians or the waves of the sea, dismissed them every day loaded with handsome presents."

Since Justinian was noted for avarice rather than for generosity, his gifts must have been a subsidy to advance the interest of the Byzantine Roman Empire by appeasing the barbarians. In contrast, charitable foreign aid is given for moral reasons rather than to forward the self-interest of the donor nation. Our own debates on foreign aid have been confusing because to justify our aid charity and self-interest have been confusingly joined. For clarity the two grounds must be divorced. To win votes in Congress for aid abroad, our politicians have appealed to special-interest groups at home. When our warehouses were bulging with grain, the interest of farmers in lowering the surplus to raise the price was invoked. Now we are told that donating money to poor nations will enable them to buy our products, and thus "create jobs." In fact, if Congress wants to subsidize any domestic special-interest group, it would be cheaper to do so directly.

Meanwhile, contrasted to our comparative abundance, many abroad live at the bare subsistence level and below. Charity is sweet and benefits both giver and receiver. In the poor parts of the world the need is so enormous that private giving cannot fill the void. Briefly stated, this is the case for charitable foreign aid.

Anyone who opposes it is likely to be stigmatized as a Scrooge unvisited by the good spirits. Our Uriah Heeps, however, claim a charitable bent when they dip into the public treasury instead of into their own purses. And they take the justice of their action on faith, never considering the actual consequences.

A BOTTOMLESS PIT

The money we give drops into a bottomless pit. The increase in population in Latin America, Asia, and Africa has canceled all the funds spent for foreign aid on those continents.

Most of the aid has not reached the needy; it has added to the luxury of dictators and their henchmen. And much of it goes into American bureaucratic bins.

Our government owes no duty to the poor nations; the United States did not make them poor. If our national conscience is nonetheless trouble about the material benefits we enjoy in a world where many are ill fed, ill clothed, and ill housed, we can discharge our ethical duty without the present drain on the public purse. Let those who believe in charity abroad appeal to the generosity that the American people have so frequently and so abundantly exhibited. The donors would have the opportunity of selecting the objects of their bounty, and they could entrust its administration to experienced charitable organizations of their own choice. Probably not as much would be collected from private charity as we are now giving from the public purse; but charity abroad should be voluntary.

Charitable foreign aid has contributed to weakening our fiscal soundness at home without a corresponding betterment in the lot of the poor. If the United States had a continuing Treasury surplus, that happy fact might be an argument for donating some of it as charitable foreign aid. Burdened as we now are with a huge national debt that increases daily from our deficit financing, it hardly seems prudent to borrow at home in order to give away abroad.

In contrast to charitable foreign aid, subsidy abroad is for self-interest, and hence is an old tool of statecraft. Subsidy is money paid or property transferred (other than in commerce) by one government to another government for the purpose of forwarding a real or supposed interest of the paying government. Despite new names, our Lend-Lease before and during World War II and our noncharitable foreign aid since were typical subsidies. Usually subsidy agreements have been embodied in treaties, which, like other political treaties, have been regularly broken. Niccolo Machiavelli condemns and Parkinson ridicules all subsidies. Never, however, say never.

Sometimes a subsidy treaty has taken the form of a payment to induce a nation to stay neutral in a war. Breach has been habitual, and the treaties ineffective. If it has been to the receiving nation's interest to stay neutral, it has done so; when the interest has changed, so has the neutrality, payment or no payment.

More commonly a subsidy has been promised or paid in connection with an alliance. Machiavelli declared: "Republics and princes that are really powerful do not purchase alliances by money, but by their valor and the reputation of their armies." From a long list of subsequent supporting examples, the Florentine would have selected Louis XIV as the best, which is to say, the worst.

To his coat of arms Louis should have added a cornucopia spilling out French coins; he was addicted to paying subsidies. In 1668 he decided to attack Holland as soon as his diplomacy had isolated it by paper chains whose links were gold. To that end, from 1668 to 1672 when war began, Louis made treaties, most of which were accompanied by payment of a subsidy, which contained promises to France: to join the war on its side, to remain neutral, to allow passage of French troops through foreign terri-

*"The Five Other Rules," *Foreign Policy*, Winter 1972–73.

tory, to permit foreign territory to be used as a base for French troops. The pacts were with England, the Habsburg Emperor, Brandenburg, Sweden, and a number of small German states, all of which broke them. Because the interests of the other European countries, as they saw them, clashed with the interest of France, Louis had to fight most of Western and Central Europe. The subsidy was wasted. In terms of dishonoring their promises, however, there was no appreciable difference between the bought and the unbought.

Despite Machiavelli's and Parkinson's animadversions about the fatuity of buying allies and notwithstanding the unreliability of subsidy treaties, some have had efficacy for the payer. Because Austria was dependent upon a British subsidy paid in installments during the War of the Austrian Succession (1740–1748), Britain was able to induce Queen Maria Theresa to yield to terms that galled her but were to Britain's advantage. During the war against Revolutionary and Napoleonic France, Pitt opened wide the British purse to pour its contents into the coffers of the Continental nations. While they nevertheless deserted Britain again and again in breach of their treaties, Pitt's shower of gold bought ever new Continental soldiers to fight against France. Although our aid to Britain before Pearl Harbor exacted no substantial, tangible quid pro quo, our subsidy kept Britain alive when it stood alone and thus helped us. Our Lend-Lease to the USSR furnished it the arms to kill or capture many German soldiers who otherwise would have been available to kill Americans.

PAY NOW, LOSE LATER

In a *mémoire* of February 1765 to Louis XV, his Foreign Minister the Duke of Choiseul told his sovereign that the French practice of paying in advance should be discarded in favor of the English method, which paid only after the desired action or inaction had been taken by the subsidized government. That, however, is not always possible. The best substitute is a payment in installments made substantially concurrent with the deeds or abstentions purchased.

The whole history of subsidy may be briefly summarized: The only effective subsidies have been to aid in or deter war. If the action or inaction bought has been imminent, the chance of performance has been enhanced. If what the subsidized nation was to do or not do in return for the payment has conflicted with its own interest, the subsidy has been of no avail.

The primary tool of V. I. Lenin was subversion: giving to the outs to overthrow the ins. He wrote about all the tools of statecreft except subsidy and bribery. Perhaps he was silent about these money tools because, during most of his adult life, money was in short supply. A more likely explanation is that his absorption in overthrowing governments by subversion left Lenin no time for disquisitions on paying them by subsidy. In any event, decisions of the USSR since World War II to give money or property to other governments have been made without guidance from its mentor.

The European satellites have paid for whatever they have received from the Soviet Union, but Moscow's financing of Fidel Castro's Cuba has imposed a large drain on the USSR. The Cuban troops sent to Africa have been a form of repayment, but they were not in return merely for money already paid; the expectation of future funds probably influenced the furnishing of the men, and probably Castro was eager to show his prowess.

In the Third World—or is it the Fourth, or by now the Fifth?—from time to time the USSR has made extensive deliveries of arms to various governments, notably to those of Egypt, Syria, and Iraq. Some of the munitions have been paid for by the rich Arab states, but probably there has been a net money loss to the USSR. The Third World countries have been skillful in extracting money from both sides. Some Kremlin official sometime must have said to himself: "Wouldn't it be wonderful to end the cold war? Then when those Third World blanketyblanks try to bleed us, it will be a pleasure to tell them to jump into the lake." Similar thoughts may have crossed the minds of some Washington officials.

When both the United States and the USSR pursue the same course, to assume that each must have chosen it wisely is natural, but through the ages most nations have duplicated the mistakes of others. The Soviets have copied us in dispensing money for influence; by now each antagonist is merely aping the other. There is no historical experience to justify the benefit to a government of paying money to another government to buy influence or friendship. When in their nineteenth century imperialism England or France used its purse, it bought something tangibly valuable, such as a mineral or trade concession. In addition, both were ready to send troops to ensure delivery of what they had purchased.

Having ample money to pay eases the immediate task of the diplomat; consequently he rejoices in its availability. When in 1976 we shifted our so-called African policy, Henry Kissenger traveled far and wide, promising his hosts large sums of American money to buy influence or friendship. We used to buy votes in the Assembly of the United Nations—not worth a dime—by promising continued foreign aid. Our recent futility in the Assembly speaks ill of our past profligacy. The Third World spits in our face, yet we continue to curry its favor with money.

LET'S NOT DO IT

Our subsidies to the Third World have been paid in pursuit of containment, to prevent countries not now Communist-ruled from becoming so. Our money has propped up many oppressors. In our long, just contest with the Communist masters, we have, by supporting the status quo, lost friends among non-Communists who wish to uproot injustices in their countries, and the long future belongs to them.

We are not forced to buy influence in the Third World because the Soviets do. They will waste their money, and will receive no more gratitude than we have. If a number of Third World countries become Communist-ruled, and the USSR finances them as it has Cuba, doing so will strain the Soviet treasury. And it will be much cheaper for us to help overthrow such governments by external subversion—money to the outs—than it is to uphold the dictatorial ins. Such subversive aid from France and Spain in 1776–77 helped us to become a nation.

It is an even graver error for the United States to give foreign aid—or loans—to Communist-ruled nations. So doing will teach non-Communist recipients that they can take any line they please and still get our money. More importantly, it is not to our interest to better the lot of the Communist-ruled peoples. The sooner it becomes intolerable enough to provoke revolution, the better for us.

Yugoslavia is often cited as a case where our money kept a country from becoming a Soviet satellite. Whether Yugoslavia would have so become had we not helped is speculative. But even if it had become a satellite, one more in the Balkans would have made no great difference, and the South Slavs might have been more prone to revolt against their Communist rulers had we let nature take its course. Our attitude here is the important thing. Until we make clear that Communist governments will not receive American money, but dissidents against them will, we shall discourage revolt where it will help us most.

Unlike buying friends and influence, paying for the use of such foreign bases as we need for national defense is sensible. But we shall lose our investment if we are forced to leave, as we were in Libya and Thailand.

If our alliances in Europe, with Japan, and with South Korea are required for our defense (a large question), then our subsidies to our allies have historical support. Of all treaties, defensive alliances, despite habitual unreliability, have been the most efficacious in deterring attack. Nevertheless, we are making a bad bargain. West Germany is able to pay for its own defense, yet we contribute substantially to it. Japan has grown rich because we have provided its protection.

We do not draw from a bottomless well. We badly need to spend huge additional sums on civil defense, active nuclear defense, and deterrence. Parkinson's Rule Three should be the starting point for any consideration of charitable foreign aid or subsidy, with a heavy burden of proof on the advocates of giving. When in doubt, say no. And despite "Never say never," never give borrowed money. ●

THE "BIG QUARTERLY": DELAWARE'S CELEBRATION OF BLACK RELIGIOUS FREEDOM

● Mr. BIDEN. Mr. President, whatever our problems of the moment may be as a nation, it is good to be an American, and we all know it.

Each August in Delaware, we are reminded by the unique celebration of the "Big Quarterly," that our State was the birthplace of black religious freedom in the United States of America.

The greatness of our Nation is a direct result of the contributions made to our society by the diverse ethnic origins, philosophical and political viewpoints, and religious convictions that characterize our people. Our success in maintaining the democratic traditions and ethnic variety of our society is vitally important to our continued vitality as a nation and to our historic national role as a model and an inspiration to people everywhere.

The many contributions Afro-Americans have made to our society are beyond question. Their culture and their heritage should take their rightful place in the history of this country. Of no less importance to Delaware is the role Afro-Americans have played in the history of our State.

Mr. President, in Wilmington, Del., the Association for the Study of Afro-American Life and History and the Mother African United Methodist Protestant Church are sponsoring the production of a 1-hour documentary film about the history of the "August Quarterly Celebration" and of the first independent black church established in the United States. Production of this film, "The Big Quarterly," will enable Americans across the country to know that black religious freedom in America began 168 years ago in Wilmington.

Cultural Encounters, Inc., a minority media company that will produce the documentary, has described the historical significance of the Big Quarterly:

Delaware is well known as the First State because Delaware was the first of the 13 original states to ratify the Constitution, on December 7, 1787. Not as well known is the fact that 26 years later, during the depths of slavery, Delaware was again the

First State in recognizing an independent black church. The events and personalities involved in this unique achievement are a little-known but highly significant aspect of Delaware's rich heritage.

Wilmington, Delaware, was the cradle of black religious freedom in the United States. Absolom Jones, the first black Episcopal priest, was a Delawarean. Richard Allen, founder of the African Methodist Episcopal Church, was a Delawarean. And it was another Delawarean, Peter Spencer, who established the first completely independent black denomination in 1813. Spencer's first church, the Union Church of Africans, was built in Wilmington on land acquired with the help of Quakers. It was built by congregants who followed the theological and ethical tenents of Methodism.

The Union Church of Africans was the forerunner of a widespread movement toward religious freedom for blacks that has resulted today in more than 26 predominantly black denominations with a combined membership of 13,988,000 in 60,360 churches nationwide. Although Wilmington was a major point of origin for the development of this movement, which combines religious, social and political dimensions, this fact remains obscure and virtually unknown outside of the region's black religious community.

Since 1813, Wilmington has been the home of the oldest continuously celebrated black religious street festival in the Nation, the Big Quarterly. The Big Quarterly commemorates the founding of the Union Church of Africans and honors its founder, Peter Spencer. Up to 30,000 people have attended this annual celebration from as far away as New England and Virginia. It is an occasion of great pride to those who know of its origins and its significance in the struggle for religious freedom.

Today the direct successor to Spencer's first church is the Mother African United Methodist Protestant Church in Wilmington. The Mother A.U.M.P. Church has continued the annual tradition of the Big Quarterly on the last Sunday in August on the site of the original church on French Street in Wilmington. The celebration includes preaching, praying, singing, refreshments, family reunions, and other cultural and religious activities.

From its inception, the Big Quarterly has combined religious, social and political elements. It was through the work of Peter Spencer that blacks won the right to preach from their own pulpits and to worship God in their own manner. Slave owners permitted their slaves to attend the Big Quarterly for one weekend a year of religious freedom and association with both freed and enslaved blacks who came from many states in the region.

We can only speculate about the importance of this annual gathering to the unification of blacks in their political struggle for freedom, but it would be difficult to believe there has been no connection. During slavery times, Wilmington was a gateway to freedom, a major stop on the Underground Railroad. The Union Church of Africans provided a forum for political debate and action, and it was an important link in the anti-slavery movement. In recent times, the black churches have provided the leadership and social structure for the modern civil-rights movement that gained momentum in the 1960's.

Today the original United Church of Africans has been torn down and replaced by a public plaza and the Boggs Federal Building. But the Big Quarterly is still celebrated and remains the focus of rememberance of the events that led first to black religious freedom and now toward equality in political and economic opportunity.

Mr. President, the Big Quarterly continues to attract large numbers of people to Wilmington every year in August. I remember well the Big Quarterlies of my youth, and I have participated in the celebration in more recent years. Now, as then, it is an occasion that blends solemnity and gaiety in commemorating the contributions of Peter Spencer and his independent black churches toward black religious freedom. Now, as then, it expresses the dignity and joy of a people who passed a major milestone on their pathway to liberty 168 years ago in Wilmington and still pursue the great goal of the fullest possible participation in our society today.

That was a major milestone, not only in the history of Delaware and the history of Afro-Americans, but also in the history of the United States of America. I am glad Americans all across this land are to have the opportunity to become better acquainted with the historic and spiritual dimensions of this unique celebration.●

MUTUAL AND BALANCED FORCE REDUCTION TALKS

● Mr. PRESSLER. Mr. President, two recent occurrences drew my attention once again to the Mutual and Balanced Force Reduction (MBFR) Talks in Vienna, Austria. The first was the publication of the most recent issue of Strategic Survey by the International Institute for Strategic Studies. The second is the conclusion of July 23 of the 24th round of the MBFR talks, which began October 1973.

Although it has been easy to point to the MBFR talks and characterize them as unproductive and unworthy, I firmly believe that MBFR has performed a valuable role in maintaining stability and can continue to do so. Strategic Survey (pages 110–111) astutely observed that—

even if movement remains sluggish the transformation of Vienna into a kind of de facto multilateral standing consulative committee to exchange information and query suspicious developments has some virtue, notwithstanding the lack of progress in the data discussion. MBFR might therefore become at least a forum for providing reassurance about the force deployments of East and West in Europe.

The conclusion of the 24th round of the talks underscores the difficulty of reaching an agreement, but, nevertheless, provides evidence that there is value in continuing the talks, which will resume in late September. MBFR is the only alliance-to-alliance negotiation in progress, and, for that reason alone, serves the United States well. We can exchange information with the Eastern Bloc on subjects such as new weapons or troop deployments. The negotiation also serves an equally valuable function in providing a forum for exchange of information and ideas of all kinds with our allies. This opportunity to assure our allies of our continued commitment to arms control and discuss their increasing concerns about an arms race may itself well justify the talks, especially since the theater nuclear forces TNF and SALT talks are still some time from beginning. The MBFR talks then have served as a safety valve for venting suspicions, even if the reductions once hoped for have not materialized.

It is my opinion that the talks must continue even if they only serve this general purpose. I think that this is especially true in that the Conference on Security and Cooperation in Europe has not produced any forum during its meeting in Madrid that could serve as a substitute for MBFR. I also believe that the negotiations in Vienna have provided invaluable insights into Soviet thinking and force structure, the sort of information that is readily available in the West but which the East carefully obscures.

There is still hope, in addition to these general advantages, that the MBFR talks can achieve success in more specific ways. I trust that the Reagan administration will give full attention to these possibilities. I personally continue to believe that the United States can withdraw some of its forces from Europe without damaging our defense posture, and that these withdrawals can serve as bargaining chips. If what one hears of repositioning our forces closer to the East German border is a serious possibility, that, too, is grist for the negotiating mill.

There are other possibilities for substantial breakthroughs as well—in the area of associated measures, for example. Two excellent studies of MBFR, which have recently appeared, John G. Keliher, The Negotiations on Mutual Balanced Force Reductions and Jeffrey Record, Force Reductions in Europe, discuss associated measures and other options in detail.

As I have noted elsewhere, the Reagan administration's potential for making far-reaching arms control agreements is analagous to President Nixon's opening of diplomatic relations with China. A Republican could do what a liberal Democrat could not do, and so it may be with President Reagan. Let us not limit our hopes for a dramatic breakthrough in arms control to strategic systems. The conventional forces in central Europe are a fertile ground for dynamic reductions or comparable arms control advances and MBFR remains a splendid springboard for such proposals. If the Soviets turn a cold shoulder, then so be it, and the onus rests upon them. But let us leave no stone unturned in a bold search for a just peace.●

BIGGEST LITTLE STATE IN THE UNION

● Mr. PELL. Mr. President, Rhode Island is the "biggest little State in the Union." That is the message of an upbeat song and a new campaign to highlight Rhode Island's variety, history and vitality—"everything under the Sun."

The campaign, kicked-off yesterday by Governor J. Joseph Garrahy, is designed to encourage Rhode Islanders to take pride in our State's attractions—including a rich historical setting and 100 miles of beaches within easy reach.

As designed by the Governor's "Business-Labor Partnership," the Department of Economic Development &

Creamer, Inc./New England, an advertising agency, the campaign also will spread the word to those outside Rhode Island.

That word, of course, is that Rhode Island has much to offer residents, visitors, business, and industry as the "biggest little State in the Union."

Bright buttons and bumper stickers, in Rhode Island's white, gold, and blue colors, will pick up that theme that we are proud to have the "biggest little State in the Union."

The song that will be the linchpin of the campaign is the work of Bill Comeau of Creamer, who wrote the lyrics, and Rob Carlson, a Rhode Islander who wrote the music and sings the song.

There's a story to be told,
It's new and yet it's old.
It's small but its as big as the deep blue sea.
It's younger than today, and
Three hundred years away.
Take my hand and come with me.
We're the biggest little state in the union.
Rhode Island, Rhode Island,
We're the biggest little state in the union.
Rhode Island, Rhode Island,
There's something here for everyone,
Everything beneath the sun
In the biggest little state in the union.
There's a special kind of magic,
A place where dreams can grow.
If you've come to work or come to play,
You're never far from everything,
No matter where you go.
Rhode Island is a place you'll want to stay.
It's a hundred miles of beaches,
And a taste of history,
From Providence to Newport
With its castles by the sea.
And when tall white sails are shining out
On Narragansett Bay,
Point Judith to Block Island sail away.

I must caution any of my colleagues who would like sheet music, however, that the demand has been so great in Rhode Island that copies will not be available, at least for a while.●

LT. GEN. WILLIAM GINN, JR.

● Mr. WARNER. Mr. President, I rise to say a few words in tribute to Lt. Gen. William Ginn, Jr., of the U.S. Air Force, who is retiring after a career spanning more than 34 years in the service of his country, and soon will be taking up residence in Alexandria, Va.

In his distinguished career, General Ginn served most recently as commander of 5th Air Force, where he commanded all Air Force units in Japan. He also wore a second hat as commander of U.S. Forces, Japan, and took the lead in discussions aimed at upgrading Japan Self-Defense Forces (JSDF). His efforts to improve Japan's entire defense posture set in motion a process that promises to have a positive impact on United States-Japan relations for years to come.

As commander of 5th Air Force, General Ginn's forces were strategically located at bases in Japan and Korea to provide immediate credibility to the strength and purpose of our national policy in the Pacific. During the period of his command, there were significant improvements in Air Force facilities and weapons systems in that area.

General Ginn's exemplary service in this extremely sensitive assignment during a period marked by increasing geopolitical tensions has been of immeasurable value to our Nation's military posture and strategy in Northeast Asia.

In addition to his assignment in Japan, General Ginn has served in recent years at SHAPE and USAFE headquarters in Europe, and as commander of U.S. logistics group in Ankara, Turkey. Prior to his overseas assignments, he had been commandant of the Air Command and Staff College and Squadron Officer School at Maxwell Air Force Base, Ala.

He is a command pilot with more than 6,000 flying hours in 75 different aircraft. He logged more than 300 combat missions in 17 types of aircraft while serving as deputy commander for operations of the 14th Special Operations Wing in Vietnam.

Among his several awards and decorations are the Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross with oak leaf cluster, Meritorious Service Medal, Air Medal with 12 oak leaf clusters, Joint Service Commendation Medal, Air Force Commendation Medal, Army Commendation Medal, Air Force Outstanding Unit Award with "V" device and two oak leaf clusters, Combat Readiness Medal, and the Republic of Vietnam Gallantry Cross with gold star.

From his first year in the U.S. Marine Corps to his 33 years in the U.S. Air Force, General Ginn has served his country long and faithfully. By his record, he has brought great credit upon himself and his service.

As he retires, I am very pleased to pay well-deserved tribute to my fellow Virginian and to commend him for his distinguished career.●

OIL THEFTS FROM INDIAN AND FEDERAL LANDS

● Mr. MELCHER. Mr. President, in November of 1980, the Select Committee on Indian Affairs, which I then had the privilege to chair, began an investigation of oil thefts from Indian and Federal lands. The investigation was precipitated by allegations of oil thefts on the Wind River Reservation in Wyoming which were brought to the attention of the Select Committee on Indian Affairs through news accounts primarily in the Denver Post.

On December 18, 1980, I sent the committee's staff director to Denver to meet with Mitchell Rogovin, the attorney retained to represent the Wind River tribes, and with Touche-Ross, Co., the accounting firm retained by the tribe to determine whether the proper amount of oil royalties had been paid.

The following day, December 19, 1980, I met in Billings, Mont., with George Jennings, assistant area director, and Tom Whitford, deputy area director, Billings, Bureau of Indian Affairs, Tom Richmond, acting district supervisor, Conservation Division, U.S. Geological Survey, and Tom Acevedo, Field Solicitor's Office, Department of the Interior.

The purpose of the meeting was to brief me on the procedures involved in protecting Indian and Federal royalty owners and insuring that Federal and Indian oil is properly accounted for.

As a result of this meeting, Bureau of Indian Affairs personnel photographed all of the oil and gas production facilities in the Wind River Reservation. This process was completed on December 22, and 380 photographs were sent to the committee office.

The photographs emphasized those areas where oil may have or could be stolen.

For the next 6 weeks, the staff proceeded to meet with General Accounting Office investigators working in the area of oil royalty accounting procedures, and with a number of tribal officials from Montana and Wyoming who were concerned about protecting their oil royalties.

In addition, on February 26, I met with Secretary of the Interior, James Watt, to discuss the problems associated with the monitoring and inspection of Federal and Indian oil leases.

These preliminary meetings raised serious questions in my mind about whether the Federal Government, through the U.S. Geological Survey, was fulfilling its mandate to protect, with due diligence, Federal and Indian resources and royalties.

Mr. President, the Federal responsibility, which rests mainly with the U.S. Geological Survey, to ferret out any abuse of these Indian and public resources, includes the verification and collection of royalties and the monitoring of all phases of mineral operations. The USGS is required to inspect oil and gas well drilling, producing lease sites, abandoned wells, and oil and gas meters.

If this responsibility is not met, the victims are not only Indian tribes but also the U.S. Treasury and consequently all U.S. taxpayers. In addition, the States, which are entitled to one-half of all royalties from oil and gas on public lands, are losing their share of royalties.

In light of the challenges raised in November and December of 1980 to the adequacy of Federal safeguards in protecting Federal and Indian oil, the Select Committee on Indian Affairs embarked on a series of investigative hearings designed to examine how oil thefts have been possible and how they can be prevented on Federal and Indian lands.

Three hearings were held: The first in Billings, Mont., on February 27, 1981, the second in Washington, D.C., on April 6, 1981, and the third in Albuquerque, N. Mex., on June 1, 1981.

These hearings as well as onsite oilfield inspections by myself and committee staff are the basis for an interim report currently being drafted by committee staff.

Attached at the conclusion of these remarks are my own preliminary findings and recommendations. These recommendations address the need to create a new system or restructure the current system, the USGS Conservation Division, in order to promote good management and supervision of oil leases and reduce opportunities for fraud and abuse to minimal levels.

This kind of management and supervision, which includes streamlined and continuous auditing at every production level through the refinery stage, will no

doubt take time and a substantial investment of money.

However, I firmly believe that the stakes are too high and the resources too critical for the cost to be a deterrent.

Mr. President, on July 15, 1981, as the committee staff was in the process of drafting its interim report. Interior Secretary James Watt announced the creation of a panel that will spend the next 6 months studying the Federal oil royalty accounting system as well as possible theft on Federal and Indian oil lands. This action is commendable.

The Secretary's announcement of this new investigative panel seems to lay all the blame at the feet of an antiquated royalty management system. There is plenty wrong with that system.

In fact, just about everything is wrong with it. But, bad as it is, the virtual indifference of Interior's Conservation Division personnel—of the U.S. Geological Survey—to their own inspection and enforcement regulations poses the most serious threat to Indian and Federal oil revenues.

Mr. President, I agree with the Secretary that little has been done in the past by the Interior Department to put a stop to the loss of oil and gas royalties and oil thefts from Indian and Federal lands.

Secretary Watt has known about problems with the royalty management system and the reports of theft since he took office; and, after some personal pleading, I am delighted to see him acting to correct the shortcomings plaguing Federal and Indian oil and gas productions.

I only hope this Commission finds out that the Senate Select Committee on Indians Affairs has just spent 9 months covering the same ground.

Besides holding three investigative hearings, the committee staff poured over cartons of correspondence, memoranda, and filed notes taken directly from USGS Conservation Service district offices. And we have directed that these offices scour their files for more data on suspected theft.

Moreover, we have ordered up the schematic diagrams for the piping in these fields so that, probably for the first time in the history of many of these leases, we will be able to determine what has been going on.

We have a serious problem in the oil fields that a hidebound bureaucracy has been unable to resolve. A cooperative effort now between the Senate's Indian Affairs and Energy and Natural Resources Committees and Secretary Watt and the new panel will save everyone time and a great deal of money.

Such a cooperative effort will, however, require a continued, intensified and expanded effort on the part of the Select Committee on Indian Affairs and its staff. Mr. President, this effort in turn, calls for additional funds. At a committee business meeting held on July 25, there was a clear consensus among committee members that we must with all due dilligence pursue this investigation.

The committee also agreed that supplemental funding would be necessary if we are to pursue a thorough and comprehensive investigation of oil theft and Federal management of oil leases and royalties for Indian and Federal lands.

Mr. President, I am hopeful that the committee will soon report a Senate Resolution requesting a supplemental budget for this purpose. There are a number of findings and recommendations. I would like to call to the attention of the Senate.

These additional funds are essential for the following specific reasons:

First. According to U.S. Geological Survey, USGS, testimony, an enormous loss of oil royalty payments from Indian and Federal leases may be occurring of up to $1 million per day. Both USGS officials and Secretary of the Interior, James Watt, have noted that $4 billion in royalties are collected annually from Indian and Federal mineral leases with projections of up to $20 billion by 1990.

Because of inefficient, inaccurate and incomplete accounting procedures, the possibility of a million dollars per day being unaccounted for could increase as production of oil and gas on Federal and Indian leases increases.

Second. There can be no solid basis for an accurate accounting system without proper Federal inspection and supervision of the production and sale of oil and gas from Indian and Federal leases.

The Conservation Division of the USGS, which has the responsibility of monitoring and supervising production on the Indian and Federal leases, does not have flow diagrams of buried oil pipelines from producing wells nor schematic diagrams of piping at oil storage facilities.

Without this most basic information on production and storage of oil from Federal and Indian leases, the USGS inspectors cannot verify the flow of oil from the pipelines to the storage batteries, nor can they verify, onsite, the actual operation of the pipes and valves at the storage batteries to determine the flow of oil prior to its metering by LACT meters or measurement of the tanks at times of sales.

Third. The USGS Conservation Division in my judgment, fails to adequately inspect lease sites, does not properly enforce its own security regulations requiring seals and locks, and cannot accurately account for the production of oil on Federal and Indian leases at the point of metering or measuring the oil sold at the lease site.

Fourth. I believe the USGC Conservation Division has been derelict in its duties by not requiring correction of unapproved storage facilities, unapproved metering systems, and fraudulent reporting that wells are not producing when, in fact, they are.

They have not eliminated improper flow pipes from storage tanks that bypass LACT meters, just as they have not required operators, in many instances, to lock and seal valves, tanks, meters, and pipes.

Fifth. During the past 7 months, the committee has received numerous reports af alleged oil thefts from Indian and Federal leases. A new reported irregularity—I want to make clear that the irregularity may not be theft—was reported yesterday. Blackfeet oil near Cut Bank was being transported Tuesday without a "run ticket," contrary to regulations.

Sixth. The USGS has no systematic, consistent procedure for identifying, tracking, investigating, and correcting violations of lease agreements, regulations, or highly suspicious occurrences.

Seventh. I believe there is a lack of adequate manpower and training in the USGS Conservation Division.

Eighth. There is no apparent Federal jurisdictional authority to police the flow of Indian and Federal oil from the leases to the point of delivery to refineries or reclaimers or to pipelines off the leases.

Ninth. I believe to properly establish production of oil and gas on Indian and Federal leases, Congress must require a thorough and far-reaching reorganization of the duties of the USGS Conservation Division. This reorganization must mandate inspection and veritification of production from Indian and Federal oil and gas wells, with flow diagrams of underground and surface pipes and with verified schematic drawings of pipes and valves of storage tanks that are measured or subject to LACT meters.

Tenth. I believe that it is necessary that a reorganized, restructured USGS Conservation Division have an increased number of inspectors who are adequately trained, required to enforce the current USGS regulations, and delegated the authority to assure proper accounting of oil and gas from Indian and Federal leases at the point of sale.

Eleventh. The cost of such reorganization, restructuring and increasing the personnel in the USGS Conservation Division will provide the basis of developing an accounting system that will provide more revenue to the Federal Government, to the States and to the Indian tribes. The committee estimates that the cost will be exceeded by an increased revenue of $500 million or more over the next 3 years.

Twelfth. I believe the Secretary of the Interior's trust responsibility to the Indian tribes on their oil and gas production has not been adequately safeguarded during, at least, the past decade.

Thirteenth. In order to quickly correct the inadequacies in the Federal responsibility for inspection and supervision of Indian and Federal leases and to protect the royalties due from such leases to the Federal Government, the States and Indian tribes, during the next 6 months a strong effort by the Select Committee on Indian Affairs and the Committee on Energy and Natural Resources should continue field investigations and documentations of failures and inadequacies of the Conservation Division's responsibilities on Federal and Indian oil and gas leases and to work with Secretary Watt's newly designated "Commission on Fiscal Accountability of the Nation's Energy Resources."●

INTER-AMERICAN RAIL SYSTEM

● Mr. BUMPERS. Mr. President, Alan Boyd, the president of Amtrak, may have had the experience of the Inter-American in mind when he testified before Congress in April 1979 as follows:

We cannot provide safe, modern, fast, convenient and reliable service—as directed by Congress—with locomotives built in the 1930s, passenger cars built in the 1940s and 1950s, trackage and roadbeds whose major characteristic is "deferred maintenance," stations which are falling apart, schedules which serve major markets less than daily or in the middle of the night . . . or both, routings which are circuitous, and a fleet which can never be responsive to peak demand. (Amtrak Annual Report, 1979)

The unfortunate part is that Amtrak could not possibly correct all the system's shortcomings overnight. Even more unfortunate is the fact that the Inter-American will be left out of a rail passenger system because of years of neglect and finally, too little, too late.

From the beginning, the Inter-American has been run so that it is a wonder anyone has ridden the train more than once. A House subcommittee investigated the route in 1974 and 1975, and the report states:

Although sufficient funds ($4.5 million) were appropriated by Congress to provide an adequate service, Amtrak has shifted about $2 million to other purposes. . . . The ridership and the financial results of the Inter-American have been better than expected despite innumerable adversities such as the tri-weekly service limitation, slow running time, circuitous routing, failure to make connections with other trains, inadequate stations and facilities, frequent equipment failure, and poor on-time performance. (Report by the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, 1975.)

Much the same could be said today.

Two and a half years ago, when the Carter administration wanted to substantially reduce the size of Amtrak's system I was inclined to go along. I had never heard anything but complaints about the Inter-American from all but the most ardent railroad buffs, and ridership was not high.

In the spring of 1979, of course, America suffered an energy shortage which made all too clear that our love affair with the automobile and relatively inexpensive energy had its limits. I have always been a supporter of Amtrak, though I was not particularly satisfied with the operation of rail service in Arkansas.

Since 1979 I have watched with amazement as ridership on the Inter-American has grown substantially despite major problems. The ridership figures alone are impressive; when other factors are taken into account, they are nothing short of unbelievable.

RIDERSHIP

Ridership on the Inter-American increased 36.8 percent from fiscal year 1979 to fiscal year 1980, and through May of this year, ridership has increased 31.2 percent over fiscal year 1980. This latter increase is the largest among all long-distance routes in this fiscal year and tops other routes that had a ridership base change and superliner equipment introduced early in the year.

The Inter-American received its superliner equipment in late April of this year, so this figure represents just 1½ month of superliner use.

The average increase in ridership on long-distance routes in fiscal year 1980 was 8 percent, while the increase in this fiscal year is 8.2 percent. The fiscal year 1980 increase over fiscal year 1979 ridership on the Inter-American was due in part to the institution of 7-day service on October 1, 1979, and was the third largest among all long-distance trains.

ON-TIME PERFORMANCE

On-time performance, one of the major factors affecting ridership, has deteriorated from fiscal year 1979 to fiscal year 1980 to fiscal year 1981. From October, 1979, through May, 1981, the monthly on-time performance of the Chicago to Houston and Chicago to Laredo trips have exceeded the average monthly on-time performance of long-distance trains only four times. In fiscal year 1981, the monthly on-time percentages have been among the worst three in every month, ranging from 16 to 50 percent below the average.

Equipment breakdowns and freight-train interference are the two principal causes of trains failing to arrive on time. Unfortunately, the equipment on the Inter-American has, up until recently, been the oldest, and Amtrak officials have not aggressively tried to eliminate the freight-train interference.

AVAILABILITY OF EQUIPMENT

There is simply no way to know how many people have been turned away from the Inter-American due to lack of space. I only know that practically every weekend this year the northbound trains through Little Rock were running full and people were turned away at the station.

QUALITY OF EQUIPMENT

The Inter-American just received the Superliner equipment in late April of this year. On other routes where this equipment has been introduced, ridership has increased up to 30 percent according to Amtrak.

In addition, fuel and maintenance costs have decreased with the use of Superliners, while on-time performances have improved. There is no reason to expect that such equipment will not do the same on the Inter-American route.

UNJUSTIFIABLE SERVICE

The continuation of service from Temple, Tex., to Houston and Laredo, Tex., when travel time by car is considerably shorter and when those segments clearly detract from the overall passenger mile per train mile ratio, has been questionable.

An analysis of the ridership in April 1981 yields the following information, which I ask to have printed in the RECORD.

The material is as follows:

Passenger mile/ train mile	*Rouse segment*
285	Chicago-St. Louis
252	St. Louis-Little Rock
221	Little Rock-Dallas
163	Dallas-Temple
150	Congressional criterion
75	Temple-San Antonio
9	San Antonio-Laredo
44	Temple-Houston

SCHEDULING

Mr. BUMPERS. Mr. President, I have never known the Inter-American to pass through Little Rock, a major originator of traffic on the route, at a decent hour. At the present time, the one daily southbound train stops in Little Rock at 5:46 a.m., while the one daily northbound train stops at 12:52 p.m.

For reasons that are not clear to me, Amtrak officials have declined to slow the train between St. Louis and Little Rock—when few passengers would be getting on or off the train—on the southbound trip so that Little Rock passengers could board at a more civilized hour. The train instead slows down after it leaves Little Rock.

STATION FACILITIES

The absence of any facilities at some stops and the rundown condition of existing facilities also adds to the inconvenience and discomfort of passengers.

SUMMARY

Amtrak officials planned to restructure service on the Inter-American earlier this year so that it would meet the criteria contained in Public Law 96–73, the Amtrak Reorganization Act of 1979. I did not object to the restructuring plans, which included the loss of service on some days, though I thought a good case could be made that—given on-time performance and other factors—this route had more than fulfilled the expectations of Amtrak officials who decided to continue it as a regional-balance route.

While Amtrak officials have not always acted on the suggestions made by me to improve the operation of the Inter-American, I also recognize the limitations they faced in trying to upgrade the operation of routes.

The people who will lose if the Inter-American is discontinued are those who have demonstrated their support through their consistent and growing patronage—despite conditions over which they had no control or influence, such as the abysmal on-time performances, the availability and quality of equipment, unjustifiable service, and inconvenient scheduling. They have supported the train anyway.

I ask that tables on ridership and on-time performances that compare the Inter-American to all long-distance routes be printed in the RECORD.

The tables are as follows:

RIDERSHIP

Month	Average percent increase among all long-distance routes	Inter-American percent change over 1 yr earlier	Rank of Inter-American among long-distance routes
October 1979	12.11	67.72	1/16
November 1979	6.5	39.5	2/16
December 1979	8.9	51.6	2/16
January 1980	13.9	20.9	4/16
February 1980	13.0	46.8	3/16
March 1980	17.66	73.3	2/16
April 1980	−1.6	53.7	1/16
May 1980	2.3	38.6	2/16
June 1980	4.3	32.4	4/16
July 1980	5.3	21.7	4/16
August 1980	12.2	22.1	4/16
September 1980	13.7	20.7	5/16
Fiscal year 1980	8.0	36.8	3/16
October 1980	24.3	21.9	7/16
November 1980	4.2	22.2	2/16
December 1980	6.8	9.3	5/16
January 1981	7.1	35.5	2/16
February 1981	6.81	13.0	2/16
March 1981	5.7	27.1	2/16
April 1981	13.1	24.5	4/16
May 1981	7.7	25.5	2/16
To date	8.2	31.2	1/16

MONTHLY ON-TIME PERFORMANCE

Month	Average percent for all long-distance routes	Chicago-Laredo Chicago-Houston (percent)	Rank among all long-distance routes of two Inter-American listings [1]
October 1978	68.3	[2] 59.7	20/25
		56.5	19/25
November 1978	63.1	48.0	17/21
		68.3	10/21
December 1978	51.4	25.0	19/21
		35.5	14/21
January 1979	39.7	3.8	17/21
		3.2	9/21
February 1979	31.1	0	[3] /22
		12.5	15/22
March 1979	48.7	11.5	21/22
		27.4	17/22
		27.4	17/22
April 1979	42.7	11.5	19/22
		31.7	13/22
May 1979	51.6	23.1	16/22
		30.6	17/22
June 1979	43.9	14.0	17/22
		6.7	21/22
July 1979	38.9	22.6	14/20
		16.1	16/20
August 1979	39.3	48.4	7/20
		14.5	16/20
September 1979	57.7	63.3	8/20
		23.3	17/20
October 1979	58.6	69.4	6/21
		50.0	13/21
November 1979	66.7	40.0	17/21
		30.0	20/21
December 1979	69.0	58.1	16/21
		33.9	19/21
January 1980	71.2	77.4	9/24
		59.7	18/24
February 1980	67.7	44.8	22/24
		34.5	23/24
March 1980	66.6	43.5	21/24
		35.5	22/24
April 1980	61.5	10.0	23/24
		23.3	21/24
May 1980	67.9	40.3	21/24
		29.0	22/24
June 1980	59.7	41.7	16/24
		33.3	18/24
July 1980	49.6	27.4	15/21
		25.8	16/21
August 1980	56.5	43.5	15/21
		41.9	16/21
September 1980	77.7	53.3	21/21
		63.3	19/21
October 1980	79.9	58.1	19/21
		62.9	20/21
November 1980	84.4	45.0	21/21
		51.7	20/21
December 1980	72.2	29.0	21/21
		33.9	20/21
January 1981	77.9	59.7	19/21
		56.5	20/21
February 1981	80.4	30.4	21/21
		33.9	20/21
March 1981	81.6	38.7	21/21
		43.5	20/21
April 1981	77.3	31.7	20/21
		30.0	21/21
May 1981	77.6	37.1	21/21
		40.3	20/21

[1] Where ties occur, Inter-American was given lower numerical ranking.
[2] Actually denotes Chicago-Dallas service, this month only.
[3] Tied for last. ●

HELP FOR TELEVISION VIEWERS

● Mr. GRASSLEY. Mr. President, in this day and age, it sometimes seems that big institutions dwarf the individual, and that irresistible forces control our lives.

For years, citizens have felt that way about Government, but their frustration culminated in a mandate for change last November. Together, voters were able to send a message to Washington that one individual alone could not express. The overwhelming vote just yesterday on the tax package indicates just how well Congress has gotten the message.

A similar wave of resentment is welling among television viewers, many of whom feel bombarded by programing which conflicts with their values. But the response to objectionable programing is not further Government control of the industry or censorship. Rather, it is for viewers who are offended by the message TV shows bring across the public airwaves to find a medium to get their own message across—to light a candle instead of cursing the darkness.

Lighting such a candle is the local church I attend when in Washington, Woodlawn Baptist, which is providing a packet of materials entitled "Help for Television Viewers." Prepared by the Southern Baptist Convention, the materials include an in-depth discussion of the effect of television today and advice on what to do and whom to write to help viewers determine the kind of television programing offered in their homes.

I ask that three sections of this report, "How Television Affects Us," "What Individuals Can Do," and "What Families Can Do" be inserted at this point in the RECORD.

The material follows:

HELP FOR TELEVISION VIEWERS

HOW TELEVISION AFFECTS US

Television has a significant impact on people who view it regularly. Responsible studies have demonstrated that behavior, attitudes, and values are influenced by what we see on television. How does television affect our lives? What is the positive as well as the negative moral impact of television? We need to understand how television affects us so that we can affirm the good and change the bad.

Is television addictive?

Not only must Christians be concerned about the content of television programs, but we must also give attention to what the very process of watching television does to us. We must avoid watching morally objectionable programs and work to see that these programs are removed from the airwaves. But watching too many programs, even good programs, can harm us. Viewing television can become addictive. It can keep us from more important pursuits. It can block development of good relationships. It can cause us to neglect family and friends. It can keep us from engaging in worship, helping people in need, reading good books, participating in wholesome recreation, and studying the Bible.

In her book entitled The Plug-In Drug, Marie Winn declares that television is a drug that parents often "give" to their children to keep them quiet by getting them into a passive state.[1] She warns that this "plug-in-drug" is harmful to human health, and she insists that it must be drastically curbed or even eliminated from a family's routine.

It is evident that many children do get dependent upon television and in some sense become addicted to it. Many parents have observed withdrawal symptoms that take place when children are taken away from the television set for a while. But this is not simply a children's malady. It affects adults the same way. They can also become addicted to TV. Since children are in the process of mental and social development, however, it seems to be far more harmful to them than to adults. But television addiction is bad for all ages.

We should work to improve the content of programs, and we must also work to make certain that addiction to television does not hamper the moral and social development of both children and adults.

The impact of television violence

Violence on television is a fact of life. Not all violence on television, of course, is harmful to those who view it. In the showing of "Jesus of Nazareth," for example, there were powerful, responsibly handled scenes of violence such as the one when Jesus was crucified. It is not the fact that violence is shown that is objectionable; it is the exploitive manner in which it is shown that must be condemned. Television has an obligation, because it is a public medium, to present violence in ways that will not violate moral standards of decency and good taste. Violence can be realistically portrayed without being excessive or morally offensive.

Since violence is a gravely serious problem in our society, television can be valuable in educating us to the fact that violence is real. Sometimes TV has done this. Far more frequently, however, television has contributed massively to the problem of violence in America. Those who say that TV has reflected the violence in our society are correct. TV has done this. But TV has also irresponsibly contributed to the high level of violence.

Many parents have expressed their concern about the impact of crime, violence, and horror shows on their children. Such shows often frighten young children, cause them to have bad dreams, and sometimes cause them to reenact morally objectionable scenes. In many studies, Albert Bandura has demonstrated the negative impact of violent TV shows on children. He says: "If parents could buy packaged psychological influences to administer in regular doses to their children. I doubt that many would deliberately select Western gunslingers, hopped-up psychopaths, deranged sadists, slapstick buffoons, and the like, unless they entertained rather peculiar ambitions for their growing offspring."[2] Yet children are now being served exactly this kind of fare by television.

There are many indications that television affects the way people behave. A classic example of this was the showing of a program entitled "The Doomsday Flight," in which there was a bomb threat. When this program appeared on American television in 1966, the Airline Pilots Association protested. They tried to persuade NBC not to show it but were unsuccessful. When the program was shown, there were eight similar bomb threats made at different airports around the country. Fortunately, none of the bombs materialized. In 1971, however, the program was shown again on Australian television and Qantas Airways had to pay out $560,000 in a bomb hoax which was modeled on "The Doomsday Flight."[3] It is clear that this program invited imitation of violent crime and affected the behavior of some adults.

Additional studies prove the impact of television violence on human behavior. Moreover, common sense and daily experience tell us that television influences behavior. The fact that advertisers spend billions of dollars in the belief that television will influence people to buy products is overwhelming evidence of its influence. The television industry enthusiastically agrees with these advertisers that behavior can be influenced. When it then contends that violent programs do not influence people toward violence, it is simply not believable.[4]

Some defenders of current programming claim that television drains off aggressive behavior in children and adults. They maintain that television serves as a catharsis by showing violence which enables people to be purged of their own violent impulses. According to the National Commission on the Causes and Preventions of Violence, however, there is little scientific evidence to support this view: "We believe it is reasonable to conclude that a constant diet of violent behavior on television has an adverse effect on human character and attitudes. Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society."[5]

Constant exposure to television violence desensitizes people and numbs them to the pain and suffering of others. Seeing so much

Footnotes at end of article.

violence causes some to be relatively unaware of the impact that violence can have on people. Violence does have an impact on behavior. Common sense teaches us that behavior is affected by television violence and common sense cries out for something to be done.[6]

Alcohol and TV

Although hard liquor is not advertised on TV, beer relies heavily on TV advertisement and the wine industry has sharply increased its TV advertising in the last few years. The alcohol commercials on television are particularly objectionable, bringing into our homes attractively packaged promotion of the most abused drug in the history of the human race.

Ernest Noble, executive director of the National Institute on Alcohol Abuse and Alcoholism, in testifying before a Senate subcommittee, said: "We cannot afford the luxury of continuing current advertising practices until the full effects of alcohol beverage advertising are known. . . . My fear is that the appeals in beverage alcohol ads offer an instant solution to complex social problems and those who grasp at this solution certainly run a high risk of adopting attitudes that may result in problem-drinking behavior."[7]

The alcohol industry also receives a great deal of free television advertising in that numerous programs favorably depict the consumption of alcoholic beverages. In a recent survey of 250 hours of prime-time TV programming, the Christian Science Monitor noted that there were scenes involving hard liquor 507 times, ten times more than soft drinks were used. In real life, however, soft drinks are consumed sixteen times more frequently than liquor. The consumption of alcoholic beverages is grossly overrepresented on TV and does not reflect real life in an accurate or morally responsible way.

Other objectionable aspects of alcohol use on TV include: (1) the implication that the heavy use of alcohol contributes to sexual attractiveness, financial success, social attainments, maturity, and sophistication; (2) the excessive use of alcohol for so-called comedy purposes; and, (3) the implication that abstaining from the use of beverage alcohol is not socially acceptable.

In short, the advertising and consumption of alcohol on TV intensifies the soaring alcohol abuse problem in our nation.

Television and sexuality

Television serves many functions, and one of the most important is that of teacher. Sometimes television's role as teacher is recognized and sometimes it is not. But day in and day out television teaches us.

One of the areas about which television teaches us is human sexuality. Sometimes television provides wholesome information about sexuality. Recently, for example, a special TV program treated childbirth factually and responsibly. At times television presents models of parents relating to each other with joy, responsibility, and fidelity. But what is true in television's treatment of violence is also true in its treatment of sexuality. Far too often, it has been more negative than positive as its treatment of sexuality has been exploitive, sensational, and morally irresponsible.

Television has actually become the major sex miseducator in our society. It influences millions of people, and it influences them to have sexual views that are biblically and morally wrong. Television often manipulates people through canned audience applause to think of sexual innuendos as funny. Many of these shows ridicule sex. They remove the celebration of sex as God's good gift and replace it with off-color humor.

Claiming to be open and liberated, many of these shows actually are narrow and limited in their treatment of sex. Television often belittles responsible sexual relationships. It presents adultery as glamorous and fidelity as boring. Many TV shows downgrade marriage. They magnify sexual freedom and ignore sexual responsibility.

One of the most serious failings of television is its treatment of women as sex objects through commercials, dramas, situation comedies, and variety shows. We get the clear message through these programs that women are to be used, that the most important thing about a woman is her sex appeal, and that personality, ability, character, decency, responsibility, and fidelity do not really count for much.

Too often when television does treat sexual themes, it takes a sensational and superficial approach. It makes light of homosexuality and takes adultery for granted. The daytime serials present a steady diet of abnormal and immoral sex which prostitutes those who participate in the sexploitive dramas and hammers away at the moral values of those who view them.

Day in and day out, therefore, television serves as society's chief sex miseducator. This is one of its most negative impacts. Even TV's strongest defenders must be ashamed of the shoddy way sexuality is treated on television. Christians concerned about the well-being of society must act to correct this abuse of television.

TV ought not to stop treating sexuality; it ought to start treating sexuality more responsibly.

The impact of television commercials

Television plays a valuable role by providing information to consumers about some products they need. The problem comes when television turns its opportunity to inform into an occasion to manipulate.

Television advertising is big business. It has grown from $300 million in 1952 to $1.8 billion in 1964 to $6 billion in 1976.[8] Television advertisers would not spend this much money if they were not making an impact on viewers. They are getting a lot of people to buy a lot of products. If this were not the case, the sources of money for commercials would dry up.

The television industry often presents the notion that commercial television is free. They say that the public should be grateful to have such wonderful programs provided at no cost. The fact is that television is not free. The $6 billion bill for television advertising in 1976 was added to the cost of the products which consumers bought. So television costs consumers a very great deal of money—billions and billions of dollars each year. But it costs more than money. It costs us in many other ways as well—in exposure to misleading ads, in creation of utterly frivolous appetites, in manipulation of children to buy unneeded products, and in promotion of planned obsolescence which irresponsibly fosters an unworthy stewardship.

What do TV commercials teach us about life? What do they do to us as individuals? At times, commercials are openly deceptive. They make claims which cannot be substantiated. They divert attention from the nature of a product by developing a clever jingle to go with it or by showing a deceptively conceived picture to accompany it.

When it can be documented that commercials are deceptive, the Federal Trade Commission can take corrective action. A major auto maker was restrained from using an ad that showed the clearness of its window glass because the scenes were shot with the windows rolled down. A popular tonic maker can no longer claim a cure for "tired blood" due to FTC action. A mouthwash cannot be advertised as preventing colds. When deceptions are evident, the FTC can, should, and sometimes does, act.

Television advertisements also create a climate of excessive materialism. They nurture a preoccupation with things. Their underlying message is that the more things one possesses, the better one will enjoy life. Christians must be deeply concerned about such a denial of Christ's teaching that a person's life does not consist in the abundance of the things possessed (Luke 12:15). These commercials have a profound impact, in spite of Christian teaching and preaching, on the way Americans today think about money and the possession of things. Christians must be especially concerned about the values that these commercials teach children.

A young boy once badgered his parents before Christmas to buy him a particular toy which had been advertised on television. Wanting to give his son something he desired so much, the father searched many stores for the toy. At last, the father was elated that he was able to find it. He took it home and wrapped it up to be presented to his son on Christmas day. Before he went to bed on Christmas eve, the boy talked constantly about the toy. When the father asked his son to describe the toy, he was amazed to discover that the boy did not know the nature or purpose of the toy. He was not even sure what it looked like. But he had heard the name of it advertised on television and had been trapped by a clever advertisement. Such is the impact of television on the lives of many.

Television and profanity

The negative impact that television has on langugage is lamentable. TV's use of profanity is especially distasteful. Children and adults may hear profanity elsewhere, but this is no justification for television's adding to the problem. Television serves to generalize and legitimize profanity. The stars who appear on television shows represent the essence of glamour and success to multitudes. When these people use profanity, they give it a kind of sophistication and acceptance that it does not deserve.

Blasphermous and casual use of God's name has now become an all too regular occurence on television. Christians resent this profane use of God's name, resent its intrusion into our homes, and resent its acceptance by the TV industry for presentation to the American public.

The incidence of profanity on television has been increasing. It will continue to do so until Americans who want it kept out of their homes work together to protest vigorously. Television is unique. It comes into our homes. It must return to standards of minimal decency if it is to be allowed to continue with its present charter. The acceptance of day-in and day-out profanity on television cannot be tolerated.

Television and the family

Television has offered some good models of family life. "The Waltons" and "Little House on the Prairie" are prime examples of family behavior that is generally morally responsible. Such programs often focus helpfully on the jobs and sorrows that families face in every age. Further, the treatment of family in other dramas and documentary shows is sometimes enlightening and inspirational. We are grateful, therefore, for those TV entertainment and information programs that have treated family responsibly.

Taken as a whole, however, television has failed miserably in its approach to family life. It has ridiculed the family more often than it has honored it. Television has not provided adequate role models for males and females in the family. Woman is often stereotyped as a sex object or as inept while the father is pictured as a bumbling idiot. Families are too frequently pictured as bickering and yelling at each other.

Evidently, television writers mistakenly assume that responsible, joyful family living is not interesting to people. Therefore they consistently pursue themes that put family

Footnotes at end of article.

life in a bad light. They use put-down humor. They exaggerate family hostility. They picture many problems and offer few solutions.

Does television have a responsibility to present healthy family life? Yes, it does. It has this responsibility if it is to be true to life. There are many millions of people who practice loving fidelity, who enjoy parenting, and who celebrate family life. Those aspects of family deserve more attention on television not only because it is a public medium but also because these elements accurately reflect much human life. It also has this responsibility if it is to be true to its duty to help, not hurt, the society that supports it.

Television has failed in its approach to family. Children and adults who turn to TV for information about family are now harmed more than helped. Television's treatment of the family is a problem for individuals, for the churches, and for society at large.

What can we do?

In this presentation we have looked at some ways in which television has an impact on our behavior. We have considered some areas in which television influences us. We have seen that television profoundly affects the ways we think and act.

There is a genuine grass roots concern in this country about television's moral impact. The concern comes from a broad cross section of responsible Americans. Millions of people want to bring about change. Is there anything we can do to shape TV's impact on our lives? Yes. In Sections 3, 4, and 5 ways are explored for individuals, families, and churches to affirm that which is good about television and ways for us to work to change that which is bad.

WHAT INDIVIDUALS CAN DO

Have you ever looked inside a television set? It is a complex mechanism. It contains many elements which must function properly to provide a quality picture. Getting television to live up to its potential for moral good is also complex. We must act positively to guarantee quality programming. Here are some suggestions for individuals to follow in relation to television.

1. Study your television viewing patterns. Keep a record of the programs you watch for one week. Write down the amount of time you view each program.

2. Plan your television viewing. Get the listing of the week's programs usually printed in the Sunday newspaper. Study the programs to be offered. Different weeks offer different numbers of quality programs, so the time spent watching TV may vary from week to week. Select and mark the programs you want to watch. Turn the TV on for specific programs only. You will be controlling TV instead of letting TV control you.

3. Analyze the TV programs you watch to determine the way moral issues are handled. It is important to be aware not only of the amount of time you watch television, but also of the way moral issues are treated on the programs you watch. Study the way that violence, alcohol consumption, sexual behavior, profanity, and family relationships are handled on the programs you view. (Use the form for monitoring TV in Evaluating Television Programs, or devise your own form.)

4. Study resources on the impact of television and what to do about it. Books which can prove helpful include Television: A Guide for Christians by Edward N. McNulty and The Plug-In Drug by Marie Winn. In addition, materials can be obtained from such organizations as the National Association for Better Broadcasting, P.O. Box 43840, Los Angeles, California 90043, and Action for Children's Television, 46 Austin Street, Newtonville, Massachusetts 02160. Resources for Study and Action, page 3, lists other materials that can be used.

5. Write letters to express your convictions about television. It is important to share both positive and negative opinions about TV with people in places of leadership. Here are some people to write:

(1) Local television station managers and/or program directors. Call the station and ask for specific names. Write directly to these people. Your letter may help.

(2) Local and national sponsors of programs. Look up the phone numbers of local advertisers in the Yellow Pages of the phone ask for specific names. Write directly to book. Call and ask for the name of the president of the company. Write to this person.

(3) Write these persons a carefully worded brief letter. President, American Broadcasting Company, Inc., 1330 Avenue of the Americas, New York, New York 10019; President, Columbia Broadcasting System, Inc., 51 West 52nd Street, New York, New York 10019; President, National Broadcasting Company, 30 Rockefeller Plaza, New York, New York 10020; President Public Broadcasting Service, 485 L'Enfant Plaza West, S.W., Washington, D.C. 20024.

(4) Chairman, The Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

(5) Chairman, The Federal Trade Commission, Sixth and Pennsylvania Avenue, Washington D.C. 20580.

(6) Your Congressperson and Senators. Write your own letter in your own words. Be brief. Sign your name legibly and include your address. Here are the correct forms of address for Senators and Representatives: The Honorable ———, United States Senate, Washington, D.C. 20510. (The proper salutation is "Dear Senator ———:"); The Honorable———, House of Representatives, Washington, D.C. 20515, (The proper salutation is "Dear Mr./Mrs./Miss/Ms. ———:").

(7) Newspapers and magazine "Letters to the Editor" columns.

6. Telephone stations and local sponsors to communicate your views. Letters are usually more effective than telephone calls but not always. If you feel strongly about the value or harm of a program, call the local station manager and share your opinion. Local sponsors of television programs can also be called about the programs which they help to sponsor. Note the sponsors as you view the commercials, look up their numbers in the Yellow Pages of your local phone book, and then talk to the person in charge.

7. Work to influence public opinion about television and morality. This issue is so important that it is well worth the time and energy you devote to it. Television is shaping lives daily; we must work to alert people about its impact. We must be angry about the harm TV is doing and seek to motivate the public to demand changes. We must get excited about the morally wholesome programs and encourage the public to support them.

Share the findings of your survey of TV programs with others. Talk about television with other people. Follow suggestions in this pamphlet to write letters and make phone calls. Let this statement of Abraham Lincoln guide you in your involvement: "He who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions. He makes statutes or decisions possible or impossible to execute.

8. Get involved in a group that is working to improve television. Group action to deal with TV can be very effective. Not only do groups have the numbers necessary to get the attention of decision makers, but the varied experiences and insights of others can be valuable in acting to improve television.

The Parent-Teacher Association, for example, is involved in a substantial program to improve television. It encourages continuing action through local PTA chapters. The Christian Life Committee of your church, association, or state Baptist convention can be a very effective group for dealing with television. This committee approaches moral issues from a distinctly Christian perspective. See page 1 of What Churches Can Do for more information about this Committee.

9. Support educational television stations. There are good alternatives to be found in many offerings by educational television. If you are convinced of the value of educational television, support these stations with your contributions and your encouragement. Let the stations know the kinds of programs in which you are interested. Work to get others to join you in supporting them.

10. Practice selective buying. Determine which companies sponsor morally responsible television programs; and when you need products they sell, patronize them. Refuse to buy products from sponsors of programs that are morally objectionable and socially irresponsible. Communicate your objections to the sponsor, to your local dealer, and to the television station. Give specific programs and name specific incidents. Addresses for some sponsors can be found in the Yellow Pages of the phone book. See page 2 of Resources for Study and Action for some major advertisers.

11. Oppose those companies that continually sponsor morally objectionable TV shows. Communicate opposition to the sponsorship of violent, or sexually exploitive, or profane programs. Some have attended meetings of stockholders to register their protests. If companies do not stop sponsoring immoral TV programs, many people and institutions will want to sell their stock and invest in companies that are more committed to the moral welfare of this country.

12. Recognize the impact that television advertising can have in motivating you to over-consume. Television is a strong force in developing a life style which focuses on the possession of things. It informs us about products which we need and can use, of course; but it also seeks to create appetites for products we do not need. Be aware of what commercials say, and how they say it. Here are some questions to ask: Is the advertised product useful? Beneficial to health? Wasteful? Necessary? Is the message about the product presented clearly or deceptively? What does the commercial communicate about males, females, sex, minorities, children? How should the commercial be evaluated in light of Christian teachings about stewardship?

Television action includes prayer

Individuals can and must act out of a sense of urgency and moral responsibility in order to help the television medium to get the message

Pray faithfully for personnel of the Radio and Television Commission and the Christian Life Commission, and for others who are working for improved television programs.

WHAT FAMILIES CAN DO

Television is a dominant influence in the homes of modern Americans. It entertains our families, informs us, and motivates us to buy products. Television is both a blessing for families to enjoy and a problem with which families are compelled to cope.

Here are some suggestions for families facing the challenge of television.

1. Decide how much time your children may watch TV during the week. This requires study, moral judgment, planning, and the setting of family priorities. In light of the fact that many families have the TV set turned on six or seven hours a day, such planning is especially needed.

At the beginning of a week, study the programs to be offered. Circle those which may be watched by your children. Parents face the crucial decision of how much TV to allow children to watch both during school days and on weekends. Older children should be brought into the decision-making process. This provides an ideal opportunity for families to work through differences which may arise.

Some decide that there will be no television on weekdays. Others allow one hour per day on weekdays. Others select special programs to be watched. There must be careful selection and control on weekends also; otherwise most of the leisure hours may be spent in front of a TV set if parents do not plan carefully in light of family priorities, it is likely that most children will watch TV far more than is best for them.

2. Parents should monitor television programs to see what is suitable viewing for children. The need for this monitoring has recently increased. Many parents have been shocked to discover that children are watching programs that contain far too much violence or are otherwise unsuitable for children. By viewing these programs, parents can make informed and necessary judgments about what children should see. In the case of older children, these judgments should be made after discussion together.

3. Families may watch some television programs together to learn about issues encountered in life. Some TV programs offer valuable insights that children and adults need to discuss. Television can be a valuable resource for this discussion. And, if a morally objectionable scene suddenly appears on the screen, this should be used as an occasion for teaching. It does not follow that parents should consciously choose morally objectionable programs in order to teach lessons. There will be more than enough of the negative that will be beamed in unannounced.

4. Parents should discuss commercials with their children. Teaching children to understand the nature and purpose of commercials is extremely important. Children need to learn how to evaluate what the commercials are saying. They must be taught to avoid wanting to acquire every product that is pictured. They must also be guided away from the materialism that may develop after viewing thousands of commercials each year.

As parents watch and discuss commercials with their children, they can find out how the child understands and interprets what is being said. Then they can seek to help the child evaluate commercials in light of biblical teachings about acquiring and using possessions.

5. Write the National Association for Better Broadcasting and secure its annual Television for Family guide. This guide, which presently costs $1.00, evaluates many television programs from the perspective of responsive family life. It is a very useful resource. The address of the National Association for Better Broadcasting is P.O. Box 43640, Los Angeles, California 90043.

6. Avoid using television as a babysitter. It is easy for families to develop a lifestyle in which TV is used to babysit with the children while the parents pursue other activities in the home or even outside it. For example, some parents sleep late on Saturday morning and let the cartoons entertain their children for hours.

The use of TV as a regular babysitter can lead to serious problems for the family. This practice should be avoided. It takes creative energy to find alternatives; but, given the damage that is likely to come from the TV babysitter, it is worth the effort.

7. Parents should discuss with those who keep the children when they are away which programs their children are allowed to watch. Prepare a written schedule or mark the TV section of the paper. Check to make certain that these instructions are carried out.

8. Decide where to place the television set in your home. Where you put the TV set may be a clue to the priority that TV will be given in your family. If the set is in a central location, it may become central in your family's activities. If it is near the table where you eat, for example, it will likely cut down on greatly needed family conversation. Some families decide to purchase a portable set which can be placed in a closet and only brought out for programs selected for viewing. If there are young children in the family, consider having the TV near the center of activity so that parents can be aware of what is being watched. Otherwise, there is real value in moving the TV to a less prominent area. This puts TV in its place and keeps it from dominating family life, family leisure, and family relationships.

9. As a family project, write letters about television. All family members may decide to write to communicate their appreciation or disapproval of a particular TV show. Teaching children how to write to express their views can be a valuable learning experience.

After discussion of a particular program or commercial about which the family feels strongly, encourage and assist in the project of letter writing. Letters should be written to commend positive programming and to condemn harmful programming.

10. Provide opportunities for good religious, social, and cultural experiences as an alternative to constant TV watching. Many children and adults watch TV to fill a social and relational vacuum in their lives. Make a regular place for education, recreation, entertainment, and worship activities which offer opportunities for growth and enjoyment. This is one of the best ways to cut down on excessive dependence on television.

11. Parents should set an example in their television watching. It will be difficult to encourage children to accept responsible TV habits if parents set bad examples themselves in their own viewing. If TV plays a major role in the parents' lives, it will likely do the same in their children's lives. Set a good example in how you handle TV, and your children will be likely to follow you.

12. Older couples should refuse to let TV dominate their lives. A steady diet of athletic events, soap operas, situation comedies, or "whodunits" can banish conversation and undermine relationships between even the most devoted husband and wife.

Retired people and persons not employed outside the home need to give special attention to ways to keep from being intellectually consumed by TV's unreal world of give-away shows and steady diet of melodrama. Diversion is good. Preoccupation is bad.

Counter the tendency to let TV come between you and your spouse. Schedule some time together to watch programs you like. Then do other things together such as games you both enjoy, fellowship with other families, dining out, or gardening, that foster good communication and strengthen the marriage bonds.●

FOOTNOTES

[1] Marie Winn, The Plug-In Drug (New York: Viking Press, 1977), p. 47.

[2] Albert Bandura, "What TV Violence Can Do to Your Child," in Violence and the Mass Media, Newton Minnow and Otto Carson, eds. (New York: Harper & Row, 1968), p. 123.

[3] June Davison, "The Triggered, The Obsessed, and The Schemers," TV Guide (February 2, 1974), p. 6.

[4] National Commission on Causes and Preventions of Violence, To Establish Justice To Insure Domestic Tranquility (Washington: U.S. Government Printing Office, 1969), p. 195.

[5] Ibid., pp. 198–199.

[6] For a more thorough discussion of television and violence, see Harry N. Hollis, Jr., The Shoot-'em-up Society (Nashville: Broadman Press, 1974), pp. 52–63.

[7] "Hearings Before the Subcommittee on Alcoholism and Narcotics of the Committee on Labor and Public Welfare, United States Senate," March 8–11, 1976, pp. 142 ff.

[8] Ben Logan, ed., Television Awareness Training (New York: Media Action Research Center, 1977), p. 172.

RESEARCH AND DEVELOPMENT EXPENSES

● Mr. DENTON. Mr. President, it is gratifying indeed that the Senate, earlier this week, acted to suspend for 1 year an inequitable and ill-conceived administrative interpretation of section 861 of the Internal Revenue Code that for 4 years has created a serious disincentive to the performance and expansion of critically needed research and development activity in the United States.

The 1-year suspension, with instructions to the Treasury Department to study and report to Congress on the pernicious effects of the 861 regulations, will, if reason prevails, result in their permanent elimination.

The 861 regulations now require American companies to allocate against foreign income a portion of research and development expenses incurred entirely within the United States. The result is that the U.S. companies find themselves paying taxes on the same income in more than one country, with little or no offset from foreign tax credits.

I congratulate the distinguished Senator from Ohio, (Mr. GLENN), who offered this important amendment, and Senators DANFORTH and WALLOP, who joined in cosponsoring it, and Senator SCHMITT for his deep interest in the overall issue of the future prospects for R. & D. in our country.

Elimination of the 861 regulations, as they apply to research and development in the United States, will help reduce unnecessary regulations that stifle innovation and productivity. It will also help assure that research and development activity is not driven out of the United States in favor of other countries whose tax policies present no such disincentive to investment.

There are a number of actions that we can take to resolve the problem created by the 861 regulations: First, the Treasury Department should undertake an administrative modification of the regulations immediately. Second, in whatever version of the tax bill Congress sends to the President, there should be included, at a minimum, a provision suspending the application of the regulations for 1 year and requiring the Treasury Department to provide, within 6 months, the Congress with a study on the effect of the regulations.●

ASSISTANCE TO POLAND

● Mr. KENNEDY. Mr. President, the independent trade union movement, Solidarity, has achieved new and important rights and benefits for its members in Poland. Following elections of delegates by secret ballot, a historic party congress has taken place and over 90 percent of the membership of the central committee has changed. And the Polish people continue to show their determination to settle their own affairs without excessive influence from their neighbors.

Poland now faces major food shortages and enormous economic problems. Cooperation among Solidarity, the government and the church will make it possible for the Polish people to address

these problems over the long term. But in the immediate future, it is essential for the United States and the international community, in both the public and private sectors, to provide emergency food aid and longer-term economic assistance and support, as the Polish Government and Solidarity carry out their historic agreements.

In this regard, I welcome the announcement of $50 million in U.S. food credits for Poland. I hope that the administration will now press our friends and allies to offer matching food aid and that it will promptly pursue additional international economic assistance, as recommended in a letter which I and six other Senators sent to President Reagan on July 21. I request that the full text of this letter—in which I was joined by Senators ROBERT C. BYRD, BIDEN, BUMPERS, CRANSTON, PELL, and SARBANES—be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 21, 1981.

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

DEAR MR. PRESIDENT: At this critical time for Poland, we urge you to approve much-needed food aid for that nation, and to work with our allies and other nations to provide longer-term economic assistance as the Polish government and Solidarity carry out their historic agreements.

As you know, the Polish people presently face serious food shortages in their country. U.S. food aid at this time is not only justified on humanitarian grounds, but would be a clear signal of continuing support for the process of reform and democratization in Poland.

We believe that food aid would be of direct and immediate benefit to the Polish people, and would enhance the future prospects for peace and stability. We are confident that this aid is in the best traditions of our nation and would be strongly supported by the American people even at this time of budgetary restraint.

With our thanks and best wishes,
Sincerely yours,

ROBERT C. BYRD.
PAUL SARBANES.
DALE BUMPERS.
TED KENNEDY.
ALAN CRANSTON.
CLAIBORNE PELL.
JOSEPH R. BIDEN.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that three such notifications have been received: one on July 24 and two on July 29, 1981.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229 Dirksen Senate Office Building.

In the connection, I submit correspondence for printing in the RECORD.

The correspondence follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO Consortium tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, room 4229 Dirksen Building.

The material submitted for printing in the RECORD follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-61 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to the Yemen Arab Republic for defense articles and services estimated to cost $14 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL No. 81-61

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Yemen Arab Republic.

(ii) Total estimate value:

	Million
Major defense equipment*	$11
Other	3
Total	14

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Twenty-two thousand four hundred sixty-four rounds of 105mm main gun ammunition and 2,221,920 rounds of 7.62mm and .50 caliber machine gun ammunition for M60 tanks.

(iv) Military department: Army (UEF).

(v) Sales commission, fee, etc., paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending March 31, 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

YEMEN ARAB REPUBLIC—TANK AMMUNITION

The Government of the Yemen Arab Republic (YARG) has requested the purchase of 22,464 rounds of 105mm main gun ammunition and 2,221,920 rounds of 7.62mm and .50 caliber machine gun ammunition for the M60 tank at an estimated cost of $14 million.

This sale would further U.S. efforts to promote peace and stability on the Arabian Peninsula and to assure the security and independence of moderate Arab states. It would assist the YARG in the modernization of its ground forces so as to defend successfully against possible attacks from hostile neighbors.

This ammunition will be used to complete the initial basic load and provide training ammunition and war reserve stocks for the 64 M60A1 tanks delivered to the Yemen Government in the spring of 1979. The sale of tank ammunition does not introduce a new weapon capability into the region.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractors for the 105mm ammunition will be Flinchbaugh Products of Red Lion, Pennsylvania; Chamberlain Manufacturing Corporation of New Bedford, Massachusetts; and Norris Industries of Vernon, California. The 7.62mm and the 50 caliber ammunition will be produced by the Lake City Army Ammunition Plant of Independence, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to the Yemen Arab Republic.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–72, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–72

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Million
Major defense equipment*	$8
Other	1
Total	9

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Eighteen 155mm M198 towed howitzers with spare parts.

(iv) Military department: Army (VDI).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

SAUDI ARABIA—M198 HOWITZER

The Government of Saudi Arabia has requested the purchase of 18 M198 155mm towed howitzers with spare parts at an estimated cost of $9 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Saudi Arabian effort to improve the security of the country through modernization of the Saudi Armed Forces.

The purchase of the M198 howitzer by the Saudi Arabian Land Forces (SALF) will permit improvement of current ground force artillery support by replacing aging M114 155mm towed howitzers with a modern artillery piece with an extended range. This improvement is required as part of the ongoing military modernization plan to build a ground force capable of deterring external attacks. Acquisition of this equipment by the SALF will not introduce a new military capability into the region.

The sale of this equipment and support will not affect the basic military balance in the region.

The principal work will be done at the Rock Island Arsenal of Rock Island, Illinois.

Implementation of this sale will require the assignment of approximately 10 additional U.S. military personnel to Saudi Arabia for 18 months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–73 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $98 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–73

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	Million
Major defense equipment*	$69
Other	29
Total	98

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Nine AN/TPQ–36 mortar locating radars and six AN/TPQ–37 artillery locating radars with support equipment, training, support services, and two years of concurrent spare parts.

(iv) Military department: Army (VDH).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

SAUDI ARABIA—MORTAR AND ARTILLERY LOCATING RADARS

The Government of Saudi Arabia has requested the purchase of nine AN/TPQ–36 mortar locating radars and six AN/TPQ–37 artillery locating radars with required support equipment, training, support services, anl two years of concurrent spare parts at an estimated cost of $98 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support tre Saudi Arabian effort to improve the security of the country through modernization of the Saudi Armed Forces.

The purchase of the radars and support will provide the Saudi Arabian Land Forces (SALF) an automated capability for locating mortars, short-range artillery, and high-angle fire weapons firing from multiple positions. The AN/TPQ–36 and AN/TPQ–37 radars will assist the SALF to offset in part any artillery advantages held by neighboring countries.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of an additional nine-man U.S. military training team to Saudi Arabia for approximately six months and the assignment of two contractor personnel for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81–75, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $86 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C (b) of that statute.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81–75

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Million
Major defense equipment*	$0
Other	86
Total	86

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two hundred four M48 tank conversion kits and ancillary support equipment to convert M48A1 tanks to the M48A3 and M48A5 configuration.

(iv) Military department: Army (WKP and WKQ).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending March 31, 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

GREECE—TANK CONVERSION KITS

The Government of Greece has requested the purchase of 204 conversion kits and ancillary support equipment to convert M48A1 tanks to the M48A3 or M48A5 configuration at an estimated cost of $86 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the ability of Greece to fulfill its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Government of Greece needs these conversion kits to continue its program of upgrading its M48 series tanks. Greece will have no difficulty in absorbing and maintaining the converted tanks since trained personnel are available and parts, tools, and test equipment are already in its inventory. The tank conversion kits will be provided in accordance with, and subject to the limitation on use and transfer provided under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or our efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Chrysler Corporation Defense Group of Warren, Michigan.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 8, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act) and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of tank conversion kits to the Government of Greece is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-77 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Italy for defense articles and services estimated to cost $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

TRANSMITTAL NO. 81-77

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Italy.

(ii) Total estimated value.

	Million
Major defense equipment*	$23
Other	1
Total	24

*As included in U.S. Munitions List, a part of the Interntaional Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two thousand two hundred eleven I-TOW surface attack guided missiles and 623 TOW practice guided missiles.

(iv) Military department: Army (XHE).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 24, 1981.

POLICY JUSTIFICATION

ITALY—IMPROVED-TOW MISSILES

The Government of Italy has requested the purchase of 2,211 I-TOW missiles and 623 TOW practice missiles at an estimated cost of $24 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Italy; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

These missiles are required by the Government of Italy to enhance their anti-armor capabilities. They have TOW in their inventory and will have no difficulty assimilating these additional missiles into their armed forces.

The sale of this equipment and support will not affect the basic military balance in the region since comparable or identical anti-armor weapons already exist in the region.

The prime contractor will be the Hughes Aircraft Company of Canoga Park, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Italy.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-78, concerning the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $35 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620(b) of that statute.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

TRANSMITTAL NO. 81-78

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Turkey

(ii) Total estimated value:

	Million
Major Defense Equipment*	$0
Other	35
Total	35

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

As included in the U.S. Munitions List, a part of the International Traffic in arms Regulations (ITAR).

(iii) Description of articles or services offered: Cooperative logistics supply support for follow-on spares and supplies in support of C-130H, F-4E, F/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture.

(iv) Military department: Air Force (KBJ).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to congress: July 29, 1981.

POLICY JUSTIFICATION

TURKEY—COOPERATIVE LOGISTICS SUPPLY SUPPORT

The Government of Turkey has requested the purchase of cooperative logistics supply support for follow-on spares and supplies in support of C-130H, F-4E, F/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture at an estimated cost of $35 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

This cooperative logistics supply support arrangement is necessary to ensure an uninterrupted flow of spare parts to maintain the readiness of the Turkish Air Force weapon systems of U.S. origin. The cooperative logistics support will be provided in accordance with, and subject to the limitation on use and transfer provided for under the Arms Export Control Act, as embodied in the

terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

Procurement of these items and services will be from the many contractors who provide similar items and services to the U.S. Forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 19, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of cooperative logistics supply support for U.S. origin aircraft to the Government of Turkey is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 29, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-79 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $19 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C (b) of that statute.

Sincerely,

ERICH F. VON MARBOD,
Deputy Director.

TRANSMITTAL NO. 81-79

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Million
Major defense equipment*	$14
Other	5
Total	19

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Fifty TOW launchers and 1,487 surface attack TOW missiles.

(iv) Military department: Army (WLE).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1981.

(viii) Date report delivered to Congress: July 29, 1981.

POLICY JUSTIFICATION

GREECE—TOW LAUNCHERS AND MISSILES

The Government of Greece has requested the purchase of 50 TOW launchers and 1,487 surface attack TOW missiles at an estimated cost of $19 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of Greece (GOG) needs these articles to increase the anti-tank capability of the Hellenic Army (HA). The HA will have no difficulty in absorbing the launchers and missiles since these weapons are already in the inventory. This sale will enable the GOG to increase its defense capability. The TOW missiles and launchers will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Hughes Aircraft Company of Canoga Park, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 19, 1981.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision of anti-tank launchers and missiles to the Government of Greece is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification of the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.●

DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS—CONFERENCE REPORT

Mr. TOWER. Mr. President, I submit a report of the committee of conference on S. 694 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 694) to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. TOWER. Mr. President, this report has the full support of both the House and Senate Committees on Armed Services.

I should like to take this opportunity to thank all of the conferees for their diligent efforts in resolving the differences between the Senate and House version of this bill so that the vitally needed funds which we have identified will be available for use by the Department of Defense in fiscal year 1981.

I express my personal appreciation to my distinguished colleague and ranking member of the committee, Senator STENNIS, and the other members of the Senate Committee on Armed Services for the extraordinary efforts which they made to expedite the committee's consideration of the administration's supplemental request. As Senators know, this bill was reported to the Senate for its consideration by the Committee on Armed Services at the beginning of April 1981 and received overwhelming support by the full Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for morning business be extended to not beyond 6:45 p.m., under the same terms and conditions.

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

Mr. BAKER. Mr. President, I have a number of housekeeping details and unanimous-consent items. But before I do that, is there an order for the Senate to convene on tomorrow?

The PRESIDING OFFICER. There is not.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

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

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the following Senators be recognized for not to exceed 15 minutes on special orders: The distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from Alaska (Mr. MURKOWSKI), the distinguished Senator from Arkansas (Mr. PRYOR), the distinguished Senator from Michigan (Mr. LEVIN), the distinguished Senator from Oklahoma (Mr. BOREN), the distinguished Senator from Pennsylvania (Mr. SPECTER), and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

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

THE CALENDAR

Mr. BAKER. Mr. President, there is one item cleared on my calendar of business for today, calendar 228, Senate Resolution 146.

I wonder if the minority leader can state whether he is in position to proceed to the consideration of that item at this time?

Mr. ROBERT C. BYRD. Mr. President, I am ready to proceed.

Mr. BAKER. I thank the minority leader.

SENATE YOUTH PROGRAM

The Senate proceeded to consider the resolution (S. Res. 146) to amend Senate Resolution 324 of the 87th Congress to provide for the participation of the Department of Defense education system for dependents in overseas areas in the Senate youth program.

The resolution (S. Res. 146) was agreed to.

S. RES. 146

Resolved, That S. Res. 324, Eighty-seventh Congress, agreed to May 17, 1962, is amended by adding at the end thereof the following new section:

SEC. 3. For the purpose of this resolution, the term "State" includes the Department of Defense education system for dependents in overseas areas.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

NOMINATIONS

Mr. BAKER. Mr. President, I will advise the minority leader on this side, on the other calendar, the Executive Calendar, we have cleared all items under new reports except the nomination of John M. Walker, including all nominations placed on the Secretary's desk.

If the minority leader is agreeable to considering these items I am prepared now to ask the Senate to go into executive session.

Mr. ROBERT C. BYRD. Will the distinguished majority leader make that request?

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations.

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

Mr. ROBERT C. BYRD. Mr. President, will the majority leader state again the clearances he has reference to?

Mr. BAKER. Yes, Mr. President. Beginning on page 2 under new reports, starting with Veterans' Administration, and continuing through pages 3, 4, 5, 6, and 7, including nominations on the Secretary's desk, with the exception of the nomination of John M. Walker, Jr., which is Calendar No. 397 on page 3 under Department of the Treasury. That is not included.

Mr. ROBERT C. BYRD. The minority is ready to proceed with those nominations with the exception of the two nominations under the Department of Agriculture.

Mr. BAKER. I thank the minority leader. I assume those are the nominations of Harold V. Hunter and Charles Wilson Shuman?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration en bloc of the nominations under New Reports on pages 2, 3, 4, 5, 6, 7, including nominations placed on the Secretary's desk, with the exception of the first three nominations on page 3, Harold V. Hunter, Charles Wilson Shuman, and John M. Walker, Jr., of New York.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

VETERANS' ADMINISTRATION

Frank Saburo Sato, of Virginia, to be Inspector General Veterans' Administration, vice Allan L. Reynolds.

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service), vice N. Jerold Cohen, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Juan A. del Real, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Joan Zeldes Bernstein, resigned.

Thomas R. Donnelly, Jr., of Virginia, to be an Assistant Secretary of Health and Human Services, vice William Brownlee Welsh, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

Eugene J. Frank, of Pennsylvania, to be a member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1982, vice George H. Moore, resigned.

DEPARTMENT OF DEFENSE

Edward C. Aldridge, Jr., of Virginia, to be Under Secretary of the Air Force, vice Antonia Handler Chayes, resigned.

Alton Gold Keel, Jr., of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Robert Jay Hermann.

IN THE AIR FORCE

Lt. Gen. Lloyd R. Leavitt, Jr., U.S. Air Force (age 52), for appointment to the grade indicated on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officers 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:

Maj. Gen. George D. Miller, [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Charles L. Donnelly, Jr., [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Charles G. Cleveland, [redacted] FR, U.S. Air Force, to be lieutenant general.

Maj. Gen. Robert T. Herres [redacted] FR, U.S. Air Force, to be lieutenant general.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

Brig. Gen. Wayne Paul Jackson, [redacted] to be major general.

Brig. Gen. Thomas Milton Moore, [redacted] to be major general.

Brig. Gen. William Francis Ward, Jr., [redacted] to be major general.

Col. John Alex Arkins, [redacted] to be brigadier general.

Col. John Joseph Diggins, [redacted] to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

Brig. Gen. Vincent William Lanna, [redacted] to be major general.

Brig. Gen. Elmer Lewis Stephens, [redacted] to be major general.

Col. Carroll Glenn Allen, [redacted] to be brigadier general.

Col. William James Burns, [redacted] to be brigadier general.

Col. Keith Marvin Eggen, [redacted] to be brigadier general.

Col. LeRoy Robert Evans, [redacted] to be brigadier general.

Col. Joe Arlon Forberg, [redacted] to be brigadier general.

Col. Kenneth Wayne Himsel [redacted], to be brigadier general.

Col. Robert George McClellan, [redacted], to be brigadier general.

Col. Kenneth Lester Rieth [redacted], to be brigadier general.

Col. Ivan Fay Smith, [redacted] to be brigadier general.

Col. Michael Thomas Sullivan, Jr., [redacted] to be brigadier general.

Col. Arthur Albert Weller, Jr. [redacted], to be brigadier general.

Col. Edward Herman Wulgaert, [redacted] to be brigadier general.

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

Col. Charles Hill Anderson [redacted], to be brigadier general.

Col. Robert Michael Fiorella [redacted], to be brigadier general.

Col. Edward Lawrence Hanson, [redacted] to be brigadier general.

Col. William Arthur Jackson [redacted], to be brigadier general.

Col. Val Elmore McCreary, [redacted] to be brigadier general.

Col. Charles McClung Scott, Jr., [redacted] to be brigadier general.

Col. William Kinney White [redacted], to be brigadier general.

The following named Army Medical Department officers for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

MEDICAL CORPS

Brig. Gen. Garrison Rapmund, [redacted] Medical Corps, Army of the United States (colonel, U.S. Army), to be major general.

Col. Tracy Elmer Strevey, Jr. [redacted], Medical Corps, U.S. Army, to be brigadier general.

Col. Robert Hutchinson Buker, 577–36–5934, Medical Corps, U.S. Army, to be brigadier general.

MEDICAL SERVICE CORPS

Col. France Felton Jordan [redacted], Medical Corps, U.S. Army, to be brigadier general.

DEPARTMENT OF AGRICULTURE

John V. Graziano, of Virginia, to be inspector General, Department of Agriculture, vice Thomas F. McBride.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Air Force nominations beginning Densel K. Acheson, to be colonel, and ending Arthur E. Schmitt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Air Force nominations beginning Max L. Abram, to be lieutenant colonel, and ending William R. Gerber, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 1981.

Army nominations beginning Arthur A. Armour, to be major, and ending David C. Weston, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Navy nominations beginning Leon Eddy Ackart, to be captain, and ending Beverly Jean Sparks, to be captain, which nominations were received by the Senate and appeared in the Congressional Record of July 24, 1981.

Marine Corps nominations beginning John T. Garcia, to be colonel, and ending Kurt V. Zirkelbach, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of July 28, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

NOMINATION OF FRANK S. SATO

Mr. SIMPSON. Mr. President, I am very pleased to report that the Committee on Veterans' Affairs on July 9, 1981, completed its consideration of the qualifications of Frank S. Sato, the President's nominee to be Inspector General of the Veterans' Administration. His nomination was approved by a unanimous vote of the membership of the Senate Committee on Veterans' Affairs.

The position of Inspector General of the Veterans' Administration is a most important one in the efficient operation of the agency. The Inspector General Act of 1978 requires the office of Inspector General in the Veterans' Administration to conduct and supervise audits and investigations; to provide leadership, coordination, and recommendations to promote economy, efficiency, and effectiveness; to prevent and detect fraud and abuse; to keep the Administrator and the Congress fully informed concerning problems of deficiencies, and review the necessity for—and the progress of—corrective action.

We believe Frank Sato will perform these functions and carry out these requirements capably and effectively.

Frank Saburo Sato is a native of the State of Washington and received his bachelor of arts degree at the University of Washington, in Seattle, Wash. Additional university training was at the University of California at Los Angeles. He is a certified public accountant and has had a long and distinguished career in all phases of governmental auditing in Washington and throughout the country.

Frank Sato has served in the Department of Defense for over 25 years; 14 years of that employment was in the Office of the Secretary of Defense. His most recent position in the Defense Department was as the Deputy Assistant Secretary of Defense in charge of audits from 1974 to 1979.

From May 1979 until January 1981, Frank Sato served as Inspector General of the Department of Transportation.

Mr. Sato has received many professional honors including eight outstanding and significant awards from the Department of the Air Force and the Office of the Secretary of Defense. On July 1 of this year, he received the Robert W. King "Gold Medal Award" from the Association of Government Accountants.

I rise in strong support of the nomination of Frank S. Sato to be the Inspector General of the Veterans' Administration and I urge the Senate to support the unanimous vote of the Committee on Veterans' Affairs in confirming this nomination.

NOMINATION OF EUGENE J. FRANK

Mr. DOLE. Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Eugene J. Frank to be a Commissioner of the U.S. International Trade Commission. As chairman of the committee, it is a privilege and a pleasure to report favorably on the nomination of Mr. Frank. The committee has reviewed Mr. Frank's financial statement and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.

Mr. Frank has been nominated to fill a very important position. The U.S. International Trade Commission plays a vital role in the functioning of our fair and unfair trade practice laws. While decisions under statutes like section 201 of the Trade Act of 1974. the so-called escape clause and section 337 of the Tariff Act of 1930 are reviewable by the President, they are an important part of our industrial adjustment process. Under the countervailing duty and antidumping statute the Commission's decisions are not reviewable by the President and can result in the immediate imposition of additional duties. The Commission also serves as adviser to both the Congress and the President on the most sensitive trade issues.

Mr. President, Mr. Frank is well qualified to serve in the position to which he has been nominated.

Mr. Frank received a B.A. degree in economics from Western Maryland College and a masters degree in finance from the University of Pittsburgh. Mr. Frank taught at the graduate school of the University of Pittsburgh and lectured at Fordham University and Robert Morris College. Mr. Frank's 30-year business career has been spent as an investment banker, economist, and financial consultant and through the years he has become a recognized authority on world trade and heavy industry.

As an investment banker he primarily served as a general partner of Singer Deane & Scribner and its director of research. He also served as vice president of Shearson Hayden Stone for Research and Investment Banking, and president of E. J. Frank Associates.

In the area of financial and economic research he has been involved in micro studies of several major industries. His work included a review of these industries' productive capabilities, inventory, research and development, availability of raw materials, competition from other materials and products, and capital requirements along with the industries' labor, energy, transportation, capital costs and its import and export position.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF KENNETH W. GIDEON

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Kenneth W. Gideon to be Assistant General Counsel of the Department of the Treasury. In this position he will serve as Chief Counsel for the Internal Revenue Service. As chairman of the committee it is a privilege and a pleasure to report favorably on the nomination of Mr. Gideon. The committee has reported favorably on the nomination of Mr. Gideon. The committee has reviewed Mr. Gideon's financial forms and the input of the Office of Government Ethics. We are confident there are no problems in this area.

The position of Chief Counsel for the Internal Revenue Service is an extremely important position, demanding an individual of great expertise and ability. I believe Mr. Gideon's background, education, and experience provide him with the skills necessary for this position.

He is a graduate of Harvard University and Yale Law School. He is presently partner in the law firm of Fulbright and Jaworski of Houston, Tex. He has been active in the practice of Federal and State tax law since joining that firm in 1971. He has been active in the American Bar Association, serving as chairman of the Committee on Court Procedures of the section of taxation from 1979 to

1981. Mr. Gideon has also been active with the Texas State Bar Association.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF JUAN DEL REAL

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Juan del Real to be General Counsel of the Department of Health and Human Services. As chairman of the committee it is a privilege and a pleasure to report favorably on this nomination. The committee has reviewed Mr. del Real's financial forms and the report of the Office of Government Ethics and we are confident there are no problems in this area.

The position to which Mr. del Real has been nominated is vital to the effective operation of the Department of Health and Human Services. The General Counsel, as chief legal officer, is responsible for providing legal advise and guidance on the entire range of programs and legal issues arising from the agency's substantive jurisdiction. I believe Mr. del Real has the requisite skills and background to carry out the functions of the position.

He graduated from St. Louis University Law School, cum laude, in 1966. After graduating from law school he practiced law in Washington, D.C., and served as special assistant to the president of the Central Aguirre Sugar Co. in Puerto Rico before returning to the practice of law in Washington, D.C. He became a partner in charge of the litigation department of Hill, Christopher, and Phillips. He is married, with three children.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF THOMAS R. DONNELLY, JR.

Mr. President, on July 29, 1981, the Committee on Finance held a hearing on the nomination of Thomas R. Donnelly to be Assistant Secretary of the Department of Health and Human Services for Legislation. The committee has reviewed Mr. Donnelly's financial forms, and the report of the Office of Government Ethics. We are confident that there are no problems in any of those areas.

The position to which Mr. Donnelly has been nominated is very important to the smooth functioning of the Department of Health and Human Services. The Assistant Secretary for Legislation is responsible for the day-to-day operations of the Office of Legislation and for advising the Secretary on all matters of legislative policy affecting the Department. The Office of Legislation includes divisions responsible for health, human services, appropriations, and contains the Office of Congressional Liaison which is responsible for on-going interaction with the 535 Members of Congress.

Mr. Donnelly brings a broad-range of legislative and management experience to his new assignment. Prior to joining the administration, he served for 7 years as managing partner of Louis C. Kramp and Associates, a Washington-based Government relations counseling firm From 1972–74 Mr. Donnelly served as an advisor to the Presidents' Cost of Living Council and the Office of Economic Opportunity.

After 4 years service at the national headquarters of the U.S. Jaycees in Tulsa, Okla., as the executive vice president and chief operating officer, Mr. Donnelly came to Washington in 1970 to succeed Bud Wilkinson as executive vice president of the National Center for Voluntary Action.

A graduate of Princeton University with a BSE in chemical engineering, Mr. Donnelly served 5 years in industry before joining the Jaycees national staff.

A native of Steubenville, Ohio, Mr. Donnelly is married and the father of three teenage sons.

Mr. President, I urge the Senate to approve his nomination.

NOMINATION OF EUGENE J. FRANK

Mr. HEINZ. Mr. President, I am pleased to support the nomination of Eugene J. Frank, of Pittsburgh, Pa., to the International Trade Commission. Mr. Frank is a constituent and longtime acquaintance of mine whose work I have long respected.

Mr. Frank brings to the International Trade Commission 30 years of experience in investment banking, economics, and financial consulting, and a particular expertise in analysis of heavy industry.

This kind of background is particularly useful for the Commission since its current members come primarily from other fields. I know that one of the things President Reagan's transition team for the ITC felt strongly about was the need for the Commission to have more members with direct, "real-world" business and industry experience.

The Commission's main task is to determine whether or not an industry is suffering injury from imports and is entitled to relief, pursuant to several different trade laws. Meeting this responsibility accurately and objectively demands an understanding of the way an industry is structured and the way it operates and an ability to closely analyze the fiscal and other data presented by the industry in its petition.

Knowing Mr. Frank as I do, I have full confidence in his ability to handle these responsibilities with the required good judgment and objectivity, and I look forward to him joining the Commission.

LEGISLATIVE SESSION

Mr. BAKER. Now, Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

H.R. 2120 HELD AT THE DESK

Mr. BAKER. I believe this request has been cleared, Mr. President, by the distinguished minority leader.

I ask unanimous consent that H.R. 2120, the risk retention bill, be held at the desk pending further disposition.

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

NATIONAL TOURISM POLICY ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 304.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 304) entitled "An act to establish a national tourism policy and an independent Government agency to carry out the national tourism policy."

(The amendment of the House is printed in the RECORD of July 28, 1981 beginning at page 17692.)

Mr. BAKER. Mr. President, I move that the Senate disagree to the amendments of the House and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. COHEN) appointed Mr. PACKWOOD, Mr. PRESSLER, Mr. SCHMITT, Mr. GOLDWATER, Mr. CANNON, Mr. INOUYE, and Mr. EXON conferees on the part of the Senate.

EXTENSION OF TIME FOR FILING REPORT ON S. 266 NOT LATER THAN SEPTEMBER 23, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that the deadline for the Veterans' Affairs Committee to report S. 266, the Federal Interagency Medical Resources Sharing and Coordination Act of 1981, be extended to not later than September 23, 1981.

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

FORMER PRISONER OF WAR BENEFITS ACT OF 1981

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1100.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 1100) entitled "An act to amend title 38, United States Code, to expand eligibility of former prisoners of war for certain benefits and health-care services provided by the Veterans Administration, and for other purposes", with the following amendments:

In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

That (a) this Act may be cited as the "Former Prisoner of War Benefits Act of 1981".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. (a) Chapter 3 is amended by inserting after section 220 the following new section:

"§ 221. Advisory Committee on Former Prisoners of War

"(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

"(A) appropriate representatives of veterans who are former prisoners of war;

"(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

"(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

"(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

"(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 220 the following new item:

"221. Advisory Committee on Former Prisoners of War."

SEC. 3. (a) Section 101 is amended by adding at the end the following new paragraph:

"(32) The term 'former prisoner of war' means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

"(A) by an enemy government or its agents, or a hostile force, during a period of war; or

"(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.".

(b) Clause (7) of section 612(b) is amended to read as follows:

"(7) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than six months is suffering; or".

SEC. 4. (a) Section 312 is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b) and amending such subsection to read as follows:

"(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

"(1) avitaminosis,

"(2) beriberi (including beriberi heart disease),

"(3) chronic dysentery,

"(4) helminthiasis,

"(5) malnutrition (including optic atrophy associated with malnutrition),

"(6) pellagra,

"(7) any other nutritional deficiency,

"(8) psychosis, or

"(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981.

SEC. 5. (a) Section 610(a) is amended—

(1) by striking out "and" at the end of clause (3);

(2) by redesignating clause (4) as clause (5); and

(3) by inserting after clause (3) the following new clause:

"(4) a veteran who is a former prisoner of war; and".

(b) Section 612(f) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (2) the following new clause:

"(3) to any veteran who is a former prisoner of war.".

(c) Section 612(i) is amended—

(1) by redesignating clause (4) as clause (5); and

(2) by inserting after clause (3) the following new clause:

"(4) To any veteran who is a former prisoner of war.".

(d) The amendments made by this section shall take effect on October 1, 1981.

SEC. 6. (a) Not later than ninety days after the date of the enactment of this Act and at appropriate times thereafter, the Administrator shall, to the maximum extent feasible and in order to carry out the requirements of the veterans outreach services program under subchapter IV of chapter 3 of title 38, United States Code, seek out former prisoners of war and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits and services to which former prisoners of war are entitled under such title by virtue of the amendments made by this Act.

(b)(1) The Administrator shall, for not less than the three-year period beginning ninety days after the date of the enactment of this Act, maintain a centralized record showing all claims for benefits under chapter 11 of such title that are submitted by former prisoners of war and the disposition of such claims.

(2) Not later than ninety days after the end of the three-year period described in paragraph (1), the Administrator shall, after consulting with and receiving the views of the Advisory Committee on Former Prisoners of War required to be established pursuant to section 221 of such title, submit a report on the results of the disposition of claims described in such paragraph, together with any comments or recommendations that the Administrator may have, to the appropriate committees of Congress. The Administrator may also submit to such committees interim reports on such results.

(c) For the purposes of this section, the term "former prisoner of war" has the meaning given such term in paragraph (32) of section 101 of title 38, United States Code (as added by section 3(a) of this Act).

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to improve certain benefit programs of the Veterans' Administration for veterans who are former prisoners of war, and for other purposes.".

Mr. SIMPSON. Mr. President, this measure is before the Senate now as a privileged matter in lieu of the formal conference report.

SUMMARY

This measure embodies a compromise agreement between the House and Senate Committees on Veterans' Affairs. It is, I believe, a fair and reasonable compromise—worked out after extensive negotiations and discussions. It would provide for an expansion of compensation and health care benefits for an exceptionally deserving group of veterans—former prisoners of war. It would also provide that the Administrator of Veterans' Affairs establish an advisory committee on former prisoners of war. The committee would serve to advise the Administrator on matters concerning policy and procedure which impact on the VA's benefits and services to former prisoners of war.

Mr. President, as chairman of the Senate Veterans' Affairs Committee, I urge concurrence in the House amendments to the Senate amendments to H.R. 1100, the proposed Former Prisoner of War Benefits Act of 1981, in order that this important measure may be sent to the President.

Mr. President, the House amendments incorporated a compromise agreement achieved by the two Veterans' Affairs Committees after extensive negotiations and discussions. Our committee and the House Veterans' Affairs Committee worked extremely hard to reach agreement on the differences between H.R. 1100 as passed by the House on June 3, 1981, and the Senate amendment to the provisions of H.R. 1100, passed by the Senate on June 4. The Senate amendment to H.R. 1100 contained the provisions of S. 468 as reported by our committee on May 13, 1981.

Although the major purposes of the House bill were similar to those of the Senate amendment, there were a number of substantive differences in the various provisions. I am very pleased that we have achieved a fair and reasonable resolution of the differences, and I should wish to highlight the major provisions of the compromise agreement.

ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Mr. President, the House bill provided that the Administrator of Veterans' Affairs, could establish an advisory committee on former prisoners of war, the members of which would include former POW's for World War II, Korea, and Vietnam, as well as recognized authorities in various relevant medical fields. The House bill provided that officials of other executive departments and agencies might also be included. The com-

mittee would meet according to determinations prescribed by the Administrator and then submit to him a biannual report.

The Senate amendment provided that the Administrator of Veterans' Affairs shall establish an advisory committee on former prisoners of war which would include appropriate representatives of former prisoners of war as well as the same list of recognized authorities as mentioned in the House bill—with an additional authority in the category of geriatrics. The Senate amendment had no discretionary provision to include officials of other executive departments and agencies.

However, the Senate amendment would include the Chief Medical Director and Chief Benefits Director as ex officio members. The committee would consult the Administrator, and advise him on all ex-POW issues contained in a biannual report (the first report to be due July 1, 1982) which would then be submitted to Congress. The compromise agreement includes this provision with certain technical amendments.

COMPENSATION IMPROVEMENTS

Mr. President, both the House bill and the Senate amendment provided for a liberalization of the minimum internment requirement for a former prisoner of war in order for that veteran to be eligible for presumptions of service-connected disability relating to certain mental and physical disabilities and diseases associated with the prisoner of war experience. Current law provides that a prisoner of war must have been held no less than 6 months in order to be eligible for presumptions under section 313 of title 38, United States Code.

The House bill reduced the time of internment to 60 days for all presumptions. The Senate amendment reduced the time of internment to 30 days for nutrition-related disabilities and totally eliminated the minimum internment requirement for psychosis.

Mr. President, the Senate position on this issue is based on an effort to be as responsive as is medically possible to the needs of this group of veterans who, without question, suffered extreme and prolonged deprivation, torture, disease, and other forms of inhumane treatment. A psychosis, which develops as a result of a POW experience, can occur as a result of the first, and often most brutal, days of capture.

A nutritional deficiency can occur only after the passage of some time. An exact determination of time is extremely difficult to make, but in the spirit of trying to be as compassionate and pragmatic as possible, the Senate amendment provided for 30 days, taking into account the many veterans, who, when taken prisoner by the Japanese during World War II were already on extremely reduced rations and suffering the effects of this deprivation. The compromise agreement provides a minimum internment requirement of 30 days for all presumptions.

I and the other committee members agreed to this across-the-board requirement of 30 days—partly due to the Senate's agreement to expand the list of presumptions to include another category of mental disability.

Mr. President, because of the difficulty in determining an absolute definition of the length of time it takes to develop certain other mental disorders associated with the POW experience, the Senate agreed to the House's desire to establish some minimum time requirement. I believe that the 30 days will include most of the former prisoners of war who suffer from mental disorders as a result of their POW experience. The few POW's who were held for less than 30 days were generally held under conditions which were less onerous than most of the other POW's.

Mr. President, both the House bill and the Senate amendment eliminated the requirement that a presumptive mental disorder must occur within 2 years of separation from service. This provision is incorporated in the compromise agreement.

The House bill, but not the Senate amendment added "psychoneurosis" and "psychophysiologic disorders" to the list of presumptions in section 312 of title 38, United States Code.

Mr. President, I want to emphasize that both the House and the Senate committees have labored long and hard to provide expanded benefits which would most appropriately respond to the needs of our Nation's former prisoners of war. In this context, I would note, that the issue of psychoneurosis was one of the most difficult addressed by the committees when drafting a final compromise agreement. Both the House and Senate committees were committed to drafting an appropriate legislative response to the concern expressed during legislative hearings about having a presumption for psychoneurosis under section 312 of title 38.

Several of the bills considered by the committee added psychoneurosis as a presumptive disorder. The VA, in its study, stated that anxiety neurosis is the most prevalent service-connected condition in the sample of former POW's it studied. The VA study concluded that:

A comparison of service-connected anxiety neurosis among former European Theater POW's revealed that anxiety neurosis appears in a significantly greater amount among these former POW's than among other service-connected wartime veterans.

In fact, approximately 15 percent of all service-connected former POW's are service-connected for anxiety neurosis (Anxiety states) compared with approximately 4 percent of all other service-connected veterans. In spite of this evidence the VA, in neither its study nor its testimony before this committee on April 22, 1981, recommended that any form of psychoneurosis be added to the presumptive disorders relative to the POW experience in section 312 of title 38.

There is no doubt that former prisoners of war seem to suffer from anxiety neurosis in greater numbers than other wartime veterans. The issue was whether or not the VA is currently responding in an appropriate manner to claims for service-connection in such cases.

The VA has adopted new guidelines on "post-traumatic stress neurosis" in which former POW's are specifically referenced. According to the VA, these guidelines have been adopted from the American Psychiatric Association's 1980 "Diagnostic Criteria—DSM III" and are now used by the rating boards and the Board of Veterans' Appeals as the clinical information used to classify post-traumatic stress disorders as a new diagnostic finding for the purpose of establishing a service-connected disability.

The committee supports the VA's administrative action in recognizing the new clinical data on delayed psychiatric disorders which may result from the internment suffered by former prisoners of war, and in updating its diagnostic guidelines to be responsive to the possible inclusions of new claims for disability compensation which would not have qualified under old VA guidelines.

The effectiveness of this recent administrative action in meeting the concerns of former prisoners of war with respect to service connecting their psychiatric disorders will soon become evident, as more of the former POW's file claims under the new guidelines. The provisions of section 7 (further VA study) and 8 (claims for mental disorders which have been denied) of the Senate amendment would have provided further evidence of the extent to which these new guidelines are being implemented.

The VA claims that former prisoners of war are being notified of these new guidelines and are being urged to file under the category of "post-traumatic stress disorder," if they believe their delayed psychiatric disorder is a result of their POW experience.

Mr. President, I believe strongly that including psychoneurosis as a presumptive disorder would be a most inappropriate step. The term psychoneurosis covers a wide variety of mental disorders, which include, but are not limited to, hypochondria, hysteria, phobia, depersonalization, and anxiety neurosis. In the process of attempting to clarify the Senate position on this issue, I presented my concerns regarding this matter in a meeting with the very able chairman of the House Veterans' Committee, Mr. "SONNY" MONTGOMERY.

I appreciate the House's concern that this provision of the final bill should meet the very real needs of those surviving prisoners of war suffering with mental disorders. I appreciate and share those concerns. These shared concerns are the basis of the final compromise on this issue.

I am extremely pleased that the two committees have been able to work together to reach an acceptable and equitable agreement—one which provides for an additional rebuttable presumptive category of "anxiety states"—a targeted category of mental disorders which includes disabilities that may be directly linked to the prisoner of war experience. The compromise agreement does not include a persumption for psychophysiological disorders.

HEALTH CARE IMPROVEMENTS

Mr. President, both the House bill and the Senate amendment contained provi-

sions to expand VA health care to provide eligibility for hospital, nursing home, and domiciliary care for former prisoners of war, under section 610(a) of title 38, United States Code. The compromise agreement includes this very equitable provision which will establish in-patient eligibility for the surviving former POW's who are not otherwise currently eligible. The overwhelming majority—over 93,000—of these former POW's, who were interned during World War II and the Korean conflict, are reaching the age when they are beginning to experience greater medical problems.

These health concerns may occur because of the very trying circumstances of the internment of these former POW's and the fact that their health problems may be related to their experience despite the fact that they are unable to establish a service connection. The VA's study on POW's indicated a higher incidence of disability with the resulting greater need for a variety of medical services.

Mr. President, the House bill established eligibility for outpatient health care services at a VA hospital for former prisoners of war under section 612f(3) which would place nonservice-connected veterans—on a level equal to those veterans with a service-connected disability rated from zero to 40 percent who are seeking treatment for a nonservice-connected disability. The compromise agreement contains this provision.

The Senate amendment added a new section (4) and redesignated old (4) as (5) of section 612(i) which defines priorities for outpatient care. Under the Senate provision, all nonservice-connected former prisoners of war would be eligible for outpatient health care in a VA hospital or a private facility contracted by the Administration, and be placed ahead of all other nonservice-connected veterans for pre- or post-hospital care or in order to eliminate the need for hospital care. The House bill (with technical differences) contains this provision. The compromise agreement contains that provision.

I should like to note here, Mr. President that it is with extreme reluctance that the Senate receded to the House provision on outpatient care. It is my belief that service-connected veterans should always be treated first—they are the original mission of the VA hospital system. However, in this instance, the VA supported the expansion of eligibility proposed in the House bill since so many of the former POW's were inadequately examined upon repatriation, and many of their records have been lost, and witnesses' memories are often clouded by time and distance.

These problems contribute to difficulties in proving service connection in many cases. Because of the extraordinary sacrifices made by these veterans in the line of duty, I am making a specific exception to my strong personal belief concerning the VA health care system—with the VA's concurrence—which will now allow any former POW to report to any VA hospital for outpatient treatment for any disability and be admitted and treated on an equal basis with a veteran who is rated 0 to 40 percent for a service-connected disability.

This substantial concession in order to accept the House's provision is concurred in by all the committee members, but it is only since we feel strongly that this special group of veterans is indeed deserving of an extra measure of care, that we agreed to accept this targeted extension—there is no eligibility for contract care—of the VA health-care program.

VA STUDY

Mr. President, the Senate amendment, but not the House bill, provided for a limited study of the health of former POW's to be conducted by the VA to determine whether additional presumptions should be established in the area of physical and mental disabilities in section 312 of title 38, United States Code, that would relate to the POW experience, in order to examine the health services provided by this bill to determine if the VA is appropriately addressing the health care needs of former prisoners of war, and the prior bases upon which a sample of cases of former POW's claims for disability compensation have been denied. The study was to be submitted to the Congress not later than December 31, 1982, after consulation with the POW advisory committee. The compromise agreement does not contain this provision.

CLAIMS FOR MENTAL DISORDERS WHICH HAVE BEEN DENIED

Mr. President, the Senate amendment, but not the House bill would allow a former prisoner of war, whose claim for disability compensation based on a mental disorder had been previously denied before January 1, 1981, to file a claim not later than December 31, 1982, which would, for all purposes, be considered a new claim. Under the compromise agreement, first, within 90 days of enactment, the administration is required to the maximum extent feasible, to notify veterans of the changes in law made by the bill.

The Administrator is also instructed, within reason, to update the notification to veterans of changes in regulations concerning this bill; and second, the Administrator is directed for a period of 3 years, to maintain a centralized detailed record of all disability compensation claims and the outcome of such claims filed under chapter 11 of title 38, United States Code, which have been submitted by former prisoners of war and to submit a report to the Congress within 90 days after the end of the 3-year period.

This provision would direct the VA to be responsive to the requests for compensation by former prisoners of war, and would provide a needed documentation of the types of disabilities for which claims are filed—and their disposition.

I do want to pay particular appreciation and thanks to my colleagues in the House of Representatives who—together with their staffs—worked so diligently to resolve the issues of difference between the House and Senate legislation. I have also greatly appreciated the opportunity of working with Congressman SONNY MONTGOMERY. That has been a most pleasant, fruitful and productive experience for me. I have nothing but admiration and respect for him.

Mr. President, in order that all Senators and the public may have a full understanding of the provisions of the compromise agreement, there will be printed in the RECORD the text of the compromise bill and, in lieu of a joint explanatory statement accompanying a conference report, a document, also to be inserted during consideration in the other body, entitled "H.R. 1100, Former Prisoners of War Benefits Act of 1981—Explanatory Statement of the House Bill, Senate Amendment, and Compromise Agreement."

Mr. President, I would also ask that the Congressional Budget Office estimate of the costs of the provisions of the compromise agreement and a document showing the changes in existing law made by the compromise agreement be printed in the RECORD following the explanatory statement.

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

H.R. 1100, THE "FORMER PRISONER OF WAR BENEFITS ACT OF 1981"

EXPLANATORY STATEMENT—ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Both the House bill and the Senate amendment would amend chapter 3 of title 38, United States Code, to add a new section 221 providing for the establishment of an Advisory Committee on Former Prisoners of War. The House bill would provide that the Administrator may establish an Advisory Committee and that the membership of such an Advisory Committee would include former POW's from World War II, the Korean conflict, and the Vietnam era, as well as recognized authorities in such fields as psychiatry, psychology, internal medicine, nutrition, and epidemiology; officials of other executive departments and agencies could also be included. The Advisory Committee would meet on a regular basis as prescribed by the Administrator and would submit reports to the Administrator at least once every two years.

The Senate amendment would require the Administrator to establish an Advisory Committee and provide that the membership would serve for terms to be determined by the Administrator and compromise appropriate representatives of former POW's, individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine, appropriate representatives of disabled veterans, and as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees. The Administrator would be required, on a regular basis, to consult with and seek the advice of the Advisory Committee with respect to the administration of benefits to former POW's and the needs of such veterans for compensation, health care, and rehabilitation. The Advisory Committee would be required to submit the report to the Congress; the first biennial report would be due no later than July 1, 1982, and subsequent reports would be due by July 1 of each even-numbered year thereafter. The Advisory Committee would be authorized to submit additional reports and recommendations to the Administrator, and the Administrator would be required to include a summary of such additional reports and recommendations in the Administrator's annual report.

The House recedes with an amendment which provides that the first biennial report would be submitted to the Congress no

later than July 1, 1983, and that subsequent biennial reports would be due by July 1 of each second year thereafter.

DEFINITION OF FORMER PRISONER OF WAR

The Senate amendment, but not the House bill, would amend section 101 of title 38 to add a definition, for the purposes of that title, of the term "prisoner of war" to include persons who, during active service during a period other than a period of war are held under circumstances that the Administrator finds comparable to circumstances involved in internment during a period of war and would amend section 612(b)(7), relating to certain dental benefits, to conform to the new definition.

The House recedes with an amendment changing the term defined to "former prisoner of war" and making technical corrections.

IMPROVEMENTS RELATING TO VA COMPENSATION

Both the House bill and the Senate amendment would amend section 312 of title 38, relating to presumptions of service connection for certain disabilities of former prisoners of war, to reduce the minimum internment period required for the automatic application, in certain circumstances, of presumptions relating to certain diseases that generally result from dietary problems and to psychoses. The House bill would reduce the minimum internment period from 6 months to 60 days. The Senate amendment would reduce that period from 6 months to 30 days in the case of the diseases resulting from dietary problems and would eliminate the length-of-internment requirement with respect to psychosis.

The compromise agreement provides for a 30-day minimum internment requirement in the case of all presumptions.

Both the House bill and the Senate amendment would further amend section 312 to eliminate the requirement that in order to be presumed service connected a psychosis must become manifest within two years of release from active duty.

The compromise agreement contains this provision.

The House bill, but not the Senate amendment, would further amend section 312 to add psychoneuroses and psychophysiologic disorders to the disorders to which specific presumptions apply and provide for those disorders to be dealt with in the same manner as psychoses.

The Senate recedes with an amendment adding any of the anxiety states (including post-traumatic stress neurosis), instead of psychoneuroses and psychophysiologic disorders, to the disorders to which the presumptions (modified as noted above) would apply. The Committees intend that the term "anxiety states" have the meaning prescribed under the heading "Anxiety States (or Anxiety Neuroses)" in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), published by the American Psychiatric Association (pp. 230–239) and, in the event that a subsequent edition of that manual does not contain such a heading, the meaning that is provided in the subsequent edition for a category of disorders that the Administrator determines to be the corresponding category.

The Senate amendment, but not the House bill, would amend further section 312 to eliminate the two-step procedure for the application of the presumptions of service connection.

The House Recedes.

IMPROVEMENTS RELATED TO VA HEALTH CARE

Both the House bill and the Senate amendment, with technical differences, would amend section 610(a) of title 38, relating to Veterans' Administration health-care eligibility, to provide former POW's with eligibility for hospital and nursing home care, prehospital and post-hospital outpatient care, and outpatient care that would obviate a need for hospitalization.

The compromise agreement contains such a provision.

The House bill, but not the Senate amendment, would amend section 612(f), relating specifically to eligibility for outpatient care, to provide former POW's with eligibility—which would not be provided through the above-mentioned amendment to section 610(a)—for VA outpatient health-care services for any disability.

The Senate recedes.

Both the House bill and the Senate amendment would amend section 612(i) of title 38, relating to priorities for VA health care, to place former POW's whose disabilities have not been determined to be service connected in a priority category (in the third priority in the House bill and in a new fourth priority in the Senate amendment) for outpatient care ahead of all other veterans who have no service-connected disabilities.

The House recedes.

REQUIREMENTS FOR ADDITIONAL STUDY AND OUTREACH

The Senate amendment, but not the House bill, would require the Administrator to conduct and submit to the Congress by December 31, 1982, a further, limited study—following up on certain questions not answered by the study conducted pursuant to Public Law 95–479—of specific physical and mental disabilities prevalent among former POW's and denials of claims from former POW's for service-connected disability compensation in order to determine whether additional presumptions should be established and eligibility for health-care benefits should be expanded.

The compromise agreement would require the Administrator, for not less than a three-year period beginning ninety days after the date of enactment, to maintain a centralized record of all claims of former POW's for disability compensation and of the disposition of such claims. The Committees expect that this record would include—to the extent the information can reasonably be discerned from the claims files—a description of each disability for which benefits are claimed, the rating claimed, a statement as to whether the disability is claimed to be a result of the veteran's internment, and the disposition of the claim at each level of adjudication with respect to the issues of both service connection and degree of disability. The Committees further expect that prior to establishing the process for maintaining the centralized record, the Administrator would consult with the new Advisory Committee on Former Prisoners of War, discussed above, so as to take into account that Committee's views on how best to collect and record the required information and on any information or data that such Committee may desire.

Ninety days after the expiration of the three-year data-collection period, the Administrator would be required to submit a final report on the results of the disposition of such claims, together with any recommendations that the Administrator may have, to the appropriate committees of the Congress. The Administrator would also have the authority to submit interim reports on such results, and the Committees would expect the Administrator to submit such reports when there is meaningful data to report.

The Senate amendment, but not the House bill, would permit a former POW whose claim for disability compensation based on a mental disorder had been denied prior to January 1, 1981, to file a new claim that would for all purposes be considered as an original claim.

The Senate recedes.

The Senate amendment, but not the House bill, would require the Administrator, to the maximum extent feasible and in order to carry out the requirements of subchapter IV of chapter 3 of title 38, relating to outreach programs, to seek out and provide information to the former POW's who would be afforded the opportunity to re-file a claim for disability compensation based on a mental disorder.

The compromise agreement (in connection with the record of claims described above) would require the Administrator, no later than ninety days following enactment of this Act and at appropriate times thereafter, to seek out former POW's affected by the provisions of this Act and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled.

EFFECTIVE DATES

The House bill provides that the provisions relating to compensation and health care would be effective October 1, 1981; the other provisions, those relating to the proposed Advisory Committee, would take effect on the date of enactment. The Senate amendment provides that the provisions of the bill would, except for the provisions relating to compensation, which would be effective on October 1, 1981, take effect on the date of enactment.

The compromise agreement would provide that, except for the provisions relating to compensation and health care, which would be effective on October 1, 1981, the provisions of the bill take effect on the date of enactment.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 30, 1981.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 1100, the Former Prisoner of War Benefits Act of 1981.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 30, 1981.

1. Bill number: H.R. 1100.

2. Bill title: Former Prisoner of War Benefits Act of 1981.

3. Bill status: As passed by the House of Representatives, July 30, 1981.

4. Bill purpose: To expand the eligibility of former prisoners of war for certain health-care benefits provided by the Veterans Administration (VA), and for other purposes.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.1	2.7	2.9	3.1	3.3
Required budget authority	4.8	5.0	5.2	5.4	5.6
Estimated outlays	7.5	7.7	8.1	8.5	8.9

The cost of this bill would fall within budget function 700.

This bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the esimated obligations that would result from enactment of H.R. 1100.

6. Basis for estimate: The following section-by-section cost analysis only addresses

those sections that would be expected to have a budgetary impact.

Section 2: This section would establish an Advisory Committee on Former Prisoners of War. The number, term of service and pay of committee members would be determined by the Administrator of Veterans Affairs. It is not expected that the cost to the government of establishing such a committee would be significant.

Section 4: This section would change from six months to thirty days the length of time a former prisoner of war must have been interned to establish an automatic presumption of service-connection for certain diseases and medical conditions. Under current law, this presumption of service-connection for diagnosis of psychosis would only apply of the condition became manifest within two years from the date of discharge. Section 4 would also remove the two-year time limit. In addition, "anxiety states" would be added to the list of presumptive conditions.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Required budget authority	4.8	5	5.2	5.4	5.6
Estimated outlays	4.4	5	5.2	5.4	5.6

According to a VA study, there are presently 95,000 living former prisoners of war. Of this number 18 percent were held less than six months, the current length of internment required to qualify for a presumption of service-connection for certain medical conditions. Of all former prisoners of war, more than 34 percent are already receiving compensation benefits. There are no data, however, on the number whose applications for compensation have been rejected on the grounds that service-connection could not be established. Since the VA is usually quite lenient in assuming service-connection for disabilities of former prisoners of war, particularly with respect to psychological disabilities, it is expected that the number of new cases entitled by this provision would be small. This estimate assumes 1,540 new cases in the first year after enactment and 50–60 additional cases in each of the following years. The new cases are assumed to receive benefits at the average benefit level for all current compensation cases. If the number of new cases resulting from enactment of this bill should be considerably different from that assumed by this estimate, the cost would vary in the same direction and by the same proportion as the error in the caseload estimate.

Section 5: This section would grant entitlement to all former prisoners of war, regardless of the length of their internment, for inpatient and ambulatory care in VA medical facilities.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	2.4	2.6	2.8	3.1	3.3
Estimated outlays	2.4	2.6	2.8	3.1	3.3

This estimate assumes that only as small number of new applications for VA medical care would result from this provision. Currently, more than 34 percent of all former prisoners of war are receiving compensation benefits, which entitle them to VA care under existing law. Any others who are age 65 or older or who cannot defray the cost of needed care on their own are also entitled under current law. Many of the remainder have private health insurance and would continue to seek treatment in the private sector, despite their new entitlement to VA care. This estimate, therefore, assumes only about 1,400 new requests for treatment a year.

Section 6: This section would direct the Administrator of Veterans Affairs to accomplish the following: 1) to notify all former prisoners of war of the changes in law made by this bill, 2) to maintain for three years a centralized record of all claims for compensation benefits submitted by former prisoners of war and of the disposition of such claims, and 3) at the end of three years, to submit to Congress a report on the disposition of such claims, together with any appropriate comments or recommendations.

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	0.7	0.1	0.1	(1)	(1)
Estimated outlays	.7	.1	.1	(1)	(1)

[1] Less than $500,000.

The estimate of this section is based on an Administrative estimate.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 13, 1981 CBO submitted the following cost estimate of H.R. 1100, as ordered reported by the House Committee on Veterans Affairs:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.0	2.6	2.8	3.1	3.3
Required budget authority	9.4	9.7	10.1	10.4	10.8
Estimated outlays	11.6	12.3	12.9	13.5	14.1

This version of the bill would have extended the automatic presumption of service-connection to all former prisoners of war with psychoneuroses and psychophysiologic disorders. Since these are far broader diagnostic categories than that contained in the present version of the bill, the older version would have entitled a larger number of veterans to compensation benefits and, thus, would have resulted in a higher cost. The length of internment required for the presumption, however, would only have been lowered to 60 days, somewhat offsetting the higher cost of the broader diagnostic categories.

On May 14, 1981 CBO submitted the following cost estimate of S. 468, the Senate Veterans Affairs Committee's version of this bill, as ordered reported by that committee:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Estimated authorization level	3.0	2.6	2.8	3.1	3.3
Required budget authority	2.8	2.9	3.0	3.1	3.2
Estimated outlays	5.6	5.5	5.8	6.2	6.5

As would the current version of H.R. 1100, S. 468 would have lowered the length of internment requirement to 30 days; however, no new diagnostic categories would have been added to the list for which service-connection is presumed. The number of cases newly entitled by S. 468, therefore, would be less than in the current estimate.

9. Estimate prepared by: K. W. Shepard (225–7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY COMPROMISE AGREEMENT

Changes in existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

Part I—GENERAL PROVISIONS

* * * * *

Chapter 1—GENERAL

* * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in lien of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * *

Chapter 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * *

Subchapter II—Administrator of Veterans' Affairs

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Report to the Congress.
215. Publication of laws relating to veterans.
217. Studies of rehabilitation of disabled persons.
218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.
219. Evaluation and data collection.
220. Coordination and promotion of other Federal programs affecting veterans and their dependents.
221. Advisory Committee on Former Prisoners of War.

* * * * *

§ 221. Advisory Committee on Former Prisoners of War

(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the "Committee").

(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

(A) appropriate representatives of veterans who are former prisoners of war;

(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(C) appropriate representatives of disabled veterans.

The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the adminis-

tration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(c) Not later than July 1, 1983, and not later than July 1 of each second year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Adminisration that pertain to veterans who are former prisoners of war. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.

* * * * *

Part II—GENERAL BENEFITS

* * * * *

Chapter 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

Subchapter II—Wartime Disability Compensation

* * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculosis disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 per centum degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

[(b) For the purposes of subsection (c) of this section, any veteran who, while serving in the active military, naval, or air service, was held as a prisoner of war for not less than six months by the Imperial Japanese Government or the German Government during World War II, by the Government of North Korea during the Korean conflict, or by the Government of North Korea, the Government of North Vietnam or the Viet Cong forces during the Vietnam era, or by their respective agents, shall be deemed to have suffered from dietary deficiencies, forced labor, or inhumane treatment in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949.]

[(c)] (b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of [any veteran who, while serving in the active military, naval, or air service and while held as a prisoner of war by an enemy government, or its agents during World War II, the Korean conflict, or the Vietnam era, suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949)] *a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days,* the disease of—

[(1) Avitaminosis,

Beriberi (including beriberi heart disease),

Chronic dysentery,

Helminthiasis,

Malnutrition (including optic atrophy associated with malnutrition),

Pellagra, or

Any other nutritional deficiency,

[which became manifest to a degree of 10 per centum or more after such service; or

[(2) Psychosis which became manifest to a degree of 10 per centum or more within two years from the date of separation from such service;]

(1) avitaminosis,

(2) beriberi (including beriberi heart disease),

(3) chronic dysentery,

(4) helminthiasis,

(5) malnutrition (including optic atrophy associated with malnutrition),

(6) pellagra,

(7) any other nutritional deficiency,

(8) psychosis, or

(9) any of the anxiety states,

which became manifest to a degree of 10 per centum or more after active military, naval, or air service, shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * *

Chapter 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * *

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

§ 610. Eligibility for hospital nursing home and domiciliary care

(a) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to—

(1)(A) any veteran for a service-connected disability; or (B) any veteran for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital or nursing home care;

(2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty;

(3) a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation; [and]

(4) a veteran who is a former prisoner of war; and

[4] (5) any veteran for a non-service-connected disability if such veteran is sixty-five of age or older.

* * * * *

§ 612. Eligibility for medical treatment

(a) * * *

* * * * *

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority, application may be made within one year after the date of correction or date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(6) from which a veteran of the Spanish-American War or Indian Wars is suffering;

(7) from which [any] *a* veteran [of World War I, World War II, the Korean conflict, or the Vietnam era] *who is a former prisoner of war and* who was [held as a prisoner of war] *detained or interned* for a period of not less than six months is suffering; or

(8) from which a veteran who has a service-connected disability rated as total is suffering.

* * * * *

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or (to the extent that the facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); [and]

(2) to any veteran who has a service-connected disability rated at 50 per centum or more[.]; *and*

(3) to any veteran who is a former prisoner of war.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities. The Administrator may also furnish outpatient dental services and treatment, and related appliances, to

any veteran described in subsection (b)(7) of this section.

* * * * *

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disabiltiy rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

(4) To any veteran who is a former prisoner of war.

[(4)](5) To any veteran being furnished medical services under subsection (g) of this section.

* * * * *

●

Mr. CRANSTON. Mr. President, I rise to join the distinguished chairman of the Veterans' Affairs Committee (Mr. SIMPSON) in urging the Senate to concur in the amendments of the House to the amendments of the Senate to H.R. 1100, the proposed Former Prisoner of War Benefits Act of 1981. The provisions of the House amendments embody a compromise agreed to after extensive negotiations by the two Veterans' Affairs Committees and passed by the House of Representatives early this morning.

The compromise agreement contains provisions derived from both the House-passed legislation, H.R. 1100, the proposed Prisoner of War Health Care Benefits Act of 1981, as passed by the House on June 2, 1981, and the Senate amendments to that legislation, the proposed Former Prisoners of War Benefits Act of 1981, which was passed by the Senate in the nature of a substitute to H.R. 1100 on June 4, 1981. I believe the pending legislation represents a fair compromise of the differences between the two bodies which will serve to improve Veterans' Administration benefits and services for veterans who are former prisoners of war.

The Senate's position on the matters addressed by the legislation is well represented in the compromise agreement. A number of provisions in the agreement have been derived from a measure I, joined by Senators MATSUNAGA and DECONCINI, introduced on March 10, S. 670, the proposed Ex-Prisoners of War Benefits Improvements Act of 1981.

BACKGROUND

As chairman of the Senate Veterans' Affairs Committee in the last two Congresses and now as ranking minority member, I have long been very concerned about those veterans who made such special sacrifices and endured extreme hardships as prisoners of war. Their strength, courage, and love of freedom helped to preserve our country, and we truly owe them a debt that can never be fully repaid.

An extraordinary amount of time and effort has been devoted by the Veterans' Affairs Committees of both bodies to addressing the complex issues involved in trying to deal fairly and adequately with the problems of former POW's ever since the VA study was submitted last June pursuant to the study provision, which I authored, in Public Law 95-479. This compromise agreement, which is the final product of those efforts, will, I believe, be of great significance for many of our Nation's ex-POW's.

Mr. President, I would like to take this opportunity to comment very briefly on a number of the provisions of the compromise agreement that I believe are particularly important.

ADVISORY COMMITTEES ON FORMER PRISONERS OF WAR

Section 2 of the compromise agreement would require the Administrator of the VA to establish an Advisory Committee on Former Prisoners of War. The membership of the advisory committee would include appropriate representatives of former POW's, individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's, and appropriate representatives of disabled veterans generally. The VA Administrator would be required to consult with and seek the advice of the committee on a regular basis. In addition, the committee would be required to submit a report every 2 years to the Administrator—the first report due no later than July 1, 1983—who would in turn be required to submit the report to the Congress.

The provisions of section 2 of the compromise agreement are generally derived from section 4 of my bill, S. 670—which was incorporated into section 2 of the measure that passed the Senate—that provided for the establishment of an advisory committee. In this regard, I am pleased that the members of both Veterans' Affairs Committees shared my belief that it is important that the advisory committee's biennial report to the Administrator be required by law to be submitted to the Congress. I believe this will serve to enhance the status and assure the permanence of the advisory committee within the VA and will give the Congress, on a continuing basis, a means of assessing the need for any further actions to address the needs of former POW's. Also, a role for involvement of disabled veterans in the work of the committee was agreed to, as I had proposed.

IMPROVEMENTS RELATED TO VA SERVICE-CONNECTED COMPENSATION

Section 4 of the pending legislation would make a number of modifications in existing law that relate to presumptions of the service-connected nature of certain diseases and disabilities of former POW's. The basic purpose of these improvements is to relieve the burden on a former POW to submit evidence to the VA that certain disabilities are service connected.

First, the compromise agreement would reduce from 6 months to 30 days the minimum POW internment period required for the automatic application of presumptions in the case of certain diseases and disorders resulting from dietary deficiencies and in cases of psychosis.

Second, the compromise agreement would eliminate the requirement that in order to be presumed to be service connected a psychosis must become manifest within 2 years after the veteran's release from active duty. This provision is based on a recommendation for legislative change made by the VA in its June 1980 study.

Third, the compromise agreement would add anxiety states to the list of diseases and disorders to which the presumptions, as they would be modified by the compromise agreement, apply. As set forth in the "Diagnostic and Statistical Manual of Mental Disorders" (third edition), published by the American Psychiatric Association, this category of mental disorders includes panic disorder, generalized anxiety disorder, and post-traumatic stress disorders.

This provision was a most difficult one on which to reach agreement between the House position that psychoneuroses and psychophysiologic disorders should be added to the list and the Senate position that additional study an information was necessary in order to determine what, if any, mental diseases or disorders beyond psychoses might be appropriately added. However, I want to stress that I fully support the compromise agreement that has been reached, and I urge my colleagues to do the same.

Fourth, the compromise agreement would, as I proposed in S. 670, eliminate the unduly complicated two-step procedure in current law for the application of the presumptions of service connection. Step one of this current procedure provides that a veteran who was held as a POW for more than 6 months is presumed to have suffered from conditions of dietary deficiencies, forced labor, and inhumane treatment in violations of the Geneva Convention. Step two provides further in the case of a veteran who has suffered from such conditions that the presumptions of service connection for certain diseases apply. The result of this new statutory approach in the compromise agreement is that title 38 would directly provide veterans who were held as POW's for 30 days or more with the benefit of a presumption of service connection for certain disabilities related to dietary deficiencies, for psychosis, and for any of the anxiety states.

Mr. President, I also note that the compromise agreement includes a provision, generally derived from the Senate amendment, defining "former prisoner of war" for purposes of title 38, United States Code, to include those who are held captive during either a period of war or any other period in which he or she was held under circumstances comparable to those under which persons have been held captive during periods of war.

IMPROVEMENTS RELATED TO HEALTH CARE

In the health-care area, section 5 of the compromise agreement contains the House provision providing eligibility, without the need to claim and show the inability to defray the costs of care, for hospital and nursing home care and for VA outpatient care in VA facilities for any disability. Further, the compromise agreement, as proposed in the Senate amendment, would place ex-POW's in a

new fourth priority category for outpatient care ahead of all veterans who have no service-connected disabilities.

REQUIREMENTS FOR OUTREACH AND DATA COLLECTION

Finally, Mr. President, section 6 of the compromise agreement would require the Administrator to seek out formed POW's and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits to which they are entitled. It would also require the Administrator, for not less than a 3-year period beginning 90 days after the date of enactment, to maintain a centralized record of all claims of former POW's for disability compensation and of the disposition of such claims.

As noted in the explanatory statement being included in the RECORD in lieu of a joint explanatory statement accompanying a conference report, I want to stress that—

The Committees expect that this record would include—to the extent the information can reasonably be discerned from the claims files—a description of each disability for which benefits are claimed, the rating claimed, a statement as to whether the disability is claimed to be a result of the veterans' internment, and the disposition of the claim at each level of adjudication with respect to the issues of both service connection and degree of disability.

Further, the explanatory statement cites the committees' expectation that the Administrator, prior to establishing the process for maintaining the centralized record, will consult with the Advisory Committee on Former Prisoners of War that would be established by section 2 of the compromise agreement so as to "take into account that committee's views on how best to collect and record required information and on any information or data that such committee may desire." At the end of the 3-year period, the Administrator would be required to submit a report on the results of the disposition of such claims.

These provisions, which are derived from provisions of the Senate-passed measure, are designed to insure that former POW's are aware of the liberalizing provisions relating to VA compensation and of their new eligibility for expanded VA health care. In addition, they are intended to provide additional information to the Congress that is not now available, that is, the extent to which the diseases and other disorders of former POW's are denied service-connected compensation.

CONCLUSION

In closing, Mr. President, I want to express my thanks and congratulations to those who participated in the development of this important legislation, particularly the chairman (Mr. MONTGOMERY) and the ranking minority member (Mr. HAMMERSCHMIDT) of the House Veterans' Affairs Committee.

I would also like to thank the distinguished chairman of the Senate Committee on Veterans' Affairs (Mr. SIMPSON), for his hard work on this measure and offer my sincere congratulations to him on the occasion of his presenting for the first time to the Senate for final action legislation reported from the Veterans' Affairs Committee under his chairmanship.

Congratulations are also in order for the distinguished Senator from South Carolina (Mr. THURMOND) with whom I collaborated on many provisions and who introduced the original bill reported from our committee, S. 468.

In addition, I want to express my appreciation for their excellent work on this measure to the staff members of the House committee, Mack Fleming, Rufus Wilson, Arnold Moon, and Charles Peckarsky; to the members of our committee staff, Ken Bergquist, Julie Susman, and John Pressly; and the members of the minority staff, Babette Polzer, Ed Scott, and Jon Steinberg.

Mr. President, the compromise agreement now before the Senate is a good one. It represents our recognition of some of the special needs and concerns of this extraordinary group of veterans, and it has my complete support.

I urge my colleagues to approve it unanimously.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments to the Senate amendments.

The motion was agreed to.

Mr. BAKER. Mr. President, I know of no further business to be transacted by the Senate. I ask the distinguished minority leader if there is any business he wishes to present to the Senate this evening.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I have nothing.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, in that event, I move that the Senate now stand in recess, in accordance with the terms of the previous order, until the hour of 11 o'clock a.m. on tomorrow.

The motion was agreed to, and, at 6:41 p.m., the Senate recessed until Friday, July 31, 1981, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1981:

DEPARTMENT OF AGRICULTURE

John V. Graziano, of Virginia, to be Inspector General, Department of Agriculture, vice Thomas F. McBride.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

VETERANS' ADMINISTRATION

Frank Saburo Sato, of Virginia, to be Inspector General, Veterans' Administration, vice Allan L. Reynolds.

DEPARTMENT OF THE TREASURY

Kenneth W. Gideon, of Texas, to be an Assistant General Counsel in the Department of the Treausry (Chief Counsel for the Internal Revenue Service), vice N. Jerold Cohen, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

Eugene J. Frank, of Pennsylvania, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring December 16, 1982, vice George N. Moore, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Juan A. del Real, of Maryland, to be General Counsel of the Department of Health and Human Services, vice Joan Zeldes Bernstein, resigned.

Thomas R. Donnelly, Jr., of Virginia, to be an Assistant Secretary of Health and Human Services, vice William Brownlee Welsh, resigned.

DEPARTMENT OF DEFENSE

Edward C. Aldridge, Jr., of Virginia, to be Under Secretary of the Air Force, vice Antonia Handler Chayes, resigned.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Wayne Paul Jackson, xxx-xx-x... xxx-...
Brig. Gen. Thomas Milton Moore xxx-xx-xxxx xxx-...
Brig. Gen. William Francis Ward, Jr., xxx-... xxx-xx-x...

To be brigadier general

Col. John Alex Arkins xxx-xx-xxxx
Col. John Joseph Diggins xxx-xx-xxxx.

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Vincent William Lanna, xxx-xx-x... xxx-...
Brig. Gen. Elmer Lewis Stephns, xxx-xx-x... xxx-...

To be brigadier general

Col. Carroll Glenn Allen xxx-xx-xxxx.
Col. William James Burns xxx-xx-xxxx.
Col. Keith Marvin Eggen xxx-xx-xxxx.
Col. LeRoy Robert Evans xxx-xx-xxxx.
Col. Joe Arlon Forberg xxx-xx-xxxx.
Col. Kenneth Wayne Himsel xxx-xx-xxxx.
Col. Robert George McClellan xxx-xx-xxxx.
Col. Kenneth Lester Rieth xxx-xx-xxxx.
Col. Ivan Fay Smith xxx-xx-xxxx.
Col. Michael Thomas Sullivan, Jr., xxx-xx-x... xxx-...
Col. Arthur Albert Weller, Jr. xxx-xx-xxxx.
Col. Edward Herman Wulgaert xxx-xx-xxxx xxx-...

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be bridgadier general

Col. Charles Hill Anderson, xxx-xx-xxxx.
Col. Robert Michael Fiorella, xxx-xx-xxxx.
Col. Edward Lawrence Hanson, xxx-xx-xxxx.
Col. William Arthur Jackson, xxx-xx-xxxx.
Col. Val Elmore McCreary, xxx-xx-xxxx.
Col. Charles McClung Scott, Jr., xxx-xx-... xxx-...
Col. William Kinney White, xxx-xx-xxxx.

IN THE AIR FORCE

Lt. Gen. Lloyd R. Leavitt, Jr., U.S. Air Force, (age 52), for appointment to the grade lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

DEPARTMENT OF DEFENSE

Alton Gold Keel, Jr., of the District of Columbia, to be an Assistant Secretary of the Air Force, vice Robert Jay Hermann.

IN THE ARMY

The following-named Army Medical Department officers for temporary appointment

in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

MEDICAL CORPS

To be major general

Brig. Gen. Garrison Rapmund, xxx-xx-xxxx xxx-... Medical Corps, Army of the United States (colonel, U.S. Army).

To be brigadier general

Col. Tracy Elmer Strevey, Jr. xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. Robert Hutchinson Buker, xxx-xx-xxxx xxx-... Medical Corps, U.S. Army.

MEDICAL SERVICE CORPS

To be brigadier general

Col. France Felton Jordan xxx-xx-xxxx, Medical Corps, U.S. Army.

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. George D. Miller, xxx-xx-xxxx 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. Charles L. Donnelly, Jr. xxx-xx-x... xxx-... 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, xxx-xx-x... 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 xxx-xx-xxxx FR, U.S. Air Force.

IN THE AIR FORCE

Air Force nominations beginning Densel K. Acheson, to be colonel, and ending Arthur E. Schmitt, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

Air Force nominations beginning Max L. Abram, to be lieutenant colonel, and ending William R. Gerber, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1981.

IN THE ARMY

Army nominations beginning Arthur A. Armour, to be major, and ending David C. Weston, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

IN THE NAVY

Navy nominations beginning Leon Eddy Ackart, to be captain, and ending Beverly Jean Sparks, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 24, 1981.

IN THE MARINE CORPS

Marine Corps nominations beginning John T. Garcia, to be colonel, and ending Kurt V. Zirkelbach, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 28, 1981.