SENATE—*Tuesday, March 10, 1981*

(Legislative day of Monday, February 16, 1981)

The Senate met at 11 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., offered the following prayer:

Bless the Lord, O my soul: and all that is within me, bless His holy name. Bless the Lord, O my soul and forget not all His benefits: Who forgives all thine iniquities, Who heals all thy diseases.—Psalms 103: 1–3.

Our Father in Heaven, it is difficult for strong men to admit weakness, and in our secular culture it is considered unacceptable. Help us, O God, to humble ourselves before Thee, to acknowledge our weakness and failure and receive Thy strength and wisdom. Give us grace to confess our sins and receive forgiveness in the confidence that Thou dost forgive us our sin and cleanse us from all unrighteousness.

Help us remember that whosoever exalts himself shall be abased and whosoever humbles himself before the Lord shall be exalted.

We thank Thee Father that Thy strength is manifest in us when we admit our weakness. Enable us to do our work today in Thy grace and power and love.

We ask this in the name of Him who is perfection incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

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

THE JOURNAL

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

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

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that following on after the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business for not to exceed 1 hour in length during which Senators may be permitted to speak for not more than 15 minutes each.

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

ORDER VITIATING ORDERS FOR THE RECOGNITION OF SENATORS BAUCUS AND KENNEDY

Mr. BAKER. Mr. President, might I inquire are there special orders issued in favor of Senators BAUCUS and KENNEDY for this morning?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I am advised that neither Senator BAUCUS nor Senator KENNEDY will require the time that is provided for and I ask unanimous consent that those orders be vitiated.

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

Mr. BAKER. Mr. President, I have no further requirements for my time under the standing order and no requests for time. I am prepared now to yield the remainder of the time provided for under the standing order to the distinguished minority leader if he wishes to avail himself of the time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

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

THE PASSING OF AN EXCEPTIONAL LADY

Mr. ROBERT C. BYRD. Madam President, I was saddened to learn that, at approximately 7:45 a.m. today, Mary Katherine Babb Randolph, the wife of our distinguished colleague Senator JENNINGS RANDOLPH, died after a lengthy illness. I am sure that all Senators join me in extending to Senator RANDOLPH and his family our deepest condolences.

As is the case with so many Senators' wives, Mrs. Randolph possessed a brilliance and creativity in her own right. Throughout her long illness, she continued to be a valued helpmate to Senator RANDOLPH and an inspiration to all who knew and admired her.

Mrs. Randolph belonged to a politically active and prominent West Virginia family. Her grandfather had been State auditor and Republican candidate for Governor. An uncle served in both houses of the West Virginia State Legislature. And her father was mayor of her hometown, Keyser, and had been a member of the Board of Governors of West Virginia University.

Prior to her marriage to JENNINGS RANDOLPH, Mary Katherine Babb had achieved a wide reputation as a social worker. She was renowned for the tenacity and compassion she displayed in taking care of orphaned and abandoned children in the eastern panhandle of West Virginia as an employee of the State Board of Children's Guardians. Known as "The Welfare Lady," she "compassed Heaven and Earth" in search of her charges, traveling by train, car, bus, and riverboat, and even fording mountain streams on foot in remote rural areas, looking for children in need.

In 1933, shortly after his election to the U.S. House of Representatives, Mary Katherine Babb married JENNINGS RANDOLPH. In the course of her husband's career in the House and Senate, and in the private sector, Mrs. Randolph became the friend and confidant of numerous congressional and senatorial wives, and was closely associated with Eleanor Roosevelt and seven subsequent First Ladies—Bess Truman, Mamie Eisenhower, Jacqueline Kennedy, Lady Bird Johnson, Pat Nixon, Betty Ford, and Rosalynn Carter.

Mrs. Randolph was a unique embodiment of grace and achievement, brilliance and sensitivity. Her friends in Washington and West Virginia will genuinely miss her.

Madam President, my wife, Erma joins me in extending our thoughts and sympathies to Senator RANDOLPH, and his sons, Jay and Frank as we share in their loss. February 18 had been the Randolph's 48th wedding anniversary, and last Sunday was Senator RANDOLPH'S 79th birthday. Though we mourn the passing of Mrs. Randolph, we can be thankful for the long and rich union of these two friends of ours who have contributed so much to Washington, West Virginia, and America. We shall not soon forget the kindness and courage of Mrs. Randolph, and we count it a privilege to have known her.

Mr. BAKER. Madam President, I join with my colleague and friend, the distinguished minority leader, in extending my sympathy and condolences and those, I am sure, of every Member on this side of the aisle, on the occasion of the death of Mary Randolph, the wife of our beloved and distinguished colleague from West Virginia, Senator RANDOLPH.

All of us treasure our relationship and friendship with Senator JENNINGS RANDOLPH. He is an extraordinary and unique Member of this body. We have been aware not only of the illness and suffering of his wife, Mary, but also of the toll it has taken on their family. We cannot help but admire the courage of Mary Randolph in a long, debilitating illness;

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

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of JENNINGS RANDOLPH in his courage and devotion; and their family at this time.

All of us in the Senate, by the very nature of this institution, come to regard each other as members of a large and close family. Thus, the loss of any of us saddens and diminishes all of us.

Having been privileged to serve with Senator RANDOLPH for a great many years on the Environment and Public Works Committee, it was my good fortune to come to know both JENNINGS and Mary Katherine rather well.

As many of my colleagues are aware, Mary Katherine's health had been failing her for some time. Throughout her illness, however, she never once complained. Nor would she allow Senator RANDOLPH to curtail his service to the citizens of his beloved West Virginia. At her insistence, JENNINGS maintained as vigorous a schedule here and throughout the Nation as any Member of this body. His heart and his prayers were with her at all times, however, and in the infrequent quiet periods of his days, he would be by her side or talking to her on the telephone.

That Mary Katherine was the inspiration of JENNINGS RANDOLPH'S unparalleled service to his State and country is no surprise to those of us who knew her. For Mary Katherine, herself, maintained a long career of exceptional service.

A legatee of rich and devoted service to West Virginians by her own family, Mary Katherine as a young adult spent years and boundless energy searching out adoptive and foster parents for abandoned and orphaned children. During the 5 years of her service on the West Virginia Board of Children's Guardians, she was affectionately known throughout that State as the "Welfare Lady," for her tireless efforts in behalf of unfortunate children.

During her many days in Washington, she was a close friend and acquaintance of every First Lady of our land from Eleanor Roosevelt to Rosalynn Carter and she worked with each of them on their many civic and social programs.

She was most active in such programs as the American Heart Association, the Boy's Clubs of America, the Florence Crittendon Homes for young women, and the many activities of St. Patrick's Episcopal Church here in Washington.

We shall all greatly miss Mary Katherine—for her unfailing kindness, her boundless good cheer, her quiet strength, and her devoted friendship.

I know I speak for each member of the Senate in expressing my heartfelt sympathies to Senator RANDOLPH on this most sad day for us all.

THE UNITED STATES SENATE

LIMITED DEBATE, 1789–1981, THE CLOTURE RULE

Mr. ROBERT C. BYRD. Mr. President, undoubtedly, one of the greatest changes occurring in the rules between the 1884 codification and the 1979 revision, was the emergence and development of the controversial cloture rule. That rule is now contained in paragraph 2 of Rule XXII, and it commands a history unto itself.

The origin and development and evolution of the rule have constituted a long and stormy voyage on the Senate's parliamentary sea.

In 1604, the practice of limiting debate in some form was introduced in the British Parliament by Sir Henry Vane. It became known in parliamentary procedure as the "Previous Question." It is described in Section 34 in Jefferson's *Manual of Parliamentary* Practice as follows:

> When any question is before the House, any member may move a previous question, whether that question (called the main question) shall not be put. If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter.

In 1778, the Journals of the Continental Congress show that the "Previous Question" was used. Section 10 of the Rules of the Continental Congress was as follows: "When a question is before the House no motion shall be received, unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit it."

In the British Parliament and the Continental Congress, the "previous question" was used to avoid discussion of a delicate subject or one which might have injurious consequences.

The Congress of the Confederation, on the practice of which the 1789 Senate drew so heavily, specifically declared that the—

> previous question . . . shall only be admitted when, in the judgment of two States at least, the subject moved is in its nature, or from the circumstances of time of place, improper to be debated or decided—

Jefferson, in his Manual, written while the 1789 rule was still in effect, stated:

> The proper occasion for the Previous Question is when a subject is brought forward of a delicate nature as to high personages . . . or the discussion of which may call forth observations which might be of injurious consequences. Then the Previous Question is proposed; and in the modern usage, the discussion of the Main (pending) Question is suspended, and the debate confined to the Previous Question. The use of it has been extended abusively to other cases.

The question as to whether in the last analysis, a minority should have power to prevent legislative action by the majority had been discussed in America long before 1789. Even in the colonial assemblies, various forms of obstruction had been practiced, and the subject was mentioned in the constitutional convention.

A committee of the Congress of the Confederation, in 1784, recommended stringent rules to prevent delays. The adjournment date having been set for June 3, and with much work to be done in the remaining 2 weeks, the committee recommended that in this instance the President be authorized to take the following action to expedite business:

1) to take the sense of Congress with respect to putting any question without debate when he considered it desirable;

2) to prevent any Member from speaking more than once or longer than the President deemed necessary;

3) to prevent more than two Members from speaking on one side of any question; and

4) to finish each day's business regardless of the hour of adjournment.

The *Journals of the Continental Congress* do not record that the recommendations were adopted, but they provide an interesting example of proposals far more stringent than the Senate was ever to consider.

It is apparent that unlimited debate was frowned on by the Senate in the First Congress, since Rule IV provided that "No member shall speak more than twice in any one debate on the same day, without leave of the Senate," and rule VI provided that "No motion shall be debated until the same shall be seconded."

Despite such precautions, delaying tactics were used in the Senate during its first year in 1789 against a bill to locate the National Capital on the Susquehanna.

The following year, the bill to fix the location of the Capital again occasioned dilatory tactics in both the Senate and House. In the upper Chamber, opponents of Philadelphia as the Capital tried to spin out the time until the Rhode Island Senators could arrive and vote against that site. In the House of Representatives, supporters of Philadelphia faced a similar situation. It was raining when the Philadelphia bill was under consideration in the House. If the bill passed the House and went to the Senate before the rain stopped, its friends believed it would pass, but if it reached the Senate after the rain stopped, it would be defeated. This curious circumstance was due to the illness of Senator Samuel Johnston, an opponent of the Philadelphia location, who could not safely be carried to the Floor in the rain to vote against the bill, but could and would if the rain ceased. The Senate was so evenly divided that the ill Senator's vote could have meant the difference. Supporters of the bill, therefore, tried to push the bill through the House before the rain ended. Gerry of Massachusetts and Smith of South Carolina thwarted the effort, however, by making long speeches and dilatory motions which delayed the decision until the next day.

As I have already indicated, the rules adopted by the United States Senate in April, 1789, included a motion "for the previous question." As I have likewise stated already, when the rules were modified in 1806, reference to the previous question was omitted, it having been used only ten times during the years from 1789 to 1806.

In the following year, 1807, debate on an amendment at the third reading of a bill was forbidden. From that time until 1846, there were no further limitations on debate in the Senate. Henry Clay, in 1841, brought forth a proposal for the introduction of the "previous question", but the proposal encountered opposition and was abandoned. In 1846, consideration of the Oregon bill prompted the use

of the unanimous consent agreement, a form of cloture, to limit debate by fixing a date for a vote. Since that time, such agreements have been used frequently to fix an hour at which the Senate will vote, without further debate, on a pending proposal, and to limit debate on amendments, appeals, debatable motions, etc.

In 1850, Senator Douglas submitted a resolution permitting the use of the "previous question", but, in the face of considerable opposition, the resolution was laid on the table.

In 1862, a resolution was adopted stating that,

> In consideration in secret session of subjects relating to the rebellion, debate should be confined to the subject matter and limited to five minutes, except that five minutes be allowed any member to explain or oppose a pertinent amendment.

In 1868, a rule was adopted providing that, "Motions to take up or to proceed to the consideration of any question shall be determined without debate, upon the merits of the question proposed to be considered." The object of this rule, according to Senator Edmunds, was to prevent a practice which had grown up in the Senate, "when a question was pending, and a Senator wished to deliver a speech on some other question, to move to postpone the pending order to deliver their speech on the other question." According to Mr. Trumbull, the object of the rule was to prevent the consumption of time in debate over business to be taken up. The rule was interpreted as preventing debate on the merits of a question when a proposal to postone it was made.

In December 1870, in the third session of the 41st Congress, Senator Henry Anthony of Rhode Island introduced the following resolution:

> On Monday next, at one o'clock, the Senate will proceed to the consideration of the Calendar and bills that are not objected to shall be taken up in their order; and each Senator shall be entitled to speak once and for 5 minutes only on each question; and this order shall be enforced daily at one o'clock 'till the end of the Calendar is reached, unless upon motion, the Senate should at any time otherwise order.

The resolution was adopted on the following day, December 7, 1870. The so-called "Anthony Rule" for the expedition of business was the most important limitation of debate yet adopted by the Senate. The rule was interpreted as placing no restraints upon minority, however, inasmuch as a single objection could prevent its application to the subject under consideration. In 1880, the rule became a standing rule of the Senate. It is today Rule VIII, Paragraph 1.

On April 19, 1872, a resolution was introduced, "That during the remainder of the session it should be in order, in the consideration of appropriation bills, to move to confine debate by any Senator, on the pending motion to 5 minutes." The resolution was adopted, and similar resolutions were adopted at various succeeding sessions of Congress.

An effort to reinstitute the "previous question" was made in March 1873, but the resolution was defeated by a vote of 30 to 25.

From 1873 to 1880, nine other resolutions were introduced confining and limiting debate in some form. On February 5, 1880 in the second session of the 46th Congress, the famous "Anthony Rule," which was first adopted on December 7, 1870, was made a standing rule of the Senate as rule eight. In 1882, the "Anthony Rule" was amended by the Senate, so that if the majority decided to take up a bill on the calendar after objection was made, the ordinary rules of debate without limitation would apply.

In December 1883, Senator William Frye, of Maine, Chairman of the Committee on Rules, reported a general revision of the Senate rules which included a provision for the "previous question". Amendments in the Senate struck this provision out.

On March 17, 1884, the Senate agreed to the following amendments to the rules: "The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate."

Also in March, 1884, the eighth rule of the Senate was amended by adding thereto:

> All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.

In 1886, the Senate agreed to strike out the words, "without debate," from that part of rule XIII which provided that "every motion to reconsider shall be decided by a majority vote."

Between 1884 and 1890, there were 15 different resolutions offered to amend the rules as to limitations of debate, all of which failed of adoption. On December 29, 1890, Senator Nelson Aldrich introduced a cloture resolution in connection with Senator Henry Cabot Lodge's "Force Bill," which was being filibustered against. The resolution read, in part, as follows:

> "When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate thereon be closed. On such demand, no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made. . . ."

There were five test votes on the cloture proposal, and the votes "commanded various majorities, but in the end it could not be carried in the Senate because of a filibuster against it which merged into a filibuster on the 'Force Bill.' "

In 1893, Senator Henry Cabot Lodge expressed his growing frustration over the delay, by excessive debate, of legislation he considered vital in an article entitled "The Struggle in the Senate." Mr. Lodge wrote:

> Of the two rights (of debating and voting) that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure; but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.
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> As it is, there must be a change, for the delays which now take place are discrediting the Senate, and this is greatly to be deplored. The Senate was perhaps the greatest single achievement of the makers of the Constitution, and anything which lowers it in the eyes of the people is a most serious matter. A body will not long hold the respect of the people who have chosen it to govern the country.
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> No minority is ever to blame for obstruction. If the rules permit them to obstruct, they are lawfully entitled to use those rules in order to stop a measure which they deem injurious. The blame for obstruction rests with the *majority*, and if there is obstruction, it is because the majority permits it. The majority to which I have reference is the party majority in control of the Chamber.

In 1897, the Chair ruled that quorum calls could not be ordered unless business had intervened. This ruling opened the way to a discussion of exactly what constituted "intervening business." This issue was finally joined in 1908 during a marathon filibuster led by Robert La Follette, Sr. On that occasion, Senator La Follette broke the previous endurance record by holding the floor for 18 hours and 23 minutes. His accomplishment was made possible through the device of suggesting the absence of a quorum, resulting in quorum calls each lasting at least six minutes and giving him the opportunity to seek rest and relief.

On May 29, 1908, with the temperature over 90 degrees in the chamber, La Follette talked on into the night, fortifying himself with turkey sandwiches and egg nog from the Senate Restaurant. At one point, he took a sip of egg nog and immediately cast it away, exclaiming that it had been drugged. (Subsequent chemical analysis revealed that the amount of ptomaine in the glass would certainly have killed the Wisconsin Senator, but the culprit was never identified.)

After thirty-two quorum calls, Senator Nelson Aldrich, whose bill was the target of Senator LaFollette's filibuster, raised a point of order, based on the 1897 precedent, to the effect that no business had intervened since the last quorum call. Mr. Aldrich argued that debate by itself was not "intervening business." By a vote of 35 to 8, the Senate decided that Aldrich's point was well-taken, thereby reversing an 1872 precedent to the contrary.

This ruling made it more difficult for La Follette to continue. His filibuster finally came to an end a few hours later when one of La Follette's allies, the blind senator from Oklahoma, Thomas Gore, yielded the floor to Senator William Stone, who was scheduled to relieve him. Unbeknownst to Gore, Stone had been called to the cloakroom, and the filibuster's foes, taking advantage of the blind

senator's disability, immediately seized the opportunity to call for the adoption of the pending measure.

Again, in 1915, Senator Reed Smoot set a new one-man record for the longest *continuous* filibuster, speaking for more than eleven hours without rest and without deviating from the subject at hand. His action was part of a filibuster against the administration's Ship Purchase Bill. The debate consumed thirty-three days and resulted in the failure of three important appropriations bills.

In May 1916 the Committee on Rules reported out a resolution providing for two-thirds cloture by those voting, but the resolution, although debated, did not come to a vote.

In 1916, and again in 1920, the Democratic Party's national platforms included a statement as follows. "We favor such alteration of the rules of procedure of the Senate of the United States as will permit the prompt transaction of the Nation's legislative business."

The final impetus for a cloture rule came as a result of a 1917 filibuster against an administration measure that would have permitted the arming of American merchant vessels for the duration of the World War. Seventy-five senators had signed a petition calling for action on this bill in the closing days of the 64th Congress. However, eleven members banded together in opposition, and their action led to a twenty-three-day filibuster and the ultimate failure of this much-desired bill. This stimulated a great public outcry which associated the Senate's right to free and unlimited debate with treason. President Wilson, on the eve of his second inaugural, angrily responded to the Senate's action by making one of the most notable of presidential attacks on the Senate and its procedures. He said, in part:

> The termination of the last session of the 64th Congress disclosed a situation unparalleled in the history of this country, perhaps unparalleled in the history of any modern country. In the immediate presence of a crisis fraught with a more subtle possibility of national danger, the Congress has been unable to act either to safeguard the country or vindicate the elementary rights of its citizens. More than 500 of the 531 members of the two houses were ready and anxious to act; the House had acted by an overwhelming majority; but the Senate was unable to act because a little group of eleven Senators determined that it should not.
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> The Senate has no rules by which debate can be limited or brought to an end by which dilatory tactics of any kind can be prevented. A single member can stand in the way. The result is a paralysis of the legislative and executive branches of government.
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> The inability of the Senate to act has rendered some of the most necessary legislation impossible at a time when the need of it was most pressing and most evident. It would not cure the difficulty to call the Sixty-fifth Congress into extraordinary session. The paralysis of the Senate would remain. The Senate cannot act unless its leaders obtain unanimous consent. Its majority is powerless, helpless . . .
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> Although as a matter of fact, the nation and the representatives stand in back of the Executive with unprecedented unanimity, the impression made abroad will be that it is not so and the other governments may act as they please without fear that this government will do anything. We cannot explain. The explanation is incredible. The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. *A little group of willful men*, representing no opinion but their own, have rendered the great government of the United States helpless and contemptible.
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> The remedy . . . the only remedy is that the rules of the Senate be altered so that it can act. The country can be relied on to draw the moral. I believe that the Senate can be relied on to supply the means of action and save the country from disaster.

Even before the filibuster which killed the Armed Ship Bill, the president had planned to call the Senate into special session to deal with a pending treaty. Nonetheless, when the Senate met in extraordinary session the day following Wilson's inauguration, there was only one item of business on its members' minds—the cloture rule. Professor Thomas Ryley in his book, *A Little Group of Willful Men*, notes that, at the time, most senators did not want to undermine the filibuster, as many of them had taken advantage of it in the past, but "with an aroused public, there was almost as much resentment over the filibuster as there was over the fact that American rights had not been defended to the utmost." When the president announced that the rules of the Senate would have to be revised before he would call a special session of the entire Congress to deal with the war emergency, Ryley observes, "the fate of unlimited debate was sealed."

The principal responsibility for the cloture resolution rested with the new Democratic majority leader, Thomas Martin of Virginia. Under his guidance, a bipartisan committee of the Senate's leaders drew up a proposal providing for cloture on a pending measure if two-thirds of those present and voting so voted. Under the new rule, cloture would begin with a petition signed by sixteen members. Two days after the submission of the petition, a vote would be held. If two-thirds of those present and voting approved the proposal, each senator could speak for a maximum of one hour, and no amendments could be made except by unanimous consent. Even if this rule had been in effect at the time of the Armed Ship bill filibuster, however, it could not have saved the measure, for the amount of time required under the procedure was greater than that remaining in the life of that Congress.

It was clear from the beginning of the March 1917 debate that the rule would pass by an overwhelming margin. I think it is useful, however, in the light of subsequent developments and considering the overstated nature of President Wilson's attacks on the Senate, to look at the arguments of the proposed rule's three lone opponents.

Illinois Senator Lawrence Sherman had been an avowed supporter of the Armed Ship bill. He took the position, nonetheless, that President Wilson's attack was unfair. He said, "There is in the memory of no person, now having a seat on the Senate, delayed action or a filibuster which destroyed meritorious legislation, save during the last weeks of the short (second) session, which automatically adjourned on the succeeding fourth day of March of that year. There is a limitation," he continued, "where mere exhaustion applies the cure. It is always in the power of the Senate to apply the remedy by continuous session, except the last few days named." Sherman argued that the rules were to be made "the scapegoat for the deficiencies of human nature," and their amendment had been raised "solely for the purpose of breaking down the rule of the Senate and riveting Executive control on the Senate as firmly as on the House."

Senator Sherman's basic point was that if the administration had sent the bill in "due time, it would not have been possible," in his words, "for those senators to have defeated it by delaying a roll call until the adjournment."

A second opponent, Senator La Follette, also took issue with the practice of holding important bills in committee, particularly appropriations measures, until the eleventh hour to build up pressure for their speedy and uncritical consideration and passage. As the debate on the cloture rule was drawing to a close, La Follette presented a classic statement in defense of unlimited debate. He said:

> Mr. President, believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule upon this body, that moment you will have dealt a blow to liberty, you will have broken down one of the greatest weapons against wrong and oppression that the Members of this body possess. This Senate is the only place in our system where, no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is opportunity to speak at length, and where, if need be, under the Constitution of our country and the rules as they stand to-day, the constitutional right is reposed in a Member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be in violation of the Constitution which Senators have sworn to support. When you take that power away from the Members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here.

The third opponent, Senator Gronna of North Dakota, at the time the resolution passed, said simply, "Forgive them, for they know not what they do!"

By a vote of 76 to 3, on March 8, 1917, after only six hours of debate, the Senate adopted its first cloture rule.

In the months that followed, the United States entered the World War and the Senate, during the second session of the 65th Congress, broke all previous records by remaining in session for 354 days between December 1917 and the following November. By the time the war had ended in November 1918, it was becoming clear that the cloture rule was not going to be effective. Several months earlier, Senator Oscar Underwood, soon to become the Democratic floor leader,

introduced a resolution reestablishing the use of the "previous question" and limiting debate during the wartime period. The Rules Committee favorably reported the Underwood resolution, but it failed of passage by a vote of 34 to 41.

A year later, on November 15, 1919, the Senate adopted its first cloture motion and four days later brought to an end the 55-day debate on the Treaty of Versailles.

In the years that followed, however, cloture was used only sparingly. From 1917 until 1962, the Senate invoked cloture just four times and between 1917 and the end of World War II, it voted on cloture petitions on only 15 occasions, including five in February 1927.

On November 29, 1922, the Senate's Republican Whip, Charles Curtis, tried a new approach to limit debate. In the midst of a four-day filibuster against an anti-lynching bill, Democratic Leader Underwood, who supported that filibuster, moved to adjourn immediately upon the convening of the Senate. Curtis then raised a point of order that the motion was dilatory. He said, "I know that we have no rule of the Senate with reference to dilatory motions. We are a legislative body and we are here to do business and not to retard business." He then observed that "it is a well-stated principle that in any legislative body where the rules do not cover questions that may arise, general parliamentary rules must apply." He argued that in the House, Speaker Reed had ruled, in the absence of rules to the contrary, that dilatory motions were out of order. Vice President Coolidge, in the Chair at the time, declined to rule on Curtis' specific point of order. Today, except in cases where the Senate is operating under the cloture rule, the rules do not specifically prohibit dilatory motions as such.

One of the most notable of the earlier campaigns to devise an effective debate limitation rule began here in the Senate chamber on March 4, 1925. The occasion was the inaugural address of the new Vice President, Charles Dawes. By that time, Mr. Dawes had already earned a reputation as an effective administrator by virtue of his successful banking career and his service as the first director of the Budget Bureau. A man of commanding personality, the Vice President was often called by his campaign nickname of "Hell 'n Maria," one of his favorite expressions. During his term of office, Mr. Dawes participated more actively in the Senate's business than most of his predecessors.

Mr. Dawes began his activist role with a statement that shocked the assembled senators. He told them that it was his duty as their presiding officer "to call attention to defective methods in the conduct of (the Senate's) business." Accordingly, he observed that the existing cloture rule, "which at times enables Senators to consume in oratory those last precious minutes of a session needed for momentous decisions, places in the hands of one, or a minority of senators, a greater power than the veto power exercised under the Constitution by the President of the United States, which is limited in its effectiveness by the necessity of an affirmative two-thirds vote." Filled with indignation, the vice president covered his audience with a barrage of rhetorical questions. *"Who would dare,"* said he, "to contend that under the spirit of democratic government the power to kill legislation providing the revenues to pay the expenses of government should, during the last few days of a session, ever be in the hands of a minority, or perhaps one senator? *Who would dare* oppose any changes in the rules necessary to insure that the business of the United States should always be conducted in the interests of the Nation and never be in danger of encountering a situation where one man or a minority of men might demand unreasonable concessions under the threat of blocking the business of the Government? *Who would dare* maintain that in the last analysis the right of the Senate itself to act should ever be subordinated to the right of one senator to make a speech?"

On the following day, Senator Underwood introduced a resolution to replace the 1917 cloture rule. Its provisions, which harkened back to the original 1789 rule on the "previous question," were as follows:

1. There shall be a motion for the previous question which, being ordered by a majority of Senators voting, if a quorum be present, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after previous question shall have been ordered on its passage, for the Presiding Officer to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

2. All motions for the previous question shall, before being submitted to the Senate, be seconded by a majority by tellers if demanded.

3. When a motion for the previous question has been seconded, it shall be in order, before final vote is taken thereon, for each Senator to debate the proposition to be voted for one hour.

To build support for his reform campaign, Vice President Dawes set out on a cross-country tour. In the spirit of his great, great grandfather, William Dawes, who rode with Paul Revere on that fateful night in 1775 to warn of the impending arrival of British troops, Charles Dawes sought to sound the alarm against the dangers he perceived in the Senate's rules.

At one stop, in Boston, the Vice President addressed a gathering on this subject. In the presence of Massachusetts Senator William Butler, he asked that those in the audience who favored a rules change stand up in order to make their views known to their senator. As the supportive cheers died down, the vice president literally pulled the embarrassed senator from his chair, exclaiming, "I want to hear what Senator Butler has to say about this." The freshman senator quickly observed that he was in favor of a reform of the Senate's rules, particularly the seniority rule.

Several weeks later, Mr. Dawes announced that he intended to take his campaign to Kansas, home of Senate Republican floor leader Charles Curtis. There he promised to hold a "monster mass meeting" and he expressed the hope that the senator would be present to see his constituents "react." Senator Curtis, who was also chairman of the Rules Committee, told a *New York Times* reporter that he thought the Dawes-Underwood proposal stood little chance even though he was willing to support it. Recalling his own earlier efforts to achieve majority or three-fifths cloture, Senator Curtis reminded the vice president that he had been able to find only two other Republican senators willing to join him in support of such a proposal. The Kansas senator correctly predicted that the Dawes campaign would fail.

Later in 1925, Democratic Leader Joseph Robinson, joining members on both sides of the aisle, argued that no change in the rules was necessary to prevent irrelevant debate. He noted that general parliamentary practice "contemplates that a speaker shall limit his remarks to the subject under consideration," and he called on the Chair to require that debate be germane. (Prior to 1964 there was no rule requiring germaneness of debate and the Chair had ruled on numerous occasions that there was no requirement for debate to be germane.)

Executive branch reorganization acts in 1939 and 1945 contained provisions for a limitation of debate not to exceed ten hours, equally divided between supporters and opponents, but only in the case of a concurrent resolution disapproving a presidential reorganization plan. The language of those statutes acknowledged the constitutional right of the Senate to change this requirement "at any time in the same manner and to the same extent as in the case of any other (Senate) rule." This rule read: "Debate on the resolution shall be limited to not to exceed 10 hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to." Subsequent extensions of the Reorganization Act contained this proscription on debate.

In 1946, the Republican Steering Committee delegated Senator Saltonstall to prepare an amendment to Rule XXII "so that the various dilatory methods of preventing its application can be eliminated."

By 1948, a series of rulings over the years had rendered the 1917 cloture rule worthless, particularly those rulings that held that it could not be applied to debate on procedural questions. On August 2 of that year, President Pro Tempore Arthur Vandenberg, in sustaining a point of

order against a petition to close debate on a motion to consider an anti-poll tax bill, declared that in the final analysis, the Senate had no cloture rule at all. He noted that "a small but determined minority can always prevent cloture under the existing rules . . ." At that point, the Republican Conference appointed a committee of ten senators to recommend revision of the existing cloture rule.

In 1949, control of the Senate returned to the Democratic Party. Fresh from his surprise election victory, President Truman sought to clear the way for a broad civil rights program and his first step was to push for a liberalization of the cloture rule. His efforts produced a bitter battle at the beginning of the 81st Congress.

After lengthy hearings in the Rules Committee, the Majority Leader, Scott Lucas, moved on February 28 to take up the resolution. This action set off a filibuster which ran until March 15, when it was voluntarily halted. After three days of further debate, the Senate adopted a compromise measure that proved to be less useable than the one it replaced. It required that two-thirds of the *entire* Senate vote for cloture, rather than two-thirds of those present and voting. The new rule differed from the old in that it allowed cloture to operate on any pending business or motion with the exception of debate on motions to change the Senate rules themselves. Previously, the cloture rule had been applicable to those latter motions. This meant that future efforts to change the cloture rule would themselves be subject to extended debate without benefit of the cloture provision. Previously, under the old rule, debate limitation on a rules change had at least been theoretically possible. This led critics of the revised rule to develop a new strategy, which became apparent in 1953, at the beginning of the 83rd Congress.

At the opening of the 83rd Congress, advocates of majority rule in the Senate challenged the conception of the Senate as a continuing body. They based their strategy on the contention of Senator Walsh in 1917 that each new Congress brings with it a new Senate, entitled to consider and adopt its own rules. They proposed to move for consideration of new rules on the first day of the session and, upon the adoption of this motion, to propose that all the old rules be adopted with the exception of rule XXII. Rule XXII was to be changed to allow a majority of all Senators (49) to limit debate after 14 days of discussion. On January 3, 1953, Senator Clinton Anderson moved that the Senate immediately consider the adoption of rules for the Senate of the 83rd Congress. Senator Robert Taft moved that the Anderson motion be tabled. During the ensuing debate, Senator Douglas told the Senate that the Anderson proposal was the only method with any hope of success. The 1949 rule, he said, "ties our hands once the Senate is fully organized. . . . For under it any later proposal to alter the rules can be filibustered and never permitted to come to a vote. . . . Therefore, if it be permanently decided that the rules of the preceding Senate apply automatically as the new Senate organizes, we may as well say farewell to any chance (either) for Civil Rights legislation or needed changes in Senate procedures."

Opponents of the Anderson motion centered principally on the argument that the Senate is a "continuing body", bound by the rules of earlier Senates. They said that this thesis was proved because: (1) Only one-third of the Senate is elected every two years; (2) The Constitution did not provide for the adoption of new rules every two years; (3) If the Senate had had the power to adopt new rules, it had lost that power through disuse; and (4) The Supreme Court, they said, had decided that the Senate was a "continuing body." The Anderson motion was finally tabled by a vote of 21 to 70, on January 7, 1953.

On January 3, 1957, Senator Anderson moved, at the opening of the 85th Congress, to consider the adoption of new rules. Senate Majority Leader Johnson moved to table the Anderson motion, and the Anderson motion was tabled by a roll-call vote of 55 to 38. During the debate, however, Vice President Nixon said that he believed the Senate could adopt new rules "under whatever procedures the majority of the Senate approves." He said that in his opinion the current Senate could not be bound by any previous rule "which denies the membership of the Senate the power to exercise its constitutional right to make its own rules." Nixon said he regarded as unconstitutional the section of Rule XXII banning any limitation of debate on proposals to change the rules, but added that the question of the constitutionality of the rule could be decided only by the Senate itself.

During the 85th Congress, 1957–58, eight resolutions were introduced to amend the cloture rule. At the opening of the 86th Congress, Senate Majority Leader Johnson offered a resolution to amend Senate Rule XXII which was adopted on January 12, 1959, after 4 days of debate, by a 72 to 22 roll call vote. The resolution amended Rule XXII so as to enable two-thirds of the Senators present and voting to shut off debate on any matter—and I should emphasize—including proposals for rules changes. It also amended Senate Rule XXII by adding this language: "The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

At the opening of the 87th Congress, in 1961, Vice President Nixon reaffirmed his 1957 "advisory opinion" that the constitutional right of a majority of the Senate to adopt new rules at the beginning of a new Congress could not be inhibited by the two-thirds requirement of Rule XXII regarding cloture. No action on cloture was taken on a final nature.

Efforts to amend the cloture rule failed again in the 88th and 89th Congresses. On January 11, 1967, Mr. McGovern introduced a resolution providing for three-fifths of the Senators present and voting to end debate. On January 18, Mr. McGovern proposed that the Senate immediately vote to end debate on the motion to consider his resolution and if a majority vote occurred, the Senate would then debate the resolution itself. Mr. McGovern justified this procedure by arguing that the Senate, under the Constitution, could, at the beginning of a new session, adopt new rules by a majority vote. Senator Dirksen raised a point of order against the McGovern motion. Supporters of McGovern had hoped for a favorable ruling from Vice President Humphrey, but Humphrey stated: "the precedent, . . . namely, that the Chair has submitted constitutional questions to the Senate for its decision—the Presiding Officer believes to be a sound procedure. It has not been considered the proper role of the Chair to interpret the Constitution for the Senate. Each Senator has his own obligation when he takes his oath of office to support and defend the Constitution. The Presiding Officer is aware of no sufficient justification for reversing this procedure." Humphrey then asked the Senate if the point of order should be sustained. He also said this question was debatable but subject to a tabling motion, which is not debatable, whereupon Mr. McGovern moved to table the Dirksen point of order. According to the Vice President, acceptance of the tabling motion would have validated the constitutionality of the McGovern motion, which in turn would have validated the right of the Senate to adopt new rules by majority vote at the beginning of a new session. However, the Senate rejected Mr. McGovern's motion by a 37 to 61 roll call vote. Dirksen's point of order was then sustained by a 59 to 37 roll call vote. Hence, the Senate found McGovern's motion unconstitutional. An attempt was then made to invoke cloture but it failed.

At the beginning of the 91st Congress, in 1969, yet another strategy was devised by those who favored alteration in rule XXII. S. Res. 11 was introduced by Senators Church and Pearson and provided for invoking of cloture by three-fifths, rather than two-thirds, of those present and voting. Their strategy required a favorable ruling by Vice President Humphrey that a simple majority could invoke cloture on any motion to take up, or on the resolution itself, when a change in the rules was being attempted at the start of a new Congress. On January 14, 1969, five days after debate had begun on S. Res. 11, Mr. Church and 24 other Senators filed a cloture motion to limit debate on the motion to consider the resolution. This cloture motion was filed under the procedure set forth in rule XXII. Mr. Church then inquired of the chair whether, if a majority of the Senators present and voting, but less than the two-thirds required by rule XXII, voted in favor of cloture the cloture motion would have been agreed to.

Church justified his request for a favorable ruling with the argument that it was unconstitutional to require a two-thirds vote to invoke cloture on such questions in that it restricted the right

of a majority of the Senate to determine its rules at the opening of a new Congress, a right, by Church's reasoning, implied in the Constitution.

The Vice President agreed with Mr. Church, saying: "On a par with the right of the Senate to determine its rules, though perhaps not set forth so specifically in the Constitution, is the right of the Senate, a simple majority of the Senate, to decide constitutional questions.

"If a majority but less than two-thirds, of those present and voting, vote in favor of this cloture motion, the question whether the motion has been agreed to is a constitutional question. The constitutional question is the validity of the Rule XXII requirement for an affirmative vote by two-thirds of the Senate before a majority of the Senate may exercise its right to consider a proposed change in the rules. If the Chair were to announce that the motion for cloture had not been agreed to because the affirmative vote had fallen short of the two-thirds required, the Chair would not only be violating one established principle by deciding the constitutional question himself, he would be violating the other established principle by inhibiting, if not effectively preventing, the Senate from exercising its right to decide the constitutional question. . . ."

"The Chair informs the Senate that in order to give substance to the right of the Senate to determine or change its rules to determine whether the two-thirds requirement of Rule XXII is an unconstitutional inhibition on that right at the opening of a new Congress, if a majority of the Senators present and voting but fewer than two-thirds vote in favor of the pending motion for cloture, the Chair will announce that a majority having agreed to limit debate on S.Res. 11, to amend Rule XXII, at the opening of a new Congress, debate will proceed under the cloture provisions of that rule."

This was a landmark ruling, subject, as the Chair said, to appeal without debate.

On January 16, the Senate voted 51 to 47 to invoke cloture and the Vice President, in line with his earlier statement, ruled that cloture had been invoked. This decision was appealed and reversed on a 45 to 53 roll call vote. A subsequent attempt to invoke cloture this time within the two-thirds stricture of Rule XXII, was attempted and failed.

At the start of the 92nd Congress, Senators Church and Pearson introduced S.Res. 9, which would have reduced the number of Senators required to curtail debate from two-thirds to three-fifths of those present and voting. The proponents hoped for a favorable ruling from the Chair on whether a simple majority at the start of a Congress could invoke cloture on a resolution to alter Senate rules or on a motion to take up such a resolution, but Vice President Spiro Agnew stated that he would refrain from making any such ruling, and instead, referred all such questions to the full Senate for resolution. The proponents of S.Res. 9 were, therefore, required to carry on their efforts under the two-thirds requirement they were seeking to change.

Attempts to invoke cloture failed, and during the six-week debate on the motion to consider the resolution, several Senators suggested a number of compromise solutions to bridge the gap between those favoring a modification of Rule XXII and the opponents of a three-fifths rule. Senator Allen Ellender proposed a three-fifths vote to end debate on all conference reports and appropriations bills. Senator ROBERT C. BYRD, who was then Majority Whip, suggested that debate be ended by three-fifths of the membership of the Senate. A third attempt to end debate failed on March 2 by a vote of 48 to 36. A fourth and final attempt to end debate failed by a vote of 55 to 39, 8 votes short of the required two-thirds majority. Senator Javits then appealed the decision of Presiding Officer Allen Ellender, who had announced that the cloture attempt had failed to receive the necessary two-thirds majority. By appealing the decision of the Chair, Mr. Javits again raised the question of whether the Senate could alter its rules at the beginning of a new session by a simple majority. Majority Leader Mansfield successfully moved to table Mr. Javits' motion.

At the beginning of the first session of the 94th Congress, Senators Mondale and Pearson sponsored an attempt to change the cloture rule so that three-fifths of the Senators present and voting could bring debate to a close. The proposal, S. Res. 4, was introduced on January 17, 1975, and placed on the Senate Calendar. As in the past, proponents of the measure hoped for a favorable ruling from the Chair on whether a simple majority, at the start of Congress, could close debate on a resolution to change Senate rules, or on a motion to take up such a resolution. Mr. Pearson, as part of a lengthy motion, moved that the Senate proceed to the consideration of S. Res. 4, and, "under Article 1, Section 5, of the U.S. Constitution, I move that debate upon the pending motion to proceed to the consideration of S. Res. 4 be brought to a close by the Chair immediately putting this motion to end debate to the Senate for a yea or nay vote; and, upon the adoption thereof by a majority of those Senators present and voting, a quorum being present, the Chair shall immediately thereafter put to the Senate, without further debate, the question on the adoption of the pending motion . . ."

Senator Mansfield entered a point of order against the motion in that it prescribed an end to debate by a majority vote. Vice President Rockefeller declined to rule either on the validity of the Pearson motion or on the Mansfield point of order, and, instead, submitted to the Senate the question of whether the Mansfield point of order was well taken. The Senate temporarily endorsed the doctrine that majority cloture may be invoked to change Senate rules at the start of a Congress when it agreed to a motion by Senator Mondale to table the Mansfield point or order by a vote of 51 to 42.

Senator James Allen of Alabama then moved that the motion be divided inasmuch as it contained several clauses. The Vice President ruled that the motion could be divided and that, once divided, the various parts of the motion became debatable, although, when considered as a whole, the motion was not subject to debate. With this ruling, coupled with the Vice President's subsequent recognition of Senator Allen, the Pearson motion became subject to a long series of amendments and intervening motions, and although the principle of majority cloture had been temporarily endorsed, the parliamentary tangle which followed the division of the motion prevented a majority cloture vote from being taken on the original Pearson resolution.

In the course of the debate, on February 26, 1975, Senator RUSSELL LONG of Louisiana indicated his willingness to compromise on a constitutional three-fifths cloture rule. This proposal was embodied in S. Res. 93, introduced by Senator ROBERT C. BYRD of West Virginia on February 28, 1975. The Byrd Resolution provided for closing debate in the Senate upon the vote of "three-fifths of the Senators duly chosen and sworn." The Byrd proposal required a two-thirds vote of "Senators present and voting" to close debate on a measure or motion to change the rules of the Senate. Senator BYRD requested immediate consideration of his resolution, but objection was heard and the resolution went over under the rule.

On March 3, 1975, the Senate, by a vote of 53 to 38, agreed to reconsider the vote of February 20, through which the Mansfield point of order against the Pearson motion was tabled. A motion to table the Mansfield point of order was rejected, 40 to 51. The following day, the Senate voted 53 to 43 to sustain the Mansfield point of order. Thus, the Senate erased the precedent of majority cloture established two weeks before, and reaffirmed the "continuous" nature of the Senate rules.

On March 3, 1975, Senator ROBERT C. BYRD entered a motion to close debate on the motion to proceed to consider S. Res. 4. On March 5, 1975, the Senate invoked cloture on the motion to proceed to consider Senate Resolution 4. The vote was 73 to 21, with two-thirds of the Senators present and voting having voted in the affirmative. Later the same day, the Senate voted 69 to 26 to proceed to consider S. Res. 4, and adopted Senate Resolution 93, which had been previously introduced by Senator ROBERT C. BYRD, as an amendment in the nature of a substitute. Senator BYRD introduced a motion to close debate on Senate Resolution 4, as amended, and cloture was voted on March 7, by a vote of 73 to 21, with two-thirds of the Senators present and voting recorded in the affirmative. S. Res. 4, as amended by S. Res. 93, in the nature of a substitute, to provide for a constitutional three-fifths cloture vote for all measures save those amending the rules of the Senate, passed the Senate on March 7 by a vote of 56 to 27.

Subsequent to the 1975 revision, opponents of measures increasingly relied on "post-cloture" filibusters in an attempt to delay Senate action on measures. They did this by calling up myriad amendments offered before cloture was invoked, by demanding frequent roll call

votes and repeated quorum calls, and by calling for the reading of amendments, conference reports, and the Journal.

In 1977, Senator ROBERT C. BYRD introduced a resolution, S. Res. 5, designed to restrict the use of such post-cloture filibusters. As reported from the Committee on Rules and Administration, the resolution provided that a cloture petition could not be offered until 24 hours after the Senate had begun consideration of a measure; limited to 50 hours the amount of time available for debate after cloture was invoked; provided that time for quorum calls and votes be charged against the 50 hours; permitted the post-cloture debate time to be extended or reduced upon a two-thirds vote of the Senate; and included provisions limiting dilatory tactics. The reading of amendments and conference reports in full could not be demanded if they were available in printed form to all Senators, and the Presiding Officer was given greater discretion in ruling quorum calls dilatory and out of order. However, efforts to devise a compromise version of the resolution failed, and S. Res. 5 was put aside for the remainder of the session.

In October 1977, a series of rulings by the Vice President, sustained by the Senate, established precedents for reducing the impact of post-cloture filibusters. Senator ROBERT C. BYRD offered a point of order against an amendment to the Natural Gas Pricing bill in that the amendment was directed to the bill, and not to the substitute upon which cloture had already been invoked. The amendment, Mr. BYRD claimed, was dilatory, in that it was not directed at the subject under consideration. Moreover, Senator BYRD made the point of order that "when the Senate is operating under cloture, the Chair is required to take the initiative . . . to rule out of order all amendments which are dilatory or which on their face are out of order." Vice President Mondale sustained the point of order, and the Senate tabled an appeal from the ruling of the Chair. The Senate also sustained a point of order that a Senator has the right to recall his own amendments, qualified and pending under cloture, prior to being called up. The Senate also sustained a point of order that actions ruled dilatory do not constitute the transaction of business for the purpose of demanding a subsequent quorum call.

On Jan. 15, 1979, Senator ROBERT C. BYRD introduced S.Res. 9, a proposal to expedite Senate consideration of legislation. The resolution, as introduced, contained the following provisions:

a. offering of non-debatable motions to approve or correct the Journal would be permitted;

b. debate on motions to proceed to consider a particular bill would be limited to 30 minutes;

c. demands for the reading of an amendment would not be in order if copies of the amendment were available in printed form;

d. the offering of non-debatable motions requiring three-fifths vote to enforce rule of germaneness on future amendments to a bill would be allowed;

e. post-cloture debate time would be limited to 100 hours, with time for quorum calls, votes, and parliamentary rulings and appeals counted against the 100 hours;

f. post-cloture debate time could be extended or reduced, but not below ter hours, by a three-fifths vote of the full Senate;

g. after Sept. 1 of each year, a cloture motion could be brought to a vote the same day as introduced, after a maximum of five hours of debate;

h. the demand to read a conference report in full could not be entertained, if printed copies of the report were available:

i. "three-day rule" for availability of committee reports would be changed to a "two-day rule," with Saturdays, Sundays, and holidays included; and

j. the Committee on Rules and Administration would be directed to provide for the installation of an electronic voting system in the Senate.

The respective party leaderships appointed committees to study the Byrd resolution and to report their recommendations to the party conferences. The Republican committee was chaired by Senator TED STEVENS and the Democratic committee was chaired by Senator Gaylord Nelson. The committees met individually and jointly with the party leaders in an effort to devise an acceptable compromise.

On Feb. 7, 1979, the Senate agreed to a unanimous consent request by Sen. ROBERT C. BYRD to limit consideration only to those portions of his resolution dealing with post-cloture regulations. An alternate resolution, S.Res. 61, embodying points (e) and (f) above, was made in order for purposes or amendment. Under terms of the agreement, S.Res. 61 became the pending order of business. If a final vote on the disposition of the new resolution did not occur by 6 p.m. on Feb. 22, 1979, the original language of S.Res. 9 would again become the pending business before the Senate.

During its consideration of S. Res. 9 and S. Res. 61, the Senate recessed rather than adjourned at the end of each day's session. This was done to maintain the procedural fiction that the Senate was still in its first day of business. It has been maintained that the Senate is not bound by rules adopted by the Senate in previous Congresses, and that a majority of Senators can vote to end debate on rules changes on the first day of a new Congress. This ruling was temporarily upheld by the Senate in 1975, but later was overturned as part of the cloture rule reform compromise of that year. However, continuation of the Senate in its first legislative day maintained; the possibility that this contention could have been used to end prolonged debate on cloture rule reform that year.

On Feb. 22, 1979, the Senate agreed to S.Res. 61 by a vote of 78–16. As finally approved, the resolution established a cap of 100 hours of consideration once cloture has been invoked on a measure. At the expiration of the time limit, the Senate would proceed to the final disposition of the measure; no amendments then not pending would be in order. A motion to table, a motion to reconsider, and motions necessary to establish a quorum would be in order, however. The Senate may, by a three-fifths vote, increase the amount of post-cloture time, with the additional time to be equally divided and controlled by the Majority and Minority Leaders, or their designees.

Under the resolution, each Senator is entitled to one hour of time. Senators may yield their time to the majority or minority floor managers of the bill, or to the Majority or Minority Leaders. None of the designated four Senators may have more than two additional hours yielded to him or her. These Senators, in turn, may yield their time to other Senators so requesting. If all available time expires, a Senator who has not yielded time and who has not yet spoken on the matter on which cloture has been invoked, may be recognized for ten minutes for the sole purpose of debate.

The resolution provided that no Senator shall call up more than two amendments until every other Senator has had the opportunity to call up two amendments. The Chair is directed to recognize Senators who have not called up two amendments, and who wish to do so, in preference to a Senator seeking recognition to call up a third amendment.

After cloture is invoked, the resolution stipulated that the reading of the Journal shall be dispensed with and that the Journal shall be approved automatically for the duration of post-cloture consideration of a measure. Similarly, after cloture is invoked, the reading of amendments available in printed form will be dispensed with routinely.

The formed cloture rule made in order amendments introduced prior to the completion of the cloture vote. S. Res. 61 made in order first degree amendments (amendments to a bill) submitted by 1 p.m. of the day following submission of a cloture motion; second degree amendments (amendments to amendments) would be in order if submitted in writing one hour prior to the cloture vote.

After the Senate passed S. Res. 61, it agreed to place S. Res. 9 on the Senate Calendar. The Senate also adjourned, thus completing the first legislative day of the 96th Congress. As Senator BYRD explained, this action would guarantee that if the Senate resumed consideration of S. Res. 9, a two-thirds vote would be required to invoke cloture on the measure.

Mr. President, I ask unanimous consent that a table entitled "Senate Votes on Cloture Motions, 1919–1980," be printed at this point in the RECORD.

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

SENATE VOTES ON CLOTURE[1] MOTIONS, 1919 TO 1980

Congress and date	Subject	Motion submitted by[4]	Yea votes needed	Yeas	Nays	For Cloture[5]			Against Cloture[5]			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
66TH													
Nov. 15, 1919	Versailles Treaty[2]	Henry Lodge	63	78	16	37	41		11	5		58	855–56
Feb. 2, 1921	Emergency tariff	Boise Penrose	48	36	35	27	9		7	28		60	2432
67TH													
July 7, 1922	Tariff bill	Porter McCumber	54	45	35	45	0		5	30		62	10040
69TH													
Jan. 25, 1926	World Court[2]	Irvine Lenroot	63	68	26	37	31		18	7	1, F–L	67	2678–79
June 1, 1926	Migratory birds	Peter Norbeck	53	46	33	36	10		8	24	1, F–L	67	10392
Feb. 15, 1927	Branch banking[2]	George Pepper	56	65	18	36	29		9	8	1, F–L	68	3824
Feb. 26, 1927	Disabled officers	Lawrence Tyson	58	51	36	27	24		19	16	1, F–L	68	4901
Do	Colorado River	Hiram Johnson	61	32	59	21	11		28	30	1, F–L	68	4900
Feb. 28, 1927	Prohibitions Bureau[2]	Wesley Jones	55	55	27	33	22		13	13	1, F–L	68	4986
Do	D.C. buildings	Irvine Lenroot	56	52	31	30	22		17	13	1, F–L	68	4985
72D													
Jan. 19, 1933	Banking Act	Joseph Robinson	59	58	30	25	33		19	10	1, F–L	76	2077
75TH													
Jan. 27, 1938	Anti-lynching	Matthew Neely	59	37	51	2	35		13	37	1, F–L	83	1166
Feb. 16, 1938	do	Robert Wagner	59	42	46	3	38	1, P	10	34	1, F–L	83	2007
77TH											1, I		
Nov. 23, 1942	Antipoll tax	Alben Barkley	52	37	41	14	21	1, P	10	31	1, P	88	9065
78TH								1, I			1, I		
May 15, 1944	do	do	54	36	44	18	17	1, P	13	31		90	4470
79TH													
Feb. 9, 1946	FEPC	do	56	48	36	25	22	1,P	8	28		92	1219
May 7, 1946	British loan	Joseph Ball	55	41	41	17	23	1,P	19	22		92	4539
May 25, 1946	Labor dispute	William Knowland	54	3	77	1	2		35	41	1,P	92	5714
July 31, 1946	Antipoll tax	Alben Barkley	48	39	33	15	23	1,P	7	26		92	10512
81ST													
May 19, 1950	FEPC	Scott Lucas	64	52	32	33	19		6	26		96	7300
July 12, 1950	do	do	64	55	33	33	22		6	27		96	9982
83d													
July 26, 1954	Atomic Energy	William Knowland	64	44	42	40	4		4	38		100	11942
86TH													
Mar. 10, 1960	Civil rights	Paul Douglas, Jacob Javits.	64	42	53	12	30		20	33		106	5118
87TH													
Sept. 19, 1961	Amend Rule 22	Mike Mansfield, Everett Dirksen.	54	37	43	11	26		15	28		107	20147
May 9, 1962	Literacy tests	do	64	43	53	13	30		23	30		108	8058
May 14, 1962	do	do	63	42	52	11	31		22	30		108	8294
Aug. 14, 1962	Communication satellite[2]	Mike Mansfield	60	63	27	34	29		2	25		108	16431
88TH													
Feb. 7, 1963	Amend Rule 22	do	64	54	42	18	36		15	27		109	2058
June 10, 1964	Civil rights[2]	do	67	71	29	27	44		6	23		110	13327
Sept. 10, 1964	Legislative reapportionment	Everett Dirksen	62	30	63	23	7		9	54		110	21896
89TH													
May 25, 1965	Voting rights[2]	Philip Hart	67	70	30	23	47		9	21		111	11466
Oct. 11, 1965	Right-to-work	Mike Mansfield	62	45	47	5	40		26	21		111	26581
Feb. 8, 1966	do	do	66	51	48	6	45		26	22		112	2512
Feb. 10, 1966	do	do	66	50	49	6	44		26	23		112	2864
Sept. 14, 1966	Civil rights	do	64	54	42	12	42		21	21		112	22670
Sept. 19, 1966	do	do	62	52	41	10	42		20	21		112	23042
Oct. 10, 1966	D.C. home rule	do	52	41	37	10	31		15	22		112	24848
90TH													
Jan. 24, 1967	Amend Rule 22	do	66	53	46	17	36		19	27		113	1336
Feb. 20, 1968	Open housing	do	62	55	37	18	37		18	19		114	3427
Feb. 26, 1968	do	do	62	56	36	19	37		17	19		114	4064
Mar. 1, 1968	do	Everett Dirksen	63	59	35	22	37		14	21		114	4845
Mar. 3, 1968	Open housing[2]	Mike Mansfield	65	65	32	24	41		12	20		114	4960
Oct. 1, 1968	Fortas nomination	do	59	45	43	10	35		25	19		114	28933
91ST													
Jan. 16, 1969	Amend Rule 22[3]	Frank Church	66	51	47	17	34		26	21		115	994
Jan. 28, 1969	do	do	62	50	42	21	29		21	21		115	1937
Sept. 17, 1970	Electoral college	Mike Mansfield	60	54	36	21	33		18	18		116	32357
Sept. 29, 1970	do	do	58	53	34	19	34		19	15		116	34034
Dec. 19, 1970	Supersonic transport funds	Hugh Scott	61	43	48	26	17		11	37		116	42712
Dec. 22, 1970	do	do	58	42	44	28	14		10	34		116	43176
93D													
Feb. 18, 1971	Amend Rule 22	Frank Church	57	48	37	21	27	0	17	18	1, C–R 1, I–D	117	3014
Feb. 23, 1971	do	do	58	50	36	20	30	0	17	17	1, C–R 1, I–D	117	3623
Mar. 2, 1971	do	do	56	48	36	21	27	0	19	15	1, C–R 1, I–D	117	4566
Mar. 9, 1971	do	do	63	55	39	24	31	0	19	18	1, C–R 1, I–D	117	5485
June 23, 1971	Military draft[2]	Mike Mansfield	62	65	27	35	29	1, C–R	5	21	1, I–D	117	21584
July 26, 1971	Lockheed loan	John Tower	60	42	47	29	13	0	12	33	1, C–R 1, I–D	117	27154
July 28, 1971	do	do	66	59	39	38	21	0	5	32	1, C–R 1, I–D	117	27585

Footnotes at end of table.

SENATE VOTES ON CLOTURE[1] MOTIONS, 1919 TO 1980

Congress and date	Subject	Motion submitted by[4]	Yea votes needed	Yeas	Nays	For Cloture*			Against Cloture*			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
July 30, 1971	do	do	60	53	37	38	15	0	4	31	1, C–R 1 I–D	117	28185
Sept. 21, 1971	Military draft[2]	John Stennis	61	61	30	38	21	1, C–R 1, I–D	4	26	0	117	32657
Dec. 10, 1971	Rehnquist nomination	Hugh Scott	63	52	42	36	15	1, C–R	35	6	1, I–D	117	46117
Feb. 1, 1972	EEOC	Harrison Williams	57	48	37	24	24	0	17	18	1, C–R 1, I–D	118	1972
Feb. 3, 1972	do	do	59	53	35	24	29	0	16	17	1, C–R 1, I–D	118	249
Feb. 22, 1972	do[2]	do	63	73	21	32	40	1, C–R	8	12	1, I–D	118	4912
Sept. 14, 1972	U.S.-Soviet Arms Pact[2]	Mike Mansfield	61	76	15	39	35	1, C–R 1, I–D	0	15	0	118	30622
Sept. 29, 1972	Consumer Agency	Robert Byrd	51	47	29	15	32	0	16	11	1, C–R 1, I–D	118	32895
Oct. 3, 1972	do	Jacob Javits	58	55	32	20	35	0	18	12	1, C–R 1, I–D	118	33401
Oct. 5, 1972	do	Robert Byrd	55	52	30	20	32	0	17	11	1, C–R 1, I–D	118	33865
Oct. 10, 1972	School busing	Mike Mansfield	55	45	37	24	19	1, C–R 1, I–D	12	25	0	118	34504
Oct. 11, 1972	do	do	59	49	39	25	22	1, C–R 1, I–D	26	13	0	118	34788
Oct. 12, 1972	do[3]	do	58	49	38	26	21	1, C–R 1, I–D	12	26	0	118	35330
93D													
Apr. 30, 1973	Voter registration	James B. Allen	58	56	31	14	42	0	22	7	1, C–R 1, I–D	(6)	S7962
May 3, 1973	do	Mike Mansfield	63	60	34	14	46	0	26	6	1, C–R 1, I–D	(6)	S8231
May 9, 1973	do	do	66	67	32	18	49	0	24	6	1, C–R 1, I–D	(6)	S8617
Dec. 2, 1973	Campaign financing reform.[5]	do	54	47	33	7	40	0	22	9	1, I–D 1, C–R	(6)	S21645
Dec. 3, 1973	do	do	59	49	39	10	39	0	27	10	1, C–R 1, I–D	(6)	S21713
Dec. 11, 1973	Rhodesian chrome	do	63	59	35	21	38	0	21	12	1, C–R 1, I–D	(6)	S22504
Dec. 13, 1973	do	do	64	62	33	23	39	0	18	13	1, C–R 1, I–D	(6)	S22840
Do	Legal services	do	64	60	36	20	40	0	21	13	1, C–R 1, I–D	(6)	S22846
Dec. 14, 1973	do	Robert Taft, Jr.	57	56	29	18	38	0	16	11	1, C–R 1, I–D	(6)	S22969–70
Dec. 18, 1973	Rhodesian chrome[2]	Mike Mansfield	60	63	26	25	38	0	14	10	1, C–R 1, I–D	(6)	S23200
Jan. 30, 1974	Legal services[2]	Robert Taft, Jr.	65	68	29	24	44	0	16	12	1, I–D	(6)	S823
Feb. 5, 1974	Genocide treaty	Frank Church	61	55	36	18	37	0	21	13	1, C–R 1, I–D	(6)	S1272
Feb. 6, 1974	do	do	62	55	38	18	37	0	22	14	1, C–R 1, I–D	(6)	S1372
Mar. 6, 1974	Government pay raise[2]	Mike Mansfield	66	67	31	21	45	1, I–D	19	11	1, C–R	(6)	S2885
Apr. 4, 1974	Campaign financing	do	64	60	36	18	42	0	22	12	1, C–R 1, I–D	(6)	S5277
Apr. 9, 1974	do[2]	do	63	64	30	20	44	0	19	9	1, C–R 1, I–D	(6)	S5551
June 19, 1974	Public debt ceiling[8]	do	62	50	43	9	41	0	27	14	1, C–R 1, I–D	(6)	S11080–81
Do	do	Wallace Bennett	62	45	48	31	13	1, C–R	5	42	1, I–D	(6)	S11081
June 26, 1974	do[7]	Mike Mansfield	66	48	50	11	37	0	29	19	1, C–R 1, I–D	(6)	S11595
July 30, 1974	Consumer Protection Act	Abraham Ribicoff	66	56	42	14	42	0	25	15	1, C–R 1, I–D	(6)	S13837
Aug. 1, 1974	do	do	66	59	38	15	44	0	24	13	1, C–R 1, I–D	(6)	S14127
Aug. 20, 1974	do	do	63	59	35	17	42	0	21	12	1, C–R 1, I–D	(6)	S15381
Sept. 19, 1974	do	do	66	64	34	20	44	0	21	11	1, C–R 1, I–D	(6)	S17131
Dec. 3, 1974	Export-Import Bank	Robert Packwood	60	51	39	24	27	0	14	23	1, C–R 1, I–D	(6)	S20410–11
Dec. 4, 1974	do	do	62	48	44	24	24	0	15	27	1, C–R 1, I–D	(6)	S20523
Dec. 13, 1974	Trade reform[2]	Robert C. Byrd	60	71	19	33	36	1, C–R 1, I–D	4	15	0	(6)	S21394
Dec. 14, 1974	Supplemental appropriations[2] (school desegregation amendment).	Hugh Scott	56	56	27	21	35	0	14	12	1, C–R	(6)	S21506
Do	Export-Import Bank	Robert C. Byrd	56	49	35	26	10	1, C–R	10	25	0	(6)	S21510–11
Dec. 16, 1974	do	do	59	54	34	30	22	1, C–R 1, I–D	6	28	0	(6)	S21633
Dec. 17, 1974	Social services[2]	Russell B. Long	62	70	23	29	41	0	11	10	1, C–R 1, I–D	(6)	S21740
Do	Upholstery import regulations/Taxes and tariff.[2]	do	62	67	25	28	39	0	12	11	1, C–R 1, I–D	(6)	S21767–68
94TH													
Feb. 26, 1975	Regional railroad reorganization.[2]	Robert C. Byrd	63	86	8	32	52	1, I–D 1, C–R	2	6	----------	(6)	S2605
Mar. 5, 1975	Cloture reform[2]	do	63	73	21	23	50	----------	13	6	1, I–D 1, C–R	(6)	S3049
Mar. 7, 1975	do.[2]	do	63	73	21	23	50	----------	13	6	1, I–D 1, C–R 1, C–R	(6)	S3300
Mar. 20, 1975	Tax reduction	Ernest Hollings	60	59	38	14	45	----------	22	14	1, I–D 1, C–R	(6)	S4482
Mar. 21, 1975	do[2]	do	60	83	13	27	55	1, C–R	6	6	1, I–D	(6)	S4679
May 13, 1975	Consumer Protection Agency.[2]	Abraham Ribicoff	60	71	27	20	51	----------	18	7	1, I–D 1, C–R	(6)	S8050
June 11, 1975	Personal Senate committee staff.[2]	Robert Packwood	64	77	19	28	48	1, C–R	6	12	1, I–D	(6)	S10408
June 24, 1975	New Hampshire Senate contest.	Robert C. Byrd	60	57	39	----------	56	1 ,I–D	34	4	1, C–R	(6)	S11477
June 25, 1975	do	do	60	56	41	----------	55	1, I–D	36	4	1, C–R	(6)	S11522
June 26, 1975	do	do	60	54	40	----------	53	1, I–D	36	4	----------	(6)	S11615
July 8, 1975	do	do	60	57	38	----------	56	1, I–D	34	3	1, C–R	(6)	S11932
July 9, 1975	do	do	60	57	38	----------	56	1, I–D	36	2	----------	(6)	S12193
July 10, 1975	do	do	60	54	38	----------	53	1, I–D	34	3	1, C–R	(6)	S12326
July 21, 1975	Voting Rights Act.[2]	do	60	72	19	24	48	----------	11	6	1, I–D	(6)	S13066

Congress and date	Subject	Motion submitted by[4]	Yea votes needed	Yeas	Nays	For Cloture*			Against Cloture*			Congressional Record	
						Republicans	Democrats	Other	Republicans	Democrats	Other	Volume	Page
July 23, 1975	do	Mike Mansfield	60	76	20	27	49		10	8	1, -D 1, C-R	(5)	S13369
July 30, 1975	Oil price ceiling	Robert C. Byrd	60	54	38	10	44		24	13	1, I-D	(5)	S14318
Sept. 23, 1975	Labor-HEW/busing	Edward Brooke	60	46	48	16	30		19	27	1, C-R	(5)	S16541
Sept. 24, 1975	do[2]	Robert C. Byrd	60	64	33	17	47		19	12	1, C-R 1, I-D	(5)	S16668
Nov. 11, 1975	Common-site picketing[2]	Mike Mansfield	60	66	30	17	48	1, C-R	19	11		(5)	S19705
Nov. 14, 1975	do	Robert C. Byrd	60	58	31	14	44		15	14	1, C-R 1, I-D	(5)	S20132
Nov. 18, 1975	do[3]	Mike Mansfield	60	62	37	15	47		21	14	1, C-R 1, I-D	(5)	S20321
Dec. 4, 1975	Railroad reorganization[2]	Vance Hartke	60	61	27	19	42		14	11	1, C-R 1, I-D	(5)	S21021–22
Dec. 5, 1975	New York aid[2]	Mike Mansfield	60	70	27	21	48	1, C-R	15	11	1, I-D	(5)	S21181
Feb. 3, 1976	Rice production[2]	Walter Huddleston	60	70	19	28	42		19	11	1, I-D 1, C-R	(5)	S1125–26
June 3, 1976	Antitrust bill[2]	Robert C. Byrd	60	67	22	15	52		15	5	1, I-D 1, C-R	(5)	S8507
Aug. 31, 1976	do[2]	Mike Mansfield	60	63	27	14	49		18	7	1, I-D 1, C-R	(5)	S15003–4
Sept. 23, 1976	Civil rights attorneys' fees[2]	Robert C. Byrd	60	63	26	18	45		14	10	1, I-D 1, C-R	(5)	S16478
95TH													
Jan. 24, 1977	Vietnam draft evader pardon.	Jesse Helms	60	53	43	27	25	1, I-D	9	34		(5)	S1178
July 29, 1977	Campaign financing	Robert C. Byrd	60	49	45	2	47		33	11	1, I-D	(5)	S13085
Aug. 1, 1977	do	do	60	47	46	2	45		35	10	1, I-D	(5)	S13181
Aug. 2, 1977	do	do	60	52	46	4	48		33	12	1, I-D	(5)	S13275
Sept. 26, 1977	Natural gas deregulation[2]	Robert C. Byrd/Howard H. Baker, Jr.	60	77	17	34	42	1, I-D	1	16		(5)	S15603
June 7, 1978	Labor law reform	Robert C. Byrd	60	42	47	8	34		28	18	1, I-D	(5)	S8678
June 8, 1978	do	do	60	49	41	8	41		26	14	1, I-D	(5)	S8814
June 13, 1978	do	do	60	54	43	10	44		25	17	1, I-D	(5)	S9076
June 14, 1978	do	do	60	58	41	14	44		24	16	1, I-D	(5)	S9171
June 15, 1978	do	do	60	58	39	14	44		22	16	1, I-D	(5)	S9219
June 22, 1978	do	do	60	53	45	12	41		25	19	1, I-D	(5)	S9409
Oct. 9, 1978	Tax reduction[2]	do	60	62	28	30	31	1, I-D	3	25		(5)	S17818
Oct. 14, 1978	Energy tax conference report.[3]	do	60	71	13	20	51		10	2	1, I-D	(5)	S18762
96TH, 1ST													
Dec. 12, 1979	Windfall Profits Tax	Robert C. Byrd	60	53	46	5	48		36	9	1, I-D	V. 125, No. 177	S18291–92
Dec. 13, 1979	do	do	60	56	40	5	50	1, I-D	34	6		V. 125 No. 178	S18382–S18383
Dec. 14, 1979	do	do	60	56	39	4	51	1, I-D	35	4		V. 125 No. 179	S18502
Dec. 17, 1979	do	do	60	84	14	28	55	1, I-D	12	2		V. 125 No. 181	S18794–S18795
96TH, 2d													
Apr. 21, 1980	Nomination of William Lubbers to be general counsel NLRB.	do	60	46	40	8	38		29	10	1, I-D	V. 126 No. 61	S3995
Apr. 22, 1980	do	do	60	62	34	10	51	1, I-D	29	5		V. 126 No. 62	S4040
Apr. 28, 1980	Rights of Institutionalized Persons.	Birch Bayh	60	44	39	11	33		25	13	1, I-D	V. 126 No. 66	S4255
Apr. 29, 1980	do	Dennis DeConcini	60	56	34	15	41		22	11	1, I-D	V. 126, No. 67	S4294
Apr. 30, 1980	do	Robert C. Byrd	60	53	35	14	39		22	12	1, I-D	V. 126, No. 68	S4340
May 1, 1980	do	do	60	60	34	13	47		25	8	1, I-D	V. 126, No. 69	S4429
May 15, 1980	Soft Drink Products	do	60	86	6	35	51		3	2	1, I-D	V. 126, No. 79	S5414
June 10, 1980	Draft Registration	do	60	62	32	22	39	1, I-D	18	14		V. 126, No. 94	S6515
Aug. 1, 1980	Nomination of Don Zimmerman to be member NLRB.	do	60	51	35	10	41		27	7	1, I-D		S10505
Aug. 4, 1980	do	do	60	45	31	10	35		23	7	1, I-D		S10654
Aug. 5, 1980	do	do	60	63	31	15	48		23	7	1, I-D		S10773
Aug. 18, 1980	Alaska Lands	do	60	63	25	22	41		15	9	1, I-D		S11050
Aug. 21, 1980	Vessel Tonnage/Surface Mining.	do	60	61	32	26	34	1, I-D	15	17			S11314
Dec. 3, 1980	Fair Housing Amendments	do	60	51	39	13	38		26	13			S15330
Dec. 4, 1980	do	do	60	62	32	13	49		26	5	1, I-D		S15501
Dec. 9, 1980	do	do	60	54	43	9	45		31	11	1, I-D		S15853
Do	Stephen Breyer Nomination (U.S. Circuit Judge).	Edward M. Kennedy	60	68	28	16	52		24	3	1, I-D		S15873

[1] Many cloture petitions have also been withdrawn or held out of order since 1917.
[2] Indicates that cloture was invoked.
[3] The Chair ruled that a majority would invoke on any change in the rules of the Senate at the beginning of a Congress. On appeal the Chair was overruled 45 to 53 (Congressional Record, vol. 115: Jan. 16, 1969, p. 995).
[4] Does not necessarily indicate support of cloture.
[5] As an amendment to Debt Ceiling Bill.
[6] On amendment proposed by Senator James B. Allen.
[7] On amendment proposed by Senator Hubert Humphrey.
[8] Daily edition.
* Party codes:
C-R—Conservative Republican.
I-D—Independent-Democrat.
P—Progressive.
I—Independent.
F-L—Farmer-Labor.

Mr. ROBERT C. BYRD. Mr. President, this table will show that I have offered more cloture motions than has any other Senator during the intervening years since the cloture rule was first adopted, and it will also show that cloture has been invoked on more motions introduced by me.

Mr. Mansfield, my predecessor, offered 56 cloture motions. Cloture was invoked on 14 of those motions. I have offered 70 cloture motions and cloture has been invoked on 20 of those motions.

Mr. President, I yield the floor.

BLACK LUNG

Mr. ROBERT C. BYRD. Mr. President, I did something on March 9 that I have not done before in my 28 years of service in the Congress of the United States. I left this Hill to address a gathering of coal miners who had come to Washington to protest rumored changes in the black lung benefits program.

I ask unanimous consent that the text of my remarks on that occasion be printed in the RECORD.

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

REMARKS TO THE UNITED MINE WORKERS OF AMERICA BY U.S. SENATOR ROBERT C. BYRD

Most of you know me.

You know Robert Byrd as a friend of the coal miner. I always will be.

You work long hours in the coal and rock dust, with nothing between you and the mountain but roof bolts . . .

Where the rain never falls
And the Sun never shines,
It's dark as a dungeon
Way down in the mines.

You have come out of the mountain, dog-tired and dirty, and have gone home to your families, who depend on you for bread.

One day, you will leave the mountain for the last time . . . after putting in long years on the job . . .

Some leave it only for the grave.

You mine the coal that produces the electricity that lights cities, runs factories, and turns the wheels of industry.

You mine the coal that makes steel for hospitals and skyscrapers, automobiles, ships, tanks, and guns.

You are a vital part of America, and you are a part of me—a large part.

I grew up in a coal miner's home . . . during the Depression . . . in the '30's.

I slept on a coal miner's bed . . . ate from a coal miner's table . . . married a coal miner's daughter.

Before many of you were born, I played my fiddle at UMW rallies . . .

On Mitchell Day . . .

John L. Lewis Day . . .

Labor Day.

I know the sorrows, the heartaches, the tragedies that come to you and your families. My brother-in-law's father was killed in the mines.

More than once, I have looked down upon the still face of a miner—his body lying on the mine bath house floor—killed by a slate fall . . .

An electric wire . . .

Or a runaway motor.

More than once I have looked into the worn face of a miner, for whom each new day brought misery . . .

And every gasp for breath brought pain.

Black Lung!

That is why you are here today. That is why I am here.

You are a part of me—a large part.

On March 26, 1969, I appeared before the Labor Subcommittee of the Senate Committee on Labor and Public Welfare and proposed Federal legislation to provide compensation to disabled miners suffering from Black Lung.

The next day—March 27, 1969—Senator Randolph and I joined in introducing legislation to establish the Black Lung benefits program.

I not only helped in enacting the black lung legislation. As a member of the Senate Appropriations Committee, I also helped to fund it . . .

And to establish black lung clinics in the coal field areas . . . and to enact mine safety laws.

You are here today because you are worried that these hard-won benefits may be reduced or erased by the new administration.

That is why I am here with you. I, too, am concerned!

As of this moment, we do not know what the new administration will propose to do about mine safety programs or about black lung benefits.

We have not been told the details. We have not seen the fine print.

The administration has said that it wants to put the black lung disability trust fund on a sound financial footing.

I support that aim.

I know you do.

A sound trust fund will mean that black lung victims can feel secure in the knowledge that they will receive the compensation provided by law.

And this is what we must protect—the black lung victims who are entitled to such benefits.

I have asked the administration for information on what it proposes to do.

I believe we ought to find out what the administration has in mind.

The White House recently cited a report by the General Accounting Office which indicated, according to the administration, that 9 out of 10 families currently receiving black lung benefits are not entitled to them.

I do not believe that. I believe that figure is grossly misleading.

I believe that most retired miners receiving benefits are getting that which is due them under the law.

If there is waste and abuse in any program, then let's find it and get rid of it.

Mismanagement of programs hurts those who are most deserving of benefits.

The retired miners I know only want to receive that which is rightly theirs under the law.

They seek compensation for a disabling disease—contracted while serving their country with their labor and sweat . . .

Their bone and sinew . . .

And sometimes their blood.

I commend Sam Church for his strong and reasoned leadership of this great union . . .

Of which my foster father and my wife's father were members in the 1930's.

I commend Sam Church and I commend you on the stability you have brought to the coal fields.

I have met with delegations from West Germany, France, Japan, and other countries interested in buying our coal.

I have said to them: You can count on the American coal miner.

Today, you are petitioning your government in an orderly way.

I have stood with you in the past. I will stand with you in the days ahead.

You are a part of me—a large part.

You can count on me.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further use for the time that has been allotted to me under the order and the time that has been yielded to me by the distinguished majority leader, and I therefore yield it back.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. BAKER. Mr. President, I ask unanimous consent that the order previously entered to provide for a period for the transaction of routine morning business be modified so as to extend that time not beyond 2 p.m., and that Senators may be permitted to speak therein.

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

ORDER FOR THE CONSIDERATION OF S. 573 AT 2 P.M. TODAY

Mr. BAKER. Mr. President, on Thursday last I indicated that it was the intention of the leadership today to proceed to the consideration of Calendar Order No. 29, S. 573, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

I ask unanimous consent, Mr. President, that the Senate proceed to the consideration of that bill at 2 p.m. today.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side.

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

ORDER FOR RECESS UNTIL 11 A.M. ON THURSDAY

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. on Thursday, March 12.

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

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I might inquire of the distinguished minority leader whether it might be possible for the Senate to consider the nominations appearing on today's Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side of the aisle to proceeding with the nominations.

Mr. BAKER. I thank the minority leader.

With that view, Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations contained on the Executive Calendar.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDENT pro tempore. The clerk will state the nominations.

The second assistant legislative clerk proceeded to read the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, I am advised that all of the nominations appearing on the calendar, beginning on page 1 and continuing through page 6, including those nominations placed on the Secretary's desk in the Air Force and Navy, have been cleared on our Executive Calendar. If the minority leader can advise me of the status of those nominations on his side, perhaps it would be possible to proceed to their consideration en bloc.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side to proceeding en bloc to take up the nominations.

Mr. BAKER. Mr. President, I thank the minority leader.

In view of that, I ask unanimous consent that the Senate proceed now to the consideration en bloc of all of the nominations on the Executive Calendar, including those at the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to consider the nominations, en bloc.

NOMINATION OF ROSCOE L. EGGER, JR., TO BE COMMISSIONER OF INTERNAL REVENUE

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, the Senator from Kansas urges the confirmation of Roscoe L. Egger, Jr. to be Commissioner of Internal Revenue.

FAVORABLE COMMITTEE ACTION

On March 5, the Committee on Finance held hearings on Mr. Egger and found him to be eminently qualified by reason of his experience and character to perform the functions of Commissioner of Internal Revenue.

Our committee then voted unanimously to recommend Senate confirmation of Mr. Egger's nomination without referral to committee.

MR. EGGER'S DIVERSE TRAINING

President Reagan has nominated Mr. Roscoe L. Egger, Jr. to be Commissioner of Internal Revenue. Mr. Egger will bring to that position his background and training as an accountant and as a lawyer. From that perspective, Mr. Egger is the ideal candidate, appealing both to members of the bar and to the public

accountants. Mr. Egger has a distinguished career in public accounting, having since 1973 headed the office of government services for a major accounting firm. He will bring that experience, expertise, and uncompromising excellence to the position of Commissioner of Internal Revenue Service.

THE DUTIES OF THE COMMISSIONER

As Commissioner of Internal Revenue, Mr. Egger will have responsibility for the Internal Revenue Service, the collection of our internal revenue, and the administration of our tax laws. In that position, Mr. Egger will be responsible both for the efficient collection of our revenue and for the equitable enforcement of our laws. With increasing concern for the level of voluntary compliance with our tax laws, the importance of the fair and effective administration of the tax laws cannot be exaggerated. Mr. Egger is well suited for the tasks for which he has been nominated.

INVESTIGATIONS COMPLETED

The Committee on Finance has reviewed Mr. Egger's financial position, the results of the investigation by the FBI, and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.●

NOMINATION OF JOHN E. CHAPOTON TO BE ASSISTANT SECRETARY OF THE TREASURY FOR TAX POLICY

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, the Senator from Kansas urges the confirmation of John E. Chapoton to be Assistant Secretary of the Treasury for Tax Policy.

FAVORABLE COMMITTEE ACTION

On March 5, the Committee on Finance held hearings on Mr. Chapoton and found him to be eminently qualified by reason of his experience and character to perform the functions of Assistant Secretary of the Treasury for Tax Policy.

Our committee then voted unanimously to recommend Senate confirmation of Mr. Chapoton's nomination without referral to committee.

MR. CHAPOTON'S BACKGROUND

Mr. Chapoton brings to the position of Assistant Secretary for Tax Policy a broad range of experience and expertise, both from public service and the private practice of law. In his practice of law, Mr. Chapoton has specialized in Federal taxation for 20 years. In his 4 years of public service which punctuated that private practice, Mr. Chapoton served with the Tax Legislative Counsel, ultimately rising to head that branch of the Treasury in charge of the preparation of tax legislation.

PROPOSED DUTIES

As Assistant Secretary for Tax Policy, Mr. Chapoton will not only oversee the Office of Tax Legislative Counsel, but will generally be charged with executive responsibilities for, among other matters, the preparation of tax revenue projections and evaluation of legislation and regulations. Thus, Mr. Chapoton's past private and public service is a virtually ideal preparation for the position to which he has been nominated.

REPORT ON INVESTIGATIONS

The Committee on Finance has reviewed Mr. Chapoton's financial position, the results of the investigation by the FBI and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.●

NOMINATION OF PAUL CRAIG ROBERTS TO BE ASSISTANT SECRETARY OF TREASURY FOR ECONOMIC POLICY

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, the Senator from Kansas urges the confirmation of Paul Craig Roberts to be Assistant Secretary of the Treasury for Economic Policy.

FAVORABLE COMMITTEE ACTION

On March 5, the Committee on Finance held hearings on Dr. Roberts and found him to be eminently qualified by reason of his experience and character to perform the functions of Assistant Secretary of the Treasury for Economic Policy.

Our committee then voted unanimously to recommend Senate confirmation of Dr. Roberts' nomination without referral to committee.

A DISTINGUISHED CAREER IN PUBLIC SERVICE

Dr. Roberts has been nominated to become Assistant Secretary of the Treasury for Economic Policy. He has been nominated for that position in substantial measure because of his record of achievement as an economist coupled with his distinguished public service. He has served on Capitol Hill on staffs both in the House and the Senate. He combines both academic expertise and practical experience, a combination that will go far to insure his success in the very important position to which he has been nominated.

NEW RESPONSIBILITIES

As Assistant Secretary for Economic Policy, Dr. Roberts will have principal responsibility for the preparation of the Treasury's economic projections and will advise on the determination of appropriate financial and fiscal policy.

ROUTINE INVESTIGATIONS COMPLETED

The review by the FBI, the Committee on Finance and the Office of Government Ethnics discloses no potential ethical problems or conflicts of interest.●

The PRESIDENT pro tempore. Without objection, all nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

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:

Maj. Gen. James W. Stansberry, 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, secs. 593(a), 3371 and 3384:

Brig. Gen. Robert Milton Erffmeyer, Brig. Gen. Louis Holmes Gin III, Brig. Gen. Angelo David Juarez, Brig. Gen. Harley Lester Pickens, and Brig. Gen. Berlyn Keasler Sutton, to be major general.

Col. James Eugene Beal, Col. Elmus Snider Ussery, Col. William Peter Sylvester, Jr., Col. Richard Hubbard Bailey, Col. Donald Michael Merz, Col. Augusto Rafael Gautier, Col. Peter Dewitt Hyman, Col. Carl Lester Newhouse, Col. Robert Leroy Duewerth, and Col. Gregorio Clemente Brevetti, 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, secs. 593(a) and 3385:

Col. Vernon Junior Andrews, Col. Paul Nicholas Cotro-Manes, Col. Bruce Gordon Grover, Col. Patrick Wallace Harrison, Col. Robert Lee Howell, Col. Dale Owen Laubach, Col. James Augustus Lynch, Jr., Col. Roland Lavern Parkhill, Col. Jack Strukel, Jr., and Col. James Jomac Wasson, 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, secs. 593(a) and 3392:

Brig. Gen. William Fremont Engel, Brig. Gen. Ansel Martin Stroud, Jr., Brig. Gen. Ralph Taylor Tice, to be major general.

Col. Norman Eugene Duckworth, Col. Hubert Gerald Lane, Col. Lincoln James Lett, Col. Alexis Theodore Lum, Col. Dean Douglas Mann, and Col. Jerry Lee Whelchel, to be brigadier general.

IN THE NAVY

The following named captains of the line of the Navy for temporary promotion to the grade of rear admiral, pursuant to title 10, United States Code, sections 5769 and 5791, subject to qualification therefor as provided by law:

Virgil W. Moore, Jr., John F. Addams, Robert B. Rogers, Albert J. Herberger, Don H. McDowell, Richard L. Thompson, Allan G. Paulson, Ted C. Steele, Jr., George M. Furlong, Jr., Edwin R. Kohn, Jr., James H. Flatley III, Warren E. Aut, John R. Batzler, Ronald F. Marryott, Theodore A. Almstedt, Jr., James D. Williams, Laverne S. Severance, Jr., Richard M. Dunleavy, Roger E. Box, Harold L. Young, Richard J. Grich, Ronald J. Kurth, William A. Walsh, Kendall E. Moranville, James G. Storms III, Joseph S. Donnell III, William J. Holland, Jr., Ronald E. Narmi, Robert W. Schmitt, Morton E. Toole, John H. Fetterman, Jr., John W. Nyquist, Walter L. Chatham, Bruce Demars, Stanley R. Arthur, Peter M. Hekman, Jr., and Ming E. Chang, to be rear admiral.

The following named woman captain of the line of the Navy for temporary promotion to the grade indicated under the provisions of title 10, United States Code, sec. 5767(c):

Pauline M. Hartington, to be rear admiral.

The following named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps, as indicated, pursuant to title 10, United States Code, sections 5772 and 5791, subject to qualification therefor as provided by law:

Medical Corps

Normal V. Cooley, Jr., Quintous E. Crews, Jr., Robert C. Elliott, and James A. Zimble, to be rear admiral.

Supply Corps

Joseph S. Sansone, Jr., Edward K. Walker, Jr., and Donald E. Wilson, to be rear admiral.

Civil Engineer Corps

Donald L. Conner, to be rear admiral.

Dental Corps

Carlton J. McLeod, to be rear admiral.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general under the provisions of title 10, United States Code, section 5769:

Thomas R. Morgan, Ernest C. Cheatham, Jr., John V. Cox, John Phillips, Wesley H. Rice, Gregory A. Corliss, and Harold G. Glasgow, to be major general.

The following named officers of the Marine Corps for temporary appointment to the grade of brigadier general under the provisions of title 10, United States Code, section 5769:

James R. Vandenelzen, William G. Carson, Jr., Lloyd W. Smith, Jr., Edwin J. Godfrey, William R. Etnyre, Eugene B. Russell, Donald L. Humphrey, William A. Bloomer, Paul D. Slack, George H. Leach, Hugh T. Kerr, Joseph B. Knotts, and John H. Gary III, to be brigadier general.

DEPARTMENT OF THE TREASURY

Roscoe L. Egger, Jr., of the District of Columbia, to be Commissioner of Internal Revenue, vice Jermone Kurtz, resigned.

John E. Chapoton, of Texas, to be an Assistant Secretary of the Treasury, vice Donald Cyril Lubick, resigned.

Paul Craig Roberts, of Virginia, to be an Assistant Secretary of the Treasury, vice Curtis Alan Hessler, resigned.

FEDERAL RAILROAD ADMINISTRATION

Robert W. Blanchette, of Maryland, to be Administrator of the Federal Railroad Administration, vice John McGrath Sullivan, resigned.

DEPARTMENT OF TRANSPORTATION

John M. Fowler, of Pennsylvania, to be General Counsel of the Department of Transportation, vice Thomas George Allison, resigned.

Judith T. Connor, of New York, to be an Assistant Secretary of Transportation, vice William B. Johnston, resigned.

Lee L. Verstandig, of the District of Columbia, to be an Assistant Secretary of Transportation, vice Susan J. Williams, resigned.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE AND NAVY

Air Force nominations beginning George G. Abbott, to be colonel, and ending Michael P. Mills, to be captain, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1981.

Air Force nominations beginning Michael R. Ackley, to be first lieutenant, and ending Anthony E. Zompetti, to be first lieutenant, which nominations were received by the Senate on February 10, 1981, and appeared in the Congressional Record of February 16, 1981.

Navy nominations beginning Robert S. Chan, to be captain, and ending Julian D. McCarthy, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1981.

Navy nominations beginning Alexander V. Abary, to be commander, and ending Margaret J. Hamman, to be commander, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1981.

Navy nominations beginning Clinton E. Adams, to be lieutenant commander, and ending Christine E. Miller, to be lieutenant commander, which nominations were received by the Senate on February 10, 1981, and appeared in the Congressional Record of February 16, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has confirmed these nominations.

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

LEGISLATIVE SESSION

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

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

TRIBALISM IN UGANDA

Mr. PROXMIRE. Mr. President, in the February 5, 1981, edition of the Washington Post, Jay Ross describes the sporadic bush wars in Uganda, fueled by ancient tribal distrust and more recent political animosities.

That country has some of the most serious tribal divisions on the African continent, and there are at least 32 distinct tribes in Uganda. Currently, there is much devastation in the villages of the West Nile, Idi Amin's home province. The tribes in this area received preferential status during his reign, while other tribes, particularly in Central and Southern Uganda, were intensely persecuted. During Amin's reign of terror, as many as 1 in every 25 Ugandans was killed, and conservative estimates of the total number of people slaughtered range from 100,000 to 400,000.

There were systematic purges of all white males in the Christian tribes of the Nilotic Acholi and the Langi. Amin explained that the purges were political acts against conspirators who opposed his rule. His victims, however, had been selected and identified solely on the basis of their membership in these tribes, not because they had opposed his regime.

The Genocide Convention defines the crime of genocide as the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group. Thus, it is important to note that Amin's motives are also ethnic or religious, and therefore an act of genocide. Amin, a Moslem, also ordered the elimination of substantial numbers of other Christians. Wanume Kibedi, former Ugandan Foreign Minister from 1971–73, has stated that Amin's orders to liquidate the Lango and Acholi tribes spring from his deep-seated fear of all ethnic groups other than his own. In his book "Genocide," I. L. Horowitz characterized Uganda as a genocidal society.

The current struggle is between armed men still loyal to Amin, and the Ugandan Army and its Tanzanian allies. Ross notes that "whether the fighting involves retribution for old injuries or attempts to wage a guerilla struggle against the new government in Kampala is not clear." Yet traditional tribal tensions, coupled with the memories of Amin's atrocities, have made his home district on the West Nile a scene of destruction and suffering. As one Ugandan vowed during Amin's reign: "When things change, not even a chicken will be left alive" in Amin's native province.

In Uganda today, the legacy of genocide still destroys. The only way to stop such a terrible disgrace, or even to speak out against it with conviction, is through international covenant.

That covenant is the U.N. Genocide Treaty. We must ratify it.

COMMISSION ON ARTS AND ANTIQUITIES OF THE U.S. SENATE

The PRESIDENT pro tempore. On behalf of the majority leader, pursuant to Senate resolution 382, 90th Congress, I announce that the following Senators, pursuant to the positions that they hold, are members of the Commission on Arts and Antiquities of the U.S. Senate: The Senator from South Carolina (Mr. THURMOND), as President pro tempore; and the Senator from Maryland (Mr. MATHIAS), as chairman, Committee on Rules and Administration.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BAUCUS AND SENATOR HARRY F. BYRD, JR., ON THURSDAY, MARCH 12, 1981

Mr. BAKER. Madam President, I am advised that there are two requests for special orders on Thursday. I ask unanimous consent that, on Thursday, following the time allocated under the standing order, or the standing orders, as it may be amended, in favor of the two leaders, there be a special order in favor of the distinguished Senator from Montana (Mr. BAUCUS) of not to exceed 15 minutes; and a special order on behalf of the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) for 15 minutes.

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

PRESIDENT REAGAN'S TAX PROPOSAL

Mr. BAKER. Madam President, in behalf of the distinguished chairman of the Senate Finance Committee, Mr. DOLE, of Kansas, who I might add is feeling much better and who hopes to return to his duties soon, I am today introducing legislation proposed by President Reagan to reduce Federal income taxes this year by 10 percent.

While Senator DOLE and I both recognize and yield to the constitutionally provided prerogative of the House of Representatives to institute tax-related legislation, we nonetheless wish to offer this bill so that the Finance Committee may be facilitated in consideration of this matter.

This legislation is an elemental component of the President's economic recovery program. It provides for across-the-board tax relief for all Americans

and would substantially reform tax depreciation schedules that have crippled the growth of productivity of American business and industry.

On several occasions during the 96th Congress, I and many of my colleagues in this Chamber, endorsed this tax measure in principle. I reiterate my endorsement today.

Under current law, our citizens will pay more in Federal taxes this year than ever before—the Federal taxation burden on them increases more this year than during any previous year in our history.

I submit that we now tax our people beyond any logical limits. We have gone to the public well too often. It is very nearly dry and the American people demand and deserve relief.

This legislation offers that relief. Not only will a significant portion of the onerous tax burden on our wage earners be lifted, but the savings this bill will precipitate will do much to pump needed capital back into the private sector lending markets of our economy.

Furthermore, this legislation, coupled with the proposed spending reductions now pending before the Congress, provide the American people with a long-awaited, clear signal that this administration and this Congress are absolutely committed to a reduction in the growth of the Federal Government.

As desperately as we need to reduce the American citizen's tax burden, and as unequivocal as the need is to reduce Federal spending, the need to reform our corporate tax structure is no less important to our national economic recovery.

At the very core of this recovery is the need to stimulate new private-sector growth and productivity.

Existing depreciation schedules are extraordinarily complex, do not adequately account for the impact of inflation on the cost of capital, and are, quite simply, antiquated.

The proposed depreciation schedules greatly simplified the process and timeframe for business and industry to recover their capital investments. Further, the new schedules will allow more businesses, large and small, to more fully benefit. A quicker investment recovery will provide business and industry with the means and the incentive to retool, reinvest, and maintain state of the art technology.

That, coupled with the increases in investment tax credits proposed by this legislation, will encourage capital formation which, in turn, will result in new growth, new and meaningful job opportunities, and a new era of unsurpassed productivity in this Nation.

I am hopeful the Congress will act thoughtfully, yet expeditiously, on this vital legislation.

PRESIDENT REAGAN'S TAX REDUCTION LEGISLATION

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Madam President, today I am joined by a number of our colleagues in introducing the administration's tax cut package at the request of the President. It is our hope that introduction of this legislation will focus the attention of the Senate on the need for broad tax reductions to initiate economic recovery for our Nation and the strong desire of the American people for us to address this issue immediately.

A BROAD-BASED TAX CUT

With this legislation President Reagan has followed through on his pledge to the American people that he would propose tax cut legislation to lower tax rates for all individuals and provide a major investment incentive for business to modernize plant and equipment.

RATE REDUCTION FOR INDIVIDUALS

For individuals, President Reagan has proposed a 30-percent reduction in tax rates to be phased in over calendar years 1981 through 1984.

The administration proposal for individual rate reductions reflects the tax-cutting philosophy espoused for many years by our distinguished colleague, Senator ROTH of Delaware. The Roth-Kemp tax plan is the basis for the administration proposal, and Senator ROTH must take a great deal of the credit for making tax reductions an issue that has won popular support and commanded the attention of policymakers. Focusing attention on the need for individual rate reductions, and on the incentive effects of tax cuts, has brought about a major shift in the way we view tax policy. The senior Senator from Delaware has done much to educate us all concerning the relation between the high level of taxation and economic stagnation.

No one should need a reminder that double-digit inflation for the last 2 years has capped an extraordinary, inflationary decade. During this period, individuals who have been fortunate enough to receive wage increases to keep up with inflation have seen an ever-increasing percentage of their income taken by the Federal Government for income taxes. These individuals who have not improved their real economic position in any way have, nevertheless, been forced to pay more taxes to the Government due to our progressive tax-rate structure.

AN EQUITABLE PROPOSAL

It is important to note that more than 70 percent of the benefit from the individual portion of this tax cut would be received by working people with incomes of $10,000 to $60,000. Nearly half of the tax reductions would be received by individuals with an income of $10,000 to $30,000. In today's inflated economy, it is difficult to argue that these individuals are wealthy. It is even more difficult to explain why their tax rates should have increased so drastically over the last few years. As the President pointed out in his recent address to Congress, the American worker's hourly earnings, adjusted for inflation, have declined by 5 percent over the last 5 years. Over the same period Federal taxes have increased 67 percent.

Furthermore, while the reduction in tax rates generally will reduce the tax liabilities of all taxpayers in proportion to taxes paid, interaction with the earned income tax credit will, in fact, provide a slightly greater percentage tax reduction for taxpayers at the low end of the income scale. On the other hand, interaction with the present law 50-percent maximum tax rate on earned income will give the most highly-paid wage earners a slightly lesser percentage reduction in taxes.

It can rightly be said that this proposal provides a much needed, major tax reduction for all taxpayers without ignoring the especially great hardship inflation and increased taxes have had upon our low-income citizens.

SPENDING CUTS NEEDED TO ASSURE NONINFLATIONARY TAX CUT

The President's tax reduction for individuals would merely reduce, not eliminate, the additional tax received by the Government from inflation. However, this Senator believes that substantial Federal spending cuts and continued fiscal responsibility are absolutely necessary parts of the President's economic recovery program. For that reason, I have expressed some reservations about making a full 3-year commitment to individual tax reductions. My reservations have been based upon a concern that, if we enacted a tax cut before spending cuts were acted upon, there would be little assurance that the spending limitations would ever be enacted.

The President, however, has made clear that his economic program must be considered as a whole. If we can accomplish what must be done in the spending area, we should give serious consideration to a multiyear tax reduction for individuals.

ACCELERATED COST RECOVERY FOR BUSINESS

The second major element of the President's tax reduction package is an accelerated and simplified capital cost recovery system to encourage business investment.

This Nation used to pride itself on having the most modern, most efficient, industrial machinery in the world. That is the reason our workers were acknowledged to be the most productive in the world. Unfortunately, although our business community has been able to invent substantial new technologies, they have not had the resources to put them to productive use. Instead, other nations have used our technology to develop new, efficient factories producing goods with which American companies find difficult to compete.

According to the administration, the annual growth in productivity for U.S. industry for the years 1973 to 1979 fell almost 75 percent from the rate from 1945 to 1968. In those later years productivity was growing at a rate of only eight-tenths of 1 percent per annum.

To reverse this disturbing trend the President has proposed that the cost of business investment be reduced.

The President's proposal is simple and will be effective in encouraging business investment. If a business makes an investment, the cost of that investment would be taken as a deduction for tax purposes over a 3, 5, 10, 15, or 18 year period, depending on the nature of the investment.

WHY THIS INCENTIVE IS NEEDED

This is not a radical, new concept. For many years now, businesses have been able to recover the costs of capital investments over the useful life of the asset purchased. The reason for this is to allow a business to put aside funds to purchase a replacement for a business asset when it wears out or becomes obsolete.

However, inflation and the increased cost of technologically more advanced business assets have made this method of cost recovery completely inadequate. The time period over which investment costs may be recovered is so long that businesses cannot afford to make desirable investments. The problem is compounded by an increasingly complex set of rules, established by the Government to provide guidance for taxpayers, but which now has become a further obstacle to business investment, especially for smaller companies which cannot afford sophisticated legal and accounting advice.

A SIMPLE, EFFECTIVE PROPOSAL

The President's proposal would provide an easy to understand and economically more advantageous method for a business to recover the cost of its investments in plant and equipment.

The proposal would create three mandatory classes of tangible personal property on which taxpayers would be entitled to rapid cost recovery over periods of 3, 5, and 10 years, depending upon the nature and use of such property. Although certain owner-occupied structures would also be entitled to accelerated cost recovery over 10 years, depreciable real property would in general be subject to straight-line cost recovery over periods of 18 or 15 years. Additionally, the availability of the investment tax credit would be expanded.

These provisions would be phased in beginning on January 1, 1981, with all provisions fully effective by January 1, 1985.

THE FINANCE COMMITTEE ROLE

This Senator is certain that the underlying philosophy of the administration proposal will win strong support in the Finance Committee. Nonetheless, it would be unrealistic to assume that the committee will report the administration proposal without careful review and, where necessary, modification of many specific provisions.

For instance, we will want to assure that the accelerated cost recovery provisions, in fact, accomplish their intended purpose of stimulating investment. The proposal will have to be carefully studied to make certain that no one sector of the economy, such as livestock breeders or farmers, is disadvantaged, rather than helped, by these new rules.

Similarly, we will review the proposal to determine if there are loopholes which will encourage tax shelter schemes, rather than productive investment.

There seemed to be broad consensus on the Senate Finance Committee about the need for a substantial tax cut last year. The committee, under the leadership of the distinguished Senator from Louisiana (Mr. LONG), fashioned a bipartisan tax cut bill that included significant individual rate cuts and an overhaul of the business depreciation system. That the bill did not become law is no reflection on its merit. And it is fitting that the Finance Committee bill paved the way for consideration of the administration's tax package in 1981.

Madam President, we have a real opportunity to improve the lives of our people by restructuring the tax laws, as well as limiting Federal spending. We have a responsibility to review the President's economic recovery program carefully. This Senator, however, is convinced that the basic thrust of this program is sound and the program is urgently needed. We must act as quickly as possible.●

PRESIDENT'S TAX REDUCTION PROGRAM

Mr. ROTH. Madam President, I am pleased to join my distinguished colleague BOB DOLE today to introduce the President's legislative proposals for across-the-board tax cuts.

This legislation provides for a 10 percent per year tax rate reduction for 3 years. When fully effective the proposal would reduce the tax burden of all taxpayers by approximately 30 percent. Individual tax rates would be reduced from the present rates ranging from 14 to 70 percent to rates ranging between 10 and 50 percent. These rate reductions are designed to reduce the heavy tax burden now strangling our Nation's economy.

According to the Congressional Budget Office, inflation and social security tax increases will impose a major tax burden on working Americans over the next 5 years. The CBO estimates that total Federal tax revenues under current law will more than double over the next 5 years, increasing $585 billion to $1.1 trillion a year by fiscal 1985.

But the tax burden the American people are bearing today is already unbearable. The average U.S. household last year paid more than $6,000 in Federal taxes. That represents an increase of more than 50 percent from only 4 years ago. The following table demonstrates how this tax burden has grown over the past decade and will continue to grow in the next unless something is done now to stop it.

AVERAGE TAX BURDEN PER HOUSEHOLD

	1971	1976	1979	1981	1985
Total Federal taxes (in billions)	188.4	300.0	465.9	623.0	1,092.7
Total households[1] (in millions)	63.5	71.2	76.0	79.5	87.5
Average tax	2,967	4,213	6,130	7,836	12,488

[1] Source: U.S. Census Bureau.

Substantial tax reductions are needed to offset the massive tax increases facing the working men and women of this country. The only way to reduce inflation is to promote economic growth and the best way to promote economic growth is to reduce the high rates of taxation which are destroying the incentive to work, to save and to invest. They are choking off private initiative and retarding the savings and investment needed to increase productivity and create new jobs.

The United States has the lowest rate of saving in the Western World, resulting in the lowest rate of productivity, growth, investment, and real wage increases among the major industrialized nations. Personal savings is falling because inflation and high tax rates reduce the real rate of return on savings income. As people are pushed into higher tax brackets, they get to keep less of each additional dollar of savings income. Since income from savings is added to earned income, the highest tax rate each taxpayer pays is imposed on his or her savings income. The higher the tax rate individuals face on the additional income from savings, the less likely they are to save. Thus, the present high tax rates discourage new savings, encourage consumption, and force savings away from productive investments and into tax-exempt bonds and tax shelters.

Nothing is more important than growth. The basic choice facing the economy is whether to grow or not to grow. If we had put a modest but sustained growth policy in place in 1950, the results would by now be enormous. Consider the period 1950 to 1979. In 1979, U.S. GNP reached $2.3 trillion. It could have been $3.5 trillion.

Between 1950 and 1979, the average annual growth of the U.S. economy in real terms was 3.6 percent. Many other major industrialized countries grew at annual real rates averaging in excess of 5.5 percent. If the United States had grown an average 1.5 percent faster each year since 1950, at a rate of just over 5 percent, its GNP in 1979 would have been $3.5 trillion.

With a $3.5 trillion economy, incomes would have been 50 percent higher than they were in 1979 and jobs would have been plentiful.

Faster growth, higher incomes, and plentiful jobs are exactly what the unemployed, underprivileged, and the minorities of this country have been seeking for many years. It is no accident that the greatest gains in income, jobs, and dignity for minority workers have come during periods of rapid expansion.

Economic growth is the only path to a balanced budget, and it can only be achieved by reducing the tax drag on the economy and restraining the growth of Federal spending.

As President Jack Kennedy said in 1962 in proposing an across-the-board tax rate reduction:

> Our choice is not between tax reductions, on the one hand, and the avoidance of large federal deficits on the other. It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough revenue to balance the budget, just as it will never produce enough jobs or enough profits.

I am here today to echo President Kennedy's words. I call upon my colleagues to lend their bipartisan support to the tax reduction program being introduced today. It is a fair and progressive tax cut for all Americans and middle-income Americans in particular. These Americans are not very rich, they are not very poor, they are very taxed.

Mr. STEVENS. Madam President, today I have the pleasure of cosponsoring

President Reagan's tax incentive program. This tax package provides the essential framework that allows the private productive capacities in this Nation to get moving again.

Inflation has affected all aspects of American life. All Americans have seen the effect of seeing their wages climb into higher tax brackets while their buying power declined. Nowhere is tax more apparent than in Alaska. Alaskans are particularly hard hit by high taxes as we have the highest Federal tax burden per person. In 1979, the U.S. average per person was $2,101, while the Alaskan average was $3,304. President Reagan's proposal gives the economy wide relief that is so desperately needed today.

The focus of these changes in the tax code is twofold:

First. An across-the-board reduction of 10 percent in individual tax rates over each of the next 3 years beginning July 1, 1981.

Second. Depreciation reform to speed-up cost recovery for industry. Under the accelerated cost recovery system, all business property placed in service beginning January 1 of this year, is eligible for faster writeoff. The ACRS will provide positive incentives for industry to modernize existing plant and equipment and to increase their overall investment activity.

I am confident that the incentives provided by these tax changes will produce a net increase in Federal revenues by the end of 1982.

Introduction of these essential tax reforms marks the beginning of a new period of economic growth for the Nation. These measures put the burden for growth back into the private sector by providing the basic incentives that will make that growth possible.

Madam President, I commend this tax incentive program to you, and urge our concerted effort to insure its prompt passage.

Mr. CHAFEE. Madam President, today I am pleased to join my colleagues on the Senate Finance Committee in introducing the Reagan administration tax cut bill.

President Reagan is absolutely correct in calling for substantial tax reductions beginning this year. Coupled with a major reduction in the rate of Government spending growth, a well-structured tax cut will be the key to reviving economic productivity, reducing unemployment, and, most importantly, bringing inflation under control.

Like many of my colleagues on this side of the aisle, I have differences with some aspects of the administration's proposal. I have serious doubts, for example, about the wisdom of enacting 3 successive years of individual income tax cuts at 10 percent per year. I firmly believe that a savings incentive should be included to increase personal savings and help make more capital available for mortgages and business investment. And I want to take a close look at the depreciation revisions to assure that these investment incentives are well balanced.

Differences aside, the most important point is that by introducing this tax cut bill, we are starting the ball rolling toward enactment of a major tax bill this year. I will be working closely with the President and his advisers to deliver the American people a much needed tax relief measure.

RECOMMENDATIONS OF QUADRENNIAL COMMISSION ON PAY ALLOWANCES

Mr. BAKER. Madam President, the Quadrennial Commission on Pay Allowances has submitted its report. Under that act, the recommendations may be approved or disapproved or Congress may elect not to act at all, in which case the recommendations would not be put into effect.

It appears to me, however, that it would be infinitely preferable for this body to make a statement of its preferences and intention with respect to the Quadrennial Pay Commission report.

I have great respect for the Quadrennial Pay Commission. Under the provisions of the act, the distinguished minority leader and I each made nominations for membership. The members of the Commission worked diligently and with dedication.

However, I believe that the better part of public policy suggests that we take action in respect to those recommendations. I have consulted with the distinguished minority leader on this subject, and I am prepared now to propose a unanimous-consent agreement, which I believe is cleared on both sides.

Madam President, I now send to the desk four resolutions relative to pay recommendations, for myself and on behalf of the distinguished minority leader, Mr. ROBERT C. BYRD, such recommendations having been transmitted to Congress by the President, and I ask unanimous consent that they be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection, Madam President.

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

Mr. BAKER. Madam President, I further ask unanimous consent that upon the conclusion on March 12 of the time allocated to the two leaders under the standing order and any special orders, the Senate proceed to the consideration of the resolutions in sequence, as they appear on the calendar.

I say, parenthetically, that they have been submitted in the same form in which they have been described in the statute.

Mr. ROBERT C. BYRD. Madam President, reserving the right to object——

Mr. BAKER. Madam President, I wish to amend my request in certain respects.

The Chair has already received and sent the resolutions to the calendar. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Madam President, I withdraw all of my request beyond that point and amend it as follows:

I ask unanimous consent that on Thursday, at any time, the majority leader, after consultation with the minority leader, may call up these resolutions for consideration by the Senate, notwithstanding any other order for the considerations of any other measure.

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

Mr. BAKER. Madam President, I further ask unanimous consent that each resolution be subject to a time limitation of 20 minutes for debate, equally divided and controlled by the distinguished Senator from Delaware (Mr. ROTH) and the distinguished Senator from Missouri (Mr. EAGLETON); that time on first degree amendments be limited to 15 minutes equally divided and controlled by the mover and the manager; that time on second degree amendments be limited to 10 minutes each and similarly controlled; that time on motions, appeals, and points of order, if such are submitted to the Senate, be limited to 10 minutes each; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

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

The text of the agreement follows:

Ordered, That at any time after consultation with the Minority Leader, the Majority Leader be authorized to call up the resolutions relative to pay recommendations transmitted to Congress by the President, notwithstanding any other order for the consideration of any other matter, with debate on any amendment in the first degree to be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution: with debate on any amendment in the second degree to be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution; and with debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate to be limited to 10 minutes, to be equally divided and controlled by the mover of such and the manager of the resolution: Provided, That in the event the manager of the resolution is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said resolution shall be received.

Ordered further, That on the question of agreeing to the said resolutions, debate shall be limited to 20 minutes each, to be equally divided and controlled by the Senator from Delaware (Mr. Roth) and the Senator from Missouri (Mr. Eagleton): Provided, That the said Senators, or either of them, may, from the time under their control on agreeing to the said resolutions, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

(March 10, 1981)

Mr. BAKER. I thank the distinguished minority leader and I thank all Senators.

I might say that formulation of this agreement will give the leadership more discretion in deciding how this matter, which must be dealt with on Thursday—and by the way, it is my intention to complete action on this and the bill already scheduled on Thursday even if it means the Senate remaining in late on Thursday or perhaps being in session on

Friday—but this technique will give us more flexibility in deciding how to schedule and what particular hour to lay down these four resolutions.

I thank the minority leader for his cooperation.

Mr. ROBERT C. BYRD. Madam President, I extend my thanks to the distinguished majority leader for his courtesy in molding the request which he has just made to conform with the necessities on this side of the aisle.

Mr. BAKER. Madam President, I thank the minority leader.

Mr. WALLOP. Madam President, will the majority leader yield?

Mr. BAKER. I yield the floor.

Mr. WALLOP. I thank the majority leader.

JACK OGILVIE HORTON

Mr. WALLOP. Madam President, it was with great sorrow that I learned this past week of the death, February 28, of Jack Ogilvie Horton of Saddlestring, Wyo. Together, Jack and I have managed neighboring ranches along the Big Horn Mountains for many years, sharing political goals and philosophies, working together to help the people of Wyoming, and nurturing a friendship which I shall value deeply over the coming years.

His years in Washington as Assistant Secretary of the Interior for Land and Water Resources established for Jack many similarly enduring friendships in this Congress and the Government community. I have shared with these friends this week the pain and frustration of seeing Jack lose his valiant fight against leukemia at the age of 43.

Jack Horton turned the opportunities of his life into something straight out of a Michener novel. He lent color to ordinary experiences. He lightened an exceptional academic background with flashes of humor and the absurd. He cajoled and encouraged his professional colleagues toward unexpected achievement. He invented language so that Western resource users could learn to talk to Western environmentalists. And in the midst of this perpetual professional motion, he played a killing game of tennis, rode the rodeo circuit, climbed mountains, and ran the Boston Marathon.

Because Jack was the quintessential cowboy politician, I want to leave in this Senate a record of the highlights of the life of a very special and unique Wyoming citizen.

From the Wyoming public school system, Horton entered America's most prestigious avenue toward a classical liberal arts education. With highest honors he obtained his degrees from Deerfield Academy, from Princeton, and as a Rhodes Scholar at Oxford. Shortly before his death, he renewed his training in economics and geology with additional graduate study at the University of Colorado. He brought this same educational opportunity to others through the administration of a family-funded trust at Princeton University. His commitment to Princeton, its alumni, and its academic life was recognized by his election as a trustee in the mid-seventies.

His professional life began in Wyoming—a stint as executive director of our Republican Party. Horton's commitment to Republican principles and goals was evident throughout his many years of Federal public service. He was a partisan. He did not, however, allow that partisan commitment to impede his communication with the very diverse people and interest groups of the West.

Horton played a very important role in the inventory and allocation of Alaskan resource lands. He was the first chairman of the Federal-State Land Use Planning Commission for Alaska—the Department of Interior's effort at resolving Alaskan land issues which ultimately reached this Congress as the controversial Alaskan lands bill.

From 1973 to 1977, Horton was Assistant Secretary of the Interior for Land and Water Resources—a new assistant secretaryship which was largely designed to facilitate a major policy role for Horton in recognition of his commitment to preserving the quality and way of life in Alaska and the Western States. Jack was unwavering in his belief that a balance could be achieved in the West's production of energy and natural resources without irreparable damage to the environment. It is a balance this Nation has not yet achieved, but his accomplishments moved us much closer to an effective multiple-use program.

Horton served as Assistant Secretary throughout both the Nixon and Ford administrations. With the change to a Democratic administration, he continued these same efforts as a private consultant in natural resources, counseling industry, public interest groups, and political leaders.

For all these professional accomplishments, it is the personal stories which all of us will remember—and we shall do so with the joy of having shared those times with Jack and shaken our heads more than a few times at his antics. He never made his safari to Africa, but he was there once to climb Kilimanjaro. When he climbed Mt. McKinley, it was with then-Bicentennial chairman John Warner's flag in his backpack, and he later presented that memento of the successful climb to the White House. He did not win the Boston marathon, but he made an impressive showing for a man of 40. In lacrosse, he was not satisfied with simply being an All-American; he was perhaps the only American to be All-England at Oxford. As an officer in the Navy, he flew 175 fighter pilot missions over the South China Sea. Living off-base in Japan, he explored the Eastern philosophy, produced a more-than-credible Japanese meal, and became fluent in the language.

Jack's early years were guided primarily by his grandmother, Mrs. Henrietta Horton, of Sheridan, Wyo. To her, I want to express my gratitude for her role in encouraging Jack toward a career which enriched the life of Wyoming's people. The pioneer heritage of the Horton family in Wyoming now passes forward to his young niece and nephew.

That heritage is immensely enriched by Jack Horton's life. I know that my colleagues in the Congress join me in extending our deepest sympathy to the Horton family and to his friends, who will miss Jack so much.

Madam President, I thank the Chair.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 83–420, appoints the Senator from New York (Mr. D'AMATO) to be a member of the Board of Directors of Gallaudet College.

The Chair, on behalf of the Vice President, pursuant to Public Law 93–642, appoints the Senator from Missouri (Mr. DANFORTH) to be a member of the Harry S. Truman Scholarship Foundation Board of Trustees.

U.S. POLICY ON EL SALVADOR

Mr. ROBERT C. BYRD. Madam President, I think most of us agree with President Reagan's stated objective that we do not want any government coming into power in El Salvador owing allegiance to Havana or Moscow. However, I think we also should agree that totalitarianism, regardless of its coloration, is an anathema to the United States. Therefore, I was disappointed with the President's reluctance during his press conference last Friday to state unequivocally that all military and economic aid would be cut off to El Salvador if a right-wing coup toppled the government of Jose Napoleon Duarte.

This administration has spent considerable time and effort to enlist the sympathy and support of our friends and allies for halting the flow of arms to the leftist elements in El Salvador. Yet, little has been said of the clandestine flow of arms to rightest elements in El Salvador, some of it coming from the Salvadoran exile community in the United States. I think few would disagree that the threat to the Duarte government from the right is as real as the threat from the left.

Mr. President, I think it would be a mistake for U.S. policy throughout this hemisphere if we did not make it perfectly clear that right-wing terrorism is as unacceptable to us as left-wing terrorism. Our efforts in El Salvador are to foster moderation in the hope that eventually a truly pluralistic society can emerge from that strife-torn society. Yet, we undercut that effort if the focus of our concern is only on the left.

By refusing to clearly spell out that a right-wing coup would be unacceptable to us and would result in an immediate air cut-off, we are sending the signal that a right-wing government would be preferable.

Therefore, I think it is imperative that we lay it on the line with the right as well, so there is not any misperception of U.S. intentions should they undertake a coup. I think having done so, the President's stated policy of supporting the forces of moderation in El Salvador will be strengthened and will be received with a much higher degree of credibility

throughout the hemisphere than is now the case.

MARY KATHERINE BABB RANDOLPH

Mr. HATCH. Madam President, I was saddened this morning to learn of the passing of Mary Katherine Babb Randolph, the loving wife of our beloved colleague, JENNINGS RANDOLPH. The Randolph's have served as an example of the ideal married couple—committing their lives to one another and then fulfilling the law of love by their care and concern for the well-being and happiness of others.

As husband and wife, they have lived the ideal as set by the "Maker Himself." They have demonstrated true wisdom which was made manifest in their daily acts of love for one another. There are no shortcuts to knowledge, to wisdom. to understanding—these must be lived and experienced by each and every soul.

In a moment of silence, let us remember Mary Randolph and pray with confidence that God will give strength to JENNINGS and peace to his dear wife. And know that He has already done so.

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

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

THE UPSIDE-DOWN EFFECT OF TAX EXPENDITURES

Mr. BAUCUS. Madam President, I have asked for this time today as part of my continuing effort to alert the Senate to the growing, hidden impact of tax expenditures.

The revenue loss to the Treasury from these items—the exemptions, deductions, and credits found in the Tax Code—is growing nearly twice as fast as inflation. These so-called tax breaks and tax loopholes will cost the Treasury some $267 billion this year.

Elmer B. Staats, who just last Friday ended 15 years of service as the Comptroller General, recently told the House of Representatives:

> While many of these tax expenditures help to implement important public policy goals, I can only urge that the administration and Congress subject tax expenditures to the same careful scrutiny afforded direct expenditures.

Madam President, I could not agree more. To quote the fathers of the budget process, former Senators Ed Muskie and Henry Bellmon:

> Failure to take tax expenditures into account in the budget process would be to overlook significant segments of Federal policy. They should be given particularly thorough scrutiny because tax expenditures are generally enacted as permanent legislation and thus are comparable to continuing direct spending entitlement programs, often with increasing annual revenue losses.

Tax expenditures have been enacted over the years as a means of accomplishing various national goals. These tax breaks are designed to provide an incentive that will encourage individuals and industries to fulfill certain objectives—ranging from energy conservation to encouraging housing development.

But is this system always fair? Are the right people receiving the incentive?

In my view, all too often this is not the case. That is, the wealthy benefit far more than the middle income or poor. And, that is one of the problems with using tax subsidies—it is called the "upside-down effect."

For example, two families buy identical houses costing $100,000 each. The first family with an income of $15,000 is in the 22-percent tax bracket. The second, with an income of $100,000 is in the 70-percent bracket.

At tax time, the family in the 22-percent bracket saves $22 on each $100 of mortgage interest it paid during the year. But, the family in the higher bracket saves $70 for each $100 of mortgage interest payment.

That is the upside-down effect. The Federal Government has given one family a $70 subsidy and the other only a $22 subsidy on identical homes and mortgages.

The wealthier family actually gets a larger tax subsidy than the poorer family.

According to a study by the Library of Congress, the majority of beneficiaries of tax expenditures are the relatively few Americans who earn more than $30,000 a year.

Our tax system is progressive. Americans with larger incomes are supposed to receive larger tax bills. But, many tax expenditures also benefit the wealthy more than they benefit the lower and middle income.

Though I do not want to eliminate tax subsidies from the books, sometimes these provisions are the only way to achieve goals and objectives we all agree are important.

The question is fairness; Americans want their tax system to be fair. We are willing to pay our fair share if we know the burden is being spread equally.

But it does not seem fair to me to accept the President's proposed cuts in the school lunch program while ignoring completely tax deductions for business lunches.

Fairness dictates that we look at both Federal spending and tax expenditures.

In conclusion, Madam President, let me say that I strongly believe we should have tax cuts. This year it is important to give proper tax cuts both to individuals and to businesses in order to increase the productivity of our country. But at this time, when we are trying to cut direct spending in our budget, it is also important for us to look at other forms of Federal spending; that is, tax expenditures. We should look at those expenditures and we should cut those and reduce those that do not make sense, because we are not going to have this opportunity again for some time.

I strongly urge my colleagues in the Senate, and whoever else may be interested in this subject, to look at tax expenditures, because if we are going to get control of the budgetary process that is a necessary component of that endeavor.

Madam President, I ask unanimous consent that a useful article by Gerard Brannon on the upside-down phenomenon of tax expenditures be printed in the RECORD.

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

TAX EXPENDITURES AND INCOME DISTRIBUTION: A THEORETICAL ANALYSIS OF THE UPSIDE-DOWN SUBSIDY ARGUMENT

Advocates of broadening the income tax base often stress that providing incentives through deductions, exclusions, and nonrefundable credits generally helps rich people a lot, ordinary-income people only a little, and poor people not at all. The apparent absurdity of these upside-down subsidies has been graphically described by Stanley Surrey.

Indeed, it is doubtful that most of our existing tax incentives would ever have been introduced, let alone accepted, if so structured [as expenditures] and many would be laughed out of Congress. . . . What HEW Secretary would introduce a program under which social security benefits would be unaffected if the recipient's total income including the benefit were under $2,050, would be atuomatically increased by 14 percent if the recipient's income were between $2,050 and $2,550, by 15 percent if between $2,550 and $3,050, and so on up to 70 percent if over $100,000?

The upside-down-subsidy argument has been important politically in the United States because it provides a populist appeal to the relatively technical argument for tax reform. (Or is it a technical appeal to the populist argument for progressivity?)

The argument for base-broadening tax reform also claims that a lower rate of income tax on a broader base would reduce market distortions. Such an antiseptic argument for tax reform has far less political appeal than does former Treasury Secretary Joseph W. Barr's reference to 155 high-income taxpayers who paid no tax in 1967. The message that tax expenditures are "welfare for the rich" makes a banner to which troops will rally.

The upside-down-subsidy argument deserves some intensive analysis. Surrey is right that it is passing strange to adopt subsidies that encourage, say, contributions of rich people more than those of poor or average-income people. The deduction for charitable contributions does not seem so strange, however, if one justifies it as follows: instead of taxing all rich people at an average rate of, say, 40 percent and all middle-income people at, say, 20 percent, we tax generous rich people at, say, 35 percent and stingy rich people at, say, 45 percent; the spread for corresponding degrees of generosity and stinginess for average incomes is 17.5 percent and 22.5 percent, with the average at 20 percent. This line of argument can be extended to other allowances as well.

This description of the contributions deduction makes clear that the structure of the constributions subsidy and the progressivity of the tax system are in principle different things. A tax system could be enacted in which the average tax on rich people was 40 percent or 60 percent. With either average, one could introduce a variety of tax rate differentials between generous and stingy taxpayers: 0 percent, ±2.5 percent, ±10 percent, and so forth. The differential can be centered on any average. There are logically two separate questions here: how progressive the tax system should be and how tax subsidies to charity should be structured.

Despite this logical separability, issues of income-tax structure and progressivity continue to be confused. Much discussion centers on the high-income bias of tax expendi-

tures, and not uncommonly the argument against a provision is that it helps the rich.

This paper is not a restudy of the whole case for or against base-broadening tax reform. It is concerned with the narrower issue of the high-income bias of tax incentives.

To put this in context consider a deduction that is not related to economic income. Such a deduction tends to distort individual choice. Whether such a tax deduction is good social policy involves such questions as the following: (1) Is there some external benefit in the activity involved in the deduction that justifies a subsidy? (2) Should the subsidy be treated as a tax provision and administered by the Internal Revenue Service or treated as an expenditure and administered by an agency with subject matter expertise? (3) Is it efficient to structure the subsidy to encourage rich people—an income-level bias—which is usually the case with tax subsidies?

This paper examines only question 3. Frequently the answers to questions 1 and 2 provide a strong case against the deduction, but here it is assumed that the deduction passes these tests. Because of the political importance of question 3, it deserves particular scrutiny.

The first section explores the issues of income-level bias in theoretical terms. The second section examines income-level bias in connection with a number of specific tax allowances for contributions, taxes, investments, and so forth. The third section offers some conclusions.

THE TAX BASE AND THE DISTRIBUTION OF THE TAX BURDEN

Income-Level Bias:

A high-income bias in a tax expenditure is the property of providing more dollar tax relief, in relation to the amount subject to special treatment, for high-income taxpayers than for low-income taxpayers.

The word "special" carries a lot of freight. A deduction for cost of goods sold produces more tax relief for a high-bracket taxpayer than for a low-bracket taxpayer. This is not called a high-income bias because a deduction for cost of goods sold removes from taxation a part of gross receipts that is not net income. The deduction prevents those receipts from being taxed at whatever rates they would have been taxed without the deduction. The value of such a deduction quite properly depends on the payer's tax bracket. Income-level bias, however, is associated only with features of the tax law not directly related to the measurement of economic income. While not all tax provisions are clearly necessary or unnecessary for the definition of economic income, this fuzziness is not critical.

I define income-level bias in terms of the ratio of tax relief to the amount subject to special treatment. A refundable tax credit is free of income-level bias because tax relief is the same percentage of contributions at each income level. That the rich contribute more than the poor is not necessarily evidence of bias. In another sense there may be high-income bias even in a refundable tax credit for some expenditure common in rich families and rare in poor families, such as hiring household servants.

Base-Broadening Tax Reform and Tax Rate Progressivity:

To highlight the distinction between issues of tax structure (in other words, the tax base) and those of progressivity (in other words, tax rates), I define as "progressivity constant, revenue constant" (PC-RC) any tax reform that broadens the tax base and adjusts tax rates so that tax revenue from each income bracket is unchanged after taxpayers adjust their behavior to take account of the change in rates and bases.

Such a change reforms the tax system in two ways: It removes a tax distortion, which increases or decreases the attractiveness of the previously untaxed or undertaxed activity relative to all other taxable activities; it also permits a reduction in tax rates, which may reduce the distortions that any tax system imposes. If the latter occurs, it is necessary to moderate the claim made earlier that it does not matter whether we tax all rich people at 40 percent or adopt a higher rate schedule with a contribution that results in generous rich people paying 35 percent and stingy rich people 45 percent.

These two ways of taxing rich people differ in the incentive effects of deductions and exemptions. "Incentive effect" means encouraging some action that the taxpayer would not take without the tax provision. From the taxpayer's standpoint a simultaneous expansion of the tax base and reduction of the tax rates reduces excess burden. Presumably the point of these deductions and exemptions is that they induce actions that are not worth the before-tax cost to the taxpayer.

When one considers incentive effects, however, one sees that broadening the tax base, with PC-RC rate changes, does reduce the marginal burden of the tax, even if it does not reduce effective tax rates. Repealing the tax advantages of homeownership and correspondingly reducing statutory rates would reduce the excess burden of incentives in two ways: Taxpayers would be less likely to buy housing than they would have been with the subsidy, and because of the lower marginal rates they would be less likely to alter labor supply, to give to charity, and to invest in oil wells.

The subtle connection between base-broadening and tax rates is that removing some tax expenditures weakens all the others (which suggests that tax reform a little at a time is quite satisfactory). The use of tax incentives does not increase average tax rates but does increase marginal tax rates, thereby adding a burden to the tax. When these incentives involve income-level bias, they add particularly to the burden of the progressive part of the income tax.

Tax Allowance Techniques:

Exclusion from gross income of a type of income is equivalent to the combination of taxing it fully and providing the taxpayer a subsidy of $tI(1-t)$, where I is the excluded income and t is the marginal tax rate. The subsidy is zero when t is zero, 25 percent when t is 0.20, and 233 percent when t is 0.70, a clear high-income bias.

The failure to "gross up" a tax credit—in other words the failure to add the credit to income—is a kind of exclusion and therefore contains some high-income bias, but it is less than a full exclusion of the item on which the credit is allowed. The difference is related to the size of the credit. For example, replacing the municipal bond exclusion with a 50 percent tax credit, not grossed up, would cut the income-level bias of exempt interest in half.

A tax credit that is grossed-up currently and is refunded when the net tax after credits is negative is in all respects like a taxable payment to the recipient and thus involves no income-level bias. The income-level bias of deductions and exclusions normally is the same because both remove a certain amount of income from taxation. The income-level bias of personal deductions is actually greater than that of ordinary deduction and exclusions because of the standard deduction. The 1978 standard deduction is equivalent to an extra personal deduction of $2,200 for the taxpayer or $3,200 for taxpayer and spouse, coupled with a disallowance of $2,200 or $3,200 of itemized personal deductions. A disallowance of a fixed amount constitutes a relatively larger disallowance for low-income taxpayers than for high-income taxpayers.

THE INCOME-LEVEL BIAS OF SOME SPECIFIC TAX EXPENDITURES

How significant is the high-income bias in specific tax expenditures, and does such bias make sense as subsidy policy? I assume that Congress has achieved the degree of income tax progressivity that it wants and that if a tax expenditure were repealed it would be in a PC–RC fashion. I deal here with only two questions: Does being upside-down make the tax expenditure less efficient or otherwise less desirable as a subsidy? Does it make the tax system less or more progressive in ways other than by the rates?

Contributions:

Criticisms of the high-income bias of the charitable-contributions deduction have been frequent and vociferous, usually concluding in favor of a tax credit or a system of fractionally matching the contributions of taxpayers and nontaxpayers alike.

Hard analysis provokes puzzlement over why liberal tax reformers should wish to eliminate the high-income bias in the contributions deduction. The total burden of the tax system is the sum of the tax paid plus the excess burden associated with the induced contributions. If the contributions deduction were converted into a refundable tax credit and at the same time tax rates were changed so that the reform was PC–RC, it would follow that while maintaining the progessivity of the formal tax system, some of the excess burden connected with induced contributions would be shifted from the rich to the poor, making the total system more regressive. This fact suggests that ignoring excess burden and focusing only on the distribution of taxes lead analysts to understate the true progressivity of the tax system.

D is the demand curve for contributions. With no deduction, the cost to the taxpayer for every dollar contributed is a dollar; the contribution is AB. For a taxpayer in the 50 percent tax bracket, deductibility reduces the cost to 50 cents for every dollar contributed and increases contributions to AC: the area EFG represents the excess burden for donors in the 50 percent tax bracket. Under the PC–RC assumption tax rates must be increased for taxpayers whose marginal tax rates are less than the credit percentage and decreased for taxpayers whose marginal tax rates are greater than the credit percentage. These changes are required because high-bracket taxpayers, for example, will reduce their contributions (the "price" of contributing has increased), lowering their deductions; the decline in contributions together with the reduced tax-offset percentage will increase tax liabilities. To keep the change PC–RC, rates must be reduced. The argument is the reverse for low-income taxpayers.

Accordingly conversion of the contributions deduction to a credit, in a PC–RC change, shifts more of this excess burden to lower-income groups. The nub of this argument is that in the analysis of PC–RC changes, the rich are going to pay a given amount of net tax whether there is a contributions deduction or not. With the contributions deduction, the rich can get to this tax only by contributing more to charity than they "really" want to contribute.

Having high-income bias in the contributions deduction (an upside-down subsidy) is consistent with the usual purpose of a progressive tax, which is to reduce the inequalities of living standards. The argument for this thesis is seen by pushing it further, converting the contributions deduction to a credit without changing tax rates—a change that appears to favor the poor because their taxes are cut and the taxes of the rich are raised. But if the price elasticity of contributions at every income level is greater than one, as recent research suggests, then converting the contributions deduction to a

credit that yields the same total revenues while making no changes in tax rates increases the income available for personal consumption and savings of the rich while decreasing that of the poor. The taxes of the rich would increase, but their contributions would fall even more. The reverse is true of the poor. By the criterion of relative total burden of the tax system, converting the contributions deduction to a credit without changing tax rates is favorable to low-income groups; by the criterion of disposable income for personal purposes, such a change is unfavorable to low-income groups.

I think that the disposable-income-for-personal-purposes criterion is the more useful one in this case. If the goal of a tax system is to reduce inequality, it can be achieved by permitting the rich to exchange some of the tax redistribution for a larger amount of redistribution through charity. Apparently the rich are willing to make such an exchange because of the personal satisfaction, name memorialization, or other reward that comes from giving. This sort of "consumption" is harmless as long as the public regulation of charity precludes private benefits to donors.

The upside-down subsidy also efficiently uses forgone revenues to increase contributions and to reduce differences in personal spending. Assume that expenditures by charity serve the public good as well as welfare expenditures by government. Removing the contributions deduction would reduce contributions by BC (figure 1), and if there were no change in rates, the tax increase would be EFGH. Recent research suggests that contributions decline more than taxes increase. Consequently the charitable contribution reduces private spending inequalities more than would a PC-RC repeal of the deduction, and the net burden on low-income donors of induced contributions is only EFG before donor satisfaction is subtracted. It should please equalitarians to achieve this goal in a less burdensome way.

I conclude that the income-level bias of the charitable contributions deductions is a desirable tax policy.

State Income and Sales Taxes:

Another apparent peculiarity of the federal tax law is that it allows high-income people to offset more of their state income taxes and sales taxes than it allows low-income people. The influence of federal tax deductibility on state tax policy complicates matters. Suppose that deductibility of state income taxes were repealed, effective four years hence. Each state would have reason to reexamine the allocation of state tax burdens because the net costs that state tax laws impose on their citizens would be altered slightly significantly.

The income-level bias in the federal treatment of state income taxes makes a progressive tax less costly to high-income taxpayers. With deduction, a state can impose a net cost of $3,000 on a taxpayer in the 50 percent bracket and collect $6,000 in revenue. If state income tax deductibility were repealed in a PC-RC way, states would tend to make their income taxes less progressive or would repeal them altogether, and the total progressivity of the tax system would decline.

The income-level bias makes state and local sales taxes more regressive by reducing their net cost for upper-bracket taxpayers. It is difficult to see how this deduction serves the purposes of a progressive federal income tax. A more neutral way of reducing the cost to taxpayers of state sales taxes is to give those states revenue grants measured by their sales tax collections. To balance the burden that progressive taxes place on the rich, especially if the political cost of progressivity increases, states are likely to strike a balance at less progressivity.

Other Deductions and Exclusions:

The high-income bias of the standard deduction and personal exemptions amounts to excluding from income tax, at the taxpayer's marginal rate, the increase in the official poverty-level income associated with the addition of one dependent. Above-poverty-level income seems to me to be the appropriate tax base.

Exclusion of transfer payments is a singularly inappropriate instance of high-income bias. The basic idea behind transfer payments is a perceived need of the recipient, but most transfers are made as a matter of right without means tests. If the amount of transfers varied systematically with taxable income, it would be possible in principle for Congress to vary them with perceived need. But the amount of, say, social security or unemployment insurance payments may be the same for families with widely different amounts of taxable income from other sources. Exclusion of transfers from income tax provides the greatest tax advantage for those least in need, which contradicts progressivity.

Investment Incentives:

Many investment incentives are provided through extra deductions or exclusions, accelerated depreciation, or lower tax rates (oil and gas well development costs, building depreciation, capital gains rates, and so forth). Each technique involves high-income bias. The investment tax credit has less high-income bias than accelerated depreciation, but it still has some because it is neither refundable nor grossed-up. One argument for the investment credit in 1961–62 was that it has less high-income bias than the obvious alternative, more accelerated depreciation.

It is inefficient to provide investment incentives with high-income bias. The effect is to expand the supply of a particular investment and reduce the before-tax rate of return on it. The favored investment is attractive for high-income taxpayers even when the rate of return declines sufficiently to make it relatively unattractive to low-income taxpayers. The increase of investment in the favored activities by high-bracket taxpayers in part replaces investment by low-bracket taxpayers and in part causes a net expansion of the investment.

Such a pattern is clear in the market for tax-exempt municipal bonds. Because top-income taxpayers are reluctant to concentrate investment in a specialized security, they typically hold only a portion of their portfolios in municipal bonds. As a result, the interest rate on municipal bonds must be sufficiently high to induce taxpayers below the top brackets to invest in them. The net return on these bonds to top-bracket taxpayers is higher than net returns on similarly risky bonds that are taxable. It is precisely for this reason that many tax reformers advocate a tax credit payable by the federal government to states and municipalities that agree to issue taxable bonds. An incentive with less high-income bias will not only provide greater federal revenues but, because it appeals to a broader market, promises to enable states and municipalities to borrow as much as they now do at less cost to themselves.

This costly and inefficient aspect of high-income-biased investment incentives will become aggravated as more types of investment are selected for tax-expenditure subsidy, all to be financed by a narrow section of the investment market.

CONCLUSION

Hard-bitten veterans of tax reform wars will find it strange to read in this essay about reforms that leave the revenue and progressivity constant. Many tax reformers seek more progressivity by linking repeal of some high-income-biased tax expenditures with an across-the-board rate reduction. There is one good argument for considering the repeal of these tax expenditures and an increase of tax progressivity: statutory tax rates are straightforward and can be taken as the popular will. Tax expenditures, however, are complex and those biased toward high incomes lend themselves to being lobbied in Congress by well-paid pressure groups. If they are parts of the same project, the public would understand how they undercut progressivity.

If this near-conspiracy theory of why high-income-biased tax expenditures are in the law is true, then it follows that tax expenditures especially favorable to high incomes ought to be repealed for just that reason—because they are upside-down subsidies, because they are welfare for the rich.

I find the conspiracy theory of tax expenditures plausible but not compelling. After a quarter of a century of broaden-the-tax-base debates, it is fairly well known that the tax system is much less progressive than the statutory rate schedule. If this much is understood, then it follows that tax reform and greater progressivity are different things and we could buy either one without the other.

Given the separability of tax reform and greater progressivity, the upside-down-subsidy or welfare-for-the-rich arguments per se are not convincing. There may be good reasons for structuring particular subsidies to provide greater incentives to the rich than to the poor. Because the basic tax rates can offset the average value of the tax incentive, it is inappropriate to describe the subsidy merely as more generous for the rich. The tax system in this case is more burdensome for rich taxpayers who do not qualify for the subsidy.

Whether tax expenditures should be structured to produce greater differentials for the rich than for the poor turns out to be something that should be looked at for each tax expenditure. My examination suggests that in some cases, but not always, high-income bias is a defect of tax expenditures.

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

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

MIDEAST ARMS RACE

Mr. BOSCHWITZ. Madam President, I ask unanimous consent that an article entitled "Mideast Arms Race," by Flora Lewis, which appeared in the New York Times on March 2, 1981, be printed in the RECORD at this point.

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

MIDEAST ARMS RACE

(By Flora Lewis)

WASHINGTON, March 1.—The sale of F-15 fighter bombers with extended range and bomb-racks to Saudi Arabia is moving to completion, and the dangerous implications are being brushed aside with precious little thought for the future.

It is a key example of the tendency to put off urgent policy problems with a military hardware deal. In this case, it not only solves nothing but is likely to create even bigger problems later. The deal is going through with a quid pro quo package of weapons and money for Israel, so that this is a serious new surge in the Middle East arms race and it's likely to provoke further escalation in the future.

Even close advisers to the Saudis are worried and unhappy about what they see as a renewal of U.S. decisionmaking based on

short-term military calculations and the desire to get back petro dollars in return for arms. They see a regression from our awakening after the 1973 war to the fact that the region's problems are essentially political and economic, and a slump back into the illusion which helped bring the nightmare of Iran—that weapons spell welfare for the West.

The United States Government simply doesn't appreciate the depth of Saudi concern about the problems within their own country and around the Persian Gulf, these people say, and is shutting the real troubles out of its vision with its focus on the East-West issue.

As for Israel, already hopelessly overwhelmed by defense costs and forced into triple-digit inflation to ease its debts, the arms spiral means not more security but economic disaster.

Now that the United States is pushing, the Saudis want the planes, which cost over $15 million each, but more as a symbol than an important contribution to their defense. The F–15's are, as an American expert put it, superb fighter interceptors but much cheaper planes can do a better job of ground support and pinpoint bombing.

Furthermore, the initial deal would have limited the planes' range to areas far from Israel. With extra fuel tanks and bomb racks about to be endorsed by the Senate at Administration request, they become a threat to the Israelis that can't be discounted simply by relying on Saudi intentions and ties to the United States. That may be reasonable today, but no one can guarantee who is going to command the Saudi arsenal tomorrow or the next day.

So Israel has a new requirement for early warning in order to scramble its fighters before a possible surprise attack wipes them out on the ground. The geography of the area makes it virtually impossible for the necessary electronic monitoring to be done in Israeli territory and air space.

What then? Does it mean much more intimate sharing of intelligence with the United States, which would be a terribly sensitive arrangement in terms of American relations with the Arabs and which would desperately increase Israel's dependence for its very existence on Washington's instantaneous good will? Or does it call for the United States to build a satellite reception station for Israel, which the country can't possibly afford to build for itself and which would probably provoke the Arabs into demanding equal access to America's super-secret eye in the sky? These are very delicate questions that must be examined in appraising the deal.

A combination of political happenstance has led to shelving the hard problems just now and buying time with yet one more lethal package. From the Israeli point of view, the deal is a bad precedent and all the more so because it cancels an American commitment, made when the F–15's were originally promised to Saudia Arabia, not to provide the extras that would extend their range and mission capability. But Jerusalem evidently feels it would be worse to have a big fight with the Reagan Administration at its very beginning.

Therefore, Israel isn't complaining very much. And Americans loyal to Israel's cause, but hoping for a new and more flexible regime in Jerusalem don't want to strengthen Prime Minister Menachim Begin so soon before next June's elections by a demonstration that he can turn Washington around.

Special care in tiptoeing up to the Israeli elections is the reason for Secretary of State Alexander Haig's planned trip to the Middle East next April. Egypt's Sadat wants to come to Washington soon, and so does Begin, but that could affect internal Israeli politics. To avoid charges of either backing or snubbing Begin, a decision has been made to put them both off and instead to send Mr. Haig to visit both capitals, as well as Saudi Arabia and Jordan.

This is sensible short-term diplomacy as far as it goes, but unhappily it is going on the wings of another arms race. It isn't too late to step back and examine the whole package again with a longer perspective, in terms of what might really enhance the security of both Saudi Arabia and Israel. Too many weapons have certainly helped to create the Middle East-Persian Gulf headache, but the hair of the dog isn't much of a remedy.

Mr. BOSCHWITZ. Madam President, the article very clearly and succinctly, and with great insight, points out that we may be once again helping or fostering a serious new surge in the Middle East arms race that really is likely to provoke not peace but, rather, a further escalation of hostilities over there.

The article points out that the United States is receiving little in return for enhancing the F–15's that the Senate agreed to sell to the Saudis a couple of years ago. The F–15's have not yet been delivered, but enhancement of the F–15's is now being sought by the Saudis. They wish to have them become offensive weapons, rather than just being defensive weapons as they were originally intended to be.

Indeed, there was an agreement with the Senate in 1978, prior, Madam President, to either one of us being here, an agreement that this kind of weaponry would not be sold to the Saudis; that this kind of weaponry would not be put on the F–15's.

The article, Madam President, is written by Flora Lewis, who very clearly makes the case that we may indeed be fostering an additional heightened arms race in the Middle East, which certainly a majority of our body would find unsatisfactory.

Madam 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks of Mr. ROBERT C. BYRD at this point on the history of the U.S. Senate are printed earlier in today's RECORD, by unanimous consent.)

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IN SUPPORT OF THE METZENBAUM AMENDMENT TO REIMPOSE OIL CONTROLS THROUGH SEPTEMBER 1981

Mr. PELL. Mr. President, 6 weeks ago, Energy Secretary James B. Edwards, shortly after President Reagan's oil decontrol order, commented that the President's decision would result in only a small cost to consumers. Specifically, Secretary Edwards estimated that decontrol would lead to price increases for oil products of only 3 to 5 cents per gallon over the next few months. Unfortunately, Mr. President, these projections by Secretary Edwards have proven to be totally unrealistic and the impact of oil decontrol has been significant and, in fact, most tragic.

Shortly after President Reagan's decontrol order, for example, the New England Congressional Caucus estimated that immediate decontrol would cost the average New England household an additional $75 prior to October 1 of this year. More recent estimates by several consumer groups, including the Citizen Labor Energy Coalition, have indicated that immediate decontrol will cost the average family an additional $100 to $200 for heat and gasoline this year.

These most recent estimates, Mr. President, do not seem unrealistic. According to the recent data released on Friday by the Department of Labor, energy prices accounted for the largest percentage increase in the cost for producer goods.

While these energy increases are due in part, to earlier OPEC price increases in December and January, along with decontrol of oil begun last year, President Reagan's immediate decontrol has unquestionably impacted this upward spiraling trend of energy costs. Unfortunately, the full impact of the President's order has yet to be fully measured.

The impact from decontrol, however, Mr. President, is quite clear in the State of Rhode Island. Since President Reagan's decision in January to decontrol crude oil and gasoline, Rhode Island families have been hard hit with dramatic increases in the cost of both heating oil and gasoline. Where the average price for home heating oil prior to decontrol was just over $1.20 a gallon and $1.29 a gallon for regular gasoline, it is now $1.31 a gallon for home heating oil and $1.37 a gallon for gasoline.

In my view, the decision to immediately decontrol crude oil and gasoline by President Reagan was unnecessary and most certainly not essential to stimulate oil production, according to industry officials. The decontrol order has resulted in a heavy burden for many families in Rhode Island and throughout the country, where budgets are already stretched to the limit.

Mr. President, I fully support the proposal to reimpose controls on oil prices until September 1981.

In addition, I shall continue to press for additional legislation to ease the burden of these high energy costs on families. I hope that my colleagues, Mr. President, will support the energy tax credit legislation, S. 329, which I introduced in January, to provide some relief for consumers.

TOURISM IN THE UNITED STATES

Mr. PRESSLER. Mr. President, the tourism and travel industry is now our third and fourth largest source of foreign

revenue in the United States. In my State of South Dakota, tourism travel is our second largest industry.

I wish to express my deepest concern and commitment that the Secretary of Commerce and the Reagan administration appoint a very seasoned experienced professional to head the Office of Travel and Tourism in the Commerce Department. Legislation has passed the Senate indicating this body's desire that that position be upgraded or possibly made into an independent agency. I would hope that I will be consulted on any appointments made by the administration in this area. As chairman of the Commerce Committee subcommittee dealing with tourism, I intend to take a very active role in this area. Also I would hope that the distinguished Senator from Virginia, who is the chairman of the Tourism Caucus, will also be consulted on this appointment. To date we have not been consulted.

The 1979 budget for travel and tourism was between $13 and $14 million. That has been cut to approximately $6 to $8 million under current plans—in the bill that has passed the Senate, to about $8 million, and under the current Reagan administration proposal, to between $6 and $7 million.

We can sustain that reduction of almost half in what we spend on tourism only if a person of great experience in the travel and tourism industry is appointed. As chairman of the Subcommittee on Business, Trade and Tourism of the Commerce Committee, I am deeply concerned that a higher priority be given in the Department of Commerce to tourism travel. As of today, I have not been consulted by the Secretary of Commerce on who might be appointed. I hope very much that the pending legislation is passed by the House and is signed by the President.

Also, I thank the Senator from Virginia (Mr. WARNER), the chairman of the Senate Tourism Caucus, who did a great deal of work last year in this area, as he has done over the years as chairman of the Bicentennial Commission and as chairman of the Senate Tourism Caucus.

I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from South Dakota for his kind words. I wholeheartedly support him in this petition on behalf of the tourism industry.

I hope, as does a number of our colleagues, that the Secretary of Commerce will give very careful attention to his selection of the individual whose qualifications will symbolize this administration's determination to move forward in the area of tourism. As has been pointed out accurately by the distinguished Senator from South Dakota, tourism has a remarkable potential to improve our balance of payments at a time of critical need.

A few days ago, the Secretary of Commerce visited with the Senator from South Dakota and me, at which time he made a commitment to us that he would assign to tourism a very high priority, recognizing that in years past—and these years not only span the Carter administration but also reach back into the Ford administration—tourism has been accorded a second-class status within the Department of Commerce.

Secretary Baldrige assured us that no longer would that be the case. Quite the contrary, he will search diligently for an individual who, consistent with the appeal today of the distinguished Senator from South Dakota, is recognized in the tourism industry as a true professional to take on this new challenge.

The industry not only is important to the balance of payments of this country but, as indicated by the Senator from South Dakota, it represents in some 43 States either the first, second, or third largest income-producing industry. It certainly occupies a place of distinction in Virginia, and Virginians will welcome the new policy set by Secretary Baldrige.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

U.S. POLICY REGARDING EL SALVADOR—WHAT SHOULD IT BE? HOW SHOULD WE APPROACH IT?

Mr. HELMS. Mr. President, the fate of El Salvador and what the United States can and should do to assist that afflicted country are questions foremost in our minds today. But sometimes, I fear, we are mostly talking to ourselves and reading the rather lopsided views of the media and other self-proclaimed experts in Central American affairs, such as our recently returned former Ambassador Robert White, who has a few axes of his own to grind.

Those who seem not to be consulted at all are the Salvadorans themselves.

Mr. President, in the interests of balance, I submit for the attention of my colleagues the text of a letter I recently received from a 30-year-old private businessman, a citizen of El Salvador, who got a B.S. in mechanical engineering as well as an M.B.A. from a university in the United States.

I shall not disclose this gentleman's name, but, if I may say so, I think his message deserves to be heard and considered by all Americans—and certainly Members of the U.S. Senate.

He wrote:

> First I would like to thank you for your help in restoring the U.S. aid to our country. But I must recall that if it were not for the reforms that the U.S. government, under the Carter Administration, imposed on our country, we would not be in this chaotic economical situation that will surely lead to more social unrest.
>
> The confiscation (without compensation) of the best farms and of the big banks, and the governmental monopoly of the principal exporting products. All were moves against the most elemental principles of free enterprise, and they were all creations of the U.S. State Department.
>
> The deep economic depression and the most serious unemployment problem that these reforms have caused are our real greatest problem now and for many years to come if we want to save this country from communism, or any other forms of totalitarianism.
>
> I believe that the future of our country depends on the success of our government to create more jobs for everybody, and I believe that this is possible only through private enterprise, mainly because we have no natural resources, like oil, to subsidize more bureaucrats.
>
> The confiscated properties will never be able to generate the necessary profits to expend or invest in other businesses and create the new jobs that we badly need. Moreover, it is almost impossible to find people willing to invest in a country in which the government does not respect the laws that protect private enterprise.
>
> There is not much difference between the socialist government system towards which we are heading now and the systems of the countries behind the iron curtain, some of which are also called "democratic republics."
>
> The real help that we need from our foreign friends is in restoring in this country the laws that protect the free enterprise system. That will be the beginning of a future of democracy, progress, and justice for all our people, and a stable, friendly country to the United States of America.

Mr. President, I associate myself completely with the observations of this gentleman. In establishing our policy toward El Salvador we could have no better guidance than this.

EL SALVADOR

Mr. PRESSLER. Mr. President, I wish to speak briefly to the situation in El Salvador.

I realize the great efforts the Reagan administration is making in searching for a solution. I do hope that the Reagan administration will carefully study our Nation's experiences in Vietnam. I hope the Reagan administration will convene a study group within the administration to analyze what mistakes we made in Vietnam and be sure that we do not make them again. It is my contention that we are making a tragic mistake by sending more military personnel into this area.

I served in the Army in Vietnam, and during my 18 months as a lieutenant in Vietnam I worked part of the time in what was called the pacification program which was supposed to do the very same things our American advisers are trying to do in El Salvador.

I hope that the lessons of the British in Malaysia are looked at closely, especially Sir Robert Thompson's book "Fighting Communist Insurgency."

It is very possible we are falling into a trap of identifying too much with the very arguments that the rebels are using. The rebels say we are trying to control the country through our banks and through our military, and the presence of visible U.S. military forces may well have a counterproductive effect. In fact we may help the rebels—ironically enough.

I hope that the administration has a review underway, and I hope that the lessons of Vietnam and the lessons of Malaysia are carefully looked at and applied in El Salvador.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

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

EXTENSION OF EXPIRATION DATE OF SECTION 252 OF ENERGY POLICY AND CONSERVATION ACT

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed to the consideration of S. 573, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 573) to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment:

On page 1, line 5, strike "December 31, 1981" and insert "September 30, 1981".

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

Mr. McCLURE. 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. McCLURE. 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. McCLURE. Mr. President, on March 4 the Committee on Energy and Natural Resources favorably reported, by a unanimous vote, S. 573 with an amendment. S. 573 is an administration bill that would extend the expiration date of section 252 of the Energy Policy and Conservation Act. As introduced on February 26, the bill extended the expiration date from March 15, 1981, to December 31, 1981. The committee amended the bill by changing the expiration date to September 30, 1981.

Section 252 of the Energy Policy and Conservation Act authorizes U.S. oil companies to participate in voluntary agreements for implementing the allocation and information provisions of the agreement on an international energy program. That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption. Section 252 also provides a limited defense against any antitrust suits that may be brought against U.S. oil companies participating in the international energy program. The antitrust defense is limited to actions taken in implementing the allocation and information provisions of the program.

The current expiration date of section 252 is March 15, less than 1 week from today. If the Congress fails to act by that date and section 252 is allowed to expire, U.S. oil companies participating in the international energy program would be compelled to cease their participation in the program. If that should occur, the allocation mechanism of the program could not operate effectively in the event of any new disruption of oil supplies in the international oil market.

The Committee on Energy and Natural Resources held a hearing on S. 573 on March 2. Testimony was provided by witnesses from the Department of Energy, the State Department, and the Justice Department. It was evident from the testimony presented at the hearing that the administration deems the timely enactment of S. 573 to be an extremely important matter. I certainly concur with that assessment.

The antitrust issue was also discussed at the hearing. The point was made that Justice Department staff attorneys have personally monitored practically all of the approximately 150 industry meetings held in the 5 years since the effective date of section 252. The meetings not attended by the Justice Department were covered by personnel from the Federal Trade Commission. There is no dispute about the fact that these monitoring activities have produced no instances of any adverse impacts on competition resulting from the activities of the U.S. oil companies participating in the program.

The agreement creating the international energy program was originally signed in 1974 as the result of an effort by the United States to promote cooperation among major industrial countries in reducing dependence on imported oil. There are presently 21 signatories to the agreement, consisting of most of the principal industrialized oil consuming nations. The agreement provided for creation of the International Energy Agency as an automonous entity within the Organization for Economic Cooperation and Development. The agreement also provided that the IEA would serve as the medium for the operation of an international oil sharing system for use during oil supply emergencies, and an information system on the international oil market. It also required each country to establish an emergency petroleum storage program, and to have a means for restraining demand for petroleum products in the event of an interruption of petroleum supplies to the IEP countries.

Section 252 of EPCA sets out procedures applicable to the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program. Under this authority, U.S. oil companies entered into the voluntary agreement and plan of action to implement the international energy program. At present, 22 U.S. oil companies, including both major international oil companies and independent oil companies, are participants in the voluntary agreement.

Participation by the United States in the International Energy Agency is central to the pursuit of our long-term international energy objectives. In general terms, the IEA provides a unique and effective forum for consultations and joint actions with our principal allies in the industrialized world. It represents a shared commitment to cooperate in dealing with one of the most critical issues of our time. More specifically, in terms of facing oil shortages, the United States benefits from the IEA emergency sharing commitment. Our participation in the allocation program reduces our vulnerability to politically inspired embargoes directed solely at the United States. Moreover, during a general triggering of the system, member countries would share the shortfall equitably, and the result would be a reduction in the devastating ratcheting of prices that otherwise would result from individual members scrambling for oil on their own.

The administration, through an interagency group, is conducting a study of possible modifications in the international energy program, and it is reviewing the provisions of section 252. Therefore, the administration has requested that section 252 be extended for a sufficient time to permit completion of the study. I have been assured by the administration that the study will be completed well before September 30.

Mr. President, S. 573, as amended, is identical to the companion measure considered by the House, which is H.R. 2166. Last week the House Energy and Commerce Committee voted unanimously to report H.R. 2166. Earlier today the House passed the bill—and I might just report that it passed the bill by a vote of 373 to nothing, with 2 abstentions—and the Senate is now faced with the responsibility of insuring that section 252 continues in effect beyond its current expiration date of March 15, thus assuring continued U.S. participation in the international energy program.

Mr. President, I ask unanimous consent that the Congressional Budget Office report on S. 573 be printed in the RECORD.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to, I am not quite clear as to why the Congressional Budget Office report on S. 573 would be considered here. Is that the number of this bill?

Mr. McCLURE. That is this legislation.

Mr. METZENBAUM. I have no objection. I did not recognize it as that.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 5, 1981.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, 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 reviewed S. 573, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act, as ordered reported by the Senate Committee on Energy and Natural Resources, March 4, 1981.

The bill extends until September 30, 1981, Section 252 of the Energy Policy and Conservation Act, which provides antitrust immunity for the activities of oil companies carrying out voluntary agreements to implement the international energy program. Based on information from the Department of Energy, the Department of Justice, and the Federal Trade Commission, the costs for federal officials to monitor meetings and prepare transcripts and reports is estimated to be approximately $125,000 for the period March 15 through September 30, 1981. This assumes that the emergency oil allocation system is not activated.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. McCLURE. Mr. President, I also ask unanimous consent that a letter of March 10, 1981, from Secretary of Energy Edwards and a letter of March 9, 1981, from Deputy Assistant Secretary of State Edward Morse, both reviewing the importance of this measure, be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, D.C., March 10, 1981.

Hon. JAMES MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am taking this opportunity to write to you to reiterate the importance the Administration attaches to quick Congressional action to extend the antitrust defense contained in Section 252 of the Energy Policy and Conservation Act. Failure to extend the existing provisions of the Law before its March 15, 1981, expiration date would have serious international consequences for this Government.

The antitrust defense available under this legislation to the 21 U.S. companies participating in the emergency sharing provisions of the International Energy Agency (IEA) is an integral element of the U.S. Government's commitment to the organization. If that defense were to lapse, U.S. companies would be unwilling to participate in IEA actions to deal with oil supply disruptions. Once the defense had lapsed, it appears that it would be necessary to follow the procedures in Section 252, including waiting twenty days, before implementing the Voluntary Agreement and Plan of Action which is necessary in order for the U.S. companies to qualify for the antitrust defense.

During that period, the IEA emergency sharing system—the principal mechanism for dealing with substantial oil crises—would be unavailable. This would expose the United States and other IEA members to a considerable risk in light of the continuing hostilities between Iran and Iraq. A return to pre-winter levels of fighting between these two countries greatly increases the possibility of further oil supply disruptions.

Furthermore, failure to extend the defense would damage relations with our principal allies in the industrialized world. Such action by the United States would be severely criticized by our allies and would constitute an abdication of leadership by this country in the international energy arena.

For these reasons I urge the United States Senate to act promptly to extend the clearance to September 30, 1981.

Sincerely,

JIM EDWARDS.

DEPARTMENT OF STATE,
Washington, D.C., March 9, 1981.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: Attached please find the materials you seek.

Sincerely,

EDWARD L. MORSE,
Deputy Assistant Secretary for International Energy Policy.

EPCA Section 252 is vital to U.S. participation in the International Energy Agency. Without the antitrust defense which it provides, U.S. oil companies would refuse to participate in IEA data collection and oil sharing activities. As a result, the IEA would no longer have any hope of taking effective action to forestall adverse effects of oil supply crises.

Such an outcome would be disastrous for American national interests. From the standpoint of international energy policy, it would deprive us of one of the few tools we have for combatting the disruptive effects of oil crises on our economy and on the welfare of the American people. Our dependence on imported oil makes us vulnerable not only to oil supply shortfalls themselves, but also to price increases caused by panic buying by other consuming nations. Cooperation among oil importing nations is essential, and the United States was the leader in the establishment of the IEA to assure such cooperation. Allowing EPCA Section 252 to expire would bring such cooperation to an end and leave us empty-handed in our struggle against oil crises.

More broadly, allowing Section 252 to expire would cause severe damage to our relations with our allies. Most of the Western European countries and Japan are much more dependent on imported oil as a source of energy than is the United States, and hence attach even greater importance to defending against oil supply crises than we do. A decision by us to restrict our participation in the IEA by terminating Section 252 would be viewed by them as casting further doubt on the continued commitment of the United States to the collective economic well-being of the communuity of Western market economy nations.

The spillover of such a decision on other vital areas of foreign policy interests could not be well-contained. Our allies would regard a decision to terminate Section 252 authority as an indication that the U.S. had become a less reliable ally, unwilling to live up to commitments made in areas of central strategic concern.

By all measures, participation in the IEA since its inception in 1975 has been of immense benefit to the United States. It has reinforced our cooperative ties with our allies and helped us collectively to reduce our dependence on imported oil and our vulnerability to oil supply disruptions. At the same time, our antitrust authorities confirm that consumers and small businesses have suffered no ill effects from oil company cooperation in IEA activities. EPCA Section 252 should therefore be extended immediately to allow our participation in the IEA to continue.

Mr. McCLURE. Mr. President, I also ask unanimous consent that the committee amendment be adopted and be considered as original text for the purpose of further amendment.

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

Mr. McCLURE. Mr. President, I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I am pleased to speak in favor of S. 573, a bill to extend the expiration date of certain authorities pertaining to the allocation and information provisions of the international energy program.

I am a supporter of the international energy program. I want to see it continue to operate, and to be made even more effective.

I hope that by once again authorizing a temporary extension of the section the entire International Energy Agency program will be given the attention and scrutiny it deserves.

This section has been extended three times before. This will be the fourth. Each time Congress has acted to extend the section it has been on a temporary basis, supposedly for the purpose of providing the executive branch with sufficient time to complete a comprehensive analysis of the program.

Each time Congress has been forced to act on the temporary extensions based upon the specter of dire consequences to the whole program if the limited antitrust defense provided by subsection (j) of this section is allowed to expire.

We have been told repeatedly that the antitrust defense is essential to the continued effective operation of the program and that the agreement entered into by the oil companies based upon the protection offered by this section must not be allowed to expire.

Mr. President, the entire free world depends upon a reliable, sufficient flow of energy from the oil producing nations. Our national and economic security depends upon ample energy supplies.

It is essential that oil-consuming nations do everything within their power to prepare for the possibility that one or more of the major oil producers will simply stop producing. A production halt could come at any time. It could be the result of a political act by a major producer aimed at one or more consuming countries. Or it could come about as a result of political instability at home.

Whatever the reason, we simply must be prepared to cope. And the best mechanism for doing so is through international cooperation among oil consuming nations.

I am concerned about the ability of the IEA to function effectively in the face of a limited supply interruption. Even a limited supply interruption can have grave consequences as we saw last year. Prices spiral, national and regional supplies are skewed, and people suffer.

The administration has committed itself to completing a long overdue review of the IEA. They have promised to submit a complete report to the Congress by June 30 which addresses the major issues before us.

The report should provide us with a complete analysis of the mechanisms available to deal with both limited and major supply interruptions; whether the present mechanism is workable or whether it needs to be changed; and, finally, to what extent effective U.S. Government and company participation is dependent upon the statutory authority to allocate petroleum supplies in time of an emergency.

It is no coincidence that the extension before us today expires on September 30,

1981. The basic authority of the U.S. Government to allocate energy supplies in an emergency also expires on that date.

The administration's report must recognize the clear link between international preparedness and domestic authority to act in time of an emergency. The report must include recommendations for action on both domestic and international authorities. The report must consider the variety of alternatives and recognize the clear link between the two types of authority.

Mr. President, there is bipartisan support for this piece of legislation. There has been a long history of bipartisan support for a program that will provide the United States and other oil-consuming nations with adequate planning and protection mechanisms for dealing with oil supply disruptions.

I look forward to continuing our work on this vital issue later this year.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am going to vote for this extension of the IEA antitrust exemption. I have done so on previous occasions, but in each instance I must confess that I have done so with reservations and tongue in cheek, because I have never been quite convinced that the antitrust exemption provided for under this legislation is needed or could not be equally well effectuated by a specific exemption on each occasion when the oil companies met in connection with IEA matters.

But I have a further concern about the entire subject, and that is whether or not the IEA does indeed serve this Nation's interest.

I had the privilege of attending one IEA meeting. I must confess that I felt uncomfortable and I felt embarrassed, because I heard the representatives of the other nations of the world use that meeting for the purpose of being most condemnatory of my own Nation. I heard them criticize us. I heard them accuse us and I heard them indicate that this Nation is the one that has failed to meet its share of the responsibilities under the agreement.

As a matter of fact, at one of those meetings there was an agreement that there would be a cutback of 5 percent on a voluntary basis of the amount of oil consumed by each nation. And, lo and behold, when one looked at the figures after a year had gone by, it was obvious that the United States had done its part but almost all of the other nations, particularly the major ones, had failed to meet their responsibilities.

So, I sort of wonder whether or not this Nation, which is one of the few in the world that produces as much as half of its total consumption, should be participating in an international energy agency which has the authority to cut back on the amount of oil available to people in this Nation should a crisis arise, in another part of the world.

I have some misgivings about that. I am not certain that our foreign partners, some of whom are so prone to criticize us day in and day out, are that ready or that willing to share the same responsibility. And one nation that is not a party to that agreement, the nation of France, who does not participate in the IEA, is one that has certainly turned its back on our Nation so many times in the past several years that it is hard to keep count.

But they, too, have been very ready, very willing, to criticize us as to the whole issue of oil and our involvement in that subject.

UP AMENDMENT NO. 8

(Purpose: To restore oil price controls)

Mr. METZENBAUM. Mr. President, I do not rise today for the purpose of opposing the extension of the IEA antitrust exemption. I intend to vote for it. But prior to doing so, I think that this Senate ought to have an opportunity to act in connection with another matter that has to do with oil in this Nation. Therefore, Mr. President, I ask that an amendment that I have pending at the desk be called up at this time, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself, Mr. BUMPERS, Mr. EXON, Mr. MATSUNAGA, Mr. KENNEDY, Mr. DODD, Mr. BIDEN, Mr. PELL, Mr. RIEGLE, Mr. WILLIAMS, and Mr. MITCHELL, proposes an unprinted amendment numbered 8:

At the appropriate place insert the following:

SEC. . Any order of the President exempting crude oil and refined petroleum products from price and allocation controls pursuant to the Emergency Petroleum Allocation Act of 1973, after January 20, 1981 shall be null and void.

Mr. METZENBAUM. Mr. President, the amendment which I have called up is offered on behalf of myself, Senator BUMPERS, Senator EXON, Senator MATSUNAGA, Senator KENNEDY, Senator DODD, Senator BIDEN, Senator PELL, Senator RIEGLE, Senator WILLIAMS, and Senator MITCHELL.

This amendment would have the practical effect of nullifying President Reagan's decision to terminate the remaining price controls on crude oil and oil products. This amendment does not address the wisdom of decontrol, as such. Rather, it restores the September 30, 1981. date for decontrol as established by the Emergency Petroleum Allocation Act.

I offer this amendment, Mr. President, because I believe that we can see all around us the overwhelming evidence that the President's action was hasty and certainly in retrospect it was ill advised, and it is having far different effects than the administration intended or the administration said it would have.

At the time the President signed his Executive order, for example, administration spokesmen estimated that decontrol would add perhaps 5 cents a gallon to the price of oil products. It required less than a week to demonstrate how wrong they were. Six days after accelerated decontrol became effective, Exxon already had raised its prices twice for a total increase of 8 cents a gallon on all of its petroleum products. In that same period, Texaco's product prices went up in three separate jumps for a total of 7 cents a gallon. Now, 5 weeks later, the price of gasoline has gone up an average of 12 cents, and although today's paper indicates that Exxon lowered some prices, if you read the whole article it says that Exxon also raised its wholesale gasoline prices by a penny a gallon and heating oil, diesel fuel, and kerosene by 2 cents a gallon in the Rocky Mountain region.

A Gulf Oil executive was quoted recently in the Wall Street Journal as saying there are additional increases of 15 cents to 20 cents yet to come, solely as a result of accelerated decontrol.

This vote today will give the Members of the Senate an opportunity to indicate to their constituents whether they are really in favor of the 12-cent-a-gallon increase already in effect or the additional 12 to 20 cents yet to come.

According to the New York Times, analysts believe that heating oil, which sold for 94 cents a gallon in November of last year, could hit $1.35 to $1.40 by the end of this heating season. "I guess the President knows what he is doing," said a heating oil dealer quoted in one press report, "but I just can't figure out how people are going to pay for their bills."

And it is already clear that the administration was wrong on more than price. Energy Secretary Edwards stated at the White House press conference after the President signed the order that immediate decontrol would bring us between 50,000 and 100,000 barrels of oil a day in new oil production. The Secretary did not tell us and has not yet told us where that oil is going to come from. New drilling? The New York Times reported recently that there is a 6-month backlog on orders for new drilling bits.

So how is there going to be any new drilling without bits?

On January 28, the Wall Street Journal quoted a Gulf Oil executive who said:

Extra funds from decontrol won't make much difference. There aren't too many rigs unoccupied currently.

An on February 2 the chief energy analyst for Merrill Lynch stated on the McNeil-Lehrer show that the oil drilling industry is "overextended at present."

In fact, it is so overextended that the February 23 issue of the Oil & Gas Journal reports that one company, Raymond International, has back orders on drilling rigs totaling $2 billion.

So we are not going to get that extra production because you cannot have extra production of oil unless you have the bits and drilling rigs.

But even if we got the production increase promised by Secretary Edwards, what, in fact, are we really getting? Very, very little. He says there will be 50,000 to 100,000 barrels a day extra. That is a drop in the bucket for a country that consumes 17 million barrels a day. And at a cost of $10 billion it is one of the most expensive drops in history.

As a matter of fact, it should be pointed out that as of the day that the President decontrolled the price of oil, he increased the net worth of oil companies of this country about $170 billion based upon their oil reserves in hand at that time.

But let us take a look at this question of the 50,000 to 100,000 barrels of oil per day extra, and let us run through the numbers.

The CBO estimates the cost of decontrol to the consumers of this country between now and the end of September at $10 billion. For the sake of argument, let us assume that Secretary Edwards is correct in projecting between 50,000 and 100,000 barrels per day of new production, and let us take 75,000, the midpoint, as a reasonable figure.

Let us assume we get that 75,000 barrels of oil per day each day for the 240 days between the time of the order and decontrol. That would give us a total production of 18 million barrels of oil. That is a little more than 1 day's U.S. consumption.

Is it fair to say, how much is that oil going to cost us? How much are we going to pay for that 18 million barrels of oil? It does not take a financial genius. You do not even need to use one of those new fancy computers to figure out if we are buying 18 million barrels of crude oil for $10 billion, we are paying $556 a barrel.

And you do not have to be a mathematical wizard to figure out that figure comes out to $13.20 a gallon; $13.20 a gallon—not a barrel, a gallon—before it has even been to the refinery. That is hardly a bargain for the people of this country, but it is pretty good business for the oil companies.

The other argument that is made is, well, even if we do not get that much additional production, we are really going to conserve energy by increasing prices this way. Secretary Edwards has estimated that the higher prices stemming from decontrol will reduce demand by 50,000 barrels a day. Apparently, he finds that 50,000 figure a rather convenient one to use. When he does not have anything else, he uses that one. He says that between now and September we will save 12 million barrels. But that will come to a little less than three-quarters of 1 day's consumption.

Is price, assuming him to be right on his figures as to how much we are going to save, the most efficient, most effective, or the most equitable method of reducing consumption? Let us see what the facts are.

Studies conducted in this and other countries have shown, time and time again, that higher prices have a relatively small effect on demand for gasoline. In France, where gasoline costs over $3 a gallon, it costs 45 cents a mile to operate a small Renault, but in 1980 there were 22 percent more cars on French roads than there were before the 1973 Arab embargo. Consumption in that same period has risen by 21 percent.

In 1973, the average Frenchman put 7,800 miles a year on his car. Last year, with the higher prices, that figure increased to 8,300. A French expert had this to say to the Wall Street Journal:

> We have concluded that price isn't effective in conservation.

And he pointed out that a recent poll concluded that gasoline would have to reach as high as $8.75 a gallon before most Frenchmen would change their driving habit.

That pattern is by no means confined to France. Both Britain and West Germany report similar experiences.

As the January 23, 1981, issue of the highly respected Lundberg letter points out:

> Price is not the only force at work on gasoline demand. Now and in the immediate future—

Lundberg concludes—

> improving automobile efficiency, not raising prices and lowering income, appears to be the most dependable way to limit or reduce U.S. gasoline consumption.

Some would argue at this point, well, look what happened: Prices have gone up and we are using less. I am prepared to accept that as a fact. We are using less, and prices have gone up. But when we had the people from the Department of Energy before our committee, I said:

> Why are they using less? Are they using less because there are unemployed auto workers, unemployed steel workers, unemployed rubber workers, unemployed miners, unemployment throughout this entire Nation and, as a consequence, people do not have to drive to work because there is no work to drive to? Is that why they are using less, or is it because gasoline costs more? Or is it the fact that they are buying more foreign cars and they are getting more miles per gallon.

American cars as well are getting more miles per gallon than they were several years ago.

> Is it because prices are up that they are using less or is it the natural consequence of the fact that automobile manufacturers are now doing that which they should have done several years ago?

The Department officials did not have an answer.

I remember when Senator JACKSON and several others and I tried to get through Congress a bill to try to force automobile manufacturers to get at least 20 miles per gallon for every car coming off the line in 1980, going up to 23 miles by 1985. And they fought it. Now they have suddenly started to move and they are getting a little more miles per gallon. But the fact is that there is not any conclusive evidence, even from the Department of Energy, to confirm anything other than that which Mr. Lundberg points out, where he says that improving automobile efficiency, not raising prices and lowering income, is the only dependable way to limit or reduce U.S. gasoline consumption.

That is not a new insight. We have been arguing this point for years and arguing for strong mandatory conservation programs. But we were told by the previous administration and now by this one: no, not mandatory conservation; higher prices will do the trick. Mr. President, this Senator does not think that the higher prices will do the trick. But they do create a new and needless burden on each and every person in this country.

If we are not getting much in the way of production or conservation, what will we get from the President's action? Well, I think, Mr. President, that we are going to get several different things. One of them is an unadulterated high shot of more inflation. Another is upward pressure on the Federal budget. A third is yet another massive and unhealthy transfer of more wealth from the consumers to the producers of energy. And a fourth result, one that may not have been foreseen by the administration, is real economic distress for thousands of American farmers.

Like all other businessmen, farmers have known about and planned for the arrival of decontrol in the fall of 1981. A Department of Agriculture economist, for example, has predicted an increase in farm fuel costs of between 25 and 40 percent in the year to come. In Kansas, the State Energy Office estimates that, for the average farmer in that State, fuel expenses will rise in 1981 from the current level of $3,900 a year to nearly $5,000. But decontrol in January and decontrol in September are two very different things. Decontrol now means higher prices now in one lump sum.

Had there not been decontrol now, maybe these great ideas of this administration would have indeed been able to bring down the rate of inflation a bit before the September 30 decontrol date. Maybe there would have been some lowering of interest rates. Maybe there would have been time to battle that psychology of inflation about which the administration speaks. Maybe there would have been some forward movement in bringing down prices. But, no, one of the first things that the administration had to do was give inflation another shot in the arm and kick it up another 1.1 to 1.4 points.

What does it mean for the farmers? A recent newspaper article quoted an official of the U.S. Department of Agriculture's Energy Research Group at the National Economics Division here, in Washington, about the effect of the decontrol order on agriculture.

Mr. President, the official of the U.S. Department of Agriculture indicated that the effect on the income of farmers is anybody's guess. He said:

> All I know is that some guys are going to be put in a terrible squeeze. There could be a lot of farmers going out of business this year because they don't have the money up front.

I do not think that is what the President intended when he signed his Executive order, but that is what is happening to our farmers and to countless small businesses in this country that have to purchase oil. We gain nothing from this Presidential action, but we stand to lose a great deal.

Inflation, President Reagan said in his inaugural address, "threatens to shatter the lives of millions of Americans." I agree with that in the strongest terms. Yet, here we have an action that is pumping even more inflation into our economy, and we are counting on the President's leadership to attack the inflation that is sapping the strength of our economy.

What I and others cannot understand is how we can control inflation by creating more inflation.

Recently, a local radio commentator, Chris Core, of WMAL, put the question in simple, down-to-earth terms in an open letter to the President. This is what he said:

Dear President Reagan: I'm writing for an explanation. I'm concerned about your deregulation of oil and gas prices.

You told us that our country's worst enemy is inflation. And yet, your first month in office, you've taken what price controls there were off the life blood of the American economy.

I heard today that because of your actions, the price of gasoline in this country will rise to an average of $1.60 a gallon by June. And that the airlines are raising fares because of their soaring fuel costs.

How is this helping inflation?

I also heard that this price increase will come despite a current and predicted oil "glut" . . . caused because Americans are doing as asked and conserving.

How is all this helping us to battle inflation?

When gasoline prices go up, and freight costs go up and heating oil prices for our homes go up, how will this cool inflation?

I'm afraid I don't understand.

I'm not a trained economist, I'm just a taxpayer and a consumer.

With respect,

CHRIS CORE.

Mr. President, this Senator does not understand it, either, just as Mr. Core and millions of other Americans do not understand it. But I can understand just what the President's decision will mean to the rate of inflation.

If we consider only the direct price impacts, decontrol will raise inflation about half a percentage point. But when I asked the Congressional Research Service to factor in the indirect costs in the form of higher prices for commodities produced by the manufacturing sector, the result was a very different estimate. CRS says that accelerated decontrol will raise the rate of inflation between 1.1 and 1.4 points, driving the inflation rate up from 12.4 percent to between 13.5 percent and 13.9 percent.

To see the practical dollars and cents impact of what is happening, we need only look at the airline industry. The CAB has already approved a 5-percent fare increase to help the airlines meet rising fuel costs. Another fare hike is likely soon.

How much will decontrol cost the airline industry? The early guess is about $100 million a month and possibly more. And the same is true of other forms of commercial transportation. Greyhound has announced a 10-percent increase.

The farmers, the airlines, the buslines—as a matter of fact, there is not even one item that the American people buy or use that does not involve energy costs. The clothes we wear, the housing we live in, the schools we pay taxes for—across the board, we get these higher costs by reason of decontrol of the price of oil.

The point is that we are faced with serious dislocations in our economy and with real economic distress. Yet, the Reagan administration, which has a commitment to produce a balanced Federal budget, has done that objective a real disservice.

We have heard that the extra windfall profit tax income from decontrol will help to balance the budget. I believe that is the shallowest of all arguments, because that is nothing more than doing exactly what the President said he was not going to do: Raise taxes.

If you argue that the additional windfall profit taxes are going to help to balance the budget, then you have to go back and remind the President that he is promising to reduce taxes, not to increase them. An increased tax is an increased tax, by whatever name you call it, whether it is done directly or indirectly through decontrol.

Consider the other side of this whole question, and that is: What will decontrol do to the budget?

According to the Wall Street Journal, Federal outlays will rise, because of decontrol, by as much as $2.4 billion in this fiscal year.

Let us look at defense, an area in which we are talking about spending substantially increased billions. The fact is that every penny increase at the pump translates directly into $70 million a year in higher military costs. We have had a 12-cent increase since January 28. That means DOD's fuel bill has gone up $840 million for fuel—$840 million.

Or, we can think of it as the 340 M–1 Abrams tanks that will never come on line.

Recently, I visited the 24th Mechanized Division, located at Fort Stewart. That division, 1 of 16 in the U.S. Army, has an annual payroll of $211 million. However, accelerated decontrol already has cost us the payroll of four mechanized divisions.

Mr. President, I am not going to talk further today about what this is doing to the Defense Department; but when I visited Fort Stewart, and those men and women told me that they did not have a sufficient amount of fuel to keep their vehicles going and that they were on a ration system, I was deeply concerned and I know that they are going to have that much less by reason of the increased cost of fuel. I wonder where the administration is coming from taking an action such as decontrol.

Mr. President, I could talk at great length today about another favorite subject of mine, and that has to do with the profits of the oil companies, who are the only winners in this sad episode. They are the same companies that received 40 percent of the total profits of all industrial companies last year.

I am not going to talk today about their profits. I think the American people know how they have soared, soared, and soared.

I am not going to talk about the oil companies tightening their stranglehold on potential competing energy sources like coal, uranium, and solar technology.

But I do wish to say what I believe to be obvious, that the interests of the oil companies are not the same as the interests of the American people and the American free enterprise system.

Mr. President, the new administration made a sad mistake on January 28, and they are also talking about an equally sad mistake by proposing to decontrol the price of natural gas.

What kind of humane attitude can this be?

The Washington Post reported that if they decontrolled the price of natural gas it will go up more than 200 percent. Even the companies said that it would go up 80 percent.

Mr. President, I wish to make it clear today that, if there is to be a move to decontrol natural gas prices, my fellow Members of the Senate should not be prepared to go home early. We did indeed filibuster that issue when it was last on the floor and we were right then and we would be even more correct the next time.

So I say to the administration "clear your decks because this body is going to be in session a long time if you attempt to decontrol the price of natural gas," and I must say I am pleased to learn how many fellow Senators have come and said, "We are ready to help on that issue."

I have also heard that the administration is going to try to go through the back door, through the Federal Energy Regulatory Commission, to achieve the same objective. I do not know what we can do about that. But we will explore every avenue.

The American people cannot stand any more burden in their utility bills. They are already suffering in their heating oil bills by reason of decontrol of the price of oil. The American people are entitled to some consideration, some fairness, some equity, and some justice.

The administration has been talking about the fact that the truly needy will be protected. Decontrolling the price of oil has added to the ranks of the truly needy. There are more truly needy by reason of decontrol, and there will be still more truly needy in the months to come.

The President acted prematurely with results, as I have stated, that were most likely unanticipated.

Mr. President, I believe that the Senate has the responsibility to correct that costly mistake. I hope that we will adopt the amendment before us. I stand here not kidding myself as to what I anticipate the vote will be. But I believe that every Member on the majority side should have the privilege of putting the stamp of approval on the President's actions so that their constituents may know that they approve of higher gasoline prices and higher fuel oil prices, and that they believe that somehow it is good for the country to add to the inflationary spiral. To those who are so anxious, just as I am, to balance the budget, I hope that in the debate that ensues they will somehow explain to me how decontrolling the price of oil is going to help either win the battle against inflation or, beyond that, to help balance the budget.

Mr. President, I yield for a question to the Senator from Michigan.

(Mr. GRASSLEY assumed the chair.)

Mr. RIEGLE. I thank the Senator for yielding.

I wish to acknowledge and congratu-

late his leadership on this issue, because what he is saying here today is essential for the public to hear.

I simply wish to ask the Senator this question:

By the decision to have the sudden decontrol of oil, is this not an action that basically just surrenders to the OPEC monopoly? Does this just not mean now that we accept the prices that they are imposing on the world and upon the United States? Is that not the effect of this decision?

Mr. METZENBAUM. The Senator from Michigan is so often on target, and he certainly is on that question.

The Saudis, the Kuwaitis, all the Middle East OPEC nations will only have to set the price and the American oil companies will scurry to keep pace with them. The consumers will have nothing to do with setting that price. What we have done is we have made it possible for the OPEC nations to determine what happens in our economy and at what price we will be buying oil in our Nation.

Mr. RIEGLE. So, despite all the tough talk that we have heard out of this administration about standing up to international bullies, we have just caved in to the OPEC monopoly. We have just said that their monopoly prices are something that we are prepared to see charged by our own producers right here in the United States. What has happened is that the consumers in the United States are now directly at the mercy of this OPEC monopoly price structure in terms of what they have to pay for the oil that comes out of the ground here in the United States.

Mr. METZENBAUM. The Senator is 100 percent correct.

Mr. RIEGLE. I wonder, in light of the fact that Saudi Arabia is really the price leader in OPEC and has driven prices up, that the prices have absolutely no relationship to the costs of producing the energy. These are pure monopoly prices set by a cartel. There are rumors that Saudi Arabia is going to raise the price another $2, which of course will just pull up the price again in the United States. This is the same Saudi Arabia that the administration now wants to send the upgraded F–15 material in order to enhance their jet fighters and do them a favor on the military side. This is at the same time that they are bleeding this country dry with these artificially high oil prices and now allowing our own oil companies to practice the same kind of highway robbery.

Mr. METZENBAUM. This is a new kind of toughness that the administration is exhibiting. The more OPEC charges us for oil, the more willing we are to help them with their military equipment, even if in so doing we violate a firm commitment previously made to the Members of Congress.

Mr. RIEGLE. The other part of this that bothers this Senator is that this sudden decontrol of oil prices, as the Senator said earlier, gives this economy a dose of pure inflation. We get absolutely nothing for it. We are not going to get one extra drop of oil by caving in to these OPEC prices and raising the prices in this way for oil that was previously discovered. And to impose that kind of dose of inflation at the same time we hear all the talk about fighting inflation just seems to me to be hypocrisy right on its face.

I will tell the Senator that the people of Michigan are angry about it and I will tell him that there are a lot of people who voted for President Reagan who are angry about this decision feel that this is not what was talked about in the course of the campaign. This was not something that was indicated would happen at this time and in this way, that there would be this sudden decontrol of oil prices. We have family after family, individual after individual in Michigan who cannot pay these inflated fuel oil prices and cannot pay these inflated gasoline prices.

It is one thing to talk about equity in terms of trying to do something about inflation, but if we look at the tax proposals of this administration that are supposed to set the economy right, in 1981 a family of four earning $20,000 would get a tax rebate of $112. That is gone already because of these higher energy prices and the higher social security taxes. That money is gone. Whereas if we look at people in the high income brackets, say earning $100,000 a year, they are going to get a tax rebate of $920.

So as we look at these things and start connecting them one with the other it is obvious that what is being done here in the name of equity is hurting people and is falling very inequitably on families across this country.

I think the sooner the people wake up to this and the sooner the press wakes up to this and helps get these facts across in terms of what the practical impact is, the sooner we are going to have people in this country insisting on some rational response to these ever-soaring energy prices. We are going to bankrupt this country if we stay on this track. If they decontrol natural gas prices I just wish to say to the Senator right now I hope the administration has the courage to bring that issue to the Senate, because I wish to say to the Senator right now that with him, and anyone else who wishes to join in the effort we will have the longest filibuster here they have ever seen in this Chamber; because they are not going to raise natural gas prices if this Senator has anything to say about it.

Mr. METZENBAUM. I thank the Senator from Michigan.

Mr. President, in indicating the cosponsors I included the name of Mr. EXON inadvertently. I ask unanimous consent that his name be removed.

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

Mr. METZENBAUM. Mr. President, I now yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I do not have anything terribly different to add to what the Senator from Ohio and the Senator from Michigan have already said. I do not have anything different to add to what I have said on this floor for the past 5 years about this country's energy policy. I intend to support the amendment of the Senator from Ohio even though it has absolutely no chance of passage. The case needs to be made, and it needs to be made again and again so that the American people understand the implications of one of President Reagan's first official acts, which was to transfer an additional $10 billion from the American people into the pockets of the American oil companies with a single stroke. The most significant aspect of that act is that we got nothing in exchange.

Sooner or later the country will recognize the falseness of this old ploy that if oil prices are high enough, the American oil industry will find enough of this very, very finite resource.

This same President last year took strong exception to the 10-cent gasoline tax that President Carter proposed. I opposed the 10-cent gasoline tax because I thought it would be terribly burdensome on the people who could least afford to pay it. My State happens to be in the unhappy position of using more gas per capita than any State in the Nation, and I could not dare agree to an additional burden on a State such as that, which also happens to be about 48th in per capita income.

Yet, it was candidate Reagan who said that gas taxes are a back-door effort to balance the budget by imposing a tax on the American people, which might have been true. In any event, we both opposed the President's 10-cent gas tax, but at least that money would have gone into the coffers of the American people. In that case, some of it might have even gone back to them in the form of energy assistance payments.

In this particular case, however, the same amount of money, $10 billion, does not go into the Treasury. Instead, it goes into the pockets of the oil companies, and for no real purpose. They have been drilling a lot of holes, 60,000 holes last year, an alltime record, but their findings, per foot drilled, continues to decline, and it will continue to decline. My authority for that is the Exxon Corp. It is the Exxon Corp. and the American Petroleum Institute who say unabashedly that no matter how high oil prices go, production in this country is going to continue to decline just as it has since 1967 with the exception of the Prudhoe Bay find in Alaska.

In May 1979 the average domestic price of American oil was $10.71 a barrel. I will repeat it, in May 1979 the price of American oil was $10.71 a barrel because it was controlled. In November 1980 the price had more than doubled to $23.90 a barrel. During that time, the oil production in this country went from 8.585,000 barrels a day to 8,560,000 barrels, or 25,000 barrels a day less.

I will promise you that in 1990, 9 years from now, I do not care what the price of oil is, domestic production in this country will be down 500,000 barrels a day from what it is today. Yet we keep falling for the argument that raising the price will guarantee further discoveries. They could not drill any additional holes, because they do not have enough rigs. They are to be applauded for drilling as much as they do and at least trying to find oil, but it just is not going to happen. Thus, all we have done is

made the American oil industry a full-fledged partner with the OPEC cartel. Make no mistake about it. If Sheikh Yamani tomorrow said Saudi Arabia alone was increasing the price of their oil to $80 a barrel I promise you that by sundown the price of every barrel produced in America would be $80 a barrel too. There is no real incentive for the American oil industry to try to break the cartel. For every $1-a-barrel increase of OPEC oil price, the American oil industry benefits $1 billion a year in profits. You tell me how badly the American oil industry hates the OPEC cartel.

I know that of the $10 billion going to the oil companies as a result of accelerated decontrol a good portion will be collected in tax. As a matter of fact, this administration considered the additional $5 billion in windfall profit taxes in making up the budget, so there is more than one President who is trying to balance the budget with oil taxes.

You heard Secretary of Energy Edwards say on the evening news that decontrol is really a rather insignificant thing. After all controls are being phased out anyway, and on October 1 this year it will self-destruct. The incredible thing was his statement that gasoline prices would go up no more than 2 or 3 cents, a nickel at most; and, within 30 days, the price of gasoline was up to 10 cents more than it had been the day the President signed the order.

It reminds me of Lucy holding the ball for Charlie Brown every fall. He keeps falling for it and we keep falling for it, and every time the statistics come out differently.

The Senator from Michigan mentioned a moment ago the possibility of decontrolling natural gas. Every Member of the Senate and every family in America ought to understand some of the ominous consequences of decontrol of natural gas, and I was pleased to hear the Senator from Michigan say a moment ago there will be a filibuster.

I will add to that by saying the filibuster that was conducted here on the Natural Gas Policy Act will be child's play compared to the filibuster that will occur on this floor if the administration tries to decontrol the price of natural gas. The filibuster would be necessary to protect American consumers. If we decontrol natural gas, the average worker in the northern United States will have to spend 4 weeks a year of hard work just to pay his heating bill; not the price of getting to and from work, just his heating bill.

Today, the poverty level income for families of four in a rural setting is $7,600, and this winter those families have had to spend 25 percent of their income just to pay for gasoline and heating. Of course, there is a much smaller effect on people making $30,000, $40,000, or $50,000 a year. Energy Action estimates that if the price of natural gas is decontrolled today, the average gas bill for a family in New England for 1 year, will rise from $1,148 to $4,059 by 1985, a quadrupling of the cost.

What is really important is that we are getting nothing in exchange again. Oil companies will not drill more holes because they cannot drill any more than they are drilling. What you get the first year of decontrol is another $80 billion, another $80 billion to the oil and gas industry. How long, America, can we tolerate this? It is an elitist policy that flies right into the face of everything we have believed as a people.

We deny our own conscience and our own sensitivities about the plights the middle-income and the lower middle-income people already have. To impose the burden of decontrol of oil prices is now much more devastating than the possibility of decontrolling the price of natural gas.

Finally, we must consider the cost passthroughs. This suit of clothes I have on, this desk before which I stand, the manufacturing process of making the carpet on this floor, everything you can see that is material and physical is made with energy, and so all those costs are passed on. This administration says that we are going to solve this problem of inflation, but the President never uttered the word energy in his economic message to the Congress.

Fiscal restraint, I applaud it; monetary restraint, stopping the money printing presses, I applaud it. But you are not going to do it if you break our energy in the vacuum of fiscal restraint and monetary policy alone. You are only going to do it if you break our energy dependence. And you are only going to break our energy dependence for the short term and the intermediate term if we conserve, conserve, and conserve some more. The suggestion that the best way to conserve is to simply price it completely out of range of the vast majority of the American people, defies everything in which I believe.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I join my distinguished colleagues in urging recontrol of oil prices, for decontrol has imposed unwarranted and severe economic hardships on the American consumer.

The skyrocketing price of energy has become a heavy burden for low-income families. The poor use 50 percent less energy than median-income households, yet the low-income family spends over 35 percent of its income on energy, compared to only 13 percent for the median-income family.

In my home State of Hawaii, the monthly gas price survey last month showed the fastest 1-month increase in the history of this survey. Since decontrol, the average price of premium gasoline has shot up to $1.57 per gallon, while unleaded is up to $1.54. I should point out that these prices were last month's prices. I just returned from Hawaii this morning, and I can report to you that gasoline prices are continuing to climb.

I predicted on January 28 that decontrol of petroleum would only fuel the fires of inflation, causing the price of a gallon of gasoline to zoom past $1.50, and perhaps up to $2 by the end of this year. I honestly hope that I turn out to be wrong on the $2 prediction but $1.50 a gallon is already a reality.

I am particularly disturbed that the administration continues to contend that the price increase resulting from decontrol will engender greater production of domestic oil. It is historical fact that while the price of oil has leaped by 1,200 percent, or a factor of 12, since 1973, our oil production in the lower 48 States has essentially continued to decline.

How much can we expect the price of a barrel of oil to increase because of decontrol? From $36 per barrel to $50? To $72 per barrel? If the price does increase to $72—or $80 as my friend from Arkansas has predicted—the increase would then be a factor of 2, or 200 percent. During the past 8 years oil has gone up by a factor of 12 and the law of economics has not come into play as the President has prophesized. In fact, I can repeat that the $3 to $36 per barrel price increase of petroleum has resulted in less production today than in 1973.

The main reason for this disappointing performance is that we have reached and exceeded the point of diminishing returns. While only 60 wells need be drilled in Saudi Arabia to produce 1 million barrels per day of crude oil, we now need to drill 60,000 wells in the continental United States to produce the equivalent amount of oil. All this means is that, at best, the soaring costs will reduce the chronic 300,000 barrels per day annual decline to perhaps 100,000 barrels per day.

I would agree with the administration's expectation that the consumption of energy will drop. But that will be because the wage earner will not be able to afford the higher cost of energy, and also, because unemployment will increase. Even then, this draconian means of inducing energy conservation will not create any savings because, as most economists are in agreement, the announced decontrol action will only suppress consumption by about 1.5 percent.

Decontrol means that the oil companies will increase their annual profits by billions of dollars, after all taxes, including the windfall profit tax, are levied, The Federal Government, too, will accumulate additional revenues.

I am greatly disturbed, therefore, that the fiscal year 1982 budget that will be announced today by the administration will recommend nearly a 75-percent reduction for solar and conservation programs, the one area where the individual taxpayer can take advantage of any Federal energy programs. And the only energy technology scheduled for more than token Federal research and development aid is nuclear, an industry that has already received almost $40 billion of subsidies, but in more than 30 years of development, today accounts for only slightly more than 3 percent of the Nation's energy supply.

It can also be mentioned that nuclear power is primarily for electrical production, a demand sector that consumes less than 10 percent of the oil used nationally.

I would like to assure my colleagues that I am not necessarily knocking nuclear energy. I am merely using it as an example to express wonderment about the sensibility of our country's energy policy. I believe that we are in the midst

of a potentially devasting energy crisis, and feel that we need to develop all our feasible indigenous energy sources as fast as practicably possible.

In determining our national energy policy, we should ask ourselves the following questions:

First. Will decontrol increase domestic oil production?

Second. Is nuclear energy the only technology that shows commercial promise?

Third. Is energy such a trivial budget item that it deserves only 1 percent of the Federal outlay, as it commanded in fiscal 1980?

Fourth. Is not the spiraling cost of energy the root cause of our economic and national security woes and the principal factor in escalating inflation our greatest national foe, even in the eyes of the new administration?

I shake my head in astonishment at what is rapidly evolving into our national energy policy. But, as it has repeatedly been said, the President proposes and the Congress disposes, so it is for us as legislators to examine closely the administration's proposed energy budget. In doing so, we must bear in mind that energy is part and parcel of our national defense.

As I pointed out to Secretary Edwards, of the 1 percent which is set aside from the budget for our energy programs, more than 50 percent is earmarked for defense purposes, which means that less than one-half of 1 percent is dedicated to alternative sources of energy, to the development of those sources of energy which can be the true answer to our energy problem.

We are being told by the President that his proposed budget is geared toward stemming inflation. Assuming this to be true, how can decontrol of oil and gas, which is sure to further escalate prices, and consequently inflation, be justified?

Too many people have been hurt by decontrol and will continue to be hurt, unless we, who represent the consumers of America, act resolutely in their behalf. I urge my colleagues to vote for recontrol.

Mr. President, I ask unanimous consent that a letter dated March 9, 1981, from the Citizens/Labor Energy Coalition, Washington, D.C., be printed at this point in the RECORD, as well as an article from the Washington Post, dated March 3, 1981.

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

CITIZEN/LABOR ENERGY COALITION,
March 9, 1981.

DEAR SENATOR: We are writing to notify you that Senator Metzenbaum this week plans to offer an amendment reversing President Reagan's crude oil decontrol order to S. 573 (extending oil companies' antitrust exemption for the purpose of International Energy Agency participation). We urge you to support this amendment allowing the previous phase-out of crude oil price controls to continue through September.

The disastrous results of immediate decontrol are even more extreme than originally predicted. It now appears that President Reagan's order will increase the nation's oil bill by $15.6 billion and that that price rise added between 1.1 and 1.6 percentage points for February and will add more than one-half a percentage point through September. Immediate decontrol will cost the average family an extra $100 to $200 this year for heat and gasoline. Small businesses and farmers will also face added economic burdens as propane and heating prices will jump 10–20 cents a gallon.

The Administration's minimal price impact predictions have proven to be totally unrealistic. We have already witnessed the price of gasoline rise 12 cents a gallon and more, and Gulf Oil recently predicted additional increases of 15 to 20 cents a gallon between now and September. The Administration's insistence that their original projection of a 3 to 5 cent increase is accurate to within a penny is ludicrous.

Please bear in mind these additional points when you vote on this amendment:

Despite the alarming cost to your constituents, decontrol will not stimulate production. The Wall Street Journal reported January 28 that "Industry officials say nearly every promising exploration and production project already is being pursued, and the extra funds from decontrol won't make much difference." These "extra funds" will amount to some $3 billion in after-tax profits, plus a hefty tax deduction, added to the record $30 billion they would have earned this year without the President's decontrol order.

Last year, the oil companies' profits constituted 40% of all U.S. manufacturing profits (up from 18% in 1978). This increase, according to Business Week, comes at the expense of other industries. Thus, decontrol will increase unemployment in many struggling business sectors while swelling the oil companies' coffers.

The oil industry's "energy" investment program consists largely of buying up proven reserves and smaller oil and gas companies. Rather than expanding our known reserves, decontrol will enable the large oil companies to further consolidate the industry and continue to stifle competition.

Any increase in federal revenues resulting from immediate decontrol is simply a hidden tax being paid by American businesses and consumers and not consistent with the tax reductions the nation expects.

We trust you will give serious consideration to this matter and will vote in favor of Senator Metzenbaum's amendment.

Sincerely,

ROBERT M. BRANDON,
Washington Director.

[From the Washington Post, Mar. 3, 1981]

OIL PRICE DECONTROL IS UPHELD

A federal judge yesterday upheld the legality of President Reagan's Jan. 28 executive order that eliminated price controls on gasoline, propane and crude oil.

U.S. District Judge Harold H. Greene turned back a legal challenge that contended Reagan should not have decontrolled the fuels without first calling for a public hearing.

The suit against Reagan's action was filed by nine members of Congress, three state governments and organizations representing union, consumer and civil rights groups.

The challengers had asked Greene to issue an injunction restoring the controls pending a full trial on the issue. But the judge refused, saying that "the dislocations which would inevitably result from such an on-again, off-again method of operation in a vital part of the national economy are likely to be both significant and detrimental."

The Reagan administration defended its swift decontrol action, which was issued without warning, by saying that advance notice would have caused those in the petroleum business to stockpile products and sell them after decontrol at higher prices. This would have produced artificial shortages, the government said.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. METZENBAUM. Mr. President, will the Senator from Idaho yield for the purpose of this Senator requesting the yeas and nays?

Mr. McCLURE. I yield.

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

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

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I thank the Senator.

(Mr. DANFORTH assumed the chair).

Mr. THURMOND. Mr. President, I rise to state my opposition to the amendment offered by the Senator from the State of Ohio. This attempt to override the President's decision to accelerate decontrol of petroleum is ill-founded, and serves to benefit no one, least of all the American consumer.

It appears that this amendment is directed toward reversing the increase in prices for various petroleum products we have witnessed since President Reagan accelerated decontrol, by virtue of his Executive order on January 28, 1981. A thorough review of the facts behind these increases, however reveal that accelerated decontrol is not the real culprit.

In fact, retail gasoline price increases during the first 2 months of 1981 were smaller in total than those during the same period during 1980 when price controls were still in full effect. The increases of 1981 must, in fact, be attributed in large part to the activities of OPEC. Moreover, the President's action cannot be blamed for the recent increases in the price of heating oil, since heating oil has been decontrolled since 1976.

The battle against soaring energy prices must be a cooperative one and a well-reasoned and logical one. We cannot fall victim to short-term, and short-sighted, solutions such as the Senator from Ohio proposes today. This amendment serves only to perpetuate, and in fact aggravate, the many problems with petroleum controls that the President has moved to eliminate.

The benefits of decontrol are numerous. We know, for instance, that decontrol reduces this country's demand for oil imports, and thus reduces our political and economic vulnerability to oil supply disruptions.

Also, while increasing our oil production above the amount that would have been produced under price controls, decontrol also increases our country's oil conservation efforts, discouraging inefficient and wasteful oil consumption.

By eliminating regulations favoring certain firms, decontrol introduces the benefits of rigorous competition back into the domestic oil industry.

Finally, decontrol encourages the development and use of nonpetroleum energy sources such as coal, natural gas, nuclear and solar power, thus reducing even further U.S. dependence on increasingly expensive and insecure foreign oil.

Since the gradual process of decontrol has begun, we have witnessed dramatic increases in exploration, drilling and production by our domestic oil industry. Undoubtedly, a major reason underlying this activity is the understanding by the industry, and by those who finance these ventures, that the Government will not keep prices artificially low and that increased efficiency and productivity will be encouraged, rather than stifled.

Finally, to those who are concerned with increased oil company revenues, I remind them that about 80 percent of these revenues will go to Federal, State, and local governments as a result of the windfall profit tax and various other taxes and royalties. Thus government, not industry, will benefit most.

Mr. President, the amendment by the Senator from Ohio would serve to destroy all the benefits of decontrol, just as decontrol is beginning to reveal its true worth. For these reasons, I oppose the amendment and urge its defeat.

Mr. MITCHELL. Mr. President, I support the pending amendment which would void the President's January 28 order decontrolling domestic oil production and reinstate the phased oil decontrol schedule, under which controls will expire on October 1.

Beginning in April 1979, the U.S. Government began a gradual phaseout of controls on the pricing and allocation of oil. The controls were to have been completely ended in October of this year. On January 28, President Reagan ordered these controls lifted immediately, thereby accelerating decontrol by about 7 months.

The argument for decontrol is that the resulting higher prices will encourage the oil companies to increase domestic production and cause the American people to consume less. But immediate decontrol will not contribute materially to those objectives.

The oil companies have already increased their drilling efforts. Industry publications report that virtually all drilling rigs in the country are in operation; there are substantial delays in the availability of rigs. Since no drilling rigs are available, moving decontrol up cannot possibly increase exploration.

Furthermore, despite increased drilling and despite an increase of 111 percent in wellhead prices since decontrol began in April 1979, domestic oil production is no higher than it was 2 years ago. If more than doubling the price of oil has not increased production, there is no basis to conclude that still higher prices will do so.

As to the second objective of decontrol—increased conservation—studies consistently show that major price increases are needed before minor declines in consumption occur. Under gradual decontrol, a 50-percent price rise in gasoline resulted in only a slight consumption decrease over 21 months. According to the President's 1980 economic report, that portion of the consumption drop attributable to the 50-percent price rise was only 2 percent. There is no basis for concluding that a further 10-percent price increase will greatly reduce consumption.

With heating oil at $1.30 a gallon, Maine people are heating their homes to the lowest tolerable temperatures. Once you have set the thermostat at 50 or 55 degrees, as thousands of Maine families already have, there is not much more conserving to be done.

These facts form the basis of the conclusion by the Petroleum Research Foundation that early decontrol will not materially increase production or conservation. There is, accordingly, no national benefit from early decontrol.

Gradual, phased decontrol of oil prices was the least damaging and most equitable way to incorporate world energy prices into our economy. It permitted businessmen, government officials at all levels, and working people to anticipate the slow but continued rise in oil product prices. It permitted rational planning for the time that decontrol would be effected. And it gave everyone fair warning of the costs they would have to assume when decontrol was completed.

The sudden lifting of controls is unwise and inequitable. Under gradual decontrol, every part of the country and every sector of society was asked to share the costs of carrying out a national policy: Consumers were asked to pay higher prices; oil companies were asked to accept slightly lower profits; and all businesses and regions were placed on notice that they would have to adjust to price and supply changes by the end of the year.

Immediate decontrol removed that element of predictability.

It substituted immediate price increases for consumers and businesses.

It created immediate uncertainties about the supply and distribution network.

And it is causing a massive transfer of dollars away from consumers, businesses, and energy-poor regions, with no benefit to the Nation.

In the month since decontrol went into effect, we have seen immediate cost increases to consumers, oil dealers and retailers, regions, and States. We have seen no immediate national benefit. Nor is there any reason to believe we can expect long-term benefits from moving up the decontrol date 7 months.

And as well as afflicting consumers with price increases, the sudden lifting of controls threatens to undermine our efforts to deal with inflation.

The Congressional Budget Office originally estimated that the net result of early decontrol will be to add half a percentage point to this year's rate of inflation. But if the February figures from the Bureau of Labor Statistics are any guide, the Budget Office has underestimated the inflationary effects of this decision. In February, oil prices rose 20 percent—an annualized rate of 250 percent.

That price rise was not the result of a new massive OPEC price increase. It was a domestic price rise imposed on our own people by the major oil companies. And the Bureau of Labor Statistics has said that this 20-percent monthly price rise does not reflect the full effects on consumer prices of the increases in the prices of gasoline, home heating oil, and other oil products.

When that full price increase works its way through our economy, it could be a serious blow to our efforts to slow inflation.

The $50 billion spending cut Congress is being asked to approve will lower inflation much less than one percentage point. Yet the speedup in decontrol of oil prices will add at least a half percentage point to our inflation rate.

The Congressional Budget Office estimates that moving up decontrol will cost American consumers—working people and businesses—$11.7 billion.

The cost to New England, which relies heavily on oil for its energy, will be $775 million—about $75 in additional costs for each household in New England.

My own State of Maine will pay out $45 million in higher oil prices—capital that is needed in the State for investment in job-producing businesses.

And we are being asked to pay these costs for benefits which are questionable at best.

The Department of Energy contends that decontrol will reduce consumption by an amount between 50,000 and 100,000 barrels daily. This is the same Department which estimated that gasoline prices would rise a total of between 3 and 5 cents, an estimate that was proven wrong within hours after it was made.

But even if this estimate is accurate, the savings will reduce imports by only 1.5 percent—not a significant saving, nor a significant contribution to the national welfare.

The Wall Street Journal reported that industry officials say that nearly every promising exploration and production project already is being pursued, and the extra funds from decontrol won't make much difference. That report appeared on January 28, the very day on which the President announced his decontrol decision.

Domestic oil production has hovered at around 8.5 million barrels per day for the last 2 years—a period during which domestic prices rose by 111 percent, and exploratory drilling reached record levels. In January, the Oil and Gas Journal reported that there is a 1-year wait for drilling equipment because of heightened exploration.

How can the 7-month speedup in decontrol possibly increase exploration when there is a shortage of equipment?

And why will still higher prices increase production, when a doubling of prices has failed to do so?

The fact is that the Energy Secretary could not supply a single report from his Department to buttress the claim that conservation and production would increase. And the contention that prices would rise by no more than 3 to 5 cents per gallon did not outlast the week in which it was made.

It is difficult to see how higher prices imposed in the middle of the winter heating season could, in fact, substantially increase conservation.

It is still winter in the Northern States.

People cannot arbitrarily heat their homes less, even if the price of heating oil goes through the roof. The people of Maine are not recklessly overheating their homes when they are paying $1.30 per gallon for heating oil. They are simply paying more money for the same amount of heat.

Gasoline consumption is traditionally lower in the winter months. The driving season remains some months off. News reports indicate that our Nation is experiencing a surplus of gasoline.

Yet there is no evidence that this adequacy of supply has caused prices to come down. Gasoline prices have already risen an average of 12 cents this year—10 cents of it after the January 28 decontrol announcement.

Two weeks ago, a New York Times story carried the information that the gasoline glut may moderate prices: Not by keeping them stable; not by lowering them; but perhaps by reducing the rate at which they rise. This morning's Washington Post reports that Exxon raised gasoline prices by a further cent per gallon and home heating oil prices by 2 cents.

There is no national benefit in any of this.

We are gaining no more oil; we are gaining no more independence from the artificially administered prices set by OPEC; we are not conserving more home heating oil; we are simply paying more.

The past month has demonstrated clearly that the sole result of early decontrol has been to boost the prices paid by consumers.

We have seen a swift and substantial increase in the price of oil—at the astounding annualized rate of 250 percent for the month of February. We have seen heating oil prices skyrocket in the middle of winter. And, despite weak demand for gasoline, we have seen gasoline prices leap by at least 10 cents since decontrol took effect—even though industry officials themselves admit that record stocks exist and demand is low.

There is no evidence whatever that production or exploration plans have been substantially expanded by any of the major companies. Indeed, news stories indicate that the major companies view decontrol less as an opportunity to expand production than as a chance to change their supply and distribution patterns.

A recent Wall Street Journal story reported that the major companies see decontrol as an opportunity to make massive and drastic changes in marketing strategies: Reducing sales outlets, placing more pressure on retailers to increase profits, raising local stations' rental fees, and cutting supplies to some dealers. An official of Standard of Indiana was quoted as saying, "We don't feel any obligation to our assigned customers."

These marketing changes planned by the major oil companies seem to be the only tangible result of immediate decontrol other than the dramatic increase in prices.

Decontrol was to have been a return to an open, competitive market system. Yet the effects of decontrol have been to raise prices and curtail services—not to increase competition or supplies.

Immediate decontrol means that dollars are being transferred from the pockets of working people to the major oil companies earlier and faster than they would have under phased decontrol.

Immediate decontrol has given us more inflation, no more conservation, no more production and a good chance of much less competition at the retail level.

Is this how the free market economics of decontrol was supposed to work?

If the decontrol decision was merely symbolic, as many of its supporters say, I would not be concerned.

But the symbolism is imposing immediate, real and needless costs on the people of Maine, on the New England region, and on the entire country.

Moving up the date of decontrol will add to our inflation rate. That will not be symbolic.

The extra costs to consumers and businesses will be $11.7 billion. That will not be paid in symbolic dollars.

Most importantly, the effects of decontrol on real people are far from symbolic. They are very stark.

And of all the States in the Union, my own State of Maine will be hardest hit by early decontrol for several reasons.

First. When energy costs are included, Maine has the lowest per capita income in the Nation. The poorer you are—whether as an individual, a family, or a State—the more adversely you are affected by higher prices.

Second. Maine has an unusually high number of elderly, who are the poorest members of society. Over 120,000 Maine citizens receive social security retirement benefits. Their average check is $316 a month, and for a majority, this is their sole source of income. Having to pay higher prices for oil products hurts all Americans. Imagine how much harder hit is the elderly citizen with a total income of $316 a month.

Third. Maine's population is scattered and there is little mass transit. Almost all Maine workers must drive to work. Increases in the price of gasoline are devastating to our working men and women.

Fourth. Maine is very dependent on oil for home heating. Natural gas is not available in Maine to any significant degree. And although Mainers are turning to wood and coal, most homes and businesses still use heating oil.

Fifth. Much of Maine's electricity is generated in oil-burning plants, so our electric bills will go up again. On many bills, the fuel adjustment charge is already more than the basic charge. The fuel adjustment charge will go even higher, since the utilities have no choice but to pass on the higher cost of oil to their customers.

Last month I addressed a convention of letter carriers during which the question of decontrol was raised. After the meeting, one of the letter carriers came up to tell me that earlier that week he had delivered an oil bill and a social security check to an elderly widow on his route. She opened both envelopes and showed them to him. Her oil bill for the month was $210. Her social security check, which is her sole source of income, was $280.

The President has identified inflation as our principal problem. I agree completely.

That is why I cannot endorse an action that adds to inflation and has no offsetting benefits—as immediate decontrol does. I cannot endorse an action that so harshly affects those who have no defense against it—particularly when the action has no national benefit.

The oil price increases already announced have a serious impact on Maine people and all others in our Nation. They drain dollars from savings and from investments that other industries need—all for no useful purpose.

Immediate decontrol makes Maine and every other energy-poor State vulnerable to supply disruptions and spot shortages in the future.

Gradual phased decontrol was fairer to the people and the regions of the country. It gave us a predictable schedule on which to adjust to higher prices and changing supply situations.

Immediate decontrol removes that predictability and places businesses and consumers at the mercy of the OPEC cartel.

The inexorable upward climb in energy prices, particularly over the last 2 years, has disabused Americans of any notion that there is a magical or easy answer to our energy problem.

Reinstating a gradual phase out of decontrol will not be a magical answer. But it will give our industry and our people the chance to plan for the higher costs. It will slow the massive drain of resources away from energy-poor regions and from productive investments.

In his recent address to the Nation, the President said his budget cuts would be painful but should be supported because all regions of the country would share in the sacrifice. If that is true, he will have my wholehearted support.

But that is surely not true of his decision to immediately decontrol oil. That decision hurts one region far more than it hurts others.

Early decontrol will not increase oil production, but it will increase inflation. It bears most heavily on those who can least afford it. And it accelerates the massive transfer of dollars away from the energy-poor regions of the Nation. It is wrong, it is unfair, and it should be reversed.

Mr. McCLURE. Mr. President, I rise in opposition to the amendment offered by the Senator from the State of Ohio. In my opinion, reversing the President's decision to accelerate somewhat the phased decontrol of petroleum is not only bad energy policy, it is bad economic policy.

This Nation has suffered grievously from price controls on petroleum ever since President Nixon imposed a general wage-price freeze back in 1971. It has taken us a decade to finally dispose of the remnants of that ill-fated decision. And I, for one, do not intend to allow this country to slip back into that situation.

At the outset, let me first note that what President Reagan did on January 28 was to accelerate only modestly the phased decontrol of crude oil that President Carter began in June of 1979. In any event, the price and allocation authority

which is contained in the emergency Petroleum Allocation Act of 1973, as amended, expires at the end of September 1981. So even if President Reagan wanted to continue price controls on petroleum, he could not do so past September of this year.

We must keep in mind that the modest acceleration of phased petroleum decontrol affects only the timing of the impact of decontrol, and not the magnitude of these impacts. As I noted before, phased decontrol would have occurred in any case by the end of September of this year. And in the month that President Reagan issued his decontrol order, only 15 percent of the crude oil refined by oil companies was still subject to price controls. Moreover, all refined petroleum products except gasoline and propane had previously been decontrolled. For example home heating oil was decontrolled during the summer of 1976.

Why then, have we seen such a rapid increase in petroleum prices over the last 2 to 3 months? The answer—OPEC. That OPEC is the principal cause of recent increases in domestic petroleum prices, as opposed to decontrol, is evidenced by the fact that retail gasoline price increases during the first 2 months of 1981 are smaller in total than those during the same period during 1980 when price controls were still in full effect.

And with respect to the increases in heating oil prices, it is only too obvious that OPEC must be the cause of recent price increases since heating oil has been decontrolled since the summer of 1976.

What then, are the benefits of decontrol, accelerated or otherwise?

First, decontrol reduces U.S. demand for oil imports. Lower imports improve our balance-of-payments deficit, put downward pressure on world oil prices, and reduce our political and economic vulnerability to oil supply disruptions.

Second, decontrol increases U.S. oil production above the amount that would have been produced under price controls. This additional production will further reduce U.S. oil imports.

Third, decontrol encourages the development and use of nonpetroleum fuels. By making oil substitutes more competitive, decontrol will increase the contribution of nuclear power, coal, natural gas, and solar energy to reducing U.S. dependence on insecure and expensive foreign oil.

Fourth, decontrol increases U.S. oil conservation efforts. Decontrol discourages inefficient and wasteful oil consumption, and encourages technological innovations that will allow the United States to more efficiently use the oil it does consume.

Fifth, decontrol increases efficiency, competition, and productivity in the domestic oil industry. By eliminating regulations favoring certain firms, decontrol introduces the rigors of competition back into the domestic oil industry. Certain refiners and marketers may experience special problems as the industry adjusts to decontrol. Some have expressed concern over the loss of supply arrangements that were maintained by the DOE supplier-purchase rules. However, a large segment of the refining industry has announced that they will continue these arrangements with marketers voluntarily for a transitionary period to avoid imposing unnecessary hardships on historical purchasers. Ultimately, we expect that adjustments in the domestic oil industry will result in a more efficient marketing system. This system may be characterized by an increase in high-volume gasoline stations. U.S. consumers will benefit directly from the lower operating costs of these operations.

Sixth, decontrol increases efficiency and productivity in the U.S. economy. Consumer purchases and capital investments will now be made with the clear understanding that oil prices will not be held artificially low by the Government. Thus, consumers will demand and industry will insure that new investments will be energy efficient. In addition, decontrol allows valuable capital resources to move from less efficient activities in the oil industry to more productive and profitable activities in other parts of the oil industry, or elsewhere in the economy.

I would also like to point out that contrary to what my colleague from Ohio believes, reimposing controls on petroleum is detrimental to the interests of consumers throughout this Nation. At first blush it may appear that it would reduce inflation to restrain oil price increases. But let me just point out that controls do not prevent price increases, they just camouflage them and shift the costs to other parts and sectors of the economy.

There is no doubt that the crude oil price and allocation control system which we have had in effect over the past decade has caused us to become more dependent on high-cost, insecure supplies of foreign petroleum. Our system subsidized the importation of foreign oil at the expense of providing domestic incentives to produce oil. It is no wonder then that, until phased decontrol began in earnest, the petroleum industry's exploration and drilling activities were sluggish.

And what have we seen since we began to decontrol crude oil? Drilling activity is at an all-time high. New companies are being formed to produce additional drilliing rigs. Existing rig companies are expanding their capacity to produce additional rigs. Oil companies are taking chances as never before, looking for oil in regions never before thought to contain a drop of recoverable oil.

And it is this boom in exploration, drilling and production activity that my colleague from Ohio will succeed in stifling if his amendment is successful.

It is for these reasons, Mr. President, that I oppose the amendment of the Senator from Ohio. Recontrolling oil prices would be a monumental mistake that would severely retard our fight against inflation, and it would have a serious adverse effect on our economy.

I would like to respond to just a couple of the factors that were mentioned in debate earlier on the floor, one of which was that somehow what we were doing was just knuckling under to OPEC.

Let me indicate to my friend from Michigan, who made that statement earlier, that actually the combinations of policies that have been in effect which were wiped out by the President's decontrol program had the effect of saying that we would subsidize the importers of OPEC oil.

Under the price control program, domestic producers subsidized those who imported crude oil, and the result was that OPEC producers and those who were importing OPEC oil were delighted by the program. Thus, to indicate that somehow OPEC was hurt by the former system of controls would be to state the argument in totally opposite terms from the actual situation. The President's decontrol of oil strengthens domestic producers and, therefore, reduces the economic advantage of those who are importing oil.

Now, whether or not oil prices or gasoline prices have risen is a matter of record. The reason why they have risen is a matter of argument. I think it is important for us to recognize that while the Senator from Ohio or the Senator from Maine and others who have spoken today point to gasoline or heating oil price increases, those increases are not necessarily related to the decontrol order and, as a matter of fact, are for the most part unrelated.

The best evidence that this Senator has been able to get is that probably 9 cents or 10 cents of the price increase is the result of the oil increases dictated by the OPEC cartel in December and January. The balance of the price increase, whatever that may have been in the various markets across the country, is the result of the decontrol action.

Remember that decontrol applied to only 15 percent of the supply of petroleum. It was a small part of the U.S. production, which is, in itself, only a part of the total consumption. So to look at the total price increase and relate that back to the decontrol order is erroneous.

Now, to say that the oil companies may have been foolish in their timing of those price increases would be to state the obvious, so far as the Senator from Idaho is concerned, because they played right into the hands of the critics of the industry, and the oil companies have been critized all afternoon. I hope they have been listening, because these speeches this afternoon were totally predictable.

As a matter of fact, the senior Senator from Idaho did predict those arguments as a result of that action.

My friend from Maine talks about the price rise in home heating oil. The Senator better be concerned if the President did not decontrol the price of gasoline, because home heating oil has not been controlled since 1976. And if there is any distortion in the market, a system of price controls that prevents them from getting the return which is necessary on gasoline means that their only alternative is to load it on the other side, that is, heating oil. If my friend from Maine is really concerned about the cost of heating homes in the State of Maine and the Northeast, then he had better be concerned that we have a form of decon-

trol that keeps all the costs from being laded on some home heating oil and allow some of our people in Ohio, Washington, New Jersey, and Michigan, those who are driving cars around, to share in the cost of heating the homes in New England.

So the reason for the price increase that has hit the retail markets is not the simple explanation that some have made it out to be here today. I suspect we will be debating for weeks and months the complex components of those price increases. But to state that all of the price increases are the result of the President's action in January is far too simple, far too easy, and far too neat an explanation of what has really happened.

Mr. President, I am prepared to vote if there are no other Senators who desire to speak.

I see the Senator from New Jersey on his feet. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would have preferred that the Reagan administration follow that schedule for decontrol that was established by President Carter and upon which the bulk of many actions of the Senate in the last Congress was based, especially the windfall profit tax. Under that schedule, controls would not have expired until October 1, 1981.

Mr. President, first let us understand that accelerating decontrol is largely symbolic, in that, contrary to what the administration has said, there will not be any significant incremental production between now and October 1; that is, production increases over and above those we would have seen under the old phased decontrol schedule will be negligible.

On the other hand, Mr. President, those who made investment decisions, such as the purchase of more fuel-efficient equipment or fuel-efficient vehicles expecting controls to expire on October 1, could well be disadvantaged economically.

With that, Mr. President, I might also state that I know that consumers are hurting. I know that people are suffering from the unexpected price increases that this action triggered.

The CBO estimates that between now and October prices will increase 12 to 14 cents per gallon due to decontrol. According to the Carter plan these increases would have been postponed until October.

Mr. President, my effort to try to help people get through this period of higher oil prices will not result in supporting this effort to reimpose controls, but it will result in my effort to obtain tax reductions for individuals so that they will have the dollars to pay the higher oil prices.

In addition to that, I will fight to restore the $450 million that the Reagan administration budget removes from the low-income energy assistance program for the poor and the elderly for 1982.

Mr. President, I would like to point out that the dollars that will be used to cushion the impact of these higher prices for consumers throughout the country and to pay the energy assistance to the elderly will come from the windfall profit tax revenues. I might also point out for the record that the additional increase in the price of oil—roughly 70 percent, 70 cents of every dollar increase in an older oil well—will come to the Government precisely as a result of the amendment that I sponsored on the windfall profit tax last year.

So, Mr. President, I am cognizant and aware of the distress that decontrol is causing individuals and I will seek to redress that injury through lower taxes and transfer of payments to the elderly and poor through low-income energy assistance. I know the revenues are there because my amendment on the windfall profit tax created the revenues necessary to assume these lower taxes and energy assistance.

But, Mr. President, I think it is important to remember a number of other things as we debate this issue. One is that in the last several years we have seen the price of heating oil and gasoline nearly double with controls.

And why is that, Mr. President? Because as we controlled domestic oil, we were really subsidizing imports. Because domestic oil was kept lower than the market price, we encouraged consumption. Because oil production in the United States was not increasing, we bought more imports.

In fact, Mr. President, before controls were imposed, this country was importing about 3.9 to 4 million barrels a day. By 1978 that was at 8 million barrels a day. It has dropped back to about 7 million barrels. But it is nonetheless a significant increase, which means a significant drain of wealth from citizens of the United States to the treasuries of OPEC.

The world price of oil went from $14 to $35 a barrel. Even though the price of oil was controlled in this country, the average consumer price doubled because the entitlement system averaged the high foreign price with the lower controlled domestic price.

Mr. President, at the same time we experienced these increased prices due to OPEC, we have become more strategically vulnerable, because we have become more dependent on insecure sources of Persian Gulf oil.

Mr. President, I think it is time that we recognize that security of supply is the main issue here. The present war between Iraq and Iran has caused the world price of oil to go up $4.

We have lost 3 to 4 million barrels per day.

If this war continues into the fall we will see a price increase of about $10 a barrel. Mr. President, for every $5 increase in the OPEC price, we will send $12 billion more to OPEC from U.S. consumers. Last year we sent $80 billion to OPEC to pay for our oil appetite, draining our productivity in the process.

I think it is important that we recognize that the effort to reimpose controls subsidizes OPEC, and I think it is important also that we recognize that.

The transfer of wealth is enormous. So, Mr. President, with controls, prices have still risen, doubled in a short period of time. That has led to an increase in the amount of imports into this country from OPEC, thereby making us more strategically vulnerable to oil supply interruption. Decontrol stops the OPEC subsidy; it sends a message to our allies; hopefully, it allows us to focus on the wealth transfer issue and the danger of disruption.

Mr. President, the issue of focusing on controls diverts our attention from the real problem, which is our vulnerability to interruption due to our continued dependence on insecure sources.

As I have stated many times in this body, if we lost 8 million barrels of oil per day for a year, our economy would be in a depression, with rampant inflation. We must prepare for that—the most probable threat to our national security. The real test of this administration will be whether they develop such a policy or refuse to make the tough decisions on the strategic reserve and the rebatable standby tariff.

So, Mr. President, I will not support the reimposition of controls, but I must say that by accelerating the decontrol the President has again drawn attention away from the very grave problems of vulnerability to interruption and wealth transfers, and focused the energy debate once again on the oil companies.

Mr. President, I do not think that is the main issue. I think the security of this country, its economy, and its future are the issues.

I say this not because I am a friend of big oil. To confirm that, take a look at my windfall profit tax amendments or my zero voting record with the American Petroleum Association. Rather, I say that because I think we have to face up to the fact of living in an incredibly complex world where economic cross-currents swirl and uncertainties prevail—where oil will no longer be cheap and supply will be uncertain.

We have to cushion ourselves against those uncertainties, not only in the individual consumer sense, which tax reduction and transfer payments presume, but also in the larger strategic sense, which we fail to do as long as we continue to subsidize imports, and which we must do if we are going to refocus the energy debate on the need to develop emergency preparedness measures that will allow us to survive an oil supply interruption that increases in probability each day, and if we are going to make this country secure in the 1980's and beyond.

I yield the floor.

Mr. METZENBAUM. Does the distinguished Senator from West Virginia wish to proceed?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Energy Policy and Conservation Act of 1975 established price and allocation controls on crude oil and refined petroleum products. The law provided these controls primarily as a response to large increases in oil prices caused by OPEC. The purpose of the controls was to cushion the inflationary impact that sudden, gigantic oil price increases would have on our economy.

As the United States adjusted slowly

to the quadrupling of oil prices, a decision was made by President Carter to phase out the controls, beginning on June 1, 1979. Under the Energy Policy and Conservation Act, all controls would expire on October 1, 1981. The effect of President Carter's decision was to establish a gradual process of decontrol, which would allow the economy to adjust as smoothly as possible to significantly higher energy costs.

Although phased decontrol avoided sharp economic dislocations, it was scrapped on January 28, 1981, by President Reagan. The result was a price increase in oil and gasoline already two to four times as large as the administration had predicted.

It is with these events in mind that I have questioned the advisability of the accelerated decontrol ordered by the President.

Therefore, I will support the amendment offered by the distinguished Senator from Ohio (Mr. METZENBAUM) to reestablish the process of gradual decontrol. The timetable in effect on January 20, 1981, with regard to price and allocation controls would go back into effect.

This does not mean that the controls would be placed on domestic oil indefinitely. Not at all. The clock would continue to tick until October 1, 1981, when all remaining controls would expire.

I have supported such a policy of gradual decontrol, with the understanding that it remain a gradual process, and that a windfall profit tax be enacted to recapture a portion of the increased revenues flowing to oil producers as a result of decontrol.

The price increases resulting from the sudden and complete decontrol have placed unnecessary costs on our economy. Consider the effect of this quick price jump on one department of the Federal Government—the Defense Department:

According to the Office of the Assistant Secretary of Defense (Comptroller), the additional fuel costs incurred by the Defense Department as a direct result of the total decontrol ordered on January 28 are $246 million. That amount is likely to be included in a request for supplemental appropriations for fiscal year 1981 by the Defense Department.

What could the Department of Defense do with that $246 million, if it did not have to use it to cover the cost of sudden decontrol? The Department could almost completely recommission the giant battleship *New Jersey* with that amount of money. I consider it remarkable that the $246 million will go solely to cover fuel costs increases resuling from rapid decontrol, when such a sum is badly needed elsewhere.

I have not touched on how that amount could be spent for domestic programs. The centers for disease control could fund their total preventive health services program and have money left over with that $246 million.

These examples show that the costs of sudden decontrol appear to be far greater than the benefits. Drilling activity before the total decontrol order was issued was at recordbreaking levels. Phased decontrol provided a superb incentive for large-scale oil exploration. And the windfall profit tax was not deterring people from hunting for oil.

All of this suggests to me that sudden decontrol was not the most prudent course to take. The costs—whether to the agencies of the U.S. Government, or to millions of our citizens who drive or use heating oil—are immense.

I hope that the Metzenbaum amendment will be adopted by the Senate—although I am under no illusions as to the outcome—so that our constituents will know that we do not support this unjustified additional price shock.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I thank the distinguished minority leader for his remarks and his effort in this endeavor. I want him to know that we are grateful, and I think more important than that the American people, the consumers, are grateful to him for his support and his able statement.

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

Mr. METZENBAUM. I am ready to vote if the Senator from Idaho is ready to vote.

Mr. McCLURE. I understand the Senator from Wyoming is on his way to the Chamber.

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

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

Mr. WALLOP. Mr. President, I would like to make a few comments before we vote. Both the Senate and House of Representatives reported bills out of committee on March 4, 1981, to extend until September 30, 1981, the antitrust exemption for oil companies participating in the international energy program. This exemption, found in section 252 of the Energy Policy and Conservation Act, will expire on March 15, 1981, if no action is taken by the Congress. The exemption allows oil companies to participate in an international oil-sharing agreement without being in violation of the antitrust laws. Without such an exemption, the effects of a crude oil supply disruption could be quickly and disproportionately felt by the United States and those countries which participate in the International Energy Agency and its programs.

The real importance of this measure, however, is in its ability further to focus attention on the vital energy concerns facing Congress in the current session. Not only will the above measure expire on September 30, 1981, but that date marks the expiration of the Emergency Petroleum Allocation Act as well.

Without prompt action, the potential consequences of disruptions in the petroleum market, particularly for agriculture, are severe.

Petroleum supply disruptions for agriculture can place heavy burdens on the American consumer. One USDA study estimated that a 10-percent fuel shortage at the farm could lead to as much as a 55-percent increase in farm commodity prices. In addition, given the uncertainties of nature, timing is critical to farm operations. Even a short disruption in fuel supplies at the wrong time can result in crop losses or reduced yields for that year. Farmers must have fuel in sufficient quantities at the appropriate time and place to insure full food and fiber production.

Price anomalies in the international petroleum market are cause for concern in the United States. Price increases could, in fact, impair the ability of many family farms to survive. Costs that can be passed through the food system would have a heavy impact on wholesale and retail prices. Each 10-percent increase in energy costs across the food system can raise food prices about 1.2 percent.

I take this opportunity to remind my colleagues that the urgency of congressional action on these and other related energy measures is of utmost importance in avoiding serious consequences for the domestic economy and national security. It is not without good reason that agriculture has been called the backbone of America's economy. Whatever threatens the farming community also poses a threat to the basic structure of our economy.

Failure to pass this bill or distorting it by amendment at this moment in time would be an act of the utmost and gravest irresponsibility, Mr. President.

With that, I am prepared to yield the floor.

Mr. BOREN. Mr. President, I rise in opposition to the proposal to reinstitute controls on crude oil, introduced by my colleague from Ohio.

Surely, at this time all Americans realize the great threat to our national security which is posed by our dependence on foreign oil. Our largest individual supplier of crude oil has been Saudi Arabia, and the OPEC cartel as a bloc provides 50 percent of our imports. Our crude oil supplies from insecure sources such as these are growing as well as our overall dependence on foreign sources for oil. We have just recently seen, and are continuing to see, the impact of dependence on unreliable foreign sources such as Iran.

If we are going to restore the security of this country and assure our energy independence, increased investment will be required. It takes money to drill oil wells or to drill gas wells. It takes money to dig a coal mine. It takes money to develop solar energy panels. Whatever source of energy we are talking about, it will take increased capital investment over and above what is now taking place if we are going to have energy independence. There is simply no other way to do it.

It is also important to note that decontrol not only lifts price controls, but also the accompanying paperwork. Producers, especially the small independent producers, are released from the burden of much of paperwork required by the Department of Energy with the advent of decontrol.

In many cases, this burden is as costly to some small producers as the limitations on the price of oil at the wellhead.

The Nation is best served by an open market. Price controls such as those imposed on oil were properly eliminated by the President. This is a time to encourage domestic production of all forms of energy. The amendment of the Senator from Ohio is definitely ill-conceived and represents a backward step.

Mr. McCLURE. Mr. President, we are ready to vote on the amendment.

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

Mr. METZENBAUM. Mr. President, a rollcall has been asked for.

The PRESIDING OFFICER. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BAKER (after having voted in the affirmative). On this vote, I have voted "yea." I have a pair with the distinguished Senator from Kansas (Mr. DOLE). If he were present and voting, he would vote "nay." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO) is necessarily absent.

I also announce that the Senator from Kansas (Mr. DOLE) is absent due to illness.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO) would vote "nay."

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from West Virginia (Mr. RANDOLPH) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

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

The result was announced—yeas 24, nays 68, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—24

Biden	Hollings	Mitchell
Bumpers	Huddleston	Moynihan
Byrd, Robert C.	Inouye	Pell
Cannon	Jackson	Proxmire
Chafee	Leahy	Riegle
Dodd	Levin	Roth
Eagleton	Matsunaga	Sarbanes
Hawkins	Metzenbaum	Williams

NAYS—68

Abdnor	Danforth	Hatch
Andrews	DeConcini	Hatfield
Armstrong	Denton	Hayakawa
Baucus	Dixon	Heflin
Bentsen	Domenici	Heinz
Boren	Durenberger	Helms
Boschwitz	East	Humphrey
Bradley	Exon	Jepsen
Burdick	Ford	Johnston
Byrd, Harry F., Jr.	Garn	Kassebaum
Chiles	Glenn	Kasten
Cochran	Goldwater	Laxalt
Cohen	Gorton	Long
	Grassley	Lugar
Mathias	Pressler	Stevens
Mattingly	Pryor	Symms
McClure	Quayle	Thurmond
Melcher	Rudman	Tower
Murkowski	Schmitt	Tsongas
Nickles	Simpson	Wallop
Nunn	Specter	Warner
Packwood	Stafford	Weicker
Percy	Stennis	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Baker, for.

NOT VOTING—7

Cranston	Hart	Sasser
D'Amato	Kennedy	
Dole	Randolph	

So the amendment of the Senator from Ohio (UP No. 8) was rejected.

Mr. TSONGAS. Mr. President, I have accepted the need for the decontrol of energy prices. If we are to make the transition to an energy future based on efficiency and renewable resources, we need a pricing system that provides the right price signals. Keeping prices artificially low is not in the consumer's long-term interest. Thus, I have supported oil price decontrol as an element of our Nation's energy policy.

But it is only an element; it cannot be the whole show. Yet there is every indication that the administration is taking apart every other energy program in place.

An energy pricing policy that relies on replacement costs makes sense only if other elements of the policy are in place. Those elements are:

PROTECTION FOR THE POOR

We must have a program to help the poor pay their bills. We must maintain the integrity of the fuel assistance program and increase its funding to cover the higher prices. More importantly, we need a serious program to weatherize their homes. Decontrol means higher bills that the poor cannot pay. This year's colder than normal winter is already running down fuel assistance funds faster than expected. Such fuel assistance makes no sense unless we are taking steps to weatherize. We must also maintain the integrity of the low-income weatherization and provide sufficient funds to seriously weatherize low-income homes. Yet the administration is cutting conservation programs by three quarters and the weatherization program is to be folded into another program with no additional funds.

CONSERVATION ASSISTANCE TO MIDDLE INCOME FAMILIES

Reliance on high prices to encourage conservation is inadequate and inhuman unless people have the financial capacity to invest in conservation. Most don't—so the impact of high prices is hardship and suffering instead of improved efficiency. Here again the administration apparently is eliminating the Solar and Conservation Bank, which would have provided loan subsidies for conservation improvements. The administration also is planning to eliminate the Residential Conservation Service, which provides energy audits to consumers indicating if and when individuals have the knowledge and financial capacity to respond.

EMERGENCY STANDBY ENERGY ALLOCATIONS

The free market works well when supply and demand are in relative balance. In a crisis shortage situation, there must be a mechanism to insure that all regions of the country receive fair treatment. Oil companies trying to manage short supplies and protect their business interests cannot be expected to take responsibility for insuring that New England gets its share. The administration has eliminated price and allocation controls without a commitment to maintain standing controls after they expire in September.

While I support the principle of decontrol I strongly object to the administration's energy policy. Energy policy that relies on decontrol alone is setting in motion economic forces that will crush people. We must give people the tools to avoid that.

The pendulum is swinging away from a balanced energy program. The building blocks added during the last 6 years by the Congress and Presidents Carter and Ford are being swept aside. The new Secretary of Energy has little experience in the energy field. He has been slow in making subcabinet appointments. Unfortunately, Secretary Edwards sees the DOE's function mainly as one of increasing supply. What happened to the balanced approach of conservation and production?

According to the OMB numbers, DOE's solar funding will be cut 60 percent, DOE's conservation funding, 75 percent, and the Conservation and Solar Conservation Bank is being eliminated entirely. The new administration has indicated that the Federal Government should not support commercialization, that high prices alone will stimulate solar and conservation. But how will high prices do that if builders and bankers are unfamiliar with solar products, and if solar companies cannot raise capital to expand? How can it work when new ventures avoid the uncertain market conditions, when buyers cannot get information about solar and conservation, when no one is willing to risk funds on demonstrations?

The program that is emerging from administration is ill considered. In fact, it does not seem to be the result of much consideration at all. Increasing prices through accelerated oil decontrol and natural gas decontrol which the administration is also apparently going to propose, will cause hardship conservation. This type of conservation involves, as Reagan said, being colder in winter and hotter in the summer. That is not the conservation we need. We have to increase energy efficiency and that takes more than decontrol.

While the administration is wiping out most of the conservation and renewable resource programs, it is increasing support of nuclear power. I cannot believe that the administration has found no waste in the nuclear budget, that they have found no programs that could be carried out by the private sector, that all nuclear programs are deserving of scarce Federal resources. It is an indefensible energy policy that would fund the Clinch River breeder reactor and eliminate the Solar and Conservation Bank and low-income weatherization.

The energy situation is one of the major realities that our Nation must come to grips with if we are to survive.

Its impact on national security and our national economy is critical. This administration's approach is ideological and shortsighted.

Experts have been predicting declining U.S. oil production and reports indicate that the oil industry is overextended at the current time—no excess drilling capacity exists. The main impact of accelerated decontrol by itself is to increase the revenues of the windfall profit tax. If it was the administration's intention to raise revenues to help balance the budget, then it is grossly inequitable to raise billions of dollars from heating oil consumers with a tax the administration opposes to begin with.

In closing, we will have to see how the administration's energy policy is treated by Congress. In the past, congressional energy efforts have been clearly bipartisan. I hope my Republican colleagues would not abandon the principles of energy policy that we established together. Several weeks ago, the Senate Energy Committee held hearings on the global oil situation. The warning was clear. If the Iran/Iraq war continues, as it appears it will, the draw down on world oil stocks will begin to bite by late spring. As nations begin to rebuild stocks, the world oil market will tighten and price increases, shortages, and crises will revisit our country. Once again, we will start reacting to crisis, slapping together an ill-conceived response only a few months after we started taking apart the energy program that took so much time and effort to put together. I believe what we have crafted—while not perfect—is significantly equitable and effective. An energy policy of only decontrol is neither.

I am thus faced with a hard choice. While I believe decontrol is a good policy, it is part of a bad energy program. But I have decided to vote in favor of decontrol but want to register my strong objections to the Reagan energy program—a program that will do little to reduce our dependence on imported oil. It is a program that should please the Ayatollah or Chairman Brezhnev.

Mr. BURDICK. Mr. President, I intend to vote for the antitrust exemption allowing oil companies to participate in an international oil sharing agreement. But, I want to join my colleagues who are asking that the U.S. Senate begin immediately to assess crude oil markets in light of the new administration's policies.

Mr. President, my State is and will always be a rural State with an agriculturally based economy. Twenty years ago, when oil supplies were plentiful, rural areas provided marketing opportunities for companies to increase overall profitability through higher volume at lower margins. However, today the case is dramatically different. Today, the trend through the foreseeable future is toward ever more tightening supplies. Many companies are finding it too costly to serve isolated markets, and are withdrawing. In many small communities in North Dakota, the only remaining supplier of petroleum products is the locally owned cooperative or a small, independent dealer. These cooperatives and independents, even though frequently organized into regional operations, exercise almost no control over general trends in oil supply in the world.

If rural States like mine are thrust into a completely free market, then marginal rates of profitability per gallon of gasoline will have to be substantially higher than in the major urban centers in order to attract supply from the majors.

Mr. President, the Emergency Petroleum Allocation Act expires later this year. There will never be a better time than now to address the problems of access to crude oil supply and cost given the inevitable tightening of crude oil supplies, and contingency planning for access to crude oil and cost in the event of a major oil supply disruption.

Mr. President, for all these reasons, I encourage the new Senate leadership to begin immediately with hearings aimed at determining what, if any, contingency plans for crude oil supplies and price are necessary.

● Mr. HATFIELD. Mr. President, I intend to support the extension of the antitrust exemption because I feel the commitment to our international energy partners is of critical importance to international security. A related issue concerns me, however. This is with regard to the participation of major oil companies in mitigating the adverse impacts of both energy shortfalls and the enormous price increases which have plagued the world oil market for several years.

I am of the opinion, Mr. President, that while the cooperation of oil companies has basically been good with regard to international agreements, major oil companies have, in many instances, acted in a totally irresponsible and perhaps illegal manner in its pricing policies to domestic consumers. Specifically, Mr. President, I am referring to the $11 billion in potential overcharges which are presently under investigation by the Department of Energy's Office of Special Counsel. Already nearly $3.5 billion in overcharges has been settled upon with over $7 billion remaining under further audit and legal investigation.

Mr. President, during this investigation of consumer rip-offs major oil companies have taken advantage of every loophole to avoid reporting requirements and thereby evade the charges which have been lodged against them. Mr. President, I intend to monitor very closely the cooperation provided by the oil companies in both the international and domestic markets until such time that all allegations are resolved by the Department of Energy.●

The PRESIDING OFFICER. If there be no further amendment the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

AMENDING THE ENERGY POLICY AND CONSERVATION ACT TO EXTEND CERTAIN AUTHORITIES RELATING TO THE INTERNATIONAL ENERGY PROGRAM

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senate——

The PRESIDING OFFICER. The Senator from Idaho will suspend until such time as there is order in the Chamber so that the distinguished Senator can be heard. I request the Senators to take their seats.

The Chair recognizes the Senator from Idaho.

Mr. McCLURE. I thank the Chair.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2166, and that the bill be considered as having been read the first and second time.

The PRESIDING OFFICER. Is there objection? Without objection, the bill will be considered as having been read the first and second time by title.

The Senate proceeded to consider the bill, H.R. 2166.

The PRESIDING OFFICER. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that S. 573 be indefinitely postponed.

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

Mr. McCLURE. Mr. President, I would not like to let this moment pass without recognizing the very capable services of the staff, both the majority and minority staff, Chuck Trabandt, David Doane, Howard Useem, and Marilyn Burkhardt of the majority, and Mike Harvey and Betsy Moler of the minority staff, and also to express my thanks to Senator JACKSON, the ranking minority member of the committee, for helping us expedite the passage of this matter, to Senator BRADLEY from New Jersey, and also to the distinguished Senator from Ohio (Mr. METZENBAUM). While we had disagreement on the amendment, nevertheless the help we had in getting the matter to the floor and getting it voted on was such that we are now able to send it to the President.

Mr. METZENBAUM. I thank the Senator from Idaho.

TIMELY REVIEW OF PROPOSED LAW OF THE SEA TREATY

Mr. JACKSON. Mr. President, I am pleased that the administration has decided to make a comprehensive review of U.S. policy as it relates to the proposed Law of the Sea Treaty.

Yesterday marked the opening of the 10th negotiating session of the Third United Nations Conference on the Law of the Sea. The conference formally began over 7 years ago. In fact, preparatory work started in the late 1960's.

The Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs, has maintained a bipartisan interest in and concern about these negotiations. In 1969, I asked the late Senator Metcalf to chair a special Subcommit-

tee on the Outer Continental Shelf whose mission was to evaluate the U.S. interest in the Continental Shelf and how that interest might be affected by a future international agreement. The subcommittee's report contained a number of significant policy recommendations which were followed by the U.S. negotiators.

Throughout the 1970's, the committee's interest continued. It was most specifically evidenced by our work on the seabed mining legislation which, after four Congresses, was enacted last June. Title II of the act contained a specific declaration of congressional intent that any international agreement dealing with the oceans should "provide assured and nondiscriminatory access" to seabed resources to U.S. citizens and "provide security of tenure" for U.S. citizens who undertake seabed mining before an international agreement enters into force.

This highly unusual provision, together with the many statements of concern about the provisions of the proposed treaty which were made on the Senate floor during debate on the seabed mining bill on December 14, 1979, are clear evidence that the Senate has long had severe reservations about the proposed treaty.

Mr. President, I am well aware that this has been a long, difficult, and extremely complex negotiation. Indeed, it is undoubtedly the most difficult multilateral effort ever undertaken in the history of diplomacy. Over 150 countries are involved.

Many of these nations are small and landlocked and have no direct interest in the wide variety of ocean uses involved. Yet, in the negotiation, they each have the same vote as states with extensive coastlines and the greatest interest in the ocean.

Furthermore, the negotiation covers a broad range of ocean uses including, among other things, a specific maximum limit of the territorial sea, freedom of navigation and overflight both for military and commercial vessels and aircraft, through, over, and under straits used for international navigation and other traditional high seas areas, rights over the living and nonliving resources of a 200-mile economic zone and the Continental Shelf, marine scientific research, protection and preservation of the marine environment, the peaceful settlement of disputes and the establishment of a regime to govern the development of the resources of the deep seabed. Each of these subjects is important to the United States.

The initial driving forces behind the U.S. interest in developing an international agreement for the Law of the Sea stemmed from our national defense concerns about freedom of navigation, overflight rights, and other national security interests.

At times, our concern about these admittedly vital matters seemed to outweigh our concern about equally important matters, such as control over fisheries resources and nonliving resources, including essentially all the potentially vast oil and gas resources on our continental margin. Congress concern over these issues was evidenced in the "200-mile fisheries" bill enacted in 1976 and the Outer Continental Shelf Lands Act Amendments of 1978.

Mr. President, I think it is important that we all understand the administration's position. They are not, as has been reported by some of the media, abandoning the Conference on the Law of the Sea. They are taking the opportunity to evaluate carefully the work product of this lengthy process—the Draft Convention on the Law of the Sea—in light of the interests of the United States as we see them in 1981.

In making that evaluation, I urge the administration to remember that the outcome of the Law of the Sea negotiation will not only influence the course of ocean law and politics for the next several decades, but also will affect the direction of the other emerging international arrangements and the pace at which they will be concluded.

One of the main forces in the Law of the Sea negotiation is the Third World drive toward the establishment of the new international economic order. This concept, which is the subject of the so-called north-south dialog, is calculated to make a fundamental redistribution of global wealth and power from the nations of the industrialized north to the countries of the less developed south.

The political model is one nation one vote, which gives an equal vote to a nation of 800 million and to a nation of 350,000. The economic model is central economic planning, rather than the free enterprise, free market economy.

In sum, Mr. President, while I strongly support the concept of establishing international ocean law, I do not think that belief in the goal of the common heritage of mankind should blind the United States or any other nation to significant national interests. After all, if we have problems with other nations or groups of nations, much can be done through less sweeping bilateral or multilateral negotiations. I wish the administration well in its review and urge other nations not to overreact to this pause in the long, laborious process of working out broadly acceptable ocean law.

SENATE SUPPORT FOR REAGAN ADMINISTRATION ACTIONS IN THE LAW OF THE SEA CONFERENCE

Mr. McCLURE. Mr. President, the Reagan administration in the past 7 days has acted swiftly and decisively to redirect dramatically the U.S. negotiating position in the Law of the Sea Conference. The 10th session of the LOS Conference convened yesterday at the United Nations in New York City. In preparation for that session, the administration has acted several times in the past week to modify significantly the U.S. posture in the conference from that of the Carter administration. First, the State Department last Tuesday announced that the Secretary of State had instructed our representative to the conference to seek to insure that negotiations did not end at the present session in order that a full policy review of the draft treaty could be completed by the U.S. Government. The policy review will involve all interested departments and agencies, and will consider a series of serious problems raised by the draft treaty prepared at the last session of the conference in Geneva last year. Second, the State Department Saturday announced that the Secretary of State had replaced the existing LOS negotiating team by appointing James Malone, Assistant Secretary of State-designate for Oceans, Environment, and Science, as the President's special representative to the LOS Conference. This action had the effect of placing Reagan administration policy-level personnel in charge of the U.S. negotiating team, in place of those who had represented the Carter administration over the past 4 years in the LOS Conference.

Finally, yesterday, Assistant Secretary of State-designate Malone announced at the conference that the U.S. review of the draft treaty would encompass the full spectrum of treaty provisions, including not only the seabed mining provisions, but also all other aspects of the treaty. Taken together, these decisive actions have removed the United States and our significant national security interests in the LOS Treaty from the virtual brink of disaster in which the new administration found itself after the inaurguration.

Mr. President, I rise today in strong support of these actions by the new administration and the clear position of the President and the Secretary of State regarding the need for a serious review of the Law of the Sea Treaty before this country is prepared to complete the conference and accept that treaty.

I also believe that it is most important that participants and observers in the LOS Conference, both domestically and internationally, recognize that the administration's action to review the treaty is a reflection of and a direct response to the strong bipartisan concerns expressed over the last several years in the Senate and in the House of Representatives regarding the draft treaty now pending in the conference.

Such concern was fully documented in the last debate of this body regarding the deep sea mining legislation and the LOS Treaty during our debate on December 14, 1979. The same concerns were the basis for the action of both the House and the Senate dealing with the treaty in title II of the Deep Seabed Hard Mineral Resources Act, Public Law 96-283, enacted on June 28, 1980.

Those same concerns have been the subject of continued congressional action in the form of letters to the administration and hearings over the past year, including most recently the hearing in the Foreign Relations Committee last week on the pending treaty.

Consequently, Mr. President, I believe it is fair to say that the Senate and the Congress generally are firmly on record in support of the absolute necessity for a review of the pending Law of the Sea Treaty before the administration proceeds to consider the draft treaty for final action. On that basis, in addition to my own long held and strongly felt convictions on this matter, I am quite

confident that the U.S. Senate today applauds the administration's actions over the past week and is prepared on a bipartisan basis to support the administration domestically and internationally in the conduct of that review.

Let me turn now to certain specific concepts worthy of review in the existing draft treaty and the procedures associated with them. And, let me begin by reviewing the Senate debate of December 14, 1979, as it applied to the treaty and the treaty process, as summarized in the following staff analysis.

On December 14, 1979, the Senate passed by a unanimous voice vote, S. 493, the Deep Seabed Mineral Resources Act. During the course of debate, 14 Senators, Mr. Magnuson, Democrat of Washington; Mr. LONG, Democrat of Louisiana; Mr. MCCLURE, Republican of Idaho; Mr. Muskie, Democrat of Maine; Mr. HELMS, Republican of North Carolina; Mr. WEICKER, Republican of Connecticut; Mr. MATSUNAGA, Democrat of Hawaii; Mr. STEVENS, Republican of Alaska; Mr. Javits, Republican of New York; Mr. PELL, Democrat of Rhode Island; Mr. Church, Democrat of Idaho; Mr. JACKSON, Democrat of Washington; Mr. HATFIELD, Republican of Oregon; and Mr. Stone, Democrat of Florida; spoke in favor of the legislation and only one Senator—Mr. TSONGAS, Democrat of Massachusetts—voiced an objection to immediate passage of the bill.

Seventy-three Senators from five legislative committees and the Budget Committee had earlier in the year voted unanimously to report the bill.

More important, however, than their expressions of support for the immediate passage of S. 493 in committee and on the floor was the round of criticisms leveled by Senators against various draft articles contained in the ocean mining provisions of the Law of the Sea Treaty currently being negotiated at the Third United Nations Conference on Law of the Sea.

Intended as a bipartisan effort to exercise the constitutional mandate for senatorial advice in the treaty negotiation process, the thrust of the 14 Senators' statements was that the U.S. Law of the Sea negotiators should abandon the present course of negotiation and should undertake serious renegotiation of many major provisions of the current treaty text. Without such fundamental revision, several Senators stated their intentions to withhold their consent to the treaty.

Almost every Senator who participated in the floor debate indicated that the present draft Law of the Sea Treaty constitutes a significant concession by the United States to various political and economic pressures that are not founded upon or in furtherance of the best interests of this Nation.

Additionally, most Senators indicated in their floor statements that if the administration did not heed the Senate's advice offered during the course of the floor debate and if the negotiators did not undertake serious and fundamental revisions, the Senate would withhold its consent to ratification of the treaty.

Many made a specific point of mentioning that whether the legislation would remain interim in nature depended upon future ratification of the treaty.

Further, they stated that the Senate would much prefer to protect American interests by unilaterally sanctioning mining operations through U.S. legislation rather than by consenting to the defective draft they so severely criticized. They also expressly stated that if such an undesirable treaty were, in fact, signed by a representative of the United States, such signature would have no effect in deferring enactment of U.S. legislation or its administrative implementation.

Some Senators said they would oppose a U.S. signature on the treaty altogether without major revision of its text.

For example:

Senator LONG concluded his statement by noting that:

While I am in favor of an equitable Law of the Sea Treaty, the current articles pertaining to deep seabed mining are defective and so one-sided that if called upon to give my advice and consent to the current treaty draft, I would withhold it;

Senator MCCLURE stated:

I hope our actions and our words here today will not go unheeded by either the State Department or the other negotiators at the United Nations Conference. The present treaty is, I repeat, fundamentally unacceptable. If a treaty that is more balanced cannot be negotiated, we will allow our citizens to carry on in perpetuity under the schemes established by this legislation. Its interim nature depends upon the renegotiation of just such a balanced document;

Senator Muskie noted that:

The executive branch has an affirmative duty to listen to such advice of the Senate or else the Senate will be forced to choose between adopting treaties it does not like or embarrassing our international position by amending or rejecting what has already been negotiated;

Senator HATFIELD stated that:

The provisions of the 1977 ICNT (Informal Composite Negotiating Text) have been improved little by the publication of the ICNT Revision 1 (the current negotiating text) this spring. The negotiations of this summer in New York have not moved the negotiators substantially closer to a successful treaty . . . it is now abundantly clear that we must also move to establish interim rules;

Senator WEICKER noted that:

Progress of negotiations . . . has been lackluster and near-term progress, without substantial concessions on the part of the United States is unlikely . . . We should, therefore, pass these protective, interim measures and encourage the House to move expeditiously as well;

Senator MATSUNAGA argued that:

Passage of the legislation should help to stimulate realistic negotiations . . . which will protect the interests of our people.

Senator STEVENS pledged:

I am personally committed to insuring that the United States does not sign any Law of the Sea Treaty until such treaty is fully acceptable to the Senate.

Senator Javits stated that:

The negotiations are not likely to arrive at any agreement on the deep seabed issue that is acceptable to the United States . . . unless it is clear to the developing world that . . . if some of their demands remain unreasonable, we will have proceeded to mine during the next decade without an agreement.

Senator PELL observed that:

[I]f there is to be any deep seabed mining to regulate at all, there must be an interim regime that provides a bridging legal basis for and diplomatic protection of deep seabed mining.

Senator Church warned that:

Any treaty which: Fails to provide assured access by U.S. citizens and security of tenure to U.S. mining operators; fails to protect the national interest in sound institutional arrangements; forecloses a substantial contribution to national mineral needs by imposing onerous economic conditions and artificial limitations on seabed production . . . would raise serious questions concerning its acceptance by the Senate.

Senator JACKSON declared that:

While increasing global economic interdependence would lead us to redouble our [negotiating] efforts, we cannot allow ourselves to be pushed into positions on deep seabed mining so inimical to our national interests as those we find ourselves trapped in at the present negotiations.

And Senator Stone concluded by stating:

[G]iven the recent events in Iran and elsewhere which exemplifies the tenuous balance between issues of mineral access and national security, it is encumbent upon the Senate to insure that the situation we face in oil does not become the situation we face in these strategic metals. If difficulties with the developing nations of the world which export minerals to us is to remain the trend, this Nation must have the capability to provide for itself. I firmly believe, Mr. President, that this legislation is one method of insuring that capability. If the State Department is going to send the Law of the Sea Treaty to this body and ask this body to agree to its ratification and to agree that the treaty will supersede this legislation, it had better start undertaking some serious reconsideration. Mr. President, I am hopeful that the State Department will get the message from this body that it had better go back to the drawing board and start renegotiating a good part of the treaty before sending it to the Senate and hoping to get it ratified.

In addition to the above quoted points, the following detailed views concerning the treaty's deficiencies were expressed during the course of the debate:

First. Provisions that would jeopardize the security of tenure for U.S. citizens that have either engaged in mining under domestic legislation prior to the ratification and entry into force of a Law of the Sea Convention or who are engaged in operations pursuant to the treaty must be rectified.

Specifically, the Senators were displeased with those articles that require applicants for work plans to agree to accept as enforceable all rules and regulations adopted by the Authority—without regard to the timing of such adoptions.

Many Senators were greatly disappointed that the draft text contains no mention of grandfather protection for miners who are U.S. citizens or private citizens of any other country who undertake operations pursuant to validly enacted domestic legislation.

Most of the Senators who addressed the issue were of the opinion that lack of adequate grandfather protection in the text of the treaty itself would seriously jeopardize the chances for Senate approval of a treaty subsequently presented to it for ratification. (See the statements of Senator McCLURE (pp. 36038, 36042–36045), Senator MATSUNAGA (p. 36064), Senator STEVENS (pp. 36064–36065), Senator JAVITS (pp. 36070–36071), Senator Church (p. 36072), and Senator JACKSON (p. 36073)).

Second. Draft treaty provisions that would impose production controls over the extraction of the vital minerals found on the ocean floor are anticonsumer in nature, inflationary, artificially maintain the market shares of mineral exporting nations, and are inimical to the national defense and security interests of the United States.

Such provisions were perceived in Senate debate as likely to result in the creation of an OPEC-type metals cartel. (See the statements of Senator McCLURE (p. 36039), Senator HATFIELD (pp. 36047, 36048), Senator HELMS (p. 36048), Senator Church (p. 36072), Senator JACKSON (pp. 36074–36075), and Senator Stone (pp. 36075–36076).

Third. The ocean policymaking functions and powers delegated to the political arms of the "authority" created by the treaty—that is, the Assembly, Council, and Tribunal—are too discretionary to adequately assure protection of U.S. or other developed countries' interests.

Specifically, several Senators found objectionable and fundamentally unacceptable, provisions that grant the Assembly supreme policymaking authority for ocean mining and other U.S. nautical objectives particularly on the basis of the one-nation, one-vote system.

That the Council may not override or check the policy actions of the Assembly was also cause for concern.

Senators also criticized provisions of the treaty for not guaranteeing the United States a seat on the Council, and provisions that grant discretion to the Council and Technical Commission to block the approval of a plan of work or contract—that is, be granted a legal right to conduct mining operations—even though the applicant might be fully qualified. (See the statements of Senator McCLURE (p. 36038), Senator HATFIELD (p. 36048), Senator HELMS (p. 36049), Senator JACKSON (pp. 36073 and 36074), and Senator Stone (p. 36076)).

Fourth. Other draft Law of the Sea Treaty provisions require U.S. companies to negotiate the transfer of their own technology to Third World countries and a third party's technology to the Authority and Enterprise are clearly unacceptable, several Senators said. (See the statements of Senator McCLURE (p. 36039), Senator HATFIELD (p. 36048), (Senator HELMS (p. 36049), Senator JACKSON (pp. 36074–36075) and Senator Stone (p. 36076)).

Fifth. The creation of a transnational government owned and operated government mining company called the Enterprise was highly criticized. The exemptions and other favorable treatment afforded the Enterprise, Senators said, result in an access system that is not in reality a dual system and will in the long run likely lead to a system that forces private parties to enter into joint ventures with the Enterprise if they want to participate in mining operations at all. Such a system is incompatible with the language of S. 493 and adverse to the best interests of the United States. (See the statements of Senator LONG (p. 36033), Senator McCLURE (p. 36039), Senator HELMS (p. 36049), Senator JACKSON (p. 36074), and Senator Stone (p. 36076)).

Sixth. The so-called French antimonopoly clause of the draft treaty that would result in limitations being placed on the number of U.S. citizens that could engage in the recovery of ocean mineral resources was also labeled "fundamentally unacceptable."

The Senators argued that such a limitation would force U.S. corporations to operate in conjunction with foreign corporations and consequently seek sponsorship for a contract—that is, the right to conduct ocean mining operations—from other countries which are parties to the convention.

This in turn was seen as leading to the exportation of American jobs and technological expertise. (See the statements of Senator McCLURE (p. 36039), Senator HATFIELD (p. 36048), Senator JACKSON (p. 36075), and Senator Stone (p. 36076)).

Seventh. The financial obligations imposed by the draft treaty on private mining contractors are arbitrary and too high in relation to the investment risk already faced by such private parties. (See the statements of Senator LONG (p. 36033), Senator McCLURE (p. 36039), Senator HATFIELD (p. 36048), Senator HELMS (p. 36049), Senator JACKSON (p. 36073), and Senator Stone (p. 36076)).

Eighth. Some Senators said provisions in the draft Law of the Sea Treaty that would allow the Authority to impose a moratorium on further ocean mining by U.S. citizens due to the failure of some future conference of signatory nations to agree on changes to the mining scheme formulated under the treaty are also unacceptable. (See the statements of Senator McCLURE (p. 36039), Senator JACKSON (p. 36075), and Senator Stone (p. 36076)).

As the preceding analysis makes abundantly clear, the U.S. Senate is firmly on record as supporting not only a full review but a significant reconsideration and modification of certain essential asspects of the current draft treaty. There should, therefore, be no question about our support for the actions taken by the administration in the past week and the course set for administration negotiation in the current session of the LOS treaty.

These concerns have been recently expressed in a strong and unambiguous way in the testimonies of Congressmen BREAUX and LAGOMARSINO at hearings before the Foreign Relations Committee last week. Mr. President, I ask unanimous consent that their prepared statements be inserted in the RECORD at this point.

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

STATEMENT OF THE HONORABLE ROBERT J. LAGOMARSINO

Mr. Chairman, Members of the Committee: It is an honor as a House Republican to visit the other body and to note the keen interest being shown over here in the Law of the Sea Treaty.

I have had the opportunity to follow this issue for several years on the House Foreign Affairs Committee, one of several House Committees to report out and later see through to enactment the Deep Seabed Hard Mineral Resources Act.

As you know, Title II of that legislation directs the U.S. Delegation to negotiate a treaty that will guarantee U.S. citizens assured, continuing access to deep seabed minerals. In addition, Title II specifies that the treaty should protect such citizens' right to explore for and mine such minerals under the legislation prior to entry into force of the treaty with respect to the U.S. by providing guarantees that will allow them to continue mining activities on the same site, under treaty terms, conditions and restrictions that do not impose significant new economic burdens with the effect of preventing continuation of the project on a viable economic basis.

Those of us who have labored long and hard on this legislation know that the treaty negotiating text shows little evidence of any awareness on the part of our Law of the Sea Conference delegates of the congressional intent expressed in Title II of this legislation.

That title instructs our delegation not only to obtain grandfather protection for U.S. licensees and permittees but to bring home a treaty which from beginning to end conforms to the intent of Title II. The present treaty text does not even begin to come close to achieving that end.

Let us not forget that ocean mining is now a high seas freedom. Our choices are to continue to exercise that high seas freedom without a treaty, to obtain a treaty that protects existing high seas freedoms to mine the deep seabed, or to lie down, play dead, and accept the present text or anything like it.

Either of the first two choices are preferable to the third. Let me make it clear that the third choice would make a mockery of Title II.

As a result of the failure of the U.S. Law of the Sea Delegation during the Carter Administration to negotiate assured, nondiscriminatory access and to negotiate grandfather protection for U.S. citizens operating under the Deep Seabed Hard Mineral Resources Act, as mandated by Title II of that legislation, U.S. ocean mining companies have drastically slashed their budgets and are on the verge of dissolution. Should the treaty text be finalized at the March/April session in anything like its present form, the companies would shut down, because the treaty text would render valueless their investments so long as there was any real chance the treaty would enter into force. It must be recognized that the U.S. is now chiefly dependent upon politically unstable foreign nations for its supplies of several strategic minerals . . . including those to be derived from seabed mining. Having learned the hard way the lessons of OPEC and the dangers inherent in allowing ourselves to become dependent on foreign sources for vital raw materials, it is in our national interest to promote the development of a private sector capability to harvest the resources of the ocean. Without a viable, growing U.S. ocean

mining industry, future U.S. access to seabed minerals will be only a mirage.

Some Carter Administration LOS officials have argued that unsatisfactory treaty provisions can be cured either by interpretive statements at the session that formalizes the text or alternatively during the subsequent Preparatory Commission negotiations which are to develop rules and regulations to implement the treaty's seabed mining provisions. Self serving interpretative statements by the U.S. regarding the meaning of the treaty's various provisions will have no binding effect on the International Seabed Authority whose responsibility it will be to implement and execute the treaty. Further, counter statements made by third world opponents will at best nullify interpretative statements made by the U.S. Delegation and at worst will ensure that the treaty will be interpreted in a light unfavorable to U.S. interests.

The treaty itself will govern the contents of the rules and regulations to be negotiated by the Preparatory Commission. Thus, there is no way to correct treaty flaws in its implementing rules and regulations.

The changes the U.S. Delegation intends to seek at the March/April LOS negotiating session do not even begin to satisfy Title II of the Act, and therefore, even if adopted, would result in Senate refusal to ratify the treaty. Due to the fact that the text fails to assure U.S. access to seabed minerals.

When reviewing the treaty in light of Title II of the legislation, we should not ignore treaty provisions which: (1) impose production controls on seabed mining, encourage international commodity agreements restricting prohibition of seabed minerals and otherwise bias the treaty regime against development and the operation of free market principles; (2) grant overall policy making powers to a one nation, one vote "Supreme" Assembly; (3) do not guarantee the U.S. a seat on the Council; (4) impose compulsory technology transfer (including sensitive defense related technology) by private companies to their competitors—the internationally owned mining company created by the treaty, called the Enterprise, and deny effective remedies because of inadequate dispute settlement provisions; (5) impose quotas on the number of minesites to be awarded to U.S. citizens as well as other antidevelopment policies; (6) require the U.S. to fund 25% of the Seabed Authority's expenses including payment and loan guarantees to the Enterprise; (7) grant privileges and immunities to the Enterprise to operate in the U.S. and other countries; (8) encourage revenue sharing with the PLO and other terrorist groups; (9) permit amendment to the treaty text binding on the U.S. even if the Senate or President refuses to ratify such amendments; and (10) guarantee the Soviets 3 seats on the Council and an ability to block U.S. access to seabed resources simply by demanding that the Seabed Authority adhere to the intent of the treaty text.

Finally, Mr. Chairman, let us focus for a moment on the Soviet issue.

The U.S.S.R. recognizes that it is far better protected by the treaty than the U.S. and is pressing the U.S. to agree to conclude the negotiations by accepting the treaty text in its present form. In addition to receiving greater benefits than the U.S. from the navigation provisions, they have guaranteed control over 3 seats on the executive Council, whereas the U.S. is not guaranteed even one Council seat, and being a net exporter of strategic metals, desire to prevent secure U.S. access to seabed minerals. The denial of assured, non-discriminatory access for U.S. citizens to seabed minerals would be the case if the present treaty text or its equivalent were agreed upon at the March/April session in New York. The Soviets also support the treaty provisions which allow revenue sharing with the PLO and other terrorist groups and would, therefore, like to see the U.S. embarrassed by their retention in the treaty text.

Mr. Chairman, I am confident that this Committee will fight hard to force a new focus on the relationship between Title II of the legislation and the pitiful treaty negotiating text.

Statement of the Honorable John B. Breaux

Mr. Chairman, I am pleased to have the opportunity to testify concerning the Law of the Sea, an issue that profoundly affects our national security, domestic economy and foreign policy. Your decision to confront this vitally important subject at this time is highly commendable. The Law of the Sea Conference session that begins on March 9, 1981 must be regarded as a watershed in the history of post-World War II international relations. The momentum toward a fundamentally unacceptable treaty will be halted by the United States, as a result of a decision by the new Administration to hold the negotiations open, pending a review of the serious problems presented by the Draft Convention which emerged from the last meeting of the Conference. The United States will have the opportunity to establish a policy that will effectively avoid the far-reaching, adverse consequences to our national interest that otherwise would have inevitably followed upon the rapid conclusion of the negotiations this spring and the opening of the treaty for signature this summer.

I hope and expect that the United States will communicate to the international community a heretofore strangely absent realism with regard to the expectations that our nation holds for its future. There is, I believe, a message that must be conveyed to the Third World and Soviet bloc:

We will not meekly submit to the New International Economic Order; we will not mildly consent to the ruin of our system of values as a free enterprise society.

We will not quietly retreat from our rights and responsibilities as the leader of the free world; we will not capitulate to our political and military adversaries.

We will protect the vital interests of the United States; we will have due regard to reasonable aspirations, but not the unreasonable demands, of the developing countries.

In a letter dated December 10, 1980, I was joined by a bi-partisan group of thirteen of my colleagues in calling upon President Reagan to order a review of the Law of the Sea negotiations. In the few minutes that I have before this subcommittee, I would like to mention some of the principal areas of concern:

Under the envisaged treaty, the United States woud not have assured access to the strategic minerals of the deep seabed. These include cobalt, which is essential to the manufacture of jet engines and other high technology equipment. Also included is manganese, which is required for the production of steel. Yet, unlike the Soviet Union, we are heavily dependent on unreliable foreign sources of supply, such as Zaire and Gabon, to satisfy our essential requirements for these minerals—and we possess the technology to free ourselves from this serious vulnerability through the development of the vast resources of the deep ocean floor.

I must emphasize that this access problem cannot be remedied through detailed rules and regulations to be negotiated in the Preparatory Commission which would operate in the period between signature and entry into force of the treaty. Basic provisions of the Draft Convention are fatally flawed. In the International Seabed Authority, which would control access, the selection of mining applicants would be highly politicized, as a result of the voting procedures and composition of the executive Council, and due to the composition of the subsidiary Legal and Technical Commission. The developing countries would dominate, and the Soviets would heavily influence, these organs. Production restrictions and criteria for the choice among competing applicants would aggravate this terribly serious problem.

Our highly sophisticated technology—some of it defense-related—would be subject to forced sale obligations for the benefit of developing countries—including Romania, a Warsaw Pact nation—and for the use of a highly privileged, supranational, mining Enterprise to be established to compete with our private operations. We are assured by previous U.S. negotiators that this is not a real problem. Based on very careful, detailed legal analysis, I must insist that they are not correct.

The treaty would provide for the sharing of seabed mining revenues with national liberation groups. We are told that we could block the implementation of this treaty provision in the Council. But we are not guaranteed representation in that body, although the Soviet Bloc is expressly assured at least three seats and the developing countries are promised the vast majority of remaining votes. And if we were to receive a seat, we could expect to be rotated out of it, in accordance with treaty requirements. In any event, a decision to thwart the clear intent of the treaty would invite severe retaliation in a system in which we would hardly be in a position to protect ourselves.

There would be no reservations permitted to the seabed regime, and after about two decades, it could be amended for all States parties on the vote and ratification of only two-thirds of them. We are told that we could denounce the treaty and return to unilateral mining, if the amended regime were unsatisfactory. However, one may well ask whether some twenty years of the "common heritage," international consent, access regime would have given rise to rule of customary law prohibiting unilateral exploitation. And, one may inquire as to whether the United States would risk retaliatory denunciations by other States and thus imperil our other oceans interests.

The seabed mining regime would establish a highly adverse precedent for future international arrangements concerning the resources and communications and transportation media of the international environment. In fact, the Moon Treaty, which was recently opened by the United Nations for signature, declares the resources of the moon and of the other bodies of the solar system to be the common heritage of mankind, and establishes principles for future exploitation that follow virtually verbatim the policy provisions of the seabed regime set out in the Law of the Sea Draft Convention. Concerns along the lines of those that I have raised today have led the Executive to withhold signature of that space agreement.

I am reluctant to consume more of the Subcommittee's limited time on these and other seabed mining issues. Additional, detailed submissions for the record can well serve my purposes in this hearing. Moreover, although I feel compelled to point out here and now that the serious problems created by the Draft Convention are by no means restricted to the seabed mining regime, there are compelling reasons why these far-reaching issues ought not to be discussed today in open hearing. I would simply like to provide pertinent documents which will, at a more appropriate time, emerge in the printed record of this hearing. They will have considerable value for what I hope will be a Law of the Sea review process to which the public will have an opportunity to make a timely and informed contribution.

Again, thank you for the opportunity to present my views to the Subcommittee. Your decision to hold this hearing, and the Administration commitment to carry out a meaningful review, are distinctly in the public interest. There is, at long last, reason to hope that the United States will return to a policy that defends and promotes the broad range of national interests affected by the Law of the Sea negotiations.

Thank you.

Mr. McCLURE. Mr. President, these concerns are also paralleled in the analysis of national observers. Articles in the New York Times, the Washington Star, the Washington Post, and the Wall Street Journal indicate increasing support for a full review of the draft LOS Treaty before the United States continues with its negotiations. Mr. President, I ask unanimous consent that the editorial in the Wall Street Journal of March 9 and the editorial in the Washington Star of March 8 be inserted in the RECORD at this point.

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

[From the Wall Street Journal, Mar. 9, 1981]

FOUNDERING LAW OF THE SEA

Just when delegates to the UN Law of the Sea Conference thought they were sailing smoothly toward ratification of the pact this summer, the Reagan administration fired a timely shot across their bows. Citing "serious problems" in the lengthy and complex document, particularly in the rules on deep-sea mining, the U.S. said it would defer action on the treaty at the 10th session of the conference opening in New York today until it has time to draw up revisions. We doubt they "revisions" are the answer to the mining code. The whole concept is deeply flawed.

The agreement covers two distinct and separable issues: navigation rights and rules on the exploitation of the wealth of metals and minerals that lie abundantly in fist-size nodules on the seabed. The navigation section is an attempt to reconfirm rights of free passage, especially though the many narrow and strategically important straits around the globe. Traditional conventions have been thrown into some disarray as nations have begun proclaiming that their territorial waters extend up to 200 miles from shore—claims that theoretically make some straits legally impassable without permission.

In truth, however, any attempt to block free passage has traditionally been regarded as a belligerent act. International conventions on this subject date all the way back to the code drawn up by Dutch statesman Hugo Grotius in 1609.

The free passage business is mainly window dressing for something of far more interest to the UN, a massive international income transfer managed by the UN by skimming off the returns from seabed mining. Elliot Richardson, long the chief U.S. negotiator, argues eloquently on the page opposite today that the terms for this are "fair and reasonable." But we must respectfully disagree.

Under the treaty, the UN would set up an International Seabed Authority, siting it in some nice spot like Jamaica, Malta or Fiji. It would soon be in control of vast sums, gathered from taxes and royalties on enterprises that have the advanced and expensive technology needed for deep sea mining, firms which on the whole are based in advanced industrial countries. This money would then be distributed to "poor" nations, as designated by the UN on the basis of definitions not yet spelled out.

In short, the UN, itself heavily dominated by Third World nations, would suddenly acquire enormous taxing and financial power. We are asked to take it on faith that it would use that power wisely.

The alternative to this would be to let the mining companies who can retrieve these minerals do so to the extent that this kind of mining can be competitive with other types. They will put these resources and the capital generated from returns on their investments into the world markets. Unlike in the UN scheme, the result will be enhanced international economic efficiency. There won't be a lot of UN power politics over who gets the boodle. The Reagan administration was right in holding up the treaty. We need to contemplate just how much independent power we want to UN to have.

[From the Washington Star, Mar. 8, 1981]

DRAGGING ON LAW OF THE SEA

It should not be shocking that the Reagan administration dropped anchor against concluding a Law of the Sea Treaty at what was thought might be the final negotiating session, opening tomorrow in New York. The Republican platform viewed the treaty proposals with skepticism.

Instructing U.S. representatives to the 10th gathering of the Third U.N. Law of the Sea Conference to "seek to insure that the negotiations do not end at the present session" could put at hazard, it is said, the extraordinary work that has been done over the past seven years. The long negotiations have involved more than 150 nations, covering a spectrum of international issues—territorial limits, freedom of navigation and over-flight, conservation and management of fisheries, protection of the marine environment, to name but a few.

Elliot Richardson, the former U.S. ambassador to the conference, agrees generally with the administration's decision to review the draft treaty, with its more than 400 provisions. However, he warns that an effort to gain major new concessions from Third World nations "risks losing gains that have already been achieved without in fact being able to obtain a successful response to those demands." Mr. Richardson's warning should not be disregarded.

But it would be a mistake to regard President Reagan's decision to put the treaty on hold as either parochial or thoughtless. He is inheriting a process that has been going on since 1974. For a new administration to accept uncritically a treaty of such scope would be excessively trusting in a world where trust is not always warranted. The administration said it has found "serious problems" in the final draft. There are problems. That is not unexpected. The distance covered in seven years of delicate international effort to accommodate diverse and antagonistic interests insures that the closer the process is brought to conclusion, the greater the deficiencies that will emerge.

There are sufficient practical reasons for reluctance to cover that remaining ground at a single leap. The Reagan administration also is evidently using the New York negotiating session to suggest that the United States is going to be more assertive in international affairs than in the recent past. We would not quarrel with transmitting that message, and giving it practical meaning.

Among the practical liabilities is a clause that would require parties to a ratified treaty to share seabed resources with "peoples who have not attained full independence or self-governing status." No U.S. administration could agree to so explosive a provision.

Another central problem is deepsea mining. The Reagan decision cannot be portrayed as a blatant concession to U.S. mining interests—implying unadulterated commercial self-interest. It is not so simple. There are disturbing questions about access to the vast mineral wealth beneath the seas—nickel, cobalt, copper, manganese, all of vital strategic value to the U.S. and for which we are now either wholly or significantly dependent on foreign sources—and on the required transfer of advanced technology to the international operating regime the treaty would establish. Progress has been made on this volatile issue. But we share the view that there is still a far distance to go to balance America's long-range interests and global equity.

The premise of the Law of the Sea, that oceanic resources represent "the common heritage of mankind," is a noble ideal. The U.S. obviously will continue to embrace that goal. But the flame of idealism can burn those who embrace it incautiously. We doubt that President Reagan's caution will jeopardize eventual treaty agreement—there is too much to be gained for all the participating nations. But there is too much at stake to venture to the end assuming that all that can be accomplished already has been.

Mr. McCLURE. Mr. President, finally, let me review several but certainly not all the points in the draft and the procedures related to the treaty that are of concern to this Senator.

In title II of the Deep Seabed Hard Mineral Resources Act (Public Law 96–283) the Congress instructed the delegation to obtain secure access to ocean minerals, including negotiating a grandfather clause exempting U.S. citizens engaged in ocean mining under the legislation from any provisions of the treaty which, by adding significant new economic burdens, would adversely affect either assured access or the economic viability of ocean mining projects. The delegation to the LOS conference did not insist on a treaty provision conforming to the language of title II.

The current negotiating text effectively forfeits U.S. access to strategic ocean minerals. The four primary minerals to be derived from seabed nodules—nickel, cobalt, copper, and manganese—are of major strategic importance to the U.S. economy and national security. The United States is currently dependent on imports for 95 to 98 percent of its manganese, cobalt, and nickel. The alternatives to seabed mining production is a continued dependence on unstable and unreliable foreign sources, Zambia and Zaire for cobalt, Zambia, Chile, and Peru for copper, Gabon, Brazil, and South Africa for manganese. By the year 2000, U.S. import reliance for these four metals would be reduced to zero if as few as 10 ocean mining sites were fully operational. In fact, with the exception of nickel, five mine sites would meet the excess of U.S demand over U.S. production.

Title II also asked the delegation to insure security of tenure for those U.S. contractors who begin exploration and development operations before the treaty enters into force. It will cost each consortium one-quarter of a billion dollars to complete work on proving final commercial feasibility of ocean mining. Thereafter, each consortium will have to spend approximately $1 billion to start mining and processing ocean minerals on a commercial basis.

The companies cannot take the risk of going forward so long as this treaty text does not provide for security of

their investments. The delegation has not been able to obtain assurance that mining operations already in place will have priority of rights and access even to minesites already exploited. The delegation has still not been able to include a grandfather clause.

A third area of concern lies in the organization and functions of the International Seabed Authority, the Executive Council, and the Legal Technical Commission. The United States still lacks a guarantee that it will have seats on the council—which the U.S.S.R. has—while the political nature of the voting procedures and composition of the body make it probable that the United States will, in fact, enjoy very little influence or control over its interests.

In addition, we asked that such things as criteria for selection of contracts and procedures for commercial arbitration of disputes be written into the treaty. These issues are still left to the Preparatory Commission, which will not be established until after the treaty enters into force. In the draft treaty text, critical disputes, such as those related to the authority's refusal to grant contracts or abuse of its discretionary authority, are not subject to review by impartial panels.

Further, we asked for assurance that individual contractors would not have to face discrimination in selection for contracts. But as the draft text now reads, individuals will be required to pay heavy fees, and are limited in the number of minesites they may apply for and the amount of minerals they may extract. Worse still, the clause which requires sharing of technology with other nations and with the Enterprise, of which the Senate voiced strong disapproval, has not been changed.

A sixth area of serious concern lies in article 137 of the draft. This article provides that no state or its citizens "shall claim, acquire, or exercise rights with respect to the minerals of the [deep seabed] area except in accordance with the provisions of [the treaty]". This provision and others contained in article 137 purport to establish preemptory norms of international law which have the effect of declaring that the United States has no legal right to authorize seabed mining or other uses of the deep seabed, except pursuant to the treaty. This concept flies in the face of the U.S. Constitution which provides that the only treaties the United States is bound to recognize and adhere to are those which have received the advice and consent of the Senate and have been ratified by the President. Notwithstanding the U.S. constitutional provisions regarding treaties, article 137 of the treaty attempts to establish a new system of creating international law which in essence provides that once the 60 ratifications necessary for it to enter into force are obtained, those 60 nations may impose the treaty they ratified upon all other nations, including the United States, without any requirement that such nations agree to be bound by the treaty.

It has been further argued that once the United States signs the treaty, the United States may not take any action in contravention of the treaty, including the issuance of exploration or mining permits pursuant to the Deep Seabed Hard Minerals Resources Act of 1980. Once again, the purpose of our constitutional provisions regarding treaties, was to prevent the United States from becoming obligated either to take action or not to take action under any treaty without the prior concurrence of two-thirds of the U.S. Senate.

The treaty's provisions contained in article 155 which permit the complete revision of the treaty text after it enters into force. The treaty permits amendment by a review conference. The treaty is unclear on how the review conference is to make decisions on adopting amendments because it states that the review conference itself shall establish its own rules and procedures. However, should the review conference succeed in agreeing, by whatever procedure, to amendments to the treaty, such amendments would be binding on all states parties once three-fourths of the states parties ratify such amendments.

Regardless of Presidential or Senate refusal to ratify, such amendments would be binding on the United States.

The treaty further provides that in the event of a collapse of the review conference, states parties may agree by two-thirds vote to adopt amendments to the treaty. Such amendments would enter into force and be binding on all states parties once they were ratified by two-thirds of the states parties to the treaty. That means that if the United States ratified the treaty, and either the Senate or the President refused to agree to ratify subsequent amendments to the treaty, the amendments would nevertheless be binding on the United States. Although technically possible the United States could then renounce the treaty, all of the rights it then enjoyed under the treaty would be revoked, rendering renunciation a very risky option.

Consequently, speaking for this Senator, I must state that the draft as it now stands remains fundamentally unacceptable. It is important that we make clear to the Third World and the Soviet bloc, who are determined to conclude the treaty negotiations by April 24 without permitting any material changes to the current negotiating text, that we are not willing to bow to pressure and accept a treaty which still contains passages that may be inimical to U.S. interests and security.

I would like to point out that the U.S.S.R. recognizes that it is far better protected by the treaty than the United States, and is pressing the United States to agree to conclude the negotiations by accepting the treaty text in its present form. In addition to receiving greater benefits than the United States from the navigation provisions, they have guaranteed control over three seats on the executive council, whereas the United States is not guaranteed even one council seat. The U.S.S.R. being a net exporter of strategic metals, they desire to prevent secure U.S. access to seabed minerals. The denial of assured, nondiscriminatory access for U.S. citizens to seabed minerals would be the case if the present treaty text or its equivalent were agreed upon at the March/April session in New York. The Soviets also support the treaty provisions which allow revenue sharing with the PLO and other terrorist groups and would, therefore, like to see the United States embarrassed by their retention in the treaty text.

On the basis of the concerns I have outlined here, this Senator and, I believe, the other Members of this body, would like to go on record as strongly supporting the decision of the administration to institute a full and careful review of the LOS Treaty as it now stands.

This Senator is hopeful that the Reagan administration officials charged with the review of the Law of the Sea Treaty will carefully analyze the treaty provisions to which we make reference today, will ask themselves if such provisions are in the national interest, and if they are contained in the text of the treaty submitted to this body, whether the Senate will grant advice and consent to the treaty?

In concluding, I would like very much to commend the President, Secretary of State Haig, Deputy Secretary Clark, Under Secretary Buckley, and Assistant Secretary Malone, for their positive action over the last week in effecting this major review and redirection of the U.S. position in the LOS process.

LEGISLATIVE PROGRAM FOR REMAINDER OF THE WEEK

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to ask the distinguished majority leader what the program is for the rest of the day and for the rest of the week, if he would enlighten us.

Mr. BAKER. Mr. President, I thank the minority leader. There will be no more rollcall votes today. Shortly after we have another brief period for the transaction of routine morning business, it will be my intention to move that the Senate stand in recess until Thursday at 11 a.m.

On Thursday we will have two pieces of business to transact. We will have the cash discounts bill, on which there is a time agreement. In addition it would be the intention of the leadership to proceed at some point, perhaps in the middle of the afternoon, to the consideration of the four resolutions of disapproval in respect to the pay raises.

I expect there will be rollcall votes on both of those measures, and the Senate may be in until 6 or 7 o'clock on Thursday.

If we are able to complete both of those measures on Thursday, it will be my expectation that we will only be in session pro forma on Friday, and then we will go over until Tuesday.

Mr. ROBERT C. BYRD. In the alternative, if the Senate does not complete both of those measures, will there then be a session on Friday?

Mr. BAKER. The Senator is correct. If we are unable to complete action at a reasonable time on Thursday or Thursday evening, we will be in session on Friday.

It would be my hope, however, that we would be able to complete them even if it meant staying reasonably late on Thursday.

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

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 30 minutes in length in which Senators may speak for not more than 5 minutes each.

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

PRESIDENT'S BUDGET-CUTTING TEAM AND THE WHITE HOUSE STAFF EXEMPTED FROM PRESIDENT REAGAN'S FEDERAL EMPLOYMENT "DIET"

Mr. DECONCINI. Mr. President, last week the President announced with much fanfare that he was "putting the Federal Government on a permanent diet" by requesting a permanent ceiling on Federal employment to replace the current hiring freeze. The President's proposal would effectively reduce the number of Federal employees by 33,000 below current levels.

There is no question that we can and should reduce the size of the Federal Government. As a member of the Senate Appropriations Committee and the ranking minority member on the Treasury, Postal Service, and General Government Subcommittee, I intend to do my part to help the President make reductions in Federal spending wherever possible.

However, in examining the President's proposed March 10 budget revisions for fiscal year 1981 and 1982, it appears that the President has exempted his own White House staff and the staffs of his two top budget cutters from his Federal version of "weight watchers." I am talking about the Office of Management and Budget and the Office of the Secretary of the Treasury.

While the details of the President's latest budget revisions are still coming in, the budget tables show that the President has "looked the other way" when it comes to his own White House staff and the staffs at OMB and the Office of the Secretary of the Treasury.

The President is actually requesting an increase of $861,000 and 20 positions for the Office of Management and Budget over and above the levels proposed by President Carter in January of this year. By going above the Carter budget for OMB for 1982, the President is recommending $37,151,000, which is $6,151,000 or 19.2 percent over the current 1981 OMB budget of $32,000,000.

During the early days of the Reagan administration, I remember reading in the newspaper that the President intended to take his own medicine and recommend a 10-percent reduction in the Executive Office of the President next year. His initial contribution to this effort was his January 29 proposed rescission of $1,500,000 in the budget of the Council of Wage and Price Stability. Now, we learn that the President has changed his mind and has decided to embrace the original Carter budget proposal for the White House office and reduce the overall Executive Office of the President budget by a much smaller amount. The President is recommending the Carter budget of $22,346,000 for the White House Office in 1982—an increase of $1,973,000 or 10 percent over the current 1981 funding levels.

Furthermore, while the President has proposed reductions in, or elimination of, the proposed fiscal year 1981 pay raise supplemental for most other agencies, he has apparently decided to exempt the White House office from any cuts in the fiscal year 1981 pay raise. In fact, the White House office is only one of three offices exempt from cuts in the 1981 pay raise supplemental among all agencies covered by the Treasury, Postal Service, and General Government appropriations bill.

The President has also spared the office of his other budget-cutting team captain, Treasury Secretary Donald Regan, from the budget knife next year—leaving the proposed Carter budget figure of $37,265,000 for the Office of the Secretary intact—and recommending the full pay raise supplemental of $1,507,000 for the office. The budget request for the Office of the Secretary of the Treasury represents an increase of 11.2 percent over the current 1981 budget for the Office.

Mr. President, at a time when the President and his team of budget cutters are asking the Nation to sacrifice, it is ironic that the President has not applied the same tough budget standards to his own inner circle of staff and advisers or to the offices of those who are leading the administration's campaign to balance the budget and cut Federal spending. Indeed Mr. President, the Senate has reduced the size of its committee budgets by 10 percent.

As the ranking minority member of the Appropriations Subcommittee with jurisdiction over the White House Office, OMB, and the Office of the Secretary of the Treasury, I intend to recommend to the committee this week that its report of March 15 to the Senate Budget Committee include a recommendation that a 10-percent reduction be made in the total Executive Office of the President, including the White House Office and OMB, and a similar reduction in the Office of the Secretary of the Treasury. I believe that such a move is both fair and equitable under the circumstances, and I hope my Republican and Democratic colleagues will assist me in this effort.

NAMIBIA

Mr. PERCY. Mr. President, the recent deadlocked conference on implementation of an independence plan for Namibia (South-West Africa) was a disappointment for those of us who believe that a settlement holds great promise for U.S. interests in the region.

The territory of Namibia has been administered by South Africa since World War I, but for many years South Africa's jurisdiction has been challenged by the U.N. and the World Court. About 3 years ago South Africa accepted in principle a U.N. plan for the independence of the territory. The United States, the United Kingdom, Canada, Germany, and France formed the western "contact group" which worked to develop the independence plan promised by the U.N. Nigeria and the important African "frontline" nations of Botswana, Tanzania, Zambia, Zimbabwe, Angola, and Mozambique joined with us in actively supporting the plan.

Since then, disagreements over terms for a cease-fire and implementation of the independence plan have prevented a final resolution. Progress has been halting, frustrations have run high, and pressures for new sanctions against South Africa have been building.

Last month, all sides in the dispute met in Geneva at a U.N.-sponsored all-parties conference which was to be a step toward achieving independence. Regrettably, no progress was made at the conference.

The fact that the conference was convened at all provided a sharp contrast to the situation that existed when I visited South Africa and Namibia in 1976. At that time a constitutional conference on Namibia had been organized by the South African Government, but it did not include all of Namibia's main political parties. There was an urgent need to expand the conference.

The U.S. approach to the Namibia situation at that time was, in its own way, equally unrealistic. To demonstrate American disapproval of a continued South African presence in Namibia, U.S. policy severely limited official contact with the territory; in fact, no U.S. officials at all were stationed there. When I visited Namibia, accompanied by a junior officer of our Embassy in Pretoria, it was to my knowledge the first time a member of the U.S. Senate or a representative of the U.S. Embassy in South Africa had ever done so.

By being practically invisible in Namibia, it seemed to me that the United States was only minimizing the role that it might have played in helping to encourage a satisfactory political solution. Upon my return I urged a more active U.S. role, and I have been gratified that the issue was subsequently given a much higher priority by the Department of State.

Mr. President, I believe that the issue should remain one of high priority for this administration. A peaceful settlement will bring to an end 15 years of war with guerrilla forces which enjoy sanctuary in neighboring Angola—a war which can only escalate and widen if the problem is allowed to fester.

A settlement on Namibia increases the likelihood that Angola would have the confidence to begin to reduce the Cuban presence of 15,000 to 19,000 military personnel. Angola's Foreign Minister has

stated publicly that his government's reliance on the Cubans would be diminished once a Namibian settlement, including the removal of South African troops from its border, were concluded.

Beyond these desirable political developments, peace in Namibia will allow development of Namibia's untapped sources of valuable minerals, especially uranium and diamonds.

In many ways, a Namibia settlement can contribute to the achievement of stability and progress in the region. In a time of increasing tensions around the world, this could be an encouraging and positive development for the United States and the West.

Mr. President, a recent Chicago Sun-Times editorial discussed the Namibia problem. The language of the editorial is very strong but the message—that Namibia should be a high priority matter for this administration—is important. I ask unanimous consent that Chicago Sun-Times' February 2 editorial about Namibia be printed in the RECORD at this point.

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

STALLING ON NAMIBIAN FREEDOM

A crisis centering on Namibia is brewing for the new Reagan administration.

If "crisis" has become a turn-off word for benumbed Americans, let's add that this one involves a threat to U.S. oil imports.

That strikes closer to home than the larger issue, the deserved independence of the black Namibian people from the illegal, white-racist domination of South Africa.

Namibia is a huge, thinly populated former German colony that was put under South African mandate by the League of Nations after World War I. The United Nations, with U.S. support, terminated the mandate in 1966, but South Africa hasn't been listening.

Three years ago, under international pressure, it finally appeared to agree to a settlement that called for a cease-fire between South African forces and guerrillas of SWAPO (the South-West Africa People's Organization) and elections to be held under the eyes of UN observers. But South Africa's spokesmen recently dug in their heels again, saying it would be "premature" to implement the settlement now, that "time is needed to establish a climate of trust."

Bunk. South Africa fears that SWAPO would win an election over the Namibian elements it sponsors, as it probably would. And SWAPO is led by Sam Nujoma, who is looked upon by South Africans as a communist, though others who are more objective judge him to be a non-ideologue fighting only for the freedom of his people.

If South Africa's new intransigence is prompted by hope that Reagan will go easy on it and loosen the Carter administration's commitments to black African independence, that hope should be frustrated. Support for South Africa on this issue would deprive Namibians of self-determination and the United States of the friends Carter won among black nations, including the largest—Nigeria.

Enter oil. Nigeria, which supplies the United States with 15 percent of its oil imports, has threatened to use the oil weapon in the cause of African independence movements.

The issue could come to a head soon. African and other Third World nations are preparing to seek a United Nations trade boycott against South Africa. The Reagan administration then would be forced to make a painful choice—veto the boycott, thus alienating our friends, or support it, thus inflicting woes on South Africa's black workers as well as its white government.

Firm diplomatic pressure on South Africa to bend to the inevitable might avert the dilemma. Alexander Haig's State Department should pursue that as a priority matter.

ESTONIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today marks the 63d anniversary of the proclamation of independence for Estonia, a small country of unusual physical beauty and rich ethnic and cultural heritage. Estonia's independence was brutally cut short in June 1940 when the Soviet Union occupied Estonia and her neighbor states Latvia and Lithuania. Serious violations of individual rights pledged by the Soviet Union in the Helsinki Final Act continue today in Soviet-occupied Estonia.

On this occasion those of Estonian heritage in this country and elsewhere commemorate the establishment of the independent Estonian state in 1918, and renew their commitment and vigil for the return of independence to Estonia. All of us Americans, who are blessed with freedom, pay tribute to the rich scientific and cultural contributions of Estonians to Western civilization, and join with Estonians in their commemoration of and commitment to Estonian independence.

BARRY (GOLDWATER) TO THE RESCUE

Mr. PERCY. Mr. President, once again the Rockford Register Star has hit the nail right on the head with a forthright editorial on the distinguished Senator from Arizona entitled "Barry to the Rescue." In their editorial comments they are just as incisive and to the point as BARRY GOLDWATER himself.

I commend this excellent editorial on a truly remarkable American and colleague of ours to my fellow Members of Congress and other readers of the CONGRESSIONAL RECORD.

Mr. President, 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:

BARRY TO THE RESCUE

There was a time when Sen. Barry Goldwater, R-Ariz., went down in defeat as a presidential candidate because he was considered "too right."

Now, this veteran legislator, an affectionate legend in the eyes of many, is polishing off his credentials and challenging the so-called "New Right" within the Republican Party.

In his usual colorful way, Goldwater says, "I'm the 'right' and I say, who the hell are the New Right? I want to find out what we're talking about when we talk about the New Right. Are we talking about a fund raiser named (Richard) Viguerie, or the moral right?"

If it's the latter says Goldwater, "We really have to pay attention . . . I don't question the role of religion in politics . . . but I do question the wisdom of any minister to stand up and say vote for Charlie or vote for Joe."

Whatever the case, Goldwater makes rampantly clear that he is not yielding his special role in the party to the tight-knit faction that calls itself the New Right and works from the sidelines.

He particularly decried comments by Paul Weyrich, another ideologue from the New Right, who served notice to Republicans like Vice President-elect George Bush that they'd better "get in line."

"Who is Paul Weyrich? I think you'll find that the so-called New Right is not going to run the Republican Party. I think that Viguerie and Weyrich feel ultraconservatives had a lot to do with the last election. I don't believe that."

Nor does the veteran senator cotton to the New Right's idea of amending the Constitution so that prayers can be said in schools and abortion outlawed.

He said women should make their own decisions about abortion. "I just don't think the government should pay for it." Regarding prayer, he's for it only if it is not prescribed in the classroom.

Anyway, says Goldwater, "I don't like to see the Constitution amended at all. Everytime we amend it, we screw it up."

Nor is he for the wholesale dismantling of federal social programs. "We might see a repetition of Miami, Watts or Detroit all over the country if we go in with a meat-ax."

Goldwater is not retiring to his wheelchair despite his arthritic legs. He said he was "madder than hell" with those Democrats who claim they'll scuttle Gen. Alexander Haig if Reagan nominates him to his cabinet. Men like Senate Majority Leader Robert Byrd have said Haig is vulnerable because of Watergate and his service to Nixon during that lawless episode.

Said Goldwater, Byrd was "talking through his fiddle."

The senator from Arizona deserves a medallion for his curmudgeonly stance, for his candor, and for his partisanship, qualities that redeem him from those faceless monsters in Congress who can't talk straight, preferring their knife-in-the-back tactics to a frontal attack.

We hope Goldwater will be around as long as there is need for someone to get "madder than hell" in the service of his government. Nobody does it with more charm or exuberance than Barry.

MARY KATHERINE RANDOLPH

Mr. WILLIAMS. Mr. President, this is a most sad occasion for the Senate and I would like to express heartfelt condolences from Mrs. Williams and me to JENNINGS RANDOLPH on the death of his wife.

Mary Katherine was a remarkable woman who traveled the mountains and hollows of West Virginia as a social worker before her marriage. It was then a most unusual profession and she pursued it with such energy and devotion that she became known as the welfare lady. When she married JENNINGS 48 years ago, she terminated that career but certainly she maintained her vision of what needed to be done and her outrage over injustice throughout her entire life. I must believe that her love, and her vision, played a major role in

the many, many accomplishments of her fine husband as well.

I would be remiss if I did not express a feeling of awe with regard to JENNINGS. We are all aware of the ordeal he has endured over the past few years. We knew well of his devotion and constant attention to Mary Katherine yet despite the emotional heartbreak and the physical demands which his attention to Mary Katherine required, he was true to his vows in this body and true to his heritage of helping so many people who otherwise would have nowhere else to turn. He did not fulfill his duties in the perfunctionary manner of the routine over these years; he led the fight for so many causes, coal mine safety, the handicapped, just to cite two of his major efforts.

Despite his exhaustive ordeal and his devotion to Mrs. Randolph, he was able to bring to bear his full intellectual powers and his vision to bear on the crucial, human elements of his legislative endeavors, and by doing so, he enriched the lives of his colleagues and, indeed, all America.

Again, Mr. President, I offer my condolences to JENNINGS, his two sons, Jay and Frank, and his three grandchildren. It is sad that death has ended this most joyous of marriages but I know that the strength of that eternal union will enable our colleague to carry on.

A DAZZLING ACHIEVEMENT ON ICE

Mr. WILLIAMS. Mr. President, the entire United States is proud when one of our citizens thrills the world in an international sporting event, but that pride is even greater when the achievement belongs to someone as talented, unaffected and accomplished as Ms. Elaine Zayak of Paramus, N.J.

Ms. Zayak recently captured the silver medal in the world skating championships at the Hartford, Conn., Civic Center and I just wanted to call her special effort to the attention of my colleagues.

It is rare enough to see an individual so change and develop a sport through the power of a single performance, but Elaine's achievement is even more memorable since she is a 15-year-old high school sophomore. In a performance marked with seven triple jumps—and a great deal of beauty as well as controversy—Ms. Zayak stunned the skating community with her precision and daring.

Even more important, however, is the way Elaine has worked as an ambassador on ice for America. She toured the People's Republic of China in late October 1980 and won acclaim for her personality and performance both in the arena and out. That is one of the reasons why she was selected as Bergen County, N.J., Female Amateur Athlete of the Year and why she has so many friends and admirers around the world. In recent months, Elaine has captured the eastern senior ladies championship, and the U.S. ladies national championship; major achievements on the way to her silver medal in Hartford.

We will hear more from this dedicated and talented young performer in the years ahead, and I am proud to note that she is one of my constituents, and, more importantly, someone whom all of us can admire.

AN INSPIRING PRAYER

Mr. ROBERT C. BYRD. Mr. President, on March 4, I attended a dinner given by the West Virginia Society in honor of Congressman Harley Staggers of West Virginia. On that occasion, Col. John F. Nicholas, Jr., a member of the West Virginia Society in the District of Columbia and delegate to the National Association of State Societies, offered a prayer which those of us who have chosen public service should find to be particularly applicable and inspiring.

I ask unanimous consent that Colonel Nicholas' prayer be printed in the RECORD.

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

Almighty God, in whose providence men and nations live, and move, and have their being, we thank Thee for the daring men and women who founded and have shaped our great country—and especially the man we are honoring this evening. Lord, open our hearts and minds to Thy guidance this day. May our faith never be shadowed by doubt or fear. May the sense of Thy presence be as clear in the halls of government as in the temples of worship. In all our striving, our aspiring, and our working, may we be sustained by the radiant vision of the ultimate triumph of justice and peace of Thy coming kingdom.

And to Thee we shall ascribe all honor and glory. Amen.

SENATOR GARY HART

Mr. MOYNIHAN. Mr. President, on February 19 I had the honor of introducing my friend and colleague, the senior Senator from Colorado, to New York County Democrats on the occasion of our annual dinner. I said:

Let us hear tonight from one of the new leaders of the American nation, and perhaps especially of our party. 1980 was, of course, a painful year for those of us in the Senate. We lost so many fine, strong voices. But that is the history of any institution. The test of an institution is its capacity for renewal, for progress, for new perspectives and new ideas. No one more embodies that renewal than my distinguished colleague and close friend, Gary Hart, who first entered politics as George McGovern's campaign manager in 1972, and went on to represent his wonderful state in the Senate. Some of you might note that tonight I am wearing a campaign button I picked up in Denver last Fall when I was campaigning for him. It puts it in that plain old-fashioned way: "Coloradans do it with Hart." Mark me. The time will come, and not far distant, when the whole nation will.

Mr. President, the New York Democratic Party is the oldest organized political party on the face of the Earth. We have been privileged to hear many fine speakers. But in my time at least none has been more lucid or effective than Senator HART. I believe that my colleagues on both sides of the aisle will benefit from Senator HART's remarks and ask unanimous consent that they be printed in the RECORD.

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

SPEECH BY SENATOR GARY HART

H. L. Mencken once said: "In this world of sin and sorrow, there is always something to be thankful for. As for me, I rejoice that I am not a Republican."

In this spirit of rejoicing together, I would like to set before you two plain propositions:

The Democratic Party must not abandon its historic principles and ideals—we are fundamentally different from the Republican Party and we must not forget that. But, second,

The Democratic Party must once again be willing to experiment—to try new ways—new approaches—to solve our problems, achieve our goals, and elevate our vision.

Why do I warn against abandonments of principle?

Because there are those who say the clock has run out on the Democratic Party—that the 1980 election signaled the death of the Democratic dream—that present day realities require us to return to practices of oligarchy, monopoly, and economic royalism to survive.

But those voices are the voices of false prophets.

The vast majority of Americans still believe—and always will believe—in a fair and just and equitable society. A society not dominated by concentrated wealth—not driven by personal greed—not based on devil-take-the-hindmost economics. A society where charity is more than the crumbs that fall from the rich man's table. A society that believes not only that a rising tide indeed lifts all boats—but also understands that it matters not if the tide is rising, if you have no boat at all.

So we as Democrats would make both a practical mistake—and a profound moral misjudgment—if we foresake our heritage.

If, in an effort to achieve some short-term political gain, we become like our age-old adversaries, we will abandon the American people.

And, if the American people see that the pursuit of office is more important than the pursuit of principle, they will abandon us.

We are the Party that can show it's possible to be fiscally responsible—and morally responsible—at the same time. And we will.

So, in spite of the false prophets, I do not fear the failure of our principles or the loss of our ideals—the ideals that have provided minorities and women full constitutional rights, the ideals that have done so much to reduce poverty, hunger, and want in our country, the ideals that continue to cause Americans to sacrifice their lives in the defense of democratic principles around the world.

The recent elections are a set-back, not a permanent defeat.

We lost a battle in a long war over principles. And until the older person who is cold, the unemployed younger person, the harassed blue-collar person begins to identify with the mink, diamond, and limousine set—the troops are still on our side.

But to re-affirm our heritage as the majority party, we must become, once more, the Party of ideas—of new solutions to new problems.

Franklin Roosevelt did not say, in 1932, "I am creating the New Deal. It is a rigid set of programs and bureaucracies. And everyone

who considers himself a Democrat must agree with all of it."

No, he said: "Our problems are new. We must try new approaches. We must experiment. If something works we will keep it. If it doesn't work, we will throw it out and try again."

That's the spirit which rescued our country in the 1930s. And it's the spirit which will rescue our country in the 1980s.

What form might this new spirit of experimentation take?

Let's take, for example, the serious problem of productivity and capital formation.

My friend Howard Samuels has pointed out—in a consistently articulate way—that humanitarian goals are best achieved in a healthy economy. It's difficult to be liberal when there aren't enough dollars to meet our needs. Put another way: an expanding pie is easier to share than a shrinking one.

We can create more capital for plant expansion and modernization and new business—and create more jobs—by creating a new class of stock—call it "new capacity stock." The first turnover of such stock would be completely tax free. Investors would have a great incentive to buy the stock. Companies would be attracted to issue such stock—and to expand—by the potential to attract capital.

This proposal, together with specific accelerated depreciation measures sponsored by Democrats, can help reestablish prosperity and greater opportunities for all.

A second example.

The humanitarian goal of concern for seniors—particularly their heating bills—offers a clear case where we can demonstrate social concern without bureaucracy and increased taxes.

Two years ago the Senate passed a bill—which the utilities succeeded in killing in the House—called Lifeline Utility Rates. It would have required each state to adapt a rate system providing all senior citizens a subsistence amount of energy at the lowest rate offered bulk customers. It would have substantially reduced energy bills for the elderly.

This may not be the perfect solution—but it beats the silence we get from this Administration on a fundamental human problem.

Yet another example. As with almost all social progress in this country, the Democrats have taken the lead in cleaning up the environment.

But as we had gotten used to doing, we chose to do that by increasingly complicated regulations.

In his concern for General Motors, President Reagan now intends to dismantle the regulations—presumably leaving the air to clean up itself.

But we're concerned with more than just the needs of General Motors. We're concerned also with the health and prosperity of the workers who build the cars, the safety of the buyers who drive them, the purity of the air they produce, and the integrity of the landscape from which comes steel, and the coal to smelt it.

But we can't win the political battle if it's between more regulation or less regulation.

There is an alternative. We can make it profitable to build cleaner cars by offering an incentive—a rebate—for those who buy them. And we can make it unprofitable to build dirty cars by imposing a charge on those who build them. In short, we can achieve the same results—but without strangling a major, troubled industry in regulations.

What about national security? The Party that led this country, and its allies, to victory in two world wars in this century—and by our leadership prevented World War III—is not a Party that's weak on defense.

Liberal Democrats must learn again that it's imperative to share the concern of many Americans for the well-being of our service men and women. It's imperative to ensure sufficient numbers of maintainable and effective weapons. It's imperative—not only to oppose waste in the military—but, where necessary, to spend more to guarantee the survival of our allies in Europe, Israel, Japan, and throughout the world.

But, along with a strong defense, we must never cease to remind our fellow Americans that an unrestrained nuclear arms race makes us weaker rather than stronger—is fiscally and morally irresponsible—and jeopardizes the survival of human civilization.

And as we seek stability and security throughout the world, we must also seek security at home—in our very neighborhoods.

People genuinely concerned about our survival in the world and their survival here at home won't be inclined to listen closely to the arguments for the superiority of the Democartic Party's economic theories.

The increasing problem of disorder and crime is a national problem—not a New York problem. It is just as frightening to be mugged on the grounds of the State Capitol in Denver, Colorado, as on a New York subway.

Over a decade ago, John Lindsay and the Kerner Commission argued for policies to bring employment back to cities and to provide educational opportunities.

There is no gain in cutting spending for education and job-training, if more money has to be spent for police protection.

Educating poor youngsters is a social investment. Young people must learn to have a stake in their country. Ignorance doesn't care.

Education is our system for recruiting Americans. It is the only method we have for actually creating the American spirit.

And that is central to the Democratic agenda.

So here as in defense, in energy, in our economy, the Democratic Party of the future must be the Party of new ideas, of experimentation, of vision, and of hope.

It takes no particular talent to oppose progress. It takes enormous talent to meet society's needs with limited resources in an austere period.

We are the Party with that talent.

In *War and Peace,* Prince Andrei said of the Russians at the Battle of Austerlitz: "We lost because we told ourselves we lost."

Well, we haven't lost.

We have not come this far to turn back.

We are the Party:

that brought civil rights to this land;

that restored Europe and Japan after World War II;

that sent Americans to the moon and brought them safely back;

that raised the standard of living for virtually all Americans;

that faced down the Soviets in Cuba;

that tackled the hard job of cleaning up our air, our water, and our land;

that established a collective bargaining system and a safer work place for labor.

That is who we are and who we have been—and I am proud to be identified with that record.

But we can't prevent destruction of past monuments unless we are in office. And we can't get into office unless we deal with present realities.

We can only protect the gains of the past by solving the problems of the future.

Now we must become the Party that:

combines economic growth with a healthy environment;

makes government a partner in industrial revitalization;

creates a better quality, more effective defense—combined with nuclear arms control.

Many among us are asking where we will be in the 1980s.

If we create new approaches to new problems—and if we hold to our principles of fairness, of justice, and of equality—I know where the Democrats of the future will be.

We will be:

where cities need rebuilding;

where a young construction worker needs a home;

where parents want to educate their children;

where neighborhoods live in fear of crime;

where young people are concerned about a healthy environment;

We will be:

where a black teenager needs a job,

and where a Chicano farm worker needs fair treatment.

We will be where democratic people want a strong and trusted friend around the world.

And we will be where an elderly person is cold and alone.

We are the Party of the future.

We hold the heritage of hope.

Fortune and history have made America the standard of democracy and the hope of the world.

That is our dream.

That is our vision.

And that is our promise.

DR. ALICE RIVLIN, DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Mr. MOYNIHAN. Mr. President, there is, in the most recent issue of the Bureau of National Affairs Daily Report for Executives, a rather extensive speculation on the future of our good friend and valuable associate, Dr. Alice Rivlin, the Director of the Congressional Budget Office.

Her term, as is observed in this particular document, this newsletter, does not expire until February 1983, but it is reported that she has agreed to resign her post perhaps as early as next month.

The suggestion is that this is a matter that has been desired by the party that now has the majority here in the Senate, and also that this is desired in the executive branch where it is felt that Dr. Rivlin's Keynesian bias, as is suggested, ignores the potential benefits of supply-side tax policies.

In order that the record should show what I am speaking of, I ask unanimous consent, Mr. President, that this particular passage from the Daily Report for Executives be printed in the RECORD at this point.

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

U.S. BUDGET: CBO DIRECTOR TO RESIGN POST SOON IN DEAL WITH SENATE REPUBLICANS, SOURCES REPORT

Congressional Budget Office Director Alice Rivlin, whose term will not expire until February 1983, has agreed to resign her post, perhaps as early as next month, in exchange for a voice in the selection of her successor, congressional sources said today.

A CBO spokesman today denied knowledge of any such agreement. "The rumor is utter nonsense. Her term runs until February 1983, and she plans to serve it," the spokes-

man said. Rivlin herself declined to comment.

Conservative Republicans on the Senate Budget Committee, notably Sens. Orrin Hatch (R–Utah) and William Armstrong (R–Colo), have long been critical of Rivlin and the CBO, arguing that the economic analyses the agency prepares for the congressional budget panels have a "Keynesian bias" that ignores the potential benefits of supply-side tax policies. Since the November election victory that brought Republicans control of the Senate, Armstrong has been pushing Senate leaders for a floor vote to oust the CBO director.

Although Rivlin's term is fixed by the Congressional Budget Act that established CBO as a nonpartisan research agency in 1974, a majority vote in either house could remove the director from office. Rivlin has been the agency's only director. Armstrong and other supply-side advocates, including some at the Treasury Department, believe the alleged CBO policy-slant will provide a powerful weapon to Democrats who oppose the supply-side strategies embodies in President Reagan's economic plan.

A Treasury Department memo circulated to congressional Republicans, shortly after the election spelled out the case against Rivlin and CBO, fueling a behind-the-scenes power struggle between the supply-siders and Senate Budget Committee Chairman Pete Domenici (R-NM). Armstrong reportedly backed off on the issue of a floor vote when Domenici and other moderates convinced him he did not have enough GOP support to force Rivlin's dismissal.

For the moment, it appears that Domenici has prevailed, securing Rivlin's agreement to go soon, but quietly, in a manner that will minimize political fallout. However, congressional sources privy to the arrangement indicate that Armstrong and Hatch are not entirely pleased with the terms Domenici has set.

According to these sources, Senate conservatives also want to see changes made at lower levels on the CBO professional staff. "It doesn't matter what Domenici told her (Rivlin). Once she leaves, we intend to clean house," one source says.

Mr. MOYNIHAN. Mr. President, I can report that, learning of this, I spoke this morning with Dr. Rivlin, and learned from her that there is no truth whatever to her pending resignation. It is greatly exaggerated, as Mark Twain said of his demise on one occasion.

I would like to add my voice to what I think would be that of many of us on the Budget Committee of the Senate, to say that it would be a deplorable precedent for the Director of the Congressional Budget Office to be asked to, much less be forced to, resign owing to the nature of his or her economic training and general position within that discipline.

It is true, Mr. President, that Dr. Rivlin took courses in economics, and that may preclude her useful service to those whose view of the subject is that it is a matter of belief rather than understanding.

It can be formally demonstrated that Dr. Rivlin attained a doctor of philosophy degree from an accredited university, and that, too, I do not doubt, might be held an insurmountable obstacle to her acceptance by those whose proficiency in economics appears to lie in the inverse ratio to their training in the subject.

But that is a passing phase. Faith healing is not a matter to be dismissed out of hand, but neither is it a substitute for the medical profession.

And neither are some of the nostrums going about these days under the heading of economics to be thought of as a substitute for an old and difficult and incomplete, and probably, incompletable discipline.

I hold not the least animus against those who are concerned with the basic questions that supply side economics, as it has come to be known, has raised. I would be the first to allow that the general theory of employment, interest, and money and the so-called Keynesian doctrine that have followed from it have had, implicit and explicit, the notion that industrial economies have an inherent tendency to overproduction and that there is a persisting problem in the modern economics of oversaving. It seems to me that those at most would have been temporary conditions of, say, the British economy in the 1930's.

It ought to be clear that economics deals with the persisting problem of scarcity, that insufficient supply is the basic subject to which the discipline is directed. There is never, save in the most temporary and special circumstances, an excess of savings. There is never, except in the most special and temporary of circumstances, an overproduction of economy, generally speaking.

So, those who deal with supply-side matters address themselves to an imbalance in our own thinking in this matter. That is one thing. It is altogether another thing to conduct a witch hunt against a respected professional who has served in her office with diligence, with probity, and with effectiveness through one and a half terms, who has sought to bring the standards of the public service to her work, and who now evidently is unacceptable because of some undefined doctrinal difference with a largely anonymous faction in this Chamber.

If there are those in this body who disagree with Dr. Rivlin's proposed economics, let them come forward. Let them stand on this floor and express to us, in terms comprehensible, at least, to this body, what their views are, explain how they reached them, and in what way they are at odds with those of Dr. Rivlin, and explain in what way her continued stay in a nonpartisan appointive term is unacceptable to them.

We enacted the Congressional Budget Impoundment Act in the hope that we would bring a measure of detached analysis to the assistance of Senators who are not, in the main—and certainly, the senior Senator from New York is not such a person—well versed in economic doctrine. There are those of us who try to know economics without any suggestion that we are able, in that sense, to do it, as the economists say. But let there be no doctrinal test for the right to serve in an office for which a term was established for the very purpose of protecting it from this kind of change in fashion and temper and mood.

It seems to me that the gentlemen and the ladies on the other side of the aisle would make a deep mistake if they were to seek to drive any professional member of the Congressional Budget Office from his or her post, owing to supposed doctrinal heresies with respect to economics matters scarcely understood by those who profess them in our great universities and I dare to think, hardly even comprehended in this Chamber. If they succeed in doing this, they will have succeeded in undoing one of the most important issues that the other side of the aisle has raised for the past 3 years, which is the question of the integrity of the budget process.

I hope that this fine woman will stay at her post through to the end of her term. If she is driven out, let the opprobrium for such an impolitic and improper act rest on those responsible.

Mr. President, two concluding observations to this matter:

I want it to be noted that Dr. Rivlin has not been asked to resign and cannot, in that particular sense, have agreed and has not agreed to do so.

Finally, I believe I can state in the spirit of the law that it would be irresponsible of her to resign unilaterally in an arrangement with the Senate unless the House also wanted her to do it. It would be useful to us to recall that the Congressional Budget Office serves both our bodies.

In conclusion, Mr. President, lest it be thought that I am perhaps speaking of a person who has shared my own views with great unanimity over the years, I say that this is not the case at all. Were anyone to question me on the matter, I have, somewhere in my files, a number of book reviews by Dr. Rivlin of books by the Senator from New York which I would not want to see reprinted under any circumstances, and only in the most extreme situation would I bring them to the defense of my own impartiality.

A GOOD DAY FOR NEW YORK

Mr. MOYNIHAN. Mr. President, Monday, March 2, was an exceptionally good day for New York. When the Westinghouse Science Search announced its awards for this year, we learned that 7 of 10 winners, including the first prize winner, hail from New York schools.

This impressive sweep of the top prizes is a testament to the hard work, imagination, and dedication of the winners. All of them are marked for great success, and I expect that we will hear of them again in the future. I congratulate them. I thank them for bringing this honor to their home State.

Success in competitions like the Westinghouse one also tells us something about the schools, teachers, and parents of the winners. To all of them, I offer my compliments and thanks.

I give you the names and schools of the winners from New York:

Amy Sue Reichel of Hunter College High School, first prize; Joel M. Wein of Stuyvesant High School, fifth; Terrence D. Sanger of the Dalton School, sixth; Lori I. Kaplowitz of George W. Hewlett High School, seventh; Seth Finkelstein of the Bronx High School of Science, eighth; Mark L. Movsesian of Forest Hills High School, ninth; and William Chang of the Bronx High School of Science, tenth.

An article about the Westinghouse competition appeared in the March 3 issue of the New York Times. I ask unanimous consent that it be printed in the RECORD.

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

TOP WINNER IN WESTINGHOUSE SCIENCE SEARCH IS HUNTER HIGH PIANIST, 17

(By Timothy M. Phelps)

WASHINGTON, March 2.—A 17-year-old senior at Hunter College High School in Manhattan, who worked for five months on experiments in genetic engineering that helped explain resistence to disease, won the top prize today in the annual Westinghouse Science Search.

The winner, Amy Sue Reichel, who conducted her experiments at the Albert Einstein College of Medicine, will receive a $12,000 scholarship.

Second place and a $10,000 scholarship went to Douglas A. Simons, 18, of Vero Beach, Fla., who designed and built his own optical instruments for his study of the moon's surface. Michael M. Dowling, 18, of Newington, Conn., won third prize and a $10,000 scholarship with a clinical biochemical research project.

Miss Reichel said in an interview that she first had learned of her talent in science in the sixth grade when she was able to figure out a gear ratio that none of her classmates had understood.

Hunter College High School, on Park Avenue between 94th and 95th Streets, is part of the City University of New York. No tuition is charged at the school, which is attended by 1,200 intellectually gifted children selected through competitive examinations.

Miss Reichel is an accomplished pianist—Bach, Beethoven, Chopin, and Debussy are her favorites—and she also likes to paint.

"A lot of people think that if you're interested in science, you can't be interested in the arts at the same time," she said. "That's always bothered me. I like to do a lot of different things."

The annual contest is conducted by a nonprofit organization, Science Service, for Westinghouse Electric, the sponsor.

Of the top 10 winners among the 40 finalists who assembled here for the last five days, seven were from the New York metropolitan area. This reflected a trend that has always been a topic of conversation at the annual judging.

One Westinghouse official said that "New Yorkers have no inhibitions," whereas "you might be more inhibited if you came from Oklahoma." Others cited the New York's science-oriented high schools and multitude of research facilities.

"It's really hard to do research, you know," said Michael R. Candan, a 17-year-old senior at Benjamin N. Cardozo High School in Queens, who studied the use of an extract from fern leaves as a repellent to flour beetles. "You have to have equipment. Usually you have to go to a university, which is found only in the major cities, and sort of beg for help."

Joel M. Wein, a 17-year-old Manhattan resident who goes to Stuyvesant High School in Manhattan, said of his friends on the school's mathematics team. "My friends are some of the most brilliant mathematicians in the country. You can't help but get excited when you are running around with people like that."

Mr. Wein, who did his project in numbers theory ("An Examination and Generalization of the Syracuse Algorithm"), came in fifth and got a $7,500 scholarship.

Both the students and the judges of the competition say that teachers in New York set their sights early on the Westinghouse competition and begin encouraging their best students years in advance to start working on projects.

The Bronx High School of Science, according to some of the finalists, has a special research course aimed at the Westinghouse program. As a result, the main hall of the school displays 50 feet of plaques from the competition, according to E. G. Sherburne Jr., director of Science Service. The school will add three more plaques this year from among the top 10 finalists.

The 40 finalists, who exhibited their projects to the public at the National Academy of Science over the weekend, were a tidy and friendly lot who tended to address their elders as "sir." The trend in clothing was toward suits and sports jackets for the boys, skirts or dresses for the girls.

It is a big change from the finalists of the 60's, said Dr. David Axelrod, New York Commissioner of Health and the chairman of the judges for this competition.

The other official winners were: Song Pan, 17, of Miami, fourth, a $7,500 scholarship; Terrence D. Sanger, 17, of Manhattan, Dalton School, sixth, $7,500; Lori E. Kaplowitz, 17, of Woodmere, L.I., George W. Hewlett High School, seventh, $5,000; Seth Finkelstein, 16, of the Bronx, Bronx High School of Science, eighth, $5,000; Mark L. Movsesian, 17, of Forest Hills, Queens, Forest Hills High School, ninth, $5,000; and William Chang, 17, of Fresh Meadows, Queens, Bronx High School of Science, 10th, $5,000.

GASOLINE SURPLUSES

Mr. MITCHELL. Mr. President, recent news reports indicate that gasoline stocks in the country are at record levels.

I hope this means we can look forward to seeing some downturn in gasoline prices at the pump in the near future. The normal interplay of free market forces causes a price downturn when demand is slack and supplies are adequate. With decontrol of domestic crude oil production and the removal of regulations governing the oil industry, I hope that the free market forces which play a role in the seasonal rise and fall of other commodities, such as food supplies, will begin to operate in the oil industry.

On March 2, the New York Times reported that spot market prices for gasoline were some 13 cents lower than the wholesale prices being charged by major oil companies. The spot market is apparently responding to demand fluctuations.

If the spot market is showing the classic signs of adequate supply and weakened demand, I hope the decontrolled oil market will show similar signs. The report that cheaper European-refined gasoline is being imported into this country because of our rising prices—although demand is slackening—is a disturbing indication that the decontrolled market may represent a license to keep raising prices, not an interplay of the classic economic pressures of supply and demand.

I hope that this is not true, and that we will soon see a downturn in gasoline prices at the pump.

Mr. President, I ask unanimous consent that the full text of the New York Times article appear in the RECORD at this point.

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

BIG STOCKS OF GASOLINE SOFTEN PRICE—LOWER DEMAND IS ALSO ERODING RETAIL MARKUPS

(By Douglas Martin)

Gasoline stocks in the United States are nearing record levels, and oil company officials and independent analysts are beginning to suggest that the ample inventories could stem the upward rush in retail prices, and perhaps even begin to push them downward.

Recent increases in crude oil prices continue to exert an upward pressure, analysts caution. But, "The higher the inventories, the greater the downward pressure on prices," noted one economist for a major oil company.

The American Petroleum Institute reported last week that gasoline inventories, including stocks held at refineries, storage terminals and service stations, rose to 280.2 million barrels on Feb. 20 from 280.1 million a week earlier and 259 million at the beginning of 1981.

The record level of gasoline stocks was 283.3 million barrels on April 18, 1980. Those inventories helped insure stable gasoline prices last summer, and even a slight drop in the autumn.

PRICES DOUBLED IN TWO YEARS

Over all, however, gasoline prices have approximately doubled over the past two years, wtih prices for unleaded regular now exceeding $1.60 a gallon in Manhattan. The Lundberg Letter, a gasoline industry trade publication, estmates that the national average price of gasoline now exceeds $1.34, an rise of more than 12 cents this year. Industry officials foresee at least another 8-cent increase in 1981, but there is mounting doubt whether such an increase is possible in today's market.

Already high stock levels, coupled with reduced demand, are making it difficult for gasoline retailers to pass on the wholesale price increases of nearly 10 cents a gallon declared by major oil companies since President Reagan decontrolled the price of crude oil less than a month ago.

The Shell Oil Company calculates that dealers' margins now average 8 to 9 cents a gallon, compared with about 13 cents a year ago. Some retailers margins have sunk as low as 4 to 5 cents because of the stiffen-competition.

Reflecting the weakening market Oil Buyers Guide reports that the price of gasoline has softened on the spot market, which responds more quickly to forces of supply and demand than the contract market. Moreover, gasoline is selling on the spot market for 13 cents a gallon below the wholesale prices charged by major oil companies, exerting further downward pressure on prices, according to industry analysts.

"The pace of the major companies' price increases has slackened," noted Albert Bas-

sano, editor of Oil Buyers Guide. Although about half a dozen oil companies increased wholesale gasoline prices last week, the rises were generally a penny or less, compared with earlier increases of 3 to 5 cents.

Moreover, substantial quantities of gasoline are said to be coming into the United States from Europe because of even weaker demand there and the rising prices here. Oil company planners are debating whether they should replace some of their domestically refined gasoline with cheaper imports.

But demand in this country has also been weakening. United States gasoline consumption fell 6 percent last year, and a further drop of 3 percent is foreseen this year by oil industry economists.

"If demand continues to decrease, it's going to put pressure on prices," said Lawrence Goldstein, of the Petroleum Industry Research Foundation

But the price of the crude oil used to produce gasoline has risen by $3 to $4 a barrel, or about 8 cents a gallon, over recent months, and oil companies insist they have no choice but to pass these costs on to gasoline consumers.

"When the price of the raw material goes up, it doesn't make much difference how much gasoline you have in stock," said Charles M. Kittrell, executive vice president of the Phillips Petroleum Company.

The current high gasoline inventories are partly the result of the soaring prices. A rule of thumb in the business says that every 10 percent increase in prices results in a 2 percent drop in demand.

The growth in stocks has also been the result of high demand for heating oil caused by this winter's cold weather. Refinery design requires that, within certain limits, processors must make more of every product to make more of one specific product, such as heating oil.

Also, the oil industry has reacted to supply interruptions, feared or actual, by keeping more gasoline on hand than was considered necessary in prior years. This is also true of crude oil, stocks of which stood at 376.6 million barrels on Feb. 20, compared with 352.9 million a year earlier, according to the petroleum institute.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of March 5, 1981, the Secretary of the Senate on March 6, 1981, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on March 6, 1981, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

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

FISCAL YEAR 1982 BUDGET REVISIONS—MESSAGE FROM THE PRESIDENT—PM 35

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations and the Committee on the Budget:

To the Congress of the United States:

On February 18, I spoke to a Joint Session of Congress about the economic crisis facing America. I pledged them to take the action necessary to alleviate the grievous economic plight of our people. The plan I outlined will stop runaway inflation and revitalize our economy if given a chance. There is nothing but politics-as-usual standing in the way of lower inflation, increased productivity, and a return to prosperity.

Our program for economic recovery does not rely upon complex theories or elaborate Government programs. Instead, it recognizes basic economic facts of life and, as humanely as possible, it will move America back toward economic sanity. The principles are easily understood, but it will take determination to apply them. Nevertheless, if inflation and unemployment are to be curtailed, we must act.

First, we must cut the growth of Government spending.

Second, we must cut tax rates so that once again work will be rewarded and savings encouraged.

Third, we must carefully remove the tentacles of excessive Government regulation which are strangling our economy.

Fourth, while recognizing the independence of the Institution, we must work with the Federal Reserve Board to develop a monetary policy that will rationally control the money supply.

Fifth, we must move, surely and predictably, toward a balanced budget.

The budget reform plan announced on February 18 includes 83 major cuts resulting in $34.8 billion outlay savings for 1982, with greater future savings. With this message, over 200 additional reductions are proposed. An additional $13.8 billion in savings are now planned. Further, I am proposing changes in user charges and off-budget payments that will bring total fiscal savings to $55.9 billion. This compares with $49.1 billion in fiscal savings announced on February 18.

In terms of appropriations and other budget authority that will affect future spending, we are proposing elimination of $67 billion in 1982 and over $475 billion in the period 1981 to 1986.

These cuts sound like enormous sums—and they are—until one considers the overwhelming size of the total budget. Even with these cuts, the 1982 budget will total $695.3 billion, an increase of 6.1 percent over 1981.

The budget reductions we are proposing will, undoubtedly, face stiff opposition from those who are tied to maintaining the status quo. But today's status quo is nothing more than economic stagnation coupled with high inflation. Dramatic change is needed or the situation will simply get worse, resulting in even more suffering and misery, and possibly the destruction of traditional American values.

While recognizing the need for bold action, we have ensured that the impact of spending reductions will be shared widely and fairly by different groups and the various regions of the country. Also, we have, as pledged, maintained this society's basic social safety net, protecting programs for the elderly and others who rely on Government for their very existence.

Budget cuts alone, however, will not turn this economy around. Our package includes a proposal to reduce substantially the personal income tax rates levied on our people and to accelerate the recovery of business with capital investment. These rate reductions are essential to restoring strength and growth to the economy by reducing the existing tax barriers that discourage work, saving, and investment. Individuals are the ultimate source of all savings and investment. Lasting economic progress, which is our goal, depends on our success in encouraging people to involve themselves in this kind of productive behavior.

Our tax proposal will, if enacted, have an immediate impact on the economic vitality of the Nation, where even a slight improvement can produce dramatic results. For example, a 2 percent increase in economic growth will add $60 billion to our gross national product in one year alone. That $60 billion adds to the State and local tax base, to the purchasing power of the American family, and to the resources available for investment.

When considering the economic recovery package, I urge the Members of Congress to remember that last November the American people's message was loud and clear. The mandate for change, expressed by the American people, was not my mandate; it was our mandate. Together we must remember that our primary responsibility is to the Nation as a whole and that there is nothing more important than putting America's economic house in order.

The next steps are up to Congress. It has not been easy for my Administration to prepare this revised budget. I am aware that it will not be easy for the Congress to act upon it. I pledge my full cooperation. It is essential that, together we succeed in again making this Nation a land whose expanding economy offers an opportunity for all to better themselves, a land where productive behavior is rewarded, a land where one need not fear that economic forces beyond one's control will, through inflation, destroy a lifetime of savings.

RONALD REAGAN.

THE WHITE HOUSE, *March 10, 1981.*

RESCISSION AND DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 36

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, the Committee on Labor and Human Resources, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Judiciary, the Committee on Veterans' Affairs, the Committee on Governmental Affairs, and the Select Committee on Small Business:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974 I herewith propose 3 new rescissions of budget authority previously provided by the Congress, totalling $128.0 million. In addition, I am reporting 24 new deferrals totalling $825.5 million, and revisions to five previously reported deferrals increasing the amount deferred by $876.4 million.

The rescission proposals affect programs of the Department of the Interior and the National Consumer Cooperative Bank. The deferrals affect Appalachian regional development programs, programs in the Departments of Commerce, Defense, Education, Energy, Housing and Urban Development, Justice, Labor, and Transportation, as well as the Veterans Administration, the General Services Administration, and the Small Business Administration.

The details of each rescission proposal and deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *March 10, 1981.*

MESSAGES FROM THE HOUSE

At 1:34 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2166. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program.

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–551. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on a rescission proposed by the President; to the Committees on Appropriations, Banking, Housing, and Urban Affairs, and the Budget, jointly, pursuant to the order of January 30, 1975.

EC–552. A communication from the Clerk of the U.S. Court of Claims, transmitting, pursuant to law, a certified copy of the court's judgment order on the case of Wichita Indian Tribe, and so forth against the United States, Nos. 373, 374, 375; to the Committee on Appropriations.

EC–553. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed foreign military sale to Jordan; to the Committee on Armed Services.

EC–554. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report on the awarding of a contract for refuse collection at Sawyer AFB, Mich.; to the Committee on Armed Services.

EC–555. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report on the awarding of a contract for family housing maintenance at Grand Forks AFB, N. Dak.; to the Committee on Armed Services.

EC–556. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed foreign military sale to Egypt; to the Committee on Armed Services.

EC–557. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of the value of property, supplies, and commodities provided by the Berlin Magistrate under the German Offset Agreement for the quarter ending December 31, 1980; to the Committee on Armed Services.

EC–558. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on a transaction of the Bank involving U.S. exports to Australia; to the Committee on Banking, Housing, and Urban Affairs.

EC–559. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Impact of Foreign Corrupt Practices on U.S. Business"; to the Committee on Banking, Housing, and Urban Affairs.

EC–560. A communication from the Secretary of the Treasury and the Director of the Office of Management and Budget, transmitting, pursuant to law, a report on improvements made during the past year in fiscal and budgetary information and controls; to the Committee on the Budget.

EC–561. A communication from the Acting Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year ending September 30, 1980; to the Committee on Commerce, Science, and Transportation.

EC–562. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting relative to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–563. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, five amendments to prospectuses previously submitted relative to proposed leases; to the Committee on Environment and Public Works.

EC–564. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Improvements Made, Some Still Needed in Management of Radio Free Europe/Radio Liberty"; to the Committee on Foreign Relations.

EC–565. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Financial Disclosure Process of the Legislative Branch can be Improved"; to the Committee on Governmental Affairs.

EC–566. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, a report under the Freedom of Information Act for the calendar year 1980; to the Committee on Governmental Affairs.

EC–567. A communication from the District of Columbia Auditor, transmitting pursuant to law, eleven reports of the Office of the District of Columbia Auditor; to the Committee on Governmental Affairs.

EC–568. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report on the activities of the Administration under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–569. A communication from the Chairman of the Depository Institutions Deregulation Committee, transmitting, pursuant to law, a report on the activities of the Committee under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–570. A communication from the Acting Chairman of the Council on Environmental Quality, Executive Office of the President, transmitting, pursuant to law, a report on the activities of the Council under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–571. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, a report on the activities of the Commission under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–572. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the activities of the Department of the Treasury under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–573. A communication from the Executive Director of the Federal Labor Relations Authority, the Deputy General Counsel of the Federal Labor Relations Authority, and the Executive Director of the Federal Service Impasses Panel, transmitting, pursuant to law, a report on activities of their various departments under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–574. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report on the activities of the Commission under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–575. A communcation from the Assistant Administrator of the Agency for International Development (Legislative Affairs), transmitting, pursuant to law, a report on the activities of the Agency under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–576. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, a report on the activities of the Commission under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–577. A communication from the Acting Assistant Secretary of State for Congressional Relations, transmitting, pursuant to law, a report on the activities of the Department of State under the Freedom of Infor-

mation Act for calendar year 1980; to the Committee on the Judiciary.

EC–578. A communication from the Executive Secretary of the Administrative Conference of the United States, transmitting, pursuant to law, a report on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–579. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, a report on the activities of the National Endowment for the Humanities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–580. A communication from the Governor of the Farm Credit Administration, transmitting, pursuant to law, a report on the activities of the Administration under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–581. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending the deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–582. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on certain aliens whose visa petitions have been accorded third and sixth preference classification under section 204(d) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–583. A communication from the Chairman of the Federal Council on the Arts and the Humanities, National Foundation on the Arts and Humanities, transmitting, pursuant to law, the annual report on the arts and artifacts indemnity program for fiscal year 1980; to the Committee on Labor and Human Resources.

EC–584. A communication from the Acting Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the annual report of the Service for fiscal year 1979; to the Committee on Labor and Human Resources.

EC–585. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the estimated revenues to be deposited in the Panama Canal Commission's fund by the Panama Canal Commission for fiscal year 1982; to the Committee on Armed Services.

PETITIONS

The following petition was laid before the Senate, together with accompanying papers, and referred as indicated:

POM–20. A resolution of the Senate of the State of Wisconsin; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE RESOLUTION 6

"Relating to urging congress to continue the dairy price support program at 80% of parity.

"Whereas, 80% of parity has been guaranteed for dairy producers the last 2 years under federal law; and

"Whereas, the importance of continuing support prices at 80% of parity can be demonstrated by the following facts:

"(1) Wisconsin is the nation's number one dairy producer, generating over $6 billion in retail sales last year;

"(2) Dairy producers are already shouldering more than a fair share of the economic load by only receiving 80% of the same inflated dollar other businesses operate with but recover 100% of costs, plus a profit;

"(3) The Commodity Credit Corporation buys dairy products at support level prices when supplies exceed commercial demand. The product is stored and then sold back into commercial channels when needed. $1.3 billion in Commodity Credit Corporation purchases is a gross outlay which is eventually recovered. The true cost of the program is then the administrative costs of the program, which was $91 million in the 1979–80 marketing year;

"(4) The issue is one of priorities and that if production of food and fiber is not a nation's highest priority then it should be;

"(5) While almost all components of the business community have experienced declines in their productive capability, family farmers have consistently increased their productivity;

"(6) The support program has slowed the decline in farm numbers in this state to the point where in 1980, farm numbers were the same as the previous year, thus vastly increasing the cost benefit of support programs as a land conservation measure;

"(7) The university of Wisconsin system has conservatively estimated the reduction in state income if support prices only drop 5% at $1 billion or an average $6,000 per year per farmer, which has income tax yield implications for Wisconsin in 1981; and

"Whereas, the president and congress are considering changes in the dairy price support program; now, therefore, be it

"Resolved by the senate, That the Wisconsin senate urges congress to continue the dairy price support program at 80% of parity; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to all members of congress from this state, the secretary of the U.S. senate and the chief clerk of the U.S. house of representatives, the president of the United States and the secretary of the U.S. department of agriculture."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 509. A bill to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually (Rept. No. 97–24).

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under the authority of the order of the Senate of March 5, 1981, the following executive reports of committees were submitted on March 6, 1981:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

John M. Fowler, of Pennsylvania, to be General Counsel of the Department of Transportation;

Judith T. Connor, of New York, to be an Assistant Secretary of Transportation;

Robert W. Blanchette, of Maryland, to be Administrator of the Federal Railroad Administration; and

Lee L. Verstandig, of the District of Columbia, to be an Assistant Secretary of Transportation.

(The foregoing nominations reported from the Committee on Commerce, Science, and Transportation, 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.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Albert Angrisani, of New Jersey, to be an Assistant Secretary of Labor.

T. Timothy Ryan, Jr., of Virginia, to be Solicitor for the Department of Labor.

(The above nominations, reported from the Committee on Labor and Human Resources, 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.)

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. ROBERT C. BYRD:

S. 652. A bill for the relief of Raul H. Tamayo, M.D., his wife, Teresira, and his son; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. CHILES):

S. 653. A bill to amend title 28 of the United States Code to modify habeas corpus procedures; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 654. A bill for the relief of Romulo Cayetano; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. HUDDLESTON, and Mr. BENTSEN):

S. 655. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State, or political subdivision, may tax certain income from sources outside the United States; to the Committee on Finance.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 656. A bill to preserve, protect, and maintain the original boundary stones of the Nation's Capital; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself, Mr. JEPSEN, Mr. GRASSLEY, Mr. PACKWOOD, Mr. CRANSTON, Mr. HAYAKAWA, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 657. A bill to designate the Department of Commerce Building in Washington, D.C., as the "Herbert Clark Hoover Department of Commerce Building"; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 658. A bill to amend the Fair Labor Act of 1938 to exempt employees who are under 18 years of age from the provisions of section 6 of that act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. EXON (for himself and Mr. ZORINSKY):

S. 659. A bill to amend the authorization for the flood control project for the town of Niobrara, Nebr., and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOREN:

S. 660. A bill to amend title IV of the Social Security Act to provide for a demonstration program of block grants to States in lieu of Federal matching or aid to families with dependent children; to the Committee on Finance.

By Mr. JEPSEN:

S. 661. A bill to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance and to establish a commission to make recommendations with respect to the Federal effort to curb pharmacy related crimes; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 662. A bill for the relief of Defoil L. Orteza, Rosemarie Orteza, Defoil A. Orteza, Junior, and Joseph-Mari A. Orteza; to the Committee on the Judiciary.

S. 663. A bill for the relief of Wing Yin (Cecelia) Li; to the Committee on the Judiciary.

By Mr. CHILES (for himself and Mr. NUNN):

S. 664. A bill to amend section 481(d) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. CHAFEE:

S. 665. A bill to extend the period during which the Secretary of Defense may repay certain educational loans made to persons who serve in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. FORD:

S. 666. A bill for the relief of Louise Condon; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. LEVIN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. PELL, Mr. RANDOLPH, and Mr. TSONGAS):

S. 667. A bill to amend the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children; to the Committee on Finance.

By Mr. JACKSON:

S. 668. A bill to provide for an expedited and coordinated process for decisions on proposed non-nuclear energy facilities, and for other purposes; to the Committee on Energy and Natural Resources.

S. 669. A bill to amend the existing geothermal leasing and permitting laws, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 670. A bill to amend title 38, United States Code, to improve certain programs of Veterans' Administration benefits for veterans who are former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PELL (for himself, Mr. GLENN, Mr. GOLDWATER, and Mr. HUDDLESTON):

S. 671. A bill to amend section 402 of title 23, United States Code, relating to establishment by each State of comprehensive alcohol-traffic safety programs as part of its highway safety program; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 672. A bill to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 673. A bill to amend the Internal Revenue Code of 1954 to provide a 5 barrel per day exemption from the windfall profit tax in the case of stripper well oil, and for other purposes; to the Committee on Finance.

By Mr. QUAYLE:

S. 674. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against income tax for $750 of the cost of purchasing a qualified American-made automobile or light truck; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. HEFLIN, Mr. DECONCINI, Mr. SIMPSON and Mr. EAST):

S. 675. A bill to establish a Federal Jurisdiction Review and Revision Commission; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 676. A bill for the relief of Victor Wu-Hsiung Kaw and Ms. Pei-San Kaw; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 677. A bill to amend chapter 83 of title 5 of the United States Code to provide an equitable system of cost-of-living adjustments for civil service annuitants, and for other purposes; to the Committee on Governmental Affairs.

By Mr. STEVENS (for himself, Mr. MATHIAS, and Mr. GLENN):

S. 678. A bill to amend Title 39 of the United States Code to require that any extension of the Zip Code be part of a voluntary service option with a reduced rate; to the Committee on Governmental Affairs.

By Mr. EAGLETON:

S. 679. A bill for the relief of Maggie John Ekpo and her four children. Comfort John, Alice John, Ime John, and Eno John; to the Committee on the Judiciary.

By Mr. GORTON:

S. 680. A bill for the relief of Kai-Mee Chen; to the Committee on the Judiciary.

By Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. CHAFEE, Mr. PACKWOOD, Mr. CANNON, Mr. GORTON, and Mr. MITCHELL):

S. 681. A bill to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes; ordered held at the desk.

By Mr. R"EGLE (for himself, Mr. EXON, Mr. PRESSLER, Mr. JOHNSTON, Mr. PRYOR, Mr. ANDREWS, Mr. ABDNOR, Mr. ZORINSKY, Mrs. HAWKINS, Mr. CRANSTON, Mr. DECONCINI, Mr. LAXALT, Mr. LEVIN, Mr. SASSER, Mr. GRASSLEY, Mr. WILLIAMS, and Mr. DIXON):

S. 682. A bill to place a moratorium on decisions by the Federal Trade Commission in shared monopoly proceedings until the Congress establish the existence of the violation and defines its elements; to the Committee on the Judiciary.

By Mr. BAKER (for Mr. DOLE) (for himself, Mr. BAKER, Mr. ROTH, Mr. STEVENS, Mr. DANFORTH, Mr. CHAFEE, Mr. HEINZ, Mr. WALLOP, Mr. DURENBERGER, Mr. ARMSTRONG, Mr. SYMMS, Mr. GRASSLEY, Mr. KASTEN, Mr. JEPSEN, Mr. BOSCHWITZ, Mr. LAXALT, Mr. PERCY, Mr. THURMOND, Mr. HUMPHREY, Mr. WARNER, Mr. TOWER, Mr. HATCH, Mr. SCHMITT, Mr. HAYAKAWA, Mr. GARN, Mr. COHEN, Mr. ANDREWS, Mr. SIMPSON, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. HELMS, Mr. EAST, Mr. MATTINGLY, Mr. QUAYLE, Mr. DOMENICI, Mr. NICKLES, Mr. RUDMAN, Mr. MCCLURE, Mr. ABDNOR, Mr. COCHRAN, Mr. LUGAR, Mr. GOLDWATER, Mr. PRESSLER, Mr. D'AMATO, Mr. STAFFORD, and Mrs. KASSEBAUM) (by request):

S. 683. A bill to amend the Internal Revenue Code of 1954 to encourage economic growth through reduction of the tax rates for individual taxpayers and acceleration of capital cost recovery of investment in plant, equipment and real property; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. SIMPSON, Mr. HEFLIN, Mr. LAXALT, Mr. LUGAR, Mr. BOREN, Mr. ARMSTRONG, Mr. EAST, Mr. DENTON, Mr. GRASSLEY, and Mr. PRESSLER):

S.J. Res. 43. Joint resolution proposing an amendment to the Constitution to alter Federal fiscal decisionmaking procedures; to the Committee on the Judiciary.

By Mr. DECONCINI:

S.J. Res. 44. Joint resolution requesting the President to designate July 18 of each year as "National POW/MIA Recognition Day"; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. NICKLES, Mr. JEPSEN, Mr. GOLDWATER, and Mr. BOSCHWITZ):

S.J. Res. 45. Joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. CHILES):

S. 653. A bill to amend title 28 of the United States Code to modify habeas corpus procedures; to the Committee on the Judiciary.

MODIFICATION OF HABEAS CORPUS PROCEDURES

Mr. THURMOND. Mr. President, in partial response to Chief Justice Burger's recent observation that there should be some reasonable relief to limit judicial review of criminal convictions, I am today introducing a bill containing four proposals to ameliorate the repeated abusive use of Federal habeas corpus to attack State criminal convictions. The purpose of these proposals is to meet longstanding concerns of the States over undue Federal interference in State criminal convictions. As noted by Mr. C. Raymond Marvin of the National Association of Attorneys General in a letter to the Senate Committee on the Judiciary last year:

The purpose of the four proposals, which would take the form of amendments to the United States Code, is to address some of the problems that result in a lack of finality in the judgments rendered by many of our courts. There is wide support for the theory that a principal weakness of our criminal justice system is its lack of certainty: the certainty of a criminal being caught, convicted, and punished. Public confidence will inevitably be shaken by a system where crim-

inals are caught, convicted, and sentenced but where the judgment rendered may be appealed, cross-appealed and counter-appealed years after the initial verdict.

The amendments proposed herein are not radical nor will they interfere with the defendant's full right to determination of federal claims in federal courts. They are intended only to end abuses of the writ of habeas corpus by ensuring that claims on behalf of a defendant are presented in an orderly and timely manner.

The first proposal amends 28 U.S.C. 636(b) to require a district judge—rather than a magistrate—to conduct evidentiary hearings held in a habeas corpus proceeding with respect to a person held in State custody under a State criminal conviction. This recognizes the importance, in our Federal system, of State criminal justice proceedings by requiring the experience and authority of a Federal judge to overrule decisions of State supreme courts. Indeed, in many habeas corpus cases not only has the State supreme court reviewed the conviction on direct appeal, but the U.S. Supreme Court has denied review of the decision.

The second proposal would codify the decision of *Wainright* v. *Sykes*, 433 U.S. 72 (1977), in which the Supreme Court held that the failure to object to the admission of inculpatory statements as required under the State law bars Federal habeas corpus review of the issue absent a showing of cause for the noncompliance and some showing of actual prejudice. Unlike the Wainright decision, an effort is made here to spell out the factors constituting "cause" for failure to comply with the State rule.

The third proposal establishes reasonable time limits within which a Federal habeas corpus action must be commenced.

Finally, the fourth proposal provides limits on Federal habeas corpus evidential hearings where the record in the State court provides a factual basis for the State court findings and such record was made under circumstances affording the habeas petitioner a full and fair hearing on the factual issue.

Mr. President, these four proposals seem worth serious study to me. It is absolutely essential that we reexamine methods to enhance the credibility of our criminal justice system and place some reasonable limitations on repeated litigation surrounding criminal convictions. This bill deals with Federal review of State criminal convictions. Similar proposals are equally applicable to repeated collateral attack on Federal criminal convictions. We should extend our appreciation to the Attorneys General for their concern.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD following these remarks.

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

S. 653

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 "Habeas Corpus Procedures Amendments Act of 1981".

SEC. 1. Section 636(b)(1)(B) of title 28, United States Code, is amended to read as follows:

"(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, except evidentiary hearings in cases brought pursuant to section 2254 of this title, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for post-trial relief made by individuals convicted of criminal offenses in a United States District Court.".

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, if the Federal question presented was not properly presented under State law in the State court proceedings both at trial and on direct appeal, or properly presented in a collateral proceeding and disposed of exclusively on the merits, the claim may not be considered or determined by a judge or court of the United States, unless the petitioner establishes that the alleged violation of the Federal right was prejudicial to the petitioner as to his guilt or punishment and that—

"(1) the Federal right asserted did not exist at the time of the trial and that right has been determined to be retroactive in its application;

"(2) the State court procedures precluded the petitioner from asserting the right sought to be litigated;

"(3) the prosecutorial authorities or a judicial officer suppressed evidence from the petitioner or his attorney which prevented the claim from being raised and disposed of; or

"(4) material and controlling facts upon which the claim is predicated were not known to petitioner or his attorney and could not have been ascertained by the exercise of reasonable diligence.

"(e) No petition filed in behalf of a person in custody pursuant to the judgment of a State court shall be considered or determined by a judge or court of the United States if it is not filed within three years from the date the State court judgment and sentence became final under State law, unless the Federal right asserted did not exist at the time of the State court trial and that right has been determined to be retroactive, in which case the petition may be entertained within three years from the date said right was determined to exist.

SEC. 3. Section 2254(d) of title 28, United States Code, is amended to read as follows:

"(d) In any proceeding instituted in a Federal court by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination after a hearing on the merits of a factual issue, made by a State court of competent jurisdiction in a proceeding to which the applicant for the writ and the State or an officer or agent thereof were parties, evidenced by a written finding, written opinion, or other reliable and adequate written indicia, shall not be redetermined or relitigated by a judge or court of the United States, unless the applicant shall establish or it shall otherwise appear, or the respondent shall admit—

"(1) that the merits of the factual dispute were not resolved in the State court hearing;

"(2) that the factfinding procedure employed by the State court was not adequate to afford a full and fair hearing;

"(3) that the material facts could not be developed at the State court hearing;

"(4) that the State court lacked jurisdiction of the subject matter or over the person of the applicant in the State court proceeding; or

"(5) that the applicant was an indigent and the State court, in deprivation of his constitutional right, failed to appoint counsel to represent him in the State court proceeding;

"(6) or unless that part of the record of the State court proceeding in which the determination of such factual issue was made, pertinent to a determination of the sufficiency of the evidence to support such factual determination, is produced as provided for hereinafter, and the Federal court on a consideration of such part of the record as a whole concludes that there is no evidence to support such finding.

No evidentiary hearing may be conducted in the Federal court when the State court records demonstrate the factual issue was litigated and determined, unless the existence of one or more of the circumstances respectively set forth in paragraphs numbered (1) to (6), inclusive, is shown by the applicant.".

● Mr. CHILES. Mr. President, I am pleased to join with the distinguished chairman of the Judiciary Committee in introducing these amendments to the habeus corpus statute for State prisoners. The purpose of the bill is to give greater respect to orderly State court procedures, and to underscore the importance of finality in our court system.

This need for finality was emphasized recently by Chief Justice Burger in his report to the American Bar Association. He stressed the importance of deterrence in solving our crime problem, and he expressed concern that the criminal justice system, as it now operates, was not supplying that deterrence. In his view, one important step we could take to reform our current system to better fight crime would be to recognize the need for "at some point—finality of judgment" in our criminal justice system. I agree with the Chief Justice's observation, and with his recommendation that collateral review be confined to claims of miscarriage of justice. I believe that the bill Senator THURMOND and I are introducing today is consistent with his observations, and with his recommendations for reform. It is an important step in fighting the battle against crime.

THE STATE OF AFFAIRS TODAY

Mr. President, the past 25 years have brought about an explosion in the use of the habeus corpus writ by State prisoners to collaterally attack their convictions. The writ itself was first made available to State prisoners by a statue enacted by Congress in 1867. In 1953, in the Brown against Allen case, the Supreme Court construed the 1867 statute in such a way as to give Federal district courts broad authority to redetermine the merits of State court convictions. At that time, in a concurring opinion, Justice Jackson expressed deep concern over

the "floods of stale, frivolous and repetitious petitions (which will) inundate the dockets of the lower courts and swell our own."

Mr. Justice Jackson's observations have proven all too accurate, as prisoners have taken advantage of the easy availability of access to the Federal courts. In 1953, the flood consisted of 541 petitions. Last year, there were 7,031 such petitions filed by State prisoners in the Federal courts. That represents a 13-fold increase in the number of petitions filed since 1953. In fact, the total number of State prisoner petitions (which includes other forms of challenges to the conviction or the conditions of confinement) now accounts for over 11 percent of the total number of all civil cases filed in the Federal courts today.

EFFECTS OF TODAY'S SYSTEM

Mr. President, the current state of affairs is detrimental to the effective functioning of our courts, and to our criminal justice system. First of all, the easy availability of such collateral review is at odds with one of the most fundamental principles of our judicial system: the notion of finality. Habeas cases relitigate the same facts and issues that were decided in the State courts, either at trial or on direct appeal, or, possibly, on collateral appeal in the State court system. While all recognize that finality in criminal cases will not carry the same weight it does in civil cases, it does not follow that finality has no place at all in our criminal justice system. Yet the current system operates in such a way as to suggest that a prisoner, duly convicted in a full and fair State proceeding, can challenge that conviction time and time again, for years or even decades after his State court conviction became final.

Factual issues can end up being redetermined long after the crime was committed and the initial trial was held, and evidence may have disappeared or key witnesses may no longer remember crucial details. The State is prejudiced by these long delays, and more importantly, the delays impair the reliability of the factfinding process. Moreover, the potential for extensive Federal court review of State court convictions can create unnecessary friction between the State court systems and the Federal courts.

This lack of finality hampers the courts and the criminal justice system in other ways as well. An effective criminal justice system must let would-be criminals know that they will be punished for committing crimes. This deterrence is not effective if prisoners have easy access to the Federal courts to file collateral attacks on their convictions. As a result, the word gets out to would-be criminals that, even if you are caught and get sent to prison, you may not have to serve out your sentence. That message gets out to the public as well, and the result is an erosion of public confidence in the ability of the criminal justice system and the courts to deal with crime.

Furthermore, the sheer volume of petitions filed is a strain on the resources of our courts. To the extent that our prosecutors, defense attorneys, and judges devote their time and effort to reviewing and processing these petitions, we dilute the resources of the courts, and add to the delay in bringing original criminal and civil cases to trial. Ironically, the flood of petitions may actually hurt those who have valid habeas claims.

According to a 1979 Justice Department study of Federal habeas corpus review of State court judgments, a large number of the claims filed are frivolous and repetitious, since many petitions can be filed without cost to the prisoner. This finding may prevent the worthy petitions from getting the consideration they deserve. As Justice Jackson observed:

(I)t must prejudice the occasional meritorious petition to be buried in a flood of worthless ones.

Mr. President, the bill which Senator THURMOND and I introduce today will help to solve some of these problems with the current system. In doing so, it will represent an important step in our fight to solve the crime problem which each one of us must try to solve.

PROVISIONS OF THE BILL

Mr. President, the bill's three sections contain four proposals for reform.

The first section would redefine the role of U.S. magistrates in conducting evidentiary hearings in habeas cases brought by State prisoners. It would specify that magistrates could not conduct such hearings. The Supreme Court recognized the pivoted role these hearings play in the outcome of the proceeding, stating that—

(I)t is commonplace that the outcome of a lawsuit—and hence the vindication of legal rights—depends more often on how the fact finder appraises that fact than on a disputed construction of a statute or interpretation of a line of precedents. (*Speiser* v. *Randell*, 352 U.S. 513, 520)

In habeas cases, we currently allow magistrates to make recommended findings of fact which can, in effect, overrule the decisions rendered by State trial judges and approved by State supreme courts. It seems to me that, as a sound policy of federalism and of respect for our own State court systems, we should require that such findings be based only on hearings conducted by Federal district court judges, appointed and confirmed pursuant to article 3 of the Constitution.

Federal magistrates would continue to play an important screening role in habeas proceedings. They would continue to receive and review the State court record, and all other documents submitted by the parties. I know that some will be concerned that this provision will have the effect of burdening the dockets of our Federal district courts. In practice however, the burden which exists today is the number of petitions filed, not the number of hearings held. The latest available statistics show that, nationwide, U.S. magistrates conduct about 200 evidentiary hearings in State habeas cases a year.

I am reluctant to increase the caseload of the Federal courts in any way. However, this relatively small number of hearings, when balanced against the importance of having such important factual determinations conducted by article 3 judges, makes this modfication necessary.

Section 2 seeks to set out, in statutory form, a definition of the "cause and prejudice" standard laid down by the Supreme Court in the Wainwright against Sykes case. What both the Wainwright decision and this proposal stand for is the notion that deference ought to be paid to orderly State court procedures. Wainwright specified that a person who has not raised claims in this State court trial due to his failure to comply with State procedural rules cannot then turn around and then raise those claims for the first time in a habeas proceeding unless he shows a "cause" for his failure to follow the State procedures.

Section 2 basically codifies the Wainwright rule. It lists four conditions which are valid "causes" for not having raised a claim in the State trial: First, the Federal right being raised in the habeas proceeding did not exist at the time of the State trial; second, the State court procedures precluded the habeas petitioner from ever raising the issue in the State trial; third, the State officials suppressed the evidence necessary for the person to raise his claim; and fourth, the facts necessary to make the claim in State court were unknown, and could not be ascertained through reasonable diligence.

The second part of section 2 would create a statute of limitations, to assure that habeas claims are filed and considered while the evidence is still fresh. This provision, I believe, is essential if we are to have any finality in our criminal justice system. Too often, claims are filed years and years after the State proceedings have become final. Oftentimes, crucial evidence is no longer available, or key witnesses are unable to recollect important facts. The result is that the State is prejudiced in its ability to respond to the claims raised solely by the long delay in the filing of the habeas petition.

Current law recognizes this potential for abuse of the writ, and gives the habeas court discretion to dismiss stale claims. In practice however, making a determination that the State has been prejudiced by the delay in filing is as time consuming as making a new determination on the merits. The result, according to the State officials who must deal with these cases from day to day, is that stale claims are rarely dismissed on this basis. I do not believe that the great writ was ever meant to be used this way. In this regard, the comments of Judge Coleman of the Fifth Circuit Court of Appeals, made in the recent case of Paprskar against Estelle, are particularly on point:

Of course, the Constitution is supreme and must be obeyed. I do not quarrel with that. I do find it to be painfully incongruous that he who defies all civilized notions of due process

in the summary theft of a human life is allowed, years after the event and years after his conviction has become final, to raise all kinds of constitutional claims which, if they existed, could have been raised at trial or, at least, soon thereafter.

The fault, of course, is not with the Great Writ. It lies in the manner in which it is allowed belatedly to be invoked. While Congress has commendably made some effort to limit jurisdiction for the entertainment of these eleventh hour attacks on state court convictions it is readily apparent to one regularly dealing with the subject that those efforts have not met with much success.

Very few belated applications for habeas corpus claim that the petitioner is innocent. The fundamental purpose of the writ has been distorted. The confidence of the general public in the ability of state courts to bring criminals to justice has been eroded. The deterrent effect of law prohibiting criminal conduct has been seriously damaged. The decisions say that the writ may not be used as a second appeal, but from experience the outlaws know better. Instead of being a bulwark of freedom for the citizen it has been allowed to become a last, and too often a sure, refuge for those who have respected neither the law nor the Constitution.

Section 3 of the bill contains the fourth proposal, which is designed to insure that findings of fact, fairly and properly made in a State court hearing, are not needlessly redetermined in a habeas proceeding. It complements the other provisions of this legislation and underscores the need to give deference to orderly State procedures.

Current law, as codified in 28 U.S.C. 2254(d), creates a presumption that the State court's factual findings are correct, a presumption which falls if the habeas petitioner is able to establish that one of eight specified defects existed in the State proceedings. But the petitioner's failure to establish one of these defects is not a bar to holding another factual hearing; it simply gives the petitioner the burden of proof in the hearing. The result is that such hearings can be, and, according to State law enforcement officials, are in fact held almost at the discretion of the habeas court, regardless of the sufficiency or fairness of the State proceeding. I am not of a mind that this is the way our courts should operate.

Accordingly, this proposal modifies current law by forbidding any redetermination of facts unless the habeas petitioner can establish that a specified defect existed in the State proceeding. It also tightens up the conditions themselves, to insure that needless redeterminations of facts do not occur.

Mr. President, these proposals carry with them the endorsement and support of the National Association of Attorneys General. In this regard, Jim Smith, the attorney general of Florida, has been instrumental in conceiving these proposals and for building support for them among all the attorneys general across the country.

These proposals may not be the only way to solve the current situation, but I do hope that they will stimulate discussion and comment from many interested parties. For my part, I feel that they are a good starting point for reform. I am pleased to join with the distinguished chairman of the Judiciary Committee in his efforts, and stand ready to help him in whatever way I can.

Mr. President, I ask unanimous consent that a resolution of support for these proposals which the National Association of Attorneys General adopted be inserted in the RECORD along with my statement.

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

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

RESOLUTION: FEDERAL CRIMINAL CODE/HABEAS CORPUS PROCEEDINGS

Whereas, the principal weakness in the criminal justice system today is its lack of certainty; and

Whereas, crime rates continue to rise and public confidence in the criminal justice system is at a low point nationally; and

Whereas, certainty and swiftness of justice is universally accepted as the strongest deterrent to criminal activity; and

Whereas, the diminishing ability of the states to carry out the judgments of their criminal courts has led to erosion of certainty; and

Whereas, certain of the commendable procedural safeguards attached to the writ in recent years are being abused, and have become instruments with which to frustrate justice rather than secure it; and

Whereas, records of criminal proceedings contain many examples of such abuses, none worse than *Walker v. Wainwright*, a Florida case in which a writ filed 35 years post-conviction, when there was no living person to refute the defendant's testimony, was granted and he was set free; and

Whereas, the writ was designed as a shield, not a sword;

Now, therefore, be it resolved by the National Association of Attorneys General:

(1) That certain amendments to the federal criminal code relating to habeas corpus proceedings are necessary to require orderly and timely presentation of claims in behalf of defendants and restore finality to the criminal process;

(2) That the amendments attached hereto remove no rights available to any defendant, stand as no barrier to the assertion of new rights or the filing of claims not previously asserted when they were not known to exist;

(3) That these amendments represent no unreasonable departure from accepted criminal practice and, in fact, are in keeping with the tenor of several recent holdings of the United States Supreme Court;

(4) That the Congress of the United States is hereby petitioned by the assembled attorneys general of the states to amend the federal criminal code, as proposed hereafter, to ensure the victims of crime equal protection of the laws; and

(5) That the Washington Counsel of this Association is authorized to inform the Administration, Members of Congress, and others of these actions.

The proposals referred to above would:

1. Amend 28 U.S.C. 636(b) to require that a district judge, rather than a magistrate, conduct any evidentiary hearing held in a habeas corpus proceeding involving a prisoner held in state custody.

2. Amend the habeas corpus act to codify *Wainwright* v. *Sykes*, 433 U.S. 72 (1977), which recognized the legitimacy of the "contemporaneous objection rule" and bars litigation of issues not properly raised unless "cause and prejudice" is shown for failing to comply with state procedural requirements.

3. Establish a time limit within which a state prisoner must institute a federal habeas corpus action which challenges his state court conviction. The legislation would require the action be brought within three years from the date the judgment and sentence becomes final under state law.

4. Require a habeas corpus court to accept state court findings of fact where there is an evidentiary basis for that finding providing the petitioner was accorded a full and fair hearing on the factual issue.●

By Mr. MATHIAS (for himself, Mr. HUDDLESTON, and Mr. BENTSEN):

S. 655. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State, or political subdivision, may tax certain income from sources outside the United States; to the Committee on Finance.

STATE TAXATION OF FOREIGN SOURCE INCOME

● Mr. MATHIAS. Mr. President, over the years, I have watched certain Congresses develop a flavor, or theme, and I think history will remember the 97th as the economic revival Congress.

The economy has deteriorated to the point where we can no longer afford the luxury of business as usual. The people want reform; the President wants reform; and the Congress wants reform.

For 20 years, business has wrestled with the gross inefficiency of our outmoded interstate tax machinery, and I think this year we will finally do something about it.

Just recently, President Reagan's tax policy task force gave a boost to this tax simplification effort by strongly endorsing the principle that underlies the interstate taxation bill I introduce today.

This bill will help smooth the flow of interstate and international commerce in this country; it wil remove the risk of double taxation for United States and foreign corporations; and it will bring the States into conformity with the Federal Government and most other countries on the taxation of foreign source intercorporate dividends.

This is a slightly revised version of legislation that I introduced in the Senate 2 years ago (S. 1688), along with a companion House bill (H.R. 5076), by Representatives CONABLE and JONES to rationalize the tax treatment of foreign source income by the States. By purging a major inefficiency in our tax system, it would make U.S. business more competitive in international markets, and it would remove a constant source of irritation in our relations with our foreign trading partners.

Our current negotiations of new tax treaties have focused the attention of the Treasury Department and the Sen-

ate on the resentment of our overseas trading partners over a very few U.S. States which persist in using worldwide combined reporting to extend their taxing jurisdiction overseas. Under this system, these States have stretched their apportionment net to ensnare foreign source income of corporate groups with members located and doing business outside the United States. This practice was a central controversy, for example, in the Senate's consideration in 1978 of the United States-United Kingdom Tax Treaty. As negotiated between the United States Treasury and the British Government, the treaty included a clause that would have limited its use by the States in taxing British corporations.

Despite the President's support, the Senate deleted this clause—article 9(4)—from the treaty during the summer of 1978, before ratifying it in the summer of 1979. The States argued that such a prohibition should not be attempted by the treaty process, but should receive a full legislative hearing in both Houses of Congress. It was in response to this argument that Representative CONABLE and I introduced companion measures, H.R. 5076 and S. 1688, in the 96th Congress to focus the debate on the issues of worldwide combination and taxation of foreign source dividends on a comprehensive basis, encompassing all foreign countries.

Following the removal of article 9(4), the United States-United Kingdom treaty went through a prolonged period of uncertainty in Parliament, while several British delegations visited Capitol Hill to assess the likelihood of progress on my interstate tax legislation. The news that hearings had been scheduled before the House Ways and Means Committee on March 31, 1980, had a very favorable impact on Parliament; it ratified the treaty last February after this showing of good faith on our part.

We encountered the same stumbling block in the negotiations with Canada over the treaty that was signed last September and presented to the Senate on November 12, 1980. Here, the impasse over worldwide combination was broken by an exchange of notes between the United States Treasury Department and the Canadian Prime Minister, recording an agreement that the discussions would be reopened at the first opportunity. This is sure to continue to be a point of contention in the negotiation of our future international tax treaties.

The legislative history of the debate in the U.S. Congress goes back many years, at least back to the Willis Commission of 1962, on which I served. More recently, Representative ROSTENKOWSKI, the current chairman of the Ways and Means Committee, led a task force on foreign source income which recommended that the States be prohibited from including the foreign source income in their tax base until it becomes subject to Federal taxation. In 1978, I held a series of Judiciary Committee hearings across the country on the entire spectrum of tax issues relating to interstate commerce and foreign source corporate income. The House hearings last spring concentrated on taxation of foreign source income, and they were followed by a day of Senate hearings on June 24 last summer, before the Finance Subcommittee on Taxation and Debt Management. At these sessions, the committees received testimony in support of my legislation from: The International Chamber of Commerce, the Chamber of Commerce of the United States, the American Chamber of Commerce in Great Britain, the Business Roundtable, the National Association of Manufacturers, the committee on State taxation of the Council of State Chambers of Commerce, the National Association of Wholesalers-Distributors, the American Apparel Manufacturers Association, the European Economic Community, the Government of Great Britain, the Confederation of British Industry, the Dutch Employers' Federation, the German-American Chamber of Commerce, and most of the major American and British corporations in this country.

The testimony from the Treasury Department supported the first part of the bill, and suspended judgment on the second part, concerned with the treatment of foreign source intercorporate dividends, saying at the Senate hearings that it needed more time to study this aspect of the problem.

To supplement the extensive legislative hearing record we have developed, I am looking forward to the studies of the issue that are due to be published this spring by the General Accounting Office and the Advisory Commission on Intergovernmental Relations. I have every expectation that both studies will recommend a solution to this continuing problem along the lines I have suggested.

The bill I am submitting today would limit the use of the worldwide combined reporting system so that a State in imposing an income tax on any corporation could not take into account any amount of income attributable to any foreign corporation which is also a member of an affiliated group of corporations, unless such amount is subject to Federal income tax. As I mentioned earlier, the Federal Government has rejected the worldwide combined reporting system, and instead relies on the arm's-length method of taxation, as do nearly all the governments in the world market. The arm's-length method treats affiliates and subsidiaries in a corporate group as separate and autonomous business entities for tax purposes, applying a tax only when the income is repatriated.

Ordinarily, I would prefer that the States act on their own to resolve the matter, but we have given them 20 years and are no closer to settling it today than we were when I served on the Willis Commission in the early 1960's.

An efficient tax system at all levels is to everyone's advantage domestically. Internationally it is a must. I urge all my colleagues to give the bill their closest consideration, and to act promptly to insure that the United States speaks with one voice in matters of foreign commerce. I ask unanimous consent that the text of the bill and the technical explanation I have prepared be printed in the RECORD following my remarks.

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

S. 655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled That (a) chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) as amended by adding at the end thereof the following new section:

"SEC. 7518. INCOME OF CORPORATIONS ATTRIBUTABLE TO FOREIGN CORPORATIONS.

"(a) IN GENERAL.—Where two or more corporations are members of the same affiliated group of corporations—

(1) for purposes of imposing an income tax on any corporation which is a member of such group, no State, or political subdivision thereof, may take into account, or include in income subject to such tax, any amount of income of, or attributable to,

(2) any other corporation which is a member of such group and which is a foreign corporation, unless such amount is includable in the gross income of the corporation described in paragraph (1) for purposes of chapter 1 (including any amount includable in gross income under subpart F of part III of subchapter N of chapter 1) for the taxable year in which or with which the taxable period (or purposes of State or local law) ends.

"(b) INCOME TAX DEFINED.—For purposes of this section, the term 'income tax' means any tax which is imposed on, according to, or measured by net income.

"(c) AFFILIATED GROUP DEFINED.—For purposes of subsection (a), the term 'affiliated group' means a common parent corporation and one or more chains of corporations connected through stock ownership with such common parent corporation.

"(d) CERTAIN CORPORATIONS TREATED AS FOREIGN CORPORATIONS.—For the purpose of this section, a domestic corporation shall be treated as a foreign corporation if under section 861(a)(2)(A) a dividend received from such corporation in the taxable year referred to in subsection (a) would not be treated as income from sources within the United States.

"(e) CERTAIN DIVIDENDS PAID OR DEEMED PAID.—

"(1) DIVIDENDS EXCLUDED FROM TAX.—If a corporation receives in any taxable year a dividend from a foreign corporation (or is by application of section 951 treated as having received such a dividend), in imposing an income tax on such corporation no State, or political subdivision thereof, may tax, or otherwise take into account—

"(A) in the case of a dividend received from a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividends are paid, the amount of deduction allowed by section 243,

"(B) in the case of a dividend received from a corporation described in subsection (d) which is not described in paragraph (A), more than the lesser of—

"(i) the amount of the dividend exclusive

of any amount of dividend determined under paragraph (3), or

"(ii) the amount by which the dividend plus any amount of dividend determined under paragraph (3) exceeds the excluded portion of the dividend determined in accordance with paragraph (2).

"(C) in the case of a dividend received from any other foreign corporation more than the lesser of—

"(i) the amount of the dividend (exclusive of any amount determined under section 78), or

"(ii) the amount by which the dividend plus any amount determined under section 78 exceeds the excluded portion of the dividend determined in accordance with paragraph (2).

"(2) EXCLUDED PORTION OF A DIVIDEND.—The excluded portion of any dividend shall be determined by multiplying the amount of the dividend (including any amount of dividend determined under section 78 or paragraph (3)) by a fraction—

"(A) the numerator of the fraction shall be the sum of—

"(i) the total amount of tax withheld from all such dividends at the source.

"(ii) the total amount of tax which by application of section 902 or section 960 to all such dividends, the domestic corporation is deemed to have paid, and

"(iii) the total amount of tax deemed paid by application of paragraph (3).

"(B) The denominator of the fraction shall be 46 percent of all such dividends.

"(3) SPECIAL RULE WITH RESPECT TO DIVIDENDS RECEIVED FROM DOMESTIC CORPORATIONS TREATED AS FOREIGN UNDER SUBSECTION (d).—A corporation that receives a dividend which is described in subparagraph (B) of paragraph (1) shall—

"(A) treat as a dividend for purposes of subparagraph (B) of paragraph (1), and

"(B) treat as a tax deemed paid for purposes of subparagraph (A) of paragraph (2), foreign income taxes which such other corporation has paid or deemed paid in the same proportion on or with respect to the accumulated profits of such corporation from which such dividend was paid, which the amount of such dividend bears to the amount of such accumulated profits in excess of all income taxes (other than those deemed paid).

For purposes of this section, only a tax for which a credit against tax would be allowable under section 901 (determined without regard to the limitations in sections 904 and 907) shall be taken into account."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable periods (for purposes of State or local law) beginning after December 31, 1980.

(c) AMENDMENT OF THE TABLE OF SECTIONS.—The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7518. Income of corporations attributable to foreign corporations."

EXPLANATION OF PROPOSED LEGISLATION RELATED TO STATE TAXATION OF FOREIGN SOURCE INCOME

BACKGROUND

A number of states have by application of the so-called "world-wide combination" formula undertaken to extend their tax jurisdiction outside the United States and to tax foreign source income prior to the time the Federal government taxes such income. Also, nearly all states tax a greater portion of foreign source income than the Federal government effectively taxes.

The Federal government does not tax the foreign source income of a foreign subsidiary of a U.S. corporation until that income is paid back to the U.S. or deemed paid back to the U.S. by the application of Subpart F. In contrast, those states which use the world-wide combination formula tax currently, as earned, the income of a foreign affiliate even though that foreign affiliate does not do any business in the United States and derives all its income outside the U.S. This extraterritorial exercise of tax jurisdiction by a state is directly contrary to the Federal rule and contrary to basic principles of taxation.

When a dividend is paid by a foreign subsidiary corporation to its U.S. parent, in order to avoid double tax the Federal government allows a credit for foreign tax already paid on these earnings. Thus, for example, if the foreign tax rate is 23 percent and the U.S. tax rate is 46 percent, the Federal government effectively taxes only 50 percent of the dividend. In contrast, the states effectively tax 100 percent of the dividend. This state tax is directly contrary to the Federal rule and contrary to basic principles of taxation.

EXPLANATION OF PROPOSED LEGISLATION

The proposed legislation would conform the state rules to the Federal rules within the very narrow areas of (i) the time at which states tax the foreign source income of foreign affiliates, and (ii) the quantity or portion of foreign source dividends which are taxed.

These results would be accomplished as follows:

First, the proposed legislation would provide that a state may not take into account or include in income subject to tax the income of any foreign corporation in any year prior to the year in which such income is included in income subject to tax under the Internal Revenue Code. Thus, the foreign source income of a foreign subsidiary of a U.S. parent corporation would be taxed only if and to the extent paid back to the U.S. as a dividend or deemed paid back by application of Subpart F. In the case of a foreign parent corporation of a U.S. subsidiary, the foreign source income of the foreign parent (and any of its foreign affiliates) would never be taxed because under the Internal Revenue Code that income is not taxed by the Federal government.

Second, in the case of dividends received by a U.S. parent corporation from a foreign subsidiary, the proposed legislation would permit a state to tax no greater portion of that dividend than the Federal government effectively taxes. The excluded portion of any dividend would be determined by multiplying the amount of the dividend by a fraction. The numerator of that fraction is the total amount of tax withheld at the source on all such dividends plus the total amount of taxes which, by application of section 902 and section 960 to all such dividends, the U.S. parent corporation is deemed to have paid. The denominator of the fraction is 46 percent of all such dividends. For the purpose of applying this fraction, the amount of the dividend includes the amount of any gross-up under section 78.

Example

1. Amount of dividend actually received	$115.50
2. Gross-up dividend to reflect 23 percent foreign tax rate	$150.00
3. Foreign taxes paid (23% × $150)	$ 34.50
4. Grossed-up dividend × 46 percent	$ 69.00
5. Item 3 divided by item 4 (in percent)	50
6. Excluded portion of dividend ($150 × 0.50)	$ 75.00

The rationale for this exclusion of a portion of a foreign source dividend is the same as the rationale for the foreign tax credit—the avoidance of double tax. However, the result is not to require the states to allow a credit for foreign taxes which would tend to wipe out all state tax on foreign source dividends because the national tax rates in most foreign countries exceed the rates of tax imposed by the states. Instead, the result of the exclusion is to permit the states to tax, at whatever rate they apply to other income, only that portion of a foreign source dividend which the Federal government effectively taxes after taking into account the foreign tax credit.

HISTORY AND RATIONALE OF PROPOSAL

A. Worldwide combination

In 1975, the report of the Ways and Means Committee, Task Force on Foreign Source Income, concluded that the worldwide combination formula was inconsistent with basic principles of taxation and concluded that its application should be limited by Federal legislation. In the meantime, the Treasury had negotiated a treaty with the United Kingdom, Article 9(4) of which would have precluded the application of the worldwide combination formula to a U. K. parent corporation. The treaty would not, however, have limited the application of the worldwide combination formula to foreign subsidiaries of U.S. parent corporations. Subsequently, in 1978, the Senate refused to ratify Article 9(4). In the 96th Congress H.R. 5076 and S. 1688 were introduced to preclude worldwide combination as applied to foreign source income.

B. Foreign source dividends

The additional part of the proposed legislation related to dividends, is merely a logical extension of Federal legislation to limit the application of the worldwide combination formula with respect to foreign subsidiary corporations of U.S. subsidiaries. In theory, states should not tax foreign source dividends at all, but the proposed legislation does not go that far. Instead, it merely limits the states to the same proportion of such dividends as the Federal government effectively taxes. H.R. 5076 and S. 1688, in the 96th Congress, placed this same limitation on state taxation of foreign source dividends.

C. Technical revisions in legislation

The proposed legislation differs from H.R. 5076 and S. 1688, as introduced in the 96th Congress, in several technical respects. Primarily these revisions related (1) to clarifying the language of proposed new section 7518(a) to provide the intended result under the orignial bill in the 96th Congress; and (2) and to a revision in proposed new section 7518(e) to apply the exclusion fraction to dividends received from a so-called 80/20 company under section 861(a)(2)(A). This latter change was necessary to correct the unintended result in the original bill that such a company, as well as dividends received from such a company, would be totally free from state tax even though such a company is subject to Federal taxation.●

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 656. A bill to preserve, protect, and maintain the original boundary stones of the Nation's Capital; to the Committee on Energy and Natural Resources.

NATIONAL CAPITAL BOUNDARY STONES ACT

● Mr. MATHIAS. Mr. President, I am introducing today a bill to restore and protect the original 40 boundary markers of our Nation's Capital City. In the last Congress I introduced similar leg-

islation which, unfortunately, failed to pass the Senate. The House companion bill, however, did successfully pass the House, but, in the press of Senate business in the final days of the 96th Congress, that bill was not considered.

The question of a permanent site for the national seat of government was debated by Congress from 1783 until 1791, when President Washington signed into law an amendment to the Residence Act of 1790 expanding the site of the Nation's Capital to include the eastern shore of the eastern branch of the Anacostia River and including the Port of Alexandria, Va.

The site of our Nation's Capital was, thus, finally determined a 100 square mile district, with boundary lines 10 miles on each of its four sides.

Perhaps because they feared the decision on a permanent site would somehow be abrogated, President Washington and Secretary of State Thomas Jefferson wasted no time in engaging a surveyor as well as private individuals to begin quitely purchasing property on behalf of the Government.

To survey and mark the boundaries of the new District of Columbia, Mr. Jefferson immediately commissioned Maj. Andrew Ellicott of Philadelphia.

Ellicott was a well-known surveyor possessing some of the most advanced surveying instruments in the United States at that time. Most of those instruments are now housed in the Smithsonian Institution.

Ellicott accepted the commission and quickly began looking for an assistant to make the astronomical observations upon which the survey lines and markers would be based. He turned to Benjamin Banneker, a free black man who was a friend and neighbor of his cousin in Ellicott Mills, Md.

Banneker, a self-taught astronomer, was over 60 at the time. He readily agreed to make the astronomical observations for the south cornerstone while Ellicott and field crews did the actual surveying. Between February and April 1791, Banneker made observations and mathematical calculations upon which the first stone marker was placed at Jones Point on the Potomac River in Alexandria, Va. Ill health forced him to return home in April.

Ellicott completed the survey and setting of markers—40 in all—by January 1793.

The 39-year-old surveyor described the marker stones, which were of sandstone quarried at Aquia, Va., as follows:

Lines are opened and cleared forty feet wide that is twenty feet on each side to the lines limiting the Territory, and in order to perpetuate the work I have set up square mile stones marked progressively with the number of miles from the beginning on Jones' Point to the West corner thence from the West corner to the North corner to the East corner and from thence to the place of beginning on Jones' Point; except in a few cases where the miles terminated on declivities or in waters; the stones are then placed on the first firm ground, and their true distances in miles and poles marked on them. On the sides of the stones facing the Territory is inscribed, "Jurisdiction of the United States". On the opposite side of those placed in the Commonwealth of Virginia is inscribed "Virginia". And on those in the State of Maryland, "Maryland". On the third and fourth sides, or faces, inscribed the year in which the stone was set up, and the conditions of the Magnetic Needle at that place.

Those sandstone markers are now 188 years old. They have fallen on hard times with no one really charged with their maintenance and upkeep. Yet they are important testimonials to the history of the founding of the Nation's Capital, the work of Andrew Ellicott and Benjamin Banneker and the history of early surveying and civil engineering in the United States.

The stones are category II landmarks designated by the Joint Committee on Landmarks of the Nation's Capital. This local designation means they should be preserved or restored, if possible. They are not, however, on the National Register of Historic Places although I understand the State historic preservation officers of the District of Columbia and Virginia are prepared to nominate them to the register.

In 1914, a committee of the District of Columbia Daughters of the American Revolution set about reclaiming the boundary markers. Over the course of the following 3 years, members of the DAR once again located the stones, secured 'deeds" from affected property owners to place a fence, installed protective iron fences around them, marked them with a bronze plaque, and assigned continued maintenance responsibility for each stone to one of its chapters.

Were it not for this pioneering preservation effort by the Daughters of the American Revolution, it is very likely the boundary stones of the Nation's Capital would not have survived to today. But development, traffic, remote locations, and vandalism have all taken their toll. The DAR, while as committed as ever to continuing its stewardship role, can no longer assume the financial and personal burden necessary to assure the maintenance of these stones.

Thanks to the efforts of the National Capital section of the American Society of Civil Engineers, in cooperation with the DAR, and the National Capital Planning Commission, a conditions report was prepared on the stone markers as a bicentennial project.

That report titled, "Boundary Markers of the Nation's Capital: A Proposal for Their Preservation and Protection" is a careful history of the survey of the District of Columbia and the current status of the markers.

Several stones are overgrown with weeds; a few are missing; some have been relocated; some badly weathered. Yet others are well cared for by concerned citizens.

There is a clear need to fix responsibility for the stones and their protection and maintenance. It is with this purpose in mind that I am reintroducing legislation today that assigns responsibility for the preservation, protection, and maintenance of the boundary stones to the National Park Service. Such continuing maintenance needs are to be identified by the District of Columbia Daughters of the American Revolution and reported directly to the National Park Service Director for appropriate action. This arrangement, I believe, will continue the DAR's stewardship of those important historic markers and assure their continued maintenance.

A rough estimate of costs for surveying the stones, preparing a conditions report, and preparing a relocation, replacement and marker plan is $40,000 according to the National Capital section of the Society of Civil Engineers. They estimate that capital costs to replace protective fences, replace DAR markers, clean and protectively coat the stones against weathering, and trim the immediate area around those stones now neglected is $200,000. Once these initial costs have been borne, annual upkeep should be about $20,000.

The second purpose of my bill is to assure recognition for the two original surveyors of the Nation's Capital, and the history of their survey, its instruments and techniques. As I noted earlier, many of Andrew Elliott's surveying instruments are held by the Smithsonian Institution. My bill directs the National Park Service in coordination with the Smithsonian to develop such a display, which I hope would be in one of the Smithsonian museums.

Mr. President, too often we find ourselves mourning the loss of some significant historical feature of our Nation. The boundary markers of the Nation's Capital are such endangered monuments of the history of the Federal City. Despite rather overwhelming odds these markers have survived 188 years. With just a little bit of care they can be assured of preservation for decades to come.

Mr. President, I would further like to note that I have received letters supporting the intent of this legislation from the National Capital Planning Commission, the Smithsonian Institution, the D.C. Commission on Fine Arts, the American Society of Civil Engineers, and the D.C. Chapter of the Daughters of the American Revolution, as well as the District of Columbia, Maryland, and Virginia State Historical Preservation officers. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Capital Boundary Stones Act".

SEC. 2. (a) Congress finds that because of the deteriorating condition and neglect of the forty original boundary stones delimiting the ten-mile square first set aside by the State of Maryland and the Commonwealth of Virginia as the "seat of government of the United States", there is a need to provide for the preservation, protection, and maintenance of such stones.

(b) The purposes of this Act are to—

(1) assign responsibility for the preservation protection, and maintenance of the boundary stones;

(2) assure perpetuity of these important historic boundary stones for future generations of Americans to view and enjoy;

(3) provide an adequate mechanism for ensuring that the boundary stones are protected and maintained; and

(4) to make available to the public, information, data, and items involving or pertaining to the history of the original survey of the Nation's Capital, including the surveyors, and the instruments and techniques used in connection therewith.

SEC. 3. (a) The Secretary of the Interior, acting through the National Park Service, shall have the responsibility for the preservation, protection, and maintenance of the boundary stones referred to in section 2 of this Act.

(b) Within the twelve-month period following the date of the enactment of this Act, the Director of the National Park Service shall prepare and submit to the Secretary for his approval a program for preserving, protecting, and maintaining such boundary stones. Such program shall include—

(1) a location and condition survey of each corner stone and boundary stone, conducted in consultation with the District of Columbia Daughters of the American Revolution, which shall be referenced to the appropriate State plane grid coordinate system with appropriate ties to property lines and which shall provide for the results to be shown on plats of survey in such form as may be suitable for recording purposes;

(2) with respect to each boundary stone located at each of the four cardinal points of the compass at the corners of the ten-mile square delineating the original site of the Nation's Capital a plan for preserving, protecting, and maintaining such cornerstones;

(3) with respect to each of the other boundary stones, a plan to preserve, protect, and maintain each such boundary stone;

(4) a relocation, replacement, and marker plan for those boundary stones which have been moved or which are missing or which cannot be placed in their original location;

(5) alternative plans for the long-term care, protection, and maintenance of the boundary stones which may include agreements among private individuals, the Federal Government, local governments of areas within the State of Maryland or the Commonwealth of Virginia within which such boundary stones are located, and the governments of the State of Maryland, the Commonwealth of Virginia, and the District of Columbia;

(6) a schedule and financial plan for providing such preservation, protection, and maintenance of such boundary stones; and

(7) in coordination with the Smithsonian Institution, a plan setting forth a display on the history of the survey of the District of Columbia conducted during the years 1791 and 1792, the original surveyors, the instruments and techniques used by such surveyors in conducting the survey of the District of Columbia, and surveying methods and techniques currently in use.

(c) Within the twenty-four-month period following the date of the approval by the Secretary of the Interior of the program pursuant to subsection (b) of this section, the Secretary of the Interior, acting through the National Park Service, shall, in consultation with the District of Columbia Daughters of the American Revolution, implement such program and provide for the preservation, protection, and maintenance of such boundary stones.

SEC. 4. In carrying out the program approved pursuant to section 3 of this Act, the Secretary of the Interior is authorized to acquire, by donation, purchase with appropriated or donated funds, exchange, or condemnation, such lands and interests therein (including easements) together with improvements thereon, as may be necessary to carry out such program.

SEC. 5. Whoever willfully damages or removes any boundary stone referred to in this Act shall be fined not more than $500, or imprisoned not more than six months, or both.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. HATFIELD (for himself, Mr. JEPSEN, Mr. GRASSLEY, Mr. PACKWOOD, Mr. CRANSTON, Mr. HAYAKAWA, Mr. MOYNIHAN, and Mr. D'AMATO):

S. 657. A bill to designate the Department of Commerce Building in Washington, the District of Columbia, as the "Herbert Clark Hoover Department of Commerce Building."; to the Committee on Environment and Public Works.

HERBERT CLARK HOOVER DEPARTMENT OF COMMERCE BUILDING

● Mr. HATFIELD. Mr. President, I am introducing today a bill to name the Department of Commerce headquarters building in Washington in honor of Herbert Hoover, who served as Secretary of Commerce for the 8 years immediately preceding his inauguration as 31st President of the United States. My distinguished colleagues from Iowa, Senators JEPSEN and GRASSLEY; Oregon, Senator PACKWOOD; California, Senators CRANSTON and HAYAKAWA; and New York, Senators MOYNIHAN and D'AMATO, join me in sponsoring this bill.

Hoover entered President Harding's Cabinet as Secretary of Commerce with an outstanding reputation and as one of America's most prominent citizens. He was referred to as the "Great Engineer" because of his fabulous success as a mining engineer around the globe. He organized American relief efforts in Europe during World War I, and headed the Committee for the Relief of Belgium, which was feeding over 10 million Europeans every day by the end of the war. After the Versailles Peace Conference, John Maynard Keynes termed Hoover "the only man who emerged from the ordeal of Paris with an enhanced reputation."

Hoover's popularity by 1920 was such that Democrats formed "Make Hoover President Clubs" in California and Virginia. Franklin Roosevelt even wrote—

He is certainly a wonder, and I wish we could make him President of the United States. There could be none better.

However, Hoover lacked any political base, and was not a serious candidate.

President-elect Harding, who had campaigned on a theme of bringing the best minds into the government, raised the possibility of a government position with Hoover the day following his election. Two positions were eventually offered—Secretary of Interior and Secretary of Commerce.

Charles Evans Hughes convinced Hoover to accept a position, and he chose the less prestigious of the two, at Commerce, because he believed the Nation's major problems were in the economic area. These included the depression of 1920–22, with its toll of 5 million unemployed, the failure of important sectors of the economy, including agriculture, to successfully shift to a peacetime economy, and the acrimonious labor-management relations in industry.

The Department of Commerce was former in 1903 as the Department of Commerce and Labor, not out of pressing need for such an organization, but largely for symbolic purposes. With the establishment of the Department of Agriculture in 1889, it was inevitable that other economic sectors would seek their own departments. Congress was able to satisfy demands from both business and labor groups with one department.

While the formation of a separate Department of Labor in 1913 removed one essentially incompatible element of the Department, Commerce remained a collection of small, often technical, individual offices which lacked a strong central organization or purpose.

Herbert Hoover gave the Department direction. His telegram of acceptance to Harding set forth three of his specific proposals: a program of persuasion to convince industry to standardize products and reduce waste; a joint effort with the Labor Department to reduce industry-labor conflict; and the bringing of other appropriate Government offices into the Department.

But the new Secretary had more to offer than specific, individual changes. He had vision. He saw the Department as the prime instrument to promote and protect American economic development. According to Prof. Peri Arnold of Notre Dame University, Hoover conceived of a—

Model set of relations between business and government that were founded on the notion of mutual cooperation and gentle guidance of business by government. Central to his view was the idea that the dangers of government coercive powers to a free society could be neutralized through the constant role of businessmen cooperating with appropriate government agencies.

In order that business would have input into the Department's activities, Hoover established 17 commodity divisions at Commerce, corresponding to major industries. These organizations had the role of promoting the industry and collecting and publishing data on market conditions for the industries' benefit.

Hoover also expanded the role of the Bureau of Standards. The responsibility of this Bureau in 1920 had been simply to test materials purchased by the Government. By 1925, some termed it "the largest research laboratory in the world." Its larger focus included assisting business in solving complex problems. One of its programs was to set additional safety standards for industry.

One of the most ambitious programs of the Bureau was the attempt to eliminate waste through standardization of products. The role of the division of simplified practice in the Bureau was to supply technical expertise to industries, and help them use new techniques. Trade associations were mobilized to help discourage product and size proliferation. When agreement was reached under Commerce auspices, the Department would publish the new industry standards, thus making them available to a wide public.

New technology was rapidly incorporated into the Department's operations. Radio beacons were added by the Lighthouse Bureau, the number of lighted runways was tripled by the Department after the Air Commerce Act of 1926, and selective breeding was undertaken by the Bureau of Fisheries. Also a major theme of the Fisheries Bureau was conservation, a particular concern of Hoover's throughout his public career.

Despite the creation of a separate Department of Labor, Hoover remained concerned about working conditions for American workers. Typical of his lifetime approach to social problems, he did not seek legislative or coercive solutions to improve the working conditions of workers. Rather, the Federal Government encouraged State and local governments, private charities, and businesses to press for improvement. As a primary example, he sought a reduction from the 12-hour day to an 8-hour day for steel company employees. By encouraging private studies of the effect of the long working day, warning company leaders of public repugnance against the long hours, and skillfully using the press to further his campaign, Hoover finally won the acquiescence of the companies. He was justifiably proud of this accomplishment.

Hoover's concern with insuring the prosperity of American business, and his familiarity with the world scene led him to follow very closely international economic developments. The Department took a prominent role in decisionmaking on foreign loans, and its generally conservative assessments often brought it into conflict with the State Department.

Another of Hoover's major concerns in the foreign arena was preserving raw materials supplies, and at a reasonable price. He strongly opposed conspiracies of foreign producers to artificially inflate the price of their products. He warned that American producers would retaliate, or that the U.S. Government could approve the formation of buying pools to counteract foreign monopolies. Although favoring open and positive trade relations with other nations, Hoover cautioned that America could defend itself under circumstances of commercial anarchy.

Despite Hoover's promotion of the trade association movement and his hopes for a better coordinated and stable American capitalism, he remained concerned about excessive cooperative activities. In his philosophical work American Individualism, published in 1922, Hoover warned against domination of American society by any interest group, including business. His belief that intra-group cooperation could run to extremes was demonstrated during his Presidency, when he significantly strengthened enforcement of the antitrust laws.

Mr. President, Herbert Hoover gave the Department of Commerce its first real direction and built it into one of the most influential in the Federal Government. Commerce became so closely associated with Hoover's name that Franklin Roosevelt cut back the Department because of its status and reputation as Hoover's creation. Planning for the main Commerce building was initiated during Hoover's tenure as Secretary of Commerce, and the building was completed during his Presidency. It is symbolic that during his Presidency, the largest Federal office building in Washington was constructed for the Department of Commerce. It is time that Congress recognize Hoover's immense contributions to the Department, and name this building, the main Commerce building, in his honor.

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

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

S. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Commerce Building at 14th Street and Constitution Avenue, N.W., in Washington, the District of Columbia, shall hereafter be known and designated as the "Herbert Clark Hoover Department of Commerce Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Herbert Clark Hoover Department of Commerce Building." ●

By Mr. EXON (for himself and Mr. ZORINSKY):

S. 659. A bill to amend the authorization for the flood control project for the town of Niobrara, Nebr., and for other purposes; to the Committee on Environment and Public Works.

AMENDMENT OF FLOOD CONTROL PROJECT FOR NIOBRARA, NEBR.

● Mr. EXON. Mr. President, Senator ZORINSKY and I today are introducing this measure to correct a deficiency in the original authorization for the relocation of the village of Niobrara, Nebr. This measure had been introduced in the last Congress as S. 1201, however it was not acted upon by the Congress at that time.

The history of this measure began in 1957, when the U.S. Army Corps of Engineers completed the construction of the Gavin's Point Dam on the Missouri River, located along the Nebraska and South Dakota borders. The project resulted in an increase in surface water which threatened the small nearby community of Niobrara.

Section 213 of the Flood Control Act of 1970 authorized the Secretary of the Army, acting through the Chief of Engineers, to resolve the seepage and drainage problems in the vicinity of Niobrara, that were related to operation of the Gavins Point Dam and Lewis and Clark Lake project. An amount not to exceed $7,800,000 was authorized to be appropriated for the work in the 1970 act.

The Corps of Engineers prepared a feasibility report, which concluded that a nonstructural approach, the acquisition and relocation of the village of Niobrara from its location on Highway 12 to higher ground, was the most feasible method of solving the seepage and drainage problem in the area. The cost of such relocation was estimated at $11.4 million, which exceeded the authorized $7.8 million. In 1974, the amount was increased to $11.4 million. The $3.6 million increase is attributable to the costs of compliance with the requirements of the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970.

Mr. President, in relocating the town, the corps constructed a main street within the new village limits to highway specifications. The corps, however, did not connect the main street to nearby Highway 12. As a result, the community has a main street meeting highway standards but which is not directly connected to the outside world by any main thoroughfare. This omission by the corps is more than a serious inconvenience. It has removed this village from the mainstream of commercial traffic as well as tourism which it enjoyed prior to the relocation. It is a handicap to the continued social and economic growth and well-being of this rural community.

Mr. President, if nonstructural alternative approaches to water resource development in this Nation are to be promoted, and the mandate to mitigate the social and economic consequences of those developments is to be fulfilled, commonsense dictates that we look to the total environmental circumstances. Viewed in the light of these national policy goals, the relocation plan for the village of Niobrara is currently inadequate.

The corps' action has forced the residents of Niobrara to leave their homes and to relocate without access to a main highway. This places an unreasonable burden upon the residents of this rural village and represents a total disregard for the needs and future of that community. Relocation and rehabilitation in this instance is incomplete and can only induce resentment for a Federal bureaucracy which can ill-afford further criticism today.

The relocation of Highway 12 is required as a direct result of the Corps of Engineers' plan to relocate and rehabilitate the village of Niobrara. Because this is an outgrowth of the corps' activity, it is not the kind of action that would be the subject of a chief's report. A proposed plan, formulated by the Nebraska Department of Roads with the cooperation of the Corps of Engineers and the mayor of Niobrara would relocate Highway 12 at an estimated cost of $1,717,527 so that the highway would pass through Niobrara. Rerouting of the highway would insure access to adequately serve the community as nearly as practicable, in the same manner and as reasonably well as before the corps' relocation plan was implemented.

I would urge the Senate's approval of this bill which would authorize the relocation of this highway. The resident's of this village have been waiting since 1978 for the Federal Government to take this action and restore the social and economic livelihood to Niobrara which it enjoyed before the corps' relocation plan. Without this measure, we have sent Niobrara up the creek without a proverbial paddle. ●

By Mr. BOREN:

S. 660. A bill to amend title IV of the Social Security Act to provide for a demonstration program of block grants to States in lieu of Federal matching or aid to families with dependent children; to the Committee on Finance.

FAMILY WELFARE DEMONSTRATION PROGRAM ACT

● Mr. BOREN. Mr. President, I am today reintroducing the Family Welfare Demonstration Program Act. This bill provides us an opportunity to utilize State and local units of government which are the most responsive, best equipped and most competent levels of government to develop programs to meet the needs of millions of families with children.

Recipients of aid to families with dependent children (AFDC), welfare administrators, elected officials and taxpayers have been disappointed and frustrated at our inability to accomplish needed reforms in this program. There is probably no single proposition which has met with more unanimous agreement than the need for welfare reform.

Yet, for a decade, the debate has gone on about how to accomplish this end. During that time welfare reforms proposals have run the gamut from total federalization of the program to minor tinkering with the current program to simple financial bail-out of States by changes in the Federal matching formula.

The Family Welfare Demonstration Program Act does not provide massive, permanent reformation of the welfare system of this country, nor does it pump more billions of Federal dollars into the existing system. It does not solve all the problems of many related programs such as food stamps, medicaid, social services, and others. It does not attempt to entice support by promising huge amounts of new Federal money for everyone.

The bill which I introduce today does, on the other hand, put us on the road to meaningful reform of the AFDC program which will result in a better program for recipients and taxpayers alike.

The Family Welfare Demonstration Program Act establishes a period of 5 years, beginning October 1, 1981, as an AFDC demonstration project period during which States could either continue to operate under current Federal requirements or could elect to conduct a block-grant demonstration project.

The single requirement for States which elect to conduct a demonstration project would be that they conduct activities and provide assistance which in their judgment will most effectively benefit and promote the social welfare of children and families with children in that State.

The amount of block-grant funds would be equal to their fiscal 1980 Federal AFDC funding adjusted annually for inflation and population changes. Evaluation studies of the projects would be conducted by the State and by the General Accounting Office with an interim report due by the end of 1985 and a followup report due by the end of 1986.

At the end of the 5-year period, September 30, 1987, the current AFDC program and the demonstration project would both "sunset" unless specifically extended by Congress. At that time Congress will have the benefit of the State projects upon which to make an informed judgment on how to best meet the needs of these families.

It is my firm belief that given the opportunity granted them in this bill, States will show overwhelmingly that they can deliver better benefits, respond quicker and more compassionately to the unique needs of the very people we are trying to help, and do it more efficiently and with greater administrative accuracy than can the Federal Government.

Today, States literally find themselves in the worst of both worlds. They are told that AFDC is a State-administered program with Federal financial participation while at the same time they are deluged with hundreds of pages of regulations on minute administrative requirements and eligibility criteria. I am told that a substantial number of errors in AFDC rates are themselves created by irrational administrative requirements.

Finally, Mr. President, I learned not long ago of a situation in Oklahoma which underscores the need for us to reconsider the direction we are going with the AFDC program.

While serving as Governor of Oklahoma, I initiated legislation which broadened the requirement for work registration and authorized a pilot project for work and training called the work experience program.

This program is voluntary and is available on a statewide basis. Statistics developed by the Oklahoma Department of Human Services indicate that the percentage of those who desire to go to work when given the opportunity is close to 99 percent.

The work experience program placements are solicited from nonprofit community resources and almost 4,000 individuals have been placed voluntarily in about 800 work sites.

The length of placement rarely exceeds 6 months and in many cases results directly in employment or placement in other education or training programs.

I was shocked when informed recently by State officials that this highly successful program is now in jeopardy because of an HHS policy interpretation made late last year.

Such a restriction on the State's ability to implement meaningful programs for recipients of AFDC is disappointing to me and, more importantly, to the thousands of potential beneficiaries of this and other innovative programs. I hope that the new administration will correct this previous misinterpretation of the law.

It is crucial that we get the welfare reform issue off high center and moving toward a solution. I believe the Family Welfare Demonstration Program Act provides an opportunity to do just that. This Congress has a responsibility to seek alternatives to the present welfare systems.

For too long we have used Federal funding as a carrot and as a club and have compounded the problem with overregulation. We must continue our commitment to the poor of this country by providing funding of programs which are responsive to their needs.

The AFDC program is uniquely suited to innovative and responsive programs which can be developed and administered by the States. I urge you to join with me in this effort to move forward in reforming our welfare system.

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. 660

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Family Welfare Demonstration Program Act".

DEMONSTRATION BLOCK GRANT PROGRAM

SEC. 2. (a) Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION BLOCK GRANT PROGRAM

"SEC. 414. (a)(1) Any State may elect (subject to the provisions of this section) to participate in a block grant program and receive payments under the provisions of this section for any quarter beginning on or after October 1, 1981, and ending prior to October 1, 1987. Any State which elects to participate in such program for any quarter shall not receive any payment for such quarter under section 403 and shall not receive any payment for such quarter under part E with respect to foster care maintenance payments or administrative expenses related to a foster care maintenance payments program, including any payments which may be available as reimbursement for expenditures under part E by reason of section 474(c).

"(2) The Governor of any State which elects to participate in such program shall notify the Secretary of such State's election at least six months prior to the first day of the first quarter for which such State elects to participate in the program.

"(3) No State may begin to participate in such program in any quarter beginning on or after October 1, 1982.

"(4) A State may terminate its participation in such program beginning with any quarter that—

"(A) begins at least two years after the beginning of the quarter for which that State first participated in the program, and

"(B) begins at least six months after the date on which the Governor of the State notifies the Secretary of that State's election to terminate participation in the program.

"(5) This section and section 403 shall cease to be effective, and no payment shall be made under either such section, for any period after September 30, 1987, unless either or both such sections are specifically made effective for any such period by legislation enacted after the date of the enactment of this Act.

"(b)(1) Each State participating in the block grant program under this section for any quarter shall receive, for each such quarter, a payment in an amount equal to 25 percent of that State's adjusted base period amount for the fiscal year in which such quarter falls.

"(2) The base period amount for any State shall be equal to the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1979 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of sec-

tion 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403, and increasing such total amount by the amount of expenses incurred for social and supportive services provided in accordance with section 402(a)(19)(G).

"(3) The adjusted base period amount for any State—

"(A) for the fiscal year beginning October 1, 1980, shall be equal to the base period amount, and

"(B) for the fiscal year beginning October 1, 1981, and each fiscal year thereafter, shall be equal to the adjusted base period amount for the preceding year as adjusted for such State in accordance with paragraphs (4) and (5).

"(4) The adjusted base period amount for any State as determined under paragraph (3) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1981, by an amount equal to the product of—

"(A) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(B) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this paragraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(5) The adjusted base period amount as determined under paragraph (3) and increased under paragraph (4) for any State shall be increased or decreased (if such State has had an increase or decrease in population) for each fiscal year, starting with the fiscal year beginning October 1, 1981, by an amount equal to the product of—

"(A) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(B) a percentage equal to the percentage increase or decrease in the population of such State on January 1 of the preceding fiscal year as compared to the population of such State on January 1 of the second preceding fiscal year (as determined by the Secretary not later than April 15 of the preceding fiscal year, on the basis of the best estimates available from the Bureau of the Census, and rounded to the nearest one-tenth of 1 percent.)

"(c) Payments under this section shall be used by the State to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under this part; and for this purpose the State may waive any or all of such requirements and limitations including those relating to the work incentive program under part C and the child support program under part D of this title.

"(d)(1) Any State participating in the block grant program under this section shall determine who among the individuals receiving assistance or participating in the activities conducted under the program shall be eligible for medical assistance under the State plan approved under title XIX of this Act.

"(2) Individuals determined to be eligible for such medical assistance shall, for purposes of title XIX of this Act, be deemed to be individuals receiving aid under this part; except that no such individual shall be so deemed if he would not be eligible for aid under this part, as in effect immediately prior to the enactment of this section, on account of his family status.".

"(e) For purposes of determining eligibility for adoption assistance payments under part E of this title, any State participating in the block grant program under this part may—

"(1) waive the requirement in section 473(a)(1)(A)(i) which require that the voluntary placement agreement qualify for purposes of Federal payments under section 474, if such agreement would so qualify if the State were eligible to receive Federal payments for foster care maintenance payments under part E; and

"(2) waive the requirement in section 473(a)(1)(B) which requires that the child received aid (or would have received such aid but for a failure to apply for such aid or to be living with a specified relative) under the plan approved under this part for a particular month, if such child received (or would have received but for such a failure) assistance under the block grant program for such month.".

(b) Section 403 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The provisions of this section shall not apply to any State with respect to any quarter for which such State is receiving a payment under section 414 of this Act."

REPORT BY COMPTROLLER GENERAL

SEC. 3. (a) The Comptroller General of the United States shall conduct a study and evaluation of the block grant programs conducted by States pursuant to section 414 of the Social Security Act, and of the aid to families with dependent children programs carried out in States not participating in the block grant program.

(b) The Comptroller General shall submit to the Congress an interim report with respect to such study and evaluation on or before December 31, 1985, and shall submit to the Congress a final report on or before December 31, 1986.

(c) No payment may be made under part A of title IV of the Social Security Act to any State which fails to cooperate with the reasonable requests of the Comptroller General in carrying out his duties under this section, for so long as such failure to cooperate continues.●

By Mr. JEPSEN:

S. 661. A bill to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance and to establish a commission to make recommendations with respect to the Federal effort to curb pharmacy related crimes; to the Committee on the Judiciary.

ROBBERY OF CONTROLLED SUBSTANCES FROM PHARMACIES

● Mr. JEPSEN. Mr. President, in 1970 Congress enacted the Comprehensive Drug Abuse Prevention and Control Act, to limit the rampant use of illegal drugs. Since that time, pharmacists all across the country have experienced increased threats to their lives as a result of drug-related robberies. Whether drug addicts or hardened criminals commit these crimes, the crimes are always senseless and violent and, many times, tragically result in the death of an innocent pharmacist.

I believe it is fair to say that the Federal Government helped create this situation. The 1970 act tightened Federal laws on controlled substances, thus making it more difficult for drug addicts and criminals to obtain illegal drugs. But as their usual drug connections began to dry up, these desperate individuals turned to a different source—the local pharmacist.

In effect, the pharmacist has become the sacrificial lamb for an inadequate Government program. The 1970 act sought to address one problem, but in the process created another.

Last year, there were 157 Iowa pharmacies broken into. Nationally, pharmacy thefts of controlled substances are reported to have increased a startling 225 percent between 1976 and 1978. Pharmacists are suffering from a drug related problem and it is reaching epidemic proportions.

As you may recall, Mr. President, there was a provision in the criminal code reform bill proposed last year, that would have made the robbery of a controlled substance from a pharmacy a Federal crime, if the robbery involved more than $500 worth of controlled substances.

Unfortunately, this section, as written, would have had a minimal effect on drug-related pharmacy robberies. Several pharmacists have pointed out to me that the majority of drug-related pharmacy robberies do not involve more than $500 worth of a controlled substance.

In addition, the $500 provision raises the question about the actual value of a controlled substance. Do you use the retail price, the wholesale price, or the "street value"? That makes a big difference.

Setting a specific dollar amount almost seems to imply that there is a direct correlation between the amount stolen and the severity of the wounds inflicted. I think the victim's head will hurt just as much whether the robber steals $490 or $510.

For these reasons, my bill does not include a $500 "trigger." I believe that removal of this provision will enhance the deterrent effect of the legislation without unduly infringing on the domain of local law enforcement authorities. Ideally, most of us would like to see this dealt with on the local level. But it is becoming increasingly apparent that local law enforcement officials do not have either the time or the resources to effectively deal with the situation.

Finally, Mr. President, I ask unanimous consent to insert in the RECORD an editorial from the September 1980 edition of American Druggist. I think the editorial speaks for itself and I urge my colleagues to look at it. I believe it vividly points out the seriousness of the problem.

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

OUR DISHONORED DEAD: PHARMACISTS MURDERED BY THE UNPUNISHED

(By Stanley Siegelman)

The pharmacists listed below were killed by armed intruders seeking drugs and cash. They were brutally murdered while serving the public.

At long last, there is a real possibility that legislation will be enacted making violence against pharmacies a Federal crime. That no such law exists dishonors our elected representatives in Washington, as

well as those guiltless pharmacists who suffered the ultimate penalty.

Clip this page and send it to your Congressman. Drop us a note stating you have done so—so that we have more ammunition at hand to further the cause. It is a just cause. Pharmacists deserve the protection of the Federal government. State and local authorities have proved inadequate in dealing with this particularly vicious iniquity.

This list is more eloquent than any editorial we could possibly write.

Sidney Adelman, RPh, Philadelphia, Pa.
Morris Becker, RPh, Yonkers, N.Y.
Samuel Beskin, RPh, Los Angeles, Calif.
Ellis Bogan, RPh, Philadelphia, Pa.
Paul Boght, RPh, Covington, N.Y.
Carl Brooks, RPh, Little Rock, Ark.
Joe Bruce, RPh, Fayetteville, Ariz.
Adele Carr, RPh, Covington, Ky.
William Catoe, Jr., RPh, Columbia, S.C.
Bob Chachere, RPh, New Orleans, La.
Clem Charbonnet, RPh, New Orleans, La.
Les Craigen, RPh, Seattle, Wash.
Donald Dearth, RPh, Long Beach, Calif.
Jacob Farber, RPh, Philadelphia, Pa.
Peter Friedlander, RPh, Bronx, N.Y.
Hy Gordon, RPh, Malden, Maine.
John Groen, RPh, Seattle, Wash.
Pat Horgan, RPh, Long Beach, Calif.
Cyril Russell-Howland, RPh. Atlanta, Ga.
Patrick Hughes, RPh, Roxbury, Mass.
Robert Jorgensen, RPh, Minneapolis, Minn.
Larry Jung, RPh, San Leandro, Calif.
Carvil Kiger, RPh. Wilmington, Del.
William Knox, RPh, Indianapolis, Ind.
A. B. Lanier, RPh, Memphis, Tenn.
Louis Lipschultz, RPh, Philadelphia, Pa.
David MaClarty, RPh, Linthicum, Md.
George Malaith, RPh, Lake County, Ind.
Sol Mars, RPh, Buffalo, N.Y.
John McClain, RPh, Decatur, Ga.
Fred Meek, RPh, Portland, Oreg.
William Middleton, RPh, Baton Rouge, La.
Chester Mitchel, RPh, Shreveport, La.
Woodrow Moulton, RPh, Pensacola, Fla.
Elbert Munsey, RPh, Portales, N. Mex.
Douglas Orchard, RPh, Magna, Utah.
Simon Perloff, RPh, Philadelphia, Pa.
Herbert Roth, RPh, Philadelphia, Pa.
William Sherman, RPh, St. Joseph, Mo.
June Shillcutt, Little Rock Ark.
Herb Silverman, RPh, Hollywood, Fla.
Julius Smith, RPh, Columbus, Ga.
Jesse Stewart, RPh, Fremont, N.C.
John Stockdale, RPh, Indianapolis, Ind.
Irving Tweedy, RPh. Buffalo. N.Y.
Louis Viner, RPh. Philadelphia, Pa.
Mrs. John Volpato. Carlsbad, N. Mex.
Jacob Wallfield. RPh. Philadelphia, Pa.
Max Zalstein. RPh. Philadelphia, Pa.
Leslie Zive, East Hatfield, Mass.●

By Mr. CHILES (for himself and Mr. NUNN):

S. 664. A bill to amend section 481(d) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

USE OF HERBICIDES IN CONTROLLING MARIHUANA

● Mr. CHILES. Mr. President, I am introducing today on behalf of myself and Senator NUNN, legislation to remove the restriction on U.S. assistance funds for the spraying of an herbicide to eradicate marihuana. I am proposing this action as another step in the effort to reinforce our drug-fighting capability. The current restriction on such spraying is one more example of Government policy that only serves to hamper our ability to control the drug flow. The task of combating illicit narcotics is difficult enough without this type of additional burden.

As the Congress and Federal law enforcement agencies grapple with programs and strategies to control the staggering flood of drugs into this country, there is one inescapable conclusion: The most effective means to stop the drugs is at their source. Any enforcement strategy that does not include an effort to cut off the drug supplies in producing countries such as Colombia is doomed to failure. As long as marihuana and opium are produced in bumper crops in foreign nations, a good portion of these drugs will find its way to our shores.

Equally clear is that an eradication program in a foreign nation can have a very significant effect. The use of herbicide spraying in Mexico had unparalleled results in crippling the heroin industry in that country. Heroin supplies coming into this country from Mexico were reduced by 70 percent, and this reduction was accompanied by a sharp drop in U.S. heroin-related deaths.

So, if we know that control programs at the source are essential and that they work, why do not we help nations that want to stop drug production by supporting eradication efforts? The answer is the prohibition contained in section 4 of the International Securities Assistance Act of 1978. When you look at the statute and how it has been implemented, it proves not a very good answer to the question.

Section 4 of the International Securities Assistance Act prohibits use of U.S. funds for any program involving the spraying of a herbicide to eradicate marihuana if the use of that herbicide is likely to cause serious harm to health of persons who may use or consume the sprayed marihuana.

Under this statute, the Secretary of State is required to inform the Secretary of Health and Human Services of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a U.S.-funded program.

The Secretary of HHS must then make a determination on the health question and inform the Secretary of State. The HHS determination is to be made on the basis of scientific information and testing and after consultation with the Secretary of Agriculture and Administrator of the Environmental Protection Agency.

In October 1978, the Secretary of State requested HEW to make a determination on the health effects of paraquat, then in major use in U.S.-funded drug control programs in Mexico. Secretary Califano responded in an August 2, 1979, letter to Secretary of State Vance that paraquat poses a serious health risk to the users of paraquat-contaminated marihuana and consequently U.S. assistance was terminated for any paraquat spraying program.

The herbicide amendment was adopted by the Congress with only limited debate, and I believe little real attion to its potential consequences. It was passed in the wake of a concern that a great many Americans might suffer serious health problems from smoking contaminated marihuana.

In retrospect, I think it can be shown that the amendment addresses a health threat that is questionable at best. I think it can also be shown that it has had a major negative effect on efforts to reduce the illegal flow of marihuana imports.

A troubling difficulty that is often experienced in our efforts internationally to control drug production, is convincing foreign governments that we are truly serious. If we encourage these governments to crack down, provide them financial assistance, and yet turn around and prohibit the use of the most effective eradication tool, it is no wonder there is skepticism.

I know from personal conversations with President Turbay of Colombia, who is waging an aggressive war against the drug traffickers, that questions exist about our resolve to really wipe out the drug trade.

The prohibition on herbicide spraying feeds that type of questioning, and I can not think of a worse signal to be sending to the international community.

At the time Congress passed the herbicide amendment, there was a prevalent expectation that an equally effective eradication mechanism could be quickly developed. This has not proven to be the case. A survey of the scientific inquiry into eradication alternatives points to the unique properties of paraquat for destroying drug raw materials.

The United Nations Study Group on Methods for the Eradication of Illicit Narcotics Crops evaluated the various ways of eradicating narcotics plants and concluded that:

> Chemical attack at the present time offers the best overall opportunities to successfully destroy narcotics crops.

Of the chemicals tested, paraquat produced the most rapid response.

The Mitre Corp., in a study for the Bureau for International Narcotics Matters, Department of State, concluded, on the basis of testing 140 herbicides marketed in the United States, that paraquat is the only herbicide environmentally acceptable for the eradication of opium poppy and marihuana.

The Science and Education Administration of the U.S. Department of Agriculture maintains that:

> Paraquat is currently the most effective herbicide and method for rapidly killing marihuana.

It provides a quicker kill than any other herbicide available and there is no single alternative herbicide that can do an equal, satisfactory job.

There is an obvious need for an eradication effort to substantially reduce the massive supplies of marihuana coming from foreign countries. For the immediate future at least, paraquat is the only effective tool we have for accomplishing large-scale destruction of marihuana crops. In the face of these facts, there must be a clear and compelling reason to justify the prohibition on paraquat spraying. To my mind the case has not been made.

First of all, there is an implicit assumption in the concern over paraquat-sprayed marihuana that marihuana smoking itself is not posing a health risk of any consequence. As the evidence mounts, that assumption is being shown

as quite incorrect. HEW's Eighth Annual Report to Congress, "Marihuana and Health: 1980" underscores the hazardous effects of marihuana smoking. Among the report's more disturbing findings:

The potency of marihuana in the United States has increased markedly over the past 5 years.

Marihuana may affect the reproductive function of men and women and may affect the unborn child.

It appears likely that daily marihuana use leads to lung damage similar to that resulting from heavy cigarette smoking.

Extended use of marihuana over a period of years may eventually be shown to cause cancer in humans.

Dr. William Pollin, director, National Institute on Drug Abuse concluded:

If widespread marijuana use, especially among young people, is not curtailed, our society may pay a large price in health consequences and medical costs. . . . Many young people want to view marijuana as a simple herb with the power to enhance their lives. In fact, research is showing it as a complex drug which can negatively affect learning and motor coordination, and may eventually lead to serious health problems.

What we presently know is that marihuana is a dangerous substance, readily available to almost anybody who wants it, and used with increasing frequency.

In short, it is a national problem with serious health and other implications. A look at the potential health consequences to the American public of paraquat-sprayed marihuana presents much less cause for concern.

Contrary to the initial alarm over paraquat, a reasonable analysis would indicate that it can be employed as an eradication technique with minimal risk to U.S. public health.

The current statute requires an assessment of the health risk to persons who smoke marihuana contaminated by an herbicide. To accomplish this, consideration must be given to factors such as the amount of paraquat an individual must inhale to suffer fibrosis; the amount of paraquat-contaminated marihuana in the U.S. market; the concentration of paraquat; and the smoking and purchasing habits of American marihuana users.

Obviously, a large part of such an assessment will be speculative in nature, depending upon statistical projections and extrapolations from animal test data.

The findings by HEW, which resulted in the paraquat ban, represent a structuring of those factors to provide a worst case estimate. Even in a worst case analysis the HEW study indicated that only between 50 to 100 marihuana smokers could be exposed to significant amounts of paraquat-contaminated marihuana.

This represents an extremely small fraction of all American marihuana smokers. With the exception of individuals who may make one very large buy per year of contaminated marihuana, the computer simulation data projected a population approaching zero that might risk exposure to 500 micrograms of paraquat, a dosage considered potentially harmful.

Further, the Department of Agriculture raised serious questions about the validity of even this worst case analysis by HEW. USDA comments:

Technical evidence presented in your letter dated June 20, 1979, is based on computer simulation studies which largely indicate that marijuana smokers in this country are not subject to exposure levels of paraquat that are judged by health authorities to be harmful. The simulation study based on one large "buy" per year in which an upper limit of 60 persons would be exposed to 500 micrograms of paraquat is based on exposure assumptions we question.

The United Nations Narcotics Laboratory study group confirms this view in its analysis of paraquat, finding that:

Residues of sprayed formulations on cannabis would not be sufficient to cause toxic effects to the marijuana user.

In light of the seriousness of the marihuana problem and the urgent need for an effective crop eradication program, I think it is time for the United States to again assist foreign nations with herbicide programs to destroy drug raw materials where they are grown.

Such assistance has been demonstrated to be an effective tool in controlling the flow of narcotics. With the ever-increasing traffic in marihuana from abroad, it is a tool we can no longer afford to forgo.

The legislation I am proposing provides for repeal of section 4 of the International Securities Assistance Act of 1978. Such action will allow the use of U.S. assistance funds for herbicide spraying programs to eradicate marihuana.

In order that Congress can assess if any potential health problem may result from paraquat spraying, my bill provides that the Secretary of State will continue to advise the Secretary of Health and Human Services of the initiation of an herbicide spraying program, and the Secretary of HHS will monitor the health impact on persons who may consume sprayed marihuana.

If the Secretary makes a determination that persons are being exposed to amounts of such herbicide harmful to their health, he shall report this to the Congress along with any appropriate recommendations.

Mr. President, I regard this proposal as an important and necessary step toward improved control of narcotics production and trafficking. I urge its prompt consideration and approval by the Congress.

I ask unanimous consent that the text of the bill as well as a letter from Florida Attorney General Jim Smith; a resolution adopted by the National Association of Attorneys General; and a Washington Post editorial be printed at this point in the RECORD.

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

S. 664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 481(d) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(d)(1) The Secretary of State shall inform the Secretary of Health and Human Services of the use or intended use by any country or international organization of any herbicide to eradicate marihuana in a program receiving assistance under this chapter.

"(2) The Secretary of Health and Human Services shall monitor the impact on the health of persons who may use or consume marihuana of the spraying of a herbicide to eradicate such marihuana in a program receiving assistance under this chapter, and if he determines that such persons are exposed to amounts of such herbicide which are harmful to their health, he shall prepare and transmit a report to the Congress setting forth such determination together with any recommendations he may make.".

DEPARTMENT OF LEGAL AFFAIRS,
Tallahassee, Fla., March 6, 1981.

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

DEAR LAWTON: My staff advises me that your office is preparing legislative proposals directed at the drug smuggling problem. Nothing is more vital to the future of Florida at this time, and your interest in this problem is much appreciated.

For the past two years I have been working at the State level to help organize the resources available here and achieve some meaningful drug enforcement. As you know, however, Florida has been overrun by the smugglers. We're simply not equipped to make significant gains. Our State has mounted a full effort to combat these smugglers with little gain.

The one measure that has demonstrated its effectiveness in curtailing the importation of drugs is denied us by law. This is the spraying of the crop with herbicides in the field. Mexico's standing as a prime source of marijuana for the U.S. market was destroyed along with the crop after its participation in spraying operations, financed by the United States and Mexico.

An amendment to the Foreign Assistance Act of 1961 prompted by what would seem to be contradictory concern for the health of drug users who might receive a product containing herbicide residues, now prohibits use of foreign aid funds for this purpose. Medical evidence does not, as suggested by the 1978 study of the United National Narcotics Laboratory, support this concern. In fact, no case of herbicide poisoning by marijuana use has ever been reported to health agencies of the federal government that research such matters.

Moreover, the United National Fund for Drug Abuse Control and drug enforcement officials at every level, including those in the Colombian government, proclaim spraying as the only measure assuring success in the near term. Once the product reaches the myriad channels of smuggling, the odds against interdiction and the cost increase exponentially.

This amendment should be repealed, and I strongly recommend that you consider offering such a measure to the Congress. I believe you will find support for repeal at the highest level—including DEA's administrator Peter Bensinger, and Colombia's President Turbay—officials who are close to the problem.

Of course, my staff and I are ready to help at any time, in any way we can.

Sincerely,

JIM SMITH,
Attorney General.

RESOLUTION

Whereas, a national survey estimates 43 million Americans have tried marijuana and 16 million are regular users; and

Whereas, illegal importation and sale of the drug is a significant narcotics enforcement problem; and

Whereas, the most effective method of curtailing the marijuana trade is to interrupt its supply at the point of origin, in the field; and

Whereas, aerial application of a herbicide has been used with demonstrated effectiveness in Mexico; and

Whereas, there is no documented case of human poisoning as a result of herbicide spraying of marijuana; and

Whereas, Colombia is the source of 70 percent of the marijuana illegally imported into the United States, and the Colombian government stands ready to engage in a marijuana spraying program with the financial help of the United States; and

Whereas, U.S. funding for marijuana spraying has been prohibited by the Percy Amendment to the International Security Act of 1978 (Public Law 95-384); and

Whereas, the amendment is contradictory to the U.S. government public policy and throws into question the depth of its commitment to narcotics enforcement.

Now, therefore, be it resolved by the National Association of Attorneys General:

(1) that Congress should commit the United States government to taking the necessary steps to protect security from the debilitating impact of drugs; and

(2) that an essential aspect of that policy is elimination of the supply of marijuana; and

(3) that the Percy Amendment should be repealed; and

[From the Washington Post, July 3, 1980]

GETTING HIGH/GETTING HURT

While the debate over legalization or decriminalization of marijuana rages on, the National Institute on Drug Abuse has recently published two important documents that should change the focus on most people's attention. One is a summary of current research findings on the effects of marijuana on health, and the other is a survey of the extent and intensity of current marijuana use.

The survey shows a continuing trend of more frequent use, by younger individuals, of more potent marijuana. The fraction of 12- to 17-year-olds who have ever used pot has grown from 7 percent in 1967 to 14 percent in 1971 to 31 percent last year. Of this age group, 17 percent are current users—defined as those who have used the drug within the past month. In the past five years, *daily* use by high school seniors has almost doubled, and now stands at 10.3 percent. Almost 40 percent of this year's graduating class are current users.

These are underestimates, since they are based only on interviews of those actually attending school. Nor do they reflect the increasing potency of the plant. The fraction of THC—marijuana's principal psychoactive component—in plants imported from Mexico has increased twenty-fold since 1973. And marijuana from Colombia, which accounts for more and more of today's supply, is estimated to be twice as potent as the current Mexican crop.

The biological effects of marijuana use are much less certain, since most experiments must be done on animals. But some effects are becoming clear. Marijuana produces lung disease as great as or greater than that caused by tobacco.

It also contains more cancer-producing substances than does tobacco smoke. The Drug Institute concludes that "it appears likely that daily use of marijuana may lead to lung damage even greater than that resulting from heavy cigarette smoking." Research on animals, as yet unconfirmed in humans, shows a definite suppression of the immune system—the body's chief defense against illness. A range of evidence indicates that marijuana affects the delicate balance of glands and hormones that govern sexual development and reproductive function, including effects on fertility in both sexes and damage to the developing fetus.

The most serious effects appear to be psychological—especially in young people. Any biological system is more vulnerable to damage during periods of rapid change than during periods of stability, and 12- to 17-year-olds are in a period of extremely rapid psychological change involving intellectual skills and learning, emotional growth and personality development. There is a growing consensus that each of these functions may be seriously impaired by marijuana use during this period.

While this may seem a pretty sobering list, the sum of what is still unknown is even more scary. Marijuana has only been widely used in this country for just over 15 years. Most cancer latencies are 20 years or longer and, as has been demonstrated in the case of alcohol and tobacco, it may require decades of use by very large numbers of people before even devastating effects of a drug become evident.

Pot is clearly a dangerous substance—at least for 12- to 17-year-olds and possibly for older people as well—and its illegal status has obviously not curbed its availability. While the appropriate legal treatment for marijuana possession and sale is one important issue, there is also an urgent need to find ways to diminish marijuana use by those who are being hurt worst by it.●

By Mr. CHAFEE:

S. 665. A bill to extend the period during which the Secretary of Defense may repay certain educational loans made to persons who serve in the Armed Forces, and for other purposes; to the Committee on Armed Services.

EDUCATIONAL LOAN FORGIVENESS ACT OF 1981

Mr. CHAFEE. Mr. President, today, I am introducing the Department of Defense Educational Loan Forgiveness Act of 1981.

The purpose of this legislation is to provide young men and women with at least 2 years of college education a positive incentive to serve in the U.S. Armed Forces. In the case of this legislation, the motivating factor for enlistment is the forgiveness of educational loans incurred while at college.

In my judgment, this program has several positive features designed to improve the quality of America's military manpower:

Most importantly, it provides a positive incentive for college-level students to join our military services;

Unlike many G.I. bill formulations, it does not draw college-bound soldiers out of the military in order to collect their benefits;

It provides the military with the educational skills of college-level personnel which are so important in today's sophisticated military environment;

There is no penalty for college students who accept educational loans but do not wish to serve in the military forces;

The program is available to both officers and enlisted personnel; and

It is established on a trial basis so that it will cost the U.S. Government virtually nothing if it does not work as intended.

I urge my colleagues to help upgrade the educational level of young men and women entering the U.S. Armed Forces today by supporting the Educational Loan Forgiveness Act of 1981.

MANPOWER PROBLEMS

Mr. President, we are all aware that one of the greatest problems facing the U.S. military today is manpower. We need to recruit more young people into the All-Volunteer Force, and we need to retain those who are already in. Furthermore, we have to improve the quality of the people who are enlisting into the Armed Forces today.

When the All-Volunteer Force (AVF) was established in 1973, I was one of its early supporters. I still believe the AVF is the best possible way to man our military forces in peacetime. However, it is important to realize that the AVF has not provided our Armed Forces with as many recruits or as many of high quality as we originally hoped.

DECLINE IN QUANTITY

In a recent study on manpower problems in the All-Volunteer Force, it was stated that active duty military strength needs to be maintained at least at 2.2 to 2.3 million, along with combat ready and responsive Reserve components, to insure a prudent minimum level with which to meet initial U.S. national security commitments worldwide.

As of July 1980, however, our total active duty forces fell below this minimum level by a figure of from 156,000 to 256,000. These totals were 10 percent below actual fiscal year 1973 strength levels, and 24 percent below fiscal year 1964 levels, which were the last pre-Vietnam war fiscal year figures.

Reserve figures are even more disturbing than these active duty shortfalls.

As of July 1980, selected Reserve force levels were 11 percent below those of fiscal year 1973; approximately 22 to 23 percent below the Department of Defense's stated mobilization; and 14 percent below fiscal year 1964 levels. The individual Ready Reserve currently has about 270,000 unfilled spaces. In July 1980, the Army individual Ready Reserve strength was 72 percent below fiscal year 1973; 47 to 65 percent below various Department of Defense mobilization requirements; and 54 percent below fiscal year 1964 levels.

DECLINE IN QUALITY

Mr. President, these declines in the quality of military personnel are of serious concern. More startling than the decline in quantity of personnel, however, is the decline in quality of personnel.

A Defense Department report published last year showed that 40 percent of current military recruits cannot read at a ninth grade level, while countless others required remedial reading and English language training. Nearly 50 percent of all recruits are in the lowest category of intelligence, and many high school graduates are not mentally capable of passing courses in the service schools. The Air Force alone fell 43 percent short of its hiring goal in engineers in 1979, while its ROTC IQ test scores dropped from 44 percent in the 74 to 95 percent test range in 1972 to 22 percent in 1978–79. Just last week, I was told that

the Army has a serious shortage of officer candidates with engineering skills.

A recent study on recruit quality on the All-Volunteer Force concluded in part that the percentage of above average individuals in the enlisted ranks—measured by education, high school graduate status, or intelligence—has declined substantially since the AVF began. This study also revealed that in 1965, 20 percent of all active duty enlisted personnel had some college training. In 1980, that figure had dropped to 10 percent. In 1974, 39 percent of all Reserve enlisted personnel had some college training, while in 1980, this figure stood at 10 percent.

READINESS PROBLEM

The result of this twofold decline in quality and quantity of manpower resources is predictable and alarming. A Navy ship is declared unfit for sea duty by her captain because he lacks enough trained petty officers. An Air Force fighter wing flunks a readiness test, with only one-third of its F–15's fit to fly combat missions—in large measure because 30 percent of the unit's airmen are too inexperienced for their jobs. A recent Army training study "found that 25 percent of the tank gunners did not know where to aim the battlesight when engaging a target * * *."

In short, the decline in quantity and quality of recruits has contributed to the serious decline in readiness of our forces.

Mr. President, in my judgment, it is not sufficient that we simply increase the numbers of young people entering military service in this country today. We must increase the quality of these recruits as well. While the fact of a college education is by no means an absolute standard of whether a young man or woman will make a good soldier, I believe that in most cases a better-educated soldier will be a better soldier in today's highly complex and sophisticated military environment.

You do not need to have flown an F–15 fighter, fired an antitank weapon, or sailed in a guided missile frigate to realize that soldiering today is far more complex than "holding fire until you can see the whites of their eyes." (William Prescott, June 17, 1775, at Bunker Hill.)

EDUCATIONAL LOAN FORGIVENESS

Mr. President, every year, this Government offers over a billion dollars in educational loans so that our young men and women can attend the colleges and universities of their choice. Many young college graduates find themselves deeply in debt at the completion of their education.

By allowing the Department of Defense to repay certain educational loans made to persons who agree to serve in the armed services, my bill solves several problems in a positive manner.

First, it gives these young people a vehicle for reducing or eliminating their burden of debt through military service. In the case of a reservist, this debt can be reduced at the rate of 20 percent or $600 per year, whichever is largest. Since the minimum period of Reserve service is 6 years, this gives the enlistee the opportunity of eliminating the debt by the final year of service. In the case of an active-duty enlistee, this debt will be reduced at a rate of 50 percent or $1,500 per year, whichever is greatest. Thus, active-duty enlistees who must serve 3 years, can relieve their debt by their final year of service as well.

Second, by requiring that each applicant to this program have completed at least 2 years of college education, we assure that we are attracting a significantly better educated recruit than just a high school graduate. This is the type of recruit that our military forces need to perform highly complicated functions in a modern military force.

Third, unlike many GI bill formulations, the benefits of this program are paid at the point the recruit enters the service rather than at the point when the soldier leaves the service. The incentives of the educational loan forgiveness program are designed to attract college-level recruits into uniform rather than to attract college-bound soldiers out of uniform. This means that the military has the use of a more highly educated recruit during his or her term of service, and does not entice upward-mobile soldiers out of service.

Fourth, there is no penalty for students who accept college loans but do not wish to serve in uniform. In other words, this program does not provide a disincentive to a student who wishes an educational loan but does not wish to commit himself to military service at some future date. It is assumed that the specter of indebtedness facing a student well into his or her college career, or upon graduation, will provide the motivating force for enlistment into the service. We are offering a choice rather than a requirement.

Fifth, my proposal for educational loan forgiveness allows the Secretary of Defense the discretion of offering this program to officers as well as enlisted personnel. Thus, a highly motivated or aggressive enlistee who decides to go to officer candidate school (OCS) will not lose benefits under this program on receiving a commission. Nor will this individual be deterred from going to OCS because he or she will lose benefits that otherwise would go only to enlisted personnel.

Finally, this bill does not provide for an expensive new bureaucracy or set of entitlements that will remain in place even if the program itself fails. Rather, it provides substantial discretion to the Secretary of Defense to fashion in a flexible manner a program to meet his immediate and changing needs. If the program fails—that is, if no college-level students respond to the incentive of educational loan forgiveness through military enlistment—no loans will be forgiven. Therefore, no moneys will be paid. Advertising costs and administrative expenses of this program will be modest by most standards, and are estimated by the Defense Department at less than $500,000 for 3 years.

EXPANDED PROGRAM

Mr. President, last year, the Congress passed legislation authorizing a program similar to what I am proposing here today. That program was funded for 1 year on a trial basis, and was a small part of a larger test program to improve military recruitment in general.

What I am proposing here today will expand upon last year's program by extending its duration to 1983, by accelerating the rate of educational loan forgiveness and by allowing the Secretary of Defense to offer these incentives to officers as well as enlisted personnel.

This concept has received the support of my colleagues in both Houses of Congress. In particular, Senator COHEN of Maine and Representative PETRI of Wisconsin have shown outstanding leadership in developing and promoting this concept. This program has also received the warm endorsement of manpower specialists in the Department of Defense and elsewhere.

I urge my colleagues to support this expanded program of providing educational loan forgiveness to college students who offer to serve in uniform. In this way, we can at least begin to reverse the unforunate and dangerous decline in the numbers of college-educated men and women enlisting and serving in our Armed Forces.

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

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

S. 665

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 "Department of Defense Educational Loan Forgiveness Act of 1981".

SEC. 2. (a) Subsection (a)(2) of section 902 of the Department of Defense Authorization Act, 1981 (94 Stat. 1115; 10 U.S.C. 2141 note), is amended by striking out "an enlisted member" in clauses (A) and (B) and inserting in lieu thereof "a member".

(b) Subsection (b) of section 902 of such Act is amended—

(1) by striking out "15 percent or $500" in clause (1) and inserting in lieu thereof "20 percent or $600"; and

(2) by striking out "33⅓ percent or $1,500" in clause (2) and inserting in lieu thereof "50 percent or $1,500".

(c) Subsection (g) of section 902 of such Act is amended to read as follows:

"(g) The authority provided under this section shall apply only in the case of persons who have satisfactorily completed, as determined by the Secretary of Defense, at least two years of college level education, or the equivalent thereof, and who—

"(1) enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1983; or

"(2) otherwise volunteer for and serve in the Selected Reserve of the Ready Reserve of an Armed Force or otherwise volunteer for and serve on active duty after September 30, 1981, and before October 1, 1983.".

SEC. 3. The amendments made by section 2 (b) of this Act shall apply retroactively in the case of persons who enlisted or reenlisted in the Selected Reserve of the Ready Reserve of an Armed Force or enlisted or reenlisted for service on active duty after September 30, 1980, and before the date of the enactment of this Act.

By Mr. CRANSTON (for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. LEVIN, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. PELL, Mr. RANDOLPH, and Mr. TSONGAS):

S. 667. A bill to amend the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children; to the Committee on Finance.

MEDICAID COVERAGE FOR PREGNANT WOMEN

Mr. CRANSTON. Mr. President, I am pleased to introduce today S. 667, legislation that would provide uniform medicaid coverage in all States for low-income women who are pregnant with their first child. The amendment I am proposing to the medicaid program is identical to the amendment I submitted for printing last Congress to S. 1204, the proposed "Child Health Assessment Program" (CHAP), and similar to one I had proposed in the 95th Congress. It is also very similar to the provision passed in the House during the last Congress in H.R. 4962, the companion to S. 1204. I am joined in cosponsoring this amendment by the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New York Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Massachusetts (Mr. TSONGAS).

I was very disappointed, Mr. President, that failure to take up the CHAP bill last Congress also meant failure to act on our amendment to S. 1204, which would have corrected the inequitable situation in many States under which a woman becomes eligible for medicaid coverage after her first child is born, but is not eligible during the critical prenatal, delivery, and postnatal period of her first pregnancy when, to a major extent, the future health of her infant is determined.

Mr. President, the medicaid program was created by Congress to insure financial access to health care for individuals who are unable to afford needed medical services. Under present law, medicaid coverage is mandated for low-income women of child-bearing age who are parents of a dependent child under part A of title IV of the Social Security Act—Aid to Families with Dependent Children (AFDC), who are disabled, or who are blind.

States have the option to provide medicaid benefits to the medically needy—those individuals whose family income exceeds the State's eligibility standard, but who meet the AFDC or SSI categorical criteria and are unable to pay all or part of their medical expenses. Presently, over one-third of the States have determined that a pregnant woman during her first pregnancy does not have a family until the child is born and therefore does not qualify under the AFDC program. Such a requirement precludes medicaid coverage or prenatal, delivery, and postnatal care for many young, low-income women.

States also have the option to extend coverage to financially eligible pregnant women who do not meet the categorical requirements of AFDC or welfare programs. Currently, 32 States do not provide AFDC—and therefore medicaid—coverage to low-income women who are pregnant with their first child and in an intact family. That means that the married pregnant woman whose husband is living in her household and is unemployed or underemployed is not eligible for medical care.

Mr. President, there is no question about the relationship between inadequate care during pregnancy and infant mortality and morbidity and the resultant very large societal costs resulting from the birth of children in ill health. It is therefore my conviction that it makes good sense from both a health care and a fiscal policy point of view for medicaid coverage to be provided, beginning with the prenatal period, for all low-income pregnant women. My amendment would provide such coverage to all low-income women who are pregnant with their first child—whether they are in intact families or not—whose income level would make them eligible for medicaid coverage under the higher of either the State eligibility standard or 55 percent of the poverty level. The latter level is approximately $4,625 for a family of four, and $2,360 for an individual. Coverage would be provided during the prenatal and delivery period and for both the mother and her newborn for a minimum of 60 days after the birth.

THE NEED FOR PRENATAL CARE

Mr. President, inadequate prenatal care is clearly associated with increased newborn mortality and morbidity. Data from the Department of Health and Human Services indicate that women who receive early and frequent prenatal care have better pregnancy outcomes than those who do not. In a New York City study of 142,000 live births, infant death was more than twice as high for mothers who had four or fewer prenatal care visits than it was for those with nine or more visits. If low birthweight is used as a measure of pregnancy outcome, almost two-thirds of women at high risk of having a low-birthweight infant can be identified through prenatal care. According to the Surgeon General's 1980 Report "Healthy People," low birthweight is the greatest single hazard for newborns, increasing their vulnerability to developmental problems and to death. Of all infant deaths, two-thirds occur in infants weighing less than 2,500 grams at birth. These low-birthweight infants have a 20 times greater risk of dying in their first year of life. Low birthweight is also related to infant morbidity such as impairment of the central nervous system leading to such developmental disabilities as mental retardation, cerebral palsy, epilepsy, and autism. Women with such identifiable medical conditions as diabetes, hypertension, or kidney or heart disease, or who experience complications of pregnancy such as toxemia, or infections of the uterus, have a much greater risk of poor pregnancy outcome.

Mr. President, adequate prenatal care can help to identify many of the maternal risks associated with poor pregnancy outcome, and steps can be taken to prevent or reduce these risks, including arranging for the mother to give birth in a hospital equipped with resources suited to the needs of her pregnancy.

Mr. President, despite the importance of timely prenatal care, an estimated 5.6 percent of all pregnant women in this country receive no or inadequate prenatal care. The percentage of women lacking adequate prenatal care is considerably higher among poor, nonwhite adolescent, and unmarried women, those in rural areas, and those over 35 years of age—the very groups most likely to be at high risk during pregnancy due to other factors.

According to data compiled by the National Center for Health Statistics, in 1975, approximately twice the proportion of black as of white mothers received late or no prenatal care, and adolescents and women over 35 were the most likely to receive late or no prenatal care.

The need to provide prenatal, delivery, and postnatal care to those pregnant women unable to afford private care for themselves or their infants cannot be overstated. Last Congress I chaired a hearing on efforts needed to improve pregnancy outcome and reduce infant mortality. The overwhelming weight of the testimony from that hearing confirmed the recommendations of the General Accounting Office and numerous public health experts that the most important step we could take to prevent poor pregnancy outcome would be to insure that every pregnant woman received proper prenatal, delivery, and postnatal care. Similar findings were made by the Select Panel for the Promotion of Child Health which was created by Congress to assess the status of maternal and child health and to develop a comprehensive plan to promote the health of children and pregnant women in the United States. One of the first recommendations made by that panel is to mandate medicaid eligibility for all pregnant women whose family income is at or below the federally-established poverty level, including first-time pregnant women.

Mr. President, experience has shown that without assurance of third-party reimbursement many low-income women will not seek prenatal care. Instead they arrive at the hospital emergency room when the birth of their child is imminent. This practice obviously creates a greater risk for the mother as well as for the child. The medical expenses related to pregnancy are costly and create a real deterrent to medical care for a young woman with limited income. A sample survey conducted by the Health Insurance Institute in December 1978 showed that hospital and medical expenses for

maternity averaged about $1,428 in the United States. These, Mr. President, are estimated average costs and averages now 2 years old. Changes vary tremendously in different areas of the country, particularly between rural and urban areas.

Moreover, the obstacle these high costs present to a low-income pregnant woman is aggravated by requirements of advance payments of cash in certain communities. The January 1980 GAO study "Better Management and Resources Needed to Strengthen Federal Efforts to Improve Pregnancy Outcome"—HRD—80-24—cites numerous examples of economic barriers faced by low-income women in obtaining medical care.

Under my proposed amendment, the expectant mother will be encouraged to seek early prenatal care. The result will be a greater chance for a healthy delivery and a greater chance for a healthy infant.

BLACK-MARKET ADOPTIONS AND ALTERNATIVES TO ABORTION

Mr. President, in the 95th Congress, as chairman of the former Subcommittee on Child and Human Development of the Labor and Human Resources Committee, I chaired hearings on the issue of adoption reform. Several witnesses testified that the provision of birth-related costs to women with problem pregnancies would help stem the tide of black-market adoptions since pregnant women who have no other way of having their pregnancy-related medical costs covered often resort to black marketeers. Those in the business of selling babies, these women have found, are all too ready to provide prenatal, delivery, and postnatal medical coverage in exchange for the child. The data show that teenagers are particularly vulnerable for black-market exploitation. More than three-quarters of mothers who give birth at age 17 or younger have no health insurance. Only one-sixth are covered for prenatal care; fewer than one-fifth are covered for payment of their hospital or doctor bill.

Mr. President, this amendment would also provide an alternative to abortion for many women. The lack of economic resources to pay for the medical care necessary to carry a pregnancy to term can be a factor in leading a pregnant woman to choose to terminate her pregnancy. I feel strongly that no woman should be forced, because of economic pressure, to resort to abortion or black-market baby sellers. The legislation I am introducing would address this situation by providing assurances to women who do not have the economic resources to afford the adequate pregnancy care so necessary for their health and the health of their expected infants. Medicaid coverage for these women would allow them to make decisions about their children free of an economic coercion that should not play a role in this very delicate decisionmaking process.

INADEQUACY OF ALTERNATIVE MEDICAL PROGRAMS

Mr. President, Congress has established a number of programs over the years in an attempt to improve the health of residents of low-income areas. These programs include the title V maternal and child health programs, the neighborhood health centers and migrant health centers, and the National Health Service Corps. In addition, the Hill-Burton Act mandates recipient hospitals to provide a percentage of total care as free care to those people who cannot afford to pay for it.

Some people believe that the title V programs provide the necessary funds for services for low-income pregnant women. However, Mr. President, the findings of the January 1980 GAO study I referred to earlier suggest otherwise. That study shows that the title V programs have not provided States sufficient funding to enable them to provide any prenatal or well-baby care services in some areas and that the services afforded in many other areas are inadequate. Less than 60 percent of the Federal maternal and child health (MCH) formula grant funds were targeted at or appear directly related to extending services to improve pregnancy outcome. It also appeared that relatively little Federal MCH funding has been used for in-hospital care. Although MCH funding has helped pay and promote in-hospital delivery of high-risk women and care for premature or sick infants, most States have established few maternity and infant care or infant intensive care projects, and these projects serve relatively few communities. State MCH directors indicated that only about 4.9 percent in Federal MCH formula funds and about 14.9 percent of their funds from all sources in 1978 were spent on inpatient hospital care, including infant intensive care projects. Only eight States reported to the GAO that they budgeted MCH formula grant funds for inpatient care for mothers or newborns—other than their infant intensive care projects. These States reported to the GAO spending only $2.9 million—or 1.45 percent of the total MCH funds were used in 1978 for in-hospital care.

The GAO study also found that community health centers in many cases are able to provide prenatal care to their patients only through contracts with practicing obstetricians on a part-time basis. This contract procedure leads to a situation in which prenatal care is offered perhaps 1 day a week or only during certain hours. These hours may be virtually impossible for pregnant women who are working. The GAO also found that there may be waits as long as 7 to 10 weeks for an appointment and then a wait of several hours at the clinic once an appointment time is obtained.

Mr. President, I recognize that many federally supported health centers do their best to provide prenatal care, despite limited funds and substandard facilities. But this situation is not a very satisfactory one.

The National Health Service Corps is helping to address this issue. However, the GAO noted various problems. For example, they found in their survey examples such as a National Health Service Corps obstetrician who was unable to provide hospital deliveries to indigent women under her care—regardless of the need for hospitalization—because the patients could not afford the hospital cost, and the hospital would not accept patients who could not pay.

Mr. President, regarding the Hill-Burton requirement for serving low-income patients, the GAO study found two things: That some hospitals had not received any Hill-Burton assistance and that recipient hospitals could fulfill their annual obligations for free care early each years, leaving those needing care later in the year without access to it. Moreover, the National Health Law Project has documented many cases where women in labor were turned away from hospitals because they could not afford to pay, even though those hospitals had been recipients of Hill-Burton funds.

So, Mr. President, I think it is pretty clear that existing Federal programs, although many partially address the needs of pregnant women, do not collectively do the job that needs to be done.

FISCAL IMPACT

Mr. President, I know the Members of the Senate are particularly concerned about the budget implications of any new coverage.

Last year, the Congressional Budget Office estimated that the cost of such legislation when it was offered as an amendment to the CHAP bill would be $30 million in its first full year and estimated increments of another $30 million each subsequent year as women become aware of the coverage of prenatal care and seek medicaid reimbursement, with a projected cost of $140 million in fiscal year 1985.

The CBO's estimates are based on the assumption that the total population of low-income pregnant women eligible for this new coverage—100,000 annually—will not avail themselves of the coverage until fiscal year 1985.

Mr. President, I think this is a small price to pay for the health of these thousands of women and their infants. These costs would be returned many times over in the savings that would be realized from a reduction in pregnancy complications and infant morbidity which result from inadequate prenatal care.

Mr. President, many of these women who would be served under our bill are members of a high-risk group that is the most likely to have low-birthweight infants. These infants, in turn, are ten times as likely to suffer from developmental disabilities as children of normal birth weight. The lifetime costs of care for developmentally disabled individuals is high. Institutional care now runs about $20,000 a year. When applied to a lifetime, estimating an average life of 40 years, the costs would run between one-half and $1 million per individual. The costs of education are double that estimated for the average child—about $2,700 a year. And then there is the lost productive capacity, the addition to the GNP, and the taxes unpaid as a result of such developmental disabilities.

A more immediate expense that can be avoided by adequate prenatal care is the expense of care in a neonatal intensive care unit. For example, HHS, in testify-

ing in the 95th Congress on the adolescent health, services, and pregnancy prevention bill, reported that more than one-third of the 57,000 low-birthweight babies born to teenagers each year require intensive care. This care costs roughly $600 a day for an average stay of about 13 days. HHS reported that for the 21,000 babies requiring this care in 1976, the total cost exceeded $163 million.

Mr. President, these economic costs to society are staggering, and they can be avoided. But I believe we must look beyond the dollars and cents implications of this achievement. We must look to the heartache that is produced, and the human potential that is lost or reduced, through the tragedies of infant mortality and morbidity. These are the ultimate results of lack of good prenatal care.

CONCLUSION

I believe we should do all we can to give all our children the opportunity to develop to their maximum potential. This legislation would provide them with the strong beginning that is essential to their physical and intellectual development.

I ask unanimous consent that the text of the bill we are introducing today be printed in the RECORD at this point.

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

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1902(a)(10) of the Social Security Act is amended—

(1) by inserting "(i)" after "(A)" in subparagraph (A);

(2) by striking out "clause (A)" and inserting in lieu thereof "subparagraph (A)" each place it appears; and

(3) by inserting at the end of subparagraph (A) the following new clause:

"(ii) for making medical assistance available for care and services provided during pregnancy, and during the 60-day period beginning on the last day of such pregnancy, and to any child born as a result of such pregnancy until the end of such 60-day period, to any woman whose resources (including the resources of her family) are such that she meets the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and whose income, including the income of her family, either (I) meets the income test of eligibility for medical assistance under such plan applicable to a family with dependent children, or (II) does not exceed 55 percent of the official poverty line established for an individual or for a family of the same size, as appropriate, by the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and adjusted annually) pursuant to section 625 of the Economic Opportunity Act of 1964;".

SEC. 2. Section 1902(a)(13)(B) of the Social Security Act is amended to read as follows:

"(B) in the case of any individual described in paragraph (10)(A), for inclusion of at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), and".

SEC. 3. Section 1902(e) of the Social Security Act is amended by inserting "(1)" after "(e)", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible for, has applied for, and has received medical assistance under this title and who becomes ineligible for such assistance because of increased income from employment of herself or her family, shall remain eligible for all such medical assistance provided under the State plan until the end of the 60-day period beginning on the last day of her pregnancy, and that any child born as a result of such pregnancy shall remain eligible for all such medical assistance provided under the State plan until the end of such 60-day period.".

SEC. 4. Section 1905(a) of the Social Security Act is amended—

(1) by striking out "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii);

(3) by inserting after clause (vii) the following new clause:

"(viii) women during pregnancy and during the 60-day period beginning on the last day of such pregnancy, and, during such 60-day period, any child born as a result of such pregnancy,"; and

(4) by striking out "and" before "(C)" in paragraph (4), and by inserting ", and (D) prenatal and postnatal services" before the semicolon at the end of paragraph (4).

SEC. 5. (a)(1) Except as provided in paragraph (2), the amendments made by this Act shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Securtiy Act, on or after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act.

(2) If the Secretary of Health and Human Services determines that State legislation is necessary to permit amendment of the State plan under title XIX of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, he shall not find a failure to comply with the requirements of such title solely on the basis of such State's failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) The Secretary of Health and Human Services shall issue the regulations required by this Act within six months after the date of the enactment of this Act.

By Mr. JACKSON:

S. 668. A bill to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes; to the Committee on Energy and Natural Resources.

PRIORITY ENERGY PROJECT ACT

● Mr. JACKSON. Mr. President, I am introducing today the Priority Energy Project Act. This act would:

First. Provide an expedited and coordinated "fast-track" process for decisions by Federal, State, and local governments on proposed nonnuclear energy facilities which are designated as priority energy projects.

Second. Create an Energy Mobilization Board to implement this process. Authorize the Board to designate projects as priority energy projects if it determines that they would reduce the Nation's dependence on imported energy.

Third. Direct the Board to establish a project decision schedule setting deadlines for all Federal, State, and local government decisions on each priority energy project. If the decision deadlines were not met by an agency, the Board could make the decisions under the applicable law.

Fourth. Establish a special procedure for congressional consideration of Presidential proposals to waive provisions of Federal laws. This procedure would be in effect simply an expedited legislative process under which Congress would decide whether to waive the application of specific Federal laws to specific projects which had been designated as priority energy projects.

The need for legislation to expedite decisions on important energy projects has been apparent for some time. The scores of permit requirements in existing laws may delay construction for months or even years, requiring consumers ultimately to pay higher energy and construction costs. Sponsors of important energy projects often must go through seemingly limitless numbers of hoops before they even know whether the Government will allow their projects to be built.

The Priority Energy Project Act is based on the legislation which both Houses of Congress passed last year (S. 1308) and which was agreed to by Senate-House Conferees in June 1980.

Unfortunately, the House of Representatives rejected the conference report largely because many Republican Members who had voted for the bill when it originally passed the House voted against it. In view of that history, I was particularly pleased by Secretary Edwards' February 23 statement to the Committee on Energy and Natural Resources that:

Measures which should lead to increased domestic production of energy, such as much faster siting and permitting of energy production facilities, will be part of this Administration's program.

I am hopeful that the Reagan administration will support the basic purposes of the bill and that the Senate will act on it soon. I ask unanimous consent that the text of the bill and a summary of its major provisions be included in the RECORD at this point.

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

S. 668

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 "Priority Energy Project Act".

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PURPOSES

SEC. 2. (a) The purposes of this Act are to utilize to the fullest extent the constitutional power of Congress to regulate interstate and foreign commerce and to provide for the national defense in order to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(b) Congress finds and declares that these purposes can be served by—

(1) providing a coordinated, prompt, and simplified process for approval of non-nuclear energy facilities that are determined to be in the national interest;

(2) expediting the approval process without unduly interfering with the present statutory authorities and responsibilities of Federal, State, and local agencies; and

(3) fostering the integration of Federal, State, and local procedures for permitting, licensing, and approving energy projects which are determined to be in the national interest pursuant to section 11.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "applicant" means any person planning or proposing a project which has been designated a priority energy project;

(b) "approval" means any permit, license, lease, certificate, right-of-way, or other grant, rate, ruling, or decision authorized or issued by an agency of Federal, State, or local government;

(c) "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation;

(d) "Board" means the Energy Mobilization Board created under section 4 of this Act;

(e) "Chairman" means the Chairman of the Board;

(f) "class of energy projects" means any set, collection, or group of energy projects with common characteristics of which no single project has an expected cost in excess of $5,000,000, and the total cost of which is not expected to exceed $250,000,000, as adjusted to take into account the rate of inflation since the date of enactment, as measured by the adjusted gross national product implicit price deflator;

(g) "designation request" means an application filed with the Board pursuant to section 10(a) of this Act for an order by the Board designating an energy project or class of projects as a priority energy project;

(h) "energy facility" means any physical structure, including any structure which incorporates active and/or passive solar devices, any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, or installation, or any combination thereof, which will facilitate energy conservation or invention, exploration, research development, demonstration, transportation, production, or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by Federal, State, or local government or any combination thereof;

(i) "energy project" means any plan, proposal, program, scheme, or design to produce, build, install, expand, modify the operation of, or alter in any other way, an energy facility;

(j) "Federal agency" means an executive agency as defined in section 105 of title 5 of United States Code;

(k) "local agency" means any executive agency of local government;

(l) "local government" means (i) any government body, including any special purpose government body, of any political subdivision of any State, (ii) any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, or (iii) any general or special purpose government among States or within a State;

(m) "local law" means the rules, regulations, ordinances, codes, case law, and other laws of any local government;

(n) "member" means a member of the Board other than the Chairman;

(o) "person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, nonprofit institution or any entity organized for a common purpose, and any instrumentality of Federal, State, or local government;

(p) "priority energy project" means any project or class of projects which has been determined by the Board to be in the national interest pursuant to its authority under sections 9 and 11 of this Act;

(q) "Project Decision Schedule" means an unrevised Project Decision Schedule promulgated pursuant to section 16 or a revised Project Decision Schedule promulgated pursuant to section 16 and revised pursuant to section 17;

(r) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(s) "State agency" means any general or special purpose executive agency of State government; and

(t) "State law" means the laws, rules, resolutions and case law of any State.

ESTABLISHMENT OF THE ENERGY MOBILIZATION BOARD

SEC. 4. (a) There is herey established a special executive agency to be known as the Energy Mobilization Board.

(b)(1) The Board shall consist of a Chairman, who shall hold office at the pleasure of the President, and three members. The Chairman and the three members shall be appointed by the President, by and with the advise and consent of the Senate.

(2) The Chairman shall be an individual who, as a result of his training, experience, and attainments in academia, industry, commerce, public interest activities, and/or government is exceptionally well qualified to perform the duties of his office.

(3) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years.

(4) The Chairman of the Board shall serve as a full-time employee of the Board and shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312). Members of the Board shall receive compensation at a rate equal to the rate prescribed for offices and positions at level III, including travel time, for each day such member is engaged in the actual performance of duties as a member of the Board. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

The Chairman shall not engage in any other employment or hold any other office or position in the Federal Government during the period of his employment. Members shall not hold any other office or position in the Federal Government during the period of their employment.

(6) The Chairman shall be subject to the same restrictions and requirements imposed upon supervisory employees under title VI, part A of the Department of Energy Organization Act (42 U.S.C. 7211–7218), except that in applying the provisions of title VI, part A to the Chairman, the term "the Board" shall be substituted in place of "the Department".

(7) Members of the Board shall be subject to the reporting requirements imposed upon individuals who are nominated by the President to positions which require the advice and consent of the Senate by title II of the Ethics in Government Act of 1978 (5 U.S.C. App. I).

(8) Except as provided in subsection (b)(7) of this section, members of the Board shall not be subject to any disclosure or divestiture requirements of any law solely by virtue of their service on the Board.

(c) The Board shall be administered under the supervision and direction of the Chairman, and except as provided in section 11, the Chairman shall have final and exclusive decisionmaking authority on all matters within the jurisdiction of the Board. The members of the Board shall advise the Chairman in carrying out his duties.

(d) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

MEETINGS, EXECUTIVE DIRECTOR, SUBPENA POWER

SEC. 5. (a) The Board is authorized to sit and act at such places and times as it may determine: *Provided*, That it shall meet no less than once a month for the purposes of conducting its business.

(b) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board. The executive director shall receive compensation at the rate provided for level III of the Executive Schedule (5 U.S.C. 5314).

(c)(1) The Chairman shall have the power to issue such subpenas as are necessary for the purpose of monitoring compliance with any Project Decision Schedule or for the purpose of carrying out its authority under section 20. Such subpenas may require the attendance and testimony of witnesses and the production of any records, material or evidence from any Federal, State, or local agency body or any person that relates to any matter within the jurisdiction of the Board. The Board or any member of the

Board or any agent designated by the Board for such purpose, may administer oaths and affirmations, examine witnesses, and receive records, materials, or evidence. Such attendance of witnesses and the production of such records, materials or evidence may be required from any place within the United States at any designated place.

(2) In any case of recalcitrance or refusal to obey a subpena issued under subsection (c)(1), the district court of the United States within the jurisdiction of which said person guilty of recalcitrance or refusal to obey is found or resides or transacts business, upon application by the Board, shall have jurisdiction to issue to such agency or person an order requiring them to appear before the Board, its members, or agents there to produce records, materials or evidence if so ordered, or there to give testimony touching the matter in question; any failure to obey such order of the court may be punished by said court as a contempt thereof. Except as provided in section 31, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review an order of a district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act.

(3) Process and papers of the Board, its members, or agents may be served either upon the agency or person subpenaed in person or by registered or certified mail or by telegraph or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered or certified and mailed or telegraphed shall be proof of service of the same. Witnesses summoned before the Board, its members or agents shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(4) The Board may, with the approval of the Attorney General, issue an order requiring any person to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, in the same manner and subject to the same restrictions as a government agency which may issue an order pursuant to section 6004 of title 18, United States Code.

(5) All process of any court to which application may be made under this Act may be served in the judicial district wherein the person required to be served resides or may be found.

(6) Oral testimony given under compulsion of a subpena or materials furnished to the Board pursuant to a subpena shall be matters of public record to the extent required by section 552 of title 5, United States Code.

POWER AND AUTHORITY OF THE BOARD

SEC. 6. (a) The Board shall have the authority, subject to the provisions of this Act and, within the limits of available appropriations, to carry out the purposes of this Act including the authority to—

(1) make full use of competent personnel and organizations outside the Board, public or private; form advisory committees and special ad hoc interagency task forces; and make other personnel arrangements in accord with Federal law; as the Board determines to be appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of Federal, State, or local government, or with any person, with or without reimbursement, with or without performance or other bonds and with or without regard to section 5 of title 41, United States Code: *Provided*, That the Board shall not use its authority to become directly involved in the actual construction or operation of any priority energy project;

(3) make advance, progress, and other payments which relate to the functions of the Board without regard to the provisions of section 529 of title 31, United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Board and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act;

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board; and

(7) act without regard to the Federal Advisory Committee Act (5 U.S.C. App. I).

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purposes of such audit and examination.

(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly and expeditiously to the Board upon its request.

(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this section.

(e) The Board may obtain services of experts in accordance with section 3109 of title 5, United States Code.

(f) In carrying out the provisions of this Act, the Board is authorized to appoint such personnel, subject to the provisions of title 5, United States Code, governing appointments and compensation in the competitive service, as may be necessary. The Board may appoint not to exceed thirty individuals without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) In carrying out the provisions of this Act, the Board is not authorized to interfere with labor-management relations, nor to take any actions which conflict with the terms of an existing labor-management contract.

(h) The Board may alter Federal, State, and local law only as specifically authorized by sections 13, 16, 17, 20, 21, 27, 33, and 35 of this Act.

REPORTS OF THE BOARD

SEC. 7. (a) In addition to the specific duties assigned to the Board by this Act, the Board is authorized and directed to review, monitor, and report annually, or more often as necessary, to the Congress on—

(1) the current status of activities and programs being conducted by the Board;

(2) the status of each priority energy project including any significant delays in the completion of the priority energy project and the causes thereof; and

(3) the need for legislation to expedite the completion of priority energy projects.

(b) Not later than December 31, 1982, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

ABOLITION OF THE BOARD

SEC. 8. (a) The authority of the Board under section 9 shall expire ten years after the date of enactment of this Act: *Provided*, That the provisions of this Act shall continue to be applicable to all energy projects designated as priority energy projects prior to the expiration of the Board's authority under section 9.

(b) On the last day of the first year after all agency decisions necessary for the completion and initial operation of all priority energy projects have been made, the Board shall be abolished. The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the operation of the Board shall be transferred to the Treasury or to such agencies of the Federal Government in such fashion as the Director of the Office of Management and Budget shall determine. For the purpose of this section, if an agency issues a final decision denying an approval or declining to perform an action necessary to the completion of a priority energy project, any other agency approvals or actions not yet performed or obtained by the project shall not be deemed necessary.

(c)(1) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Board shall abate by reason of the abolition of the Board. No cause of action by or against the Board shall abate by reason of the abolition of the Board.

(2) If, before the date of the abolition of the Board, the Board is a party to a suit, then such suit shall be continued with the Director of the Office of Management and Budget or his designee substituted.

AUTHORITY TO DESIGNATE PRIORITY ENERGY PROJECTS

SEC. 9. The Board is hereby authorized to designate any energy project or class of energy projects as a priority energy project pursuant to the procedures and criteria provided in this Act.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 10. (a) Any person planning or proposing an energy project or class of projects may apply to the Board for an order designating such project or class of projects as a priority energy project. Where known to the applicant, any application may identify (1) any duplicative, overlapping or conflicting requirements, or other requirements which would substantially delay a final decision on the project if all other decisions were timely made and (ii) the critical regulatory problems likely to be encountered by the applicant with recommendations for the resolution of such problems. An application shall include such detailed information concerning the project as the Board may require by rule to enable the Board to make a designation, including a detailed design proposal for the project, detailed economic data on the costs of the project, and an analysis of environmental impacts of the project: *Pro-*

vided, That the adequacy of an application under this section shall not be subject to judicial review.

(b) Not later than five days after the receipt of a designation request, the Board shall publish notice of the filing of the designation request, together with a brief description thereof in the Federal Register. The Board shall also keep on file and make available for public inspection and copying at the main office of the Board and in such other places as the Board deems appropriate such portions of the full designation request which are not matters listed in section 552(b) of title 5, United States Code. Interested persons shall be afforded at least thirty days from the date such request becomes available to the public for submitting written comments for the Board's consideration.

(c) A designation request for an energy project or class of projects may be submitted to the Board at any time prior to the completion of the project or class of projects notwithstanding any previous decision by the Board denying the same or a similar request for that project or class of projects.

PROCEDURES AND CRITERIA FOR DESIGNATING PRIORITY ENERGY PROJECTS

SEC. 11. (a) Not later than sixty days after receipt of a designation request, the Board shall determine whether the proposed energy project or class of projects is of sufficient national interest to be designated a priority energy project and shall publish its decision in the Federal Register. If the Board designates the project as a priority energy project, such publication shall contain a brief summary of the reasons for the Board's decision.

(b) No project or class of projects shall be designated a priority energy project without the concurrence of the Chairman and at least two of the three members of the Board.

(c) No project or class of projects shall be designated a priority energy project unless the Board finds that the project directly or indirectly will reduce the United States dependence on insecure foreign oil or petroleum products by, but not limited to, increased energy production, transportation, conservation, refining, storage, or the demonstration of new energy technologies.

EXTENSION OF DEADLINES

SEC. 12. The Board may extend the deadline for receiving public comments under section 10(b) and the time for ruling on an application for priority energy project status under section 11 if more time is necessary to afford interested persons a reasonable time to comment.

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 13. (a) A determination by the Board under section 11 of this Act is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) Promulgation or revision of a Project Decision Schedule is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) Before publication of the Project Decision Schedule, the Board shall determine, after providing a reasonable opportunity for public comment, if any Federal action relating to the priority energy project will be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and shall publish notice of its determination in the Federal Register. Such a determination shall be immediately subject to judicial review under the provisions of this Act. If the Board determines that a priority energy project will require such a major Federal action, the remaining parts of this section shall apply.

(d) Notwithstanding any other provision of law, the Board may require that one final environmental impact statement be prepared and that such statement be used by any or all Federal agencies to satisfy the National Environmental Policy Act of 1969 and by any or all State and local agencies to substitute for any comparable statement required by State or local law: *Provided*, That if the Board requires that such statement substitute for a comparable requirement of State or local law—

(1) such statement shall include discussion of all matters required under the comparable State or local law to the same degree and extent as required by such law; and

(2) the Federal agency or agencies preparing such statement shall consult with the appropriate State and local officials during the preparation of the statement with respect to any portions of such statement which will substitute for comparable requirements under State or local law.

(e) Before publishing the Project Decision Schedule pursuant to section 16 of this Act but after consulting with the Council on Environmental Quality, the Board shall designate the Lead Agency for the preparation of the environmental impact statement.

(f) Before publication of the Project Decision Schedule under section 16 of this Act, the Lead Agency shall convene one or more scoping meetings with such other Federal agencies as it deems appropirate and, if the Board has determined that the Federal environmental impact statement shall substitute for any comparable State or local statement or other assessment, with representatives of such States or localities. The purposes of the scoping meetings shall be to identify significant issues, establish the content of the environmental impact statement, and determine whether and how responsibilities should be apportioned among other Federal agencies.

(g) After the scoping meeting(s), the Lead Agency, with the concurrence of the Board, may determine to prepare the environmental impact statement without requiring assistance from any other Federal agency, notwithstanding any decision of the Board to require that one such statement be used by any or all Federal, State and local agencies: *Provided*, That any comments, opinions, or materials submitted by Federal, State, or local agencies shall be considered by the Lead Agency and made available to the public.

(h) At any time prior to the completion of the priority energy project, the Board may assign responsibilities in the preparation of the environmental impact statement to any Federal agency. The Board shall publish such assignments in the Federal Register, and such assignments shall be subject to procedures and deadlines specified by the Board. Such procedures and deadlines shall be incorporated in the Project Decision Schedule and shall be treated as part of the Schedule for the purposes of this Act. Except as provided in this section the deadlines and procedures for carrying out such assignments shall be consistent with the provisions in section 16 of this Act. Such assignments, and the deadlines and procedures for carrying out such assignments, may be modified at any time subject to the limitations in section 17.

(i) All Federal agencies shall comply with the assignments, deadlines and procedures established pursuant to subsection (f) of this section. Nothing in this section shall authorize the Board or the Lead Agency to require any action from any State or local agency in the preparation of the environmental impact statement.

(j) The Board may require any Federal agency to prepare the environmental impact statement at the same time as it performs other actions necessary to process an application submitted by the applicant: *Provided*, That no Federal agency shall issue a final decision on a major Federal action significantly affecting the quality of the human environment until at least fifteen days after the environmental impact statement has been completed.

(k) Notwithstanding any other provision of law, the Project Decision Schedule established under section 16 shall provide that in preparing an environmental impact statement, agencies shall give interested persons an opportunity to submit written data, views, or arguments with or without opportunity for oral presentation and such opportunity shall constitute the exclusive opportunity for parties to submit written data, views, or arguments pertaining to any matter to be considered by the agency pursuant to its obligations under the National Environmental Policy Act.

(l) Notwithstanding any other provision of law, the Board may require any two or more Federal agencies to consolidate any or all aspects of their proceedings for preparing an environmental impact statement.

(m) For the purposes of this Act, the term "Lead Agency" means the Federal agency designated by the Board to supervise the preparation of an environmental impact statement on a priority energy project.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 14. Not later than thirty days after notice appears in the Federal Register of a decision by the Board designating an energy project or class of projects as a priority energy project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion and initial operation of such project or any part thereof, shall transmit to the Board—

(a) a compilation of all significant actions required by such agency before a final decision or action on any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(b) a compilation of all significant actions required of the applicant before a final decision or action by such agency can be made;

(c) a tentative schedule for completing actions listed in subsections (a) and (b) of this section within two years unless a longer period is necessary;

(d) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(e) information regarding the amount of funds and personnel available to such agency to perform the actions required by such agency before any final decisions can be made and the impact of giving priority status to the applicant on other applications pending before such agency.

INFORMATION FROM STATE AND LOCAL AGENCIES

SEC. 15. (a) Not later that five days after notice appears in the Federal Register of a decision designating a proposed energy project as a priority energy project, the Board shall notify the Governor of any State which is likely to exercise jurisdiction over the priority energy project of the designation and other appropriate officials of political subdivisions of any State which might be significantly affected by a priority energy project, and shall request the Governor to compile and transmit to the Board within twenty-five days—

(1) a compilation of all significant agency actions required by all State and local agencies within the State before a final decision or action on any approval(s) necessary to the completion and initial operation of the priority energy project can be rendered or performed;

(2) a compilation of all significant actions required of the applicant before a final decision or action by such agencies can be made;

(3) a tentative schedule for completing the actions listed in paragraphs (1) and (2) of

this subsection within two years unless a longer period is necessary;

(4) all necessary application forms which must be completed by the applicant before such approval can be granted; and

(5) information regarding the amount of funds and personnel available to such agencies for performing the actions required by such agencies before any final decisions can be made and the impact of giving priority status to the applicant on other applications pending before such agencies.

(b) If at any time the Governor fails to cooperate with the Board in complying with this section, or any State or local agency which is likely to have authority to grant or deny an approval or perform an action necessary to completion of such project fails to cooperate with the Governor, the Board may instruct such agencies directly to provide the information enumerated in subsection (a) and such agencies shall comply with the instruction of the Board.

PROMULGATION OF THE PROJECT DECISION SCHEDULE; EXPEDITION OF ENERGY PROJECTS

SEC. 16. (a) Not later than sixty days after designating a proposed project or class of projects as a priority energy project, the Board shall publish in the Federal Register and in such other places as the Board deems appropriate a Project Decision Schedule containing reasonable deadlines for all significant agency actions and decisions and all significant applicant actions about which the Board has received notice pursuant to sections 14 and 15 of this Act, and for any other actions or decisions which the Board, in its discretion, deems significant. A deadline may require that decisions and actions be performed in a shorter period of time than would be required if the project was not a priority energy project. Where possible, the Board shall negotiate and enter into written cooperative agreements with each affected State and local government establishing the deadlines.

(b) Notwithstanding any other provision of law, the Board may establish special procedures in the Project Decision Schedule for any Federal agency subject to such Schedule. Such procedures shall be consistent with all statutes and rules, regulations, and orders promulgated by the agency except that the Board may require the agency to—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the Board, agency, or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself shall omit a tentative or recommended decision if the Board determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection:

Provided, That no requirement under this subsection (b) shall be binding on any State or local agency.

(c) In setting deadlines pursuant to this section, the Board shall consult with the Federal agencies subject to such deadlines. The Board shall also consult with the Governor of any State if any government agency within such State has authority to grant or deny any approval or perform any action necessary to the completion of the priority energy project and shall request the Governor to act as an intermediary between the Board and all State and local agencies: *Provided*, That if the Governor fails to cooperate with the Board or if any State or local agency fails to cooperate with the Governor under this section, the Board may consult directly with such State or local agency. Where possible, the Board shall enter into a written cooperative agreement with each affected State and local government establishing the deadlines.

(d) No Project Decision Schedule shall encompass a period of more than two years unless the Board finds that additional time is necessary.

(e) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board pursuant to sections 14 and 15 unless the Board determines that different deadlines would help expedite or coordinate Government review.

(f) Notwithstanding any other provision of law, the deadlines and special procedures imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines and procedures for reviewing applications filed by the applicant.

REVISIONS IN PROJECT DECISION SCHEDULES

SEC. 17. At any time prior to the completion of the priority energy project, the Board may (i) revise the special procedures for Federal agencies on the Project Decision Schedule; (ii) add new special procedures for Federal agencies on the Project Decision Schedule; (iii) revise any deadline on the Project Decision Schedule; or (iv) add any new deadline on the Project Decision Schedule: *Provided*, That no modification in the Project Decision Schedule shall be allowed unless the Board determines that—

(a) such modification would further the purposes of this Act; and

(b) continued adherence to the Schedule would be impractical or would not be in the public interest; and

(c) in the case of a request for a modification by an agency, that the agency has exercised due diligence in attempting to comply with section 14 or 15 and with the Schedule; and

(d) in the case of a request for a modification by an applicant, that the applicant has exercised due diligence in attempting to comply with the Schedule; and

(e) except as provided by this section, such modification is consistent with the provisions of section 16 and is published in the Federal Register.

AGENCY AUTHORITY TO ADOPT SPECIAL PROCEDURES

SEC. 18. All Federal, State, and local agencies governed by a Project Decision Schedule may establish special procedures which the agency determines to be appropriate for meeting the deadlines on such Schedule. Any agency which is likely to be governed by a Project Decision Schedule at any time may also establish special procedures to govern agency actions and decisions relating to priority energy projects. These procedures shall be consistent with all statutes governing the agency's actions, except that, notwithstanding any other statutes, the agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish permit, license, and other filing requirements which eliminate unnecessary duplication, and, to the maximum extent practicable, provide for uniform collection, analysis, and reporting of such data;

(3) substitute legislative-type hearings in lieu of trial-type hearings: *Provided*, That, in any cases in which (A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and (B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing, the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing;

(4) shorten time periods for actions required by agency procedures;

(5) conduct hearings, except where such hearings are conducted pursuant to paragraph (3) above, in which parties may submit such written data, views, or arguments and such written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument with respect to the written submissions;

(6) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision. Such procedures may also require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify. The agency itself may omit a tentative or recommended decision if it determines that due and timely execution of its function so requires; or

(7) utilize any combination of procedures authorized by this subsection.

AUTHORITY TO TERMINATE PRIORITY DESIGNATIONS

SEC. 19. (a) At any time after an energy project has been designated a priority energy project, the Board may terminate the priority designation if—

(1) the Board determines that the applicant has not exercised due diligence in attempting to comply with any Project Decision Schedule;

(2) the Board determines that the applicant has not attempted in good faith to comply with any law governing the priority energy project;

(3) the Board determines that the priority designation is no longer necessary to expedite agency action or decisionmaking which is necessary to completion and initial operation of the priority energy project;

(4) the Board determines that an agency has denied an application for an approval which is essential for the completion and

initial operation of the project and that the denial is not likely to be reversed by the agency or invalidated by a reviewing court; or

(5) the applicant has requested that the priority designation be withdrawn: *Provided,* That no such request shall be granted if a previous request by the applicant for the same project had been granted and the project had subsequently been redesignated a priority project.

(b) If the Board terminates the priority designation for any priority energy project, the deadlines and procedures in the Project Decision Schedule for that project shall no longer be binding upon any agency, and unless the Board redesignates the project pursuant to section 11, the Board shall no longer have authority to establish binding deadlines for agency actions and approvals relating to the project. In addition, except as provided by subsection (c) of this section, judicial review of any action relating to the project shall no longer be governed by the provisions of this Act: *Provided,* That—

(1) jurisdiction over any action pending at the time the priority designation is terminated shall be retained by the court in which such action is pending if the court determines that the interests of justice would be served by retaining jurisdiction; and

(2) any action or approval relating to a priority energy project which was valid before the priority designation for that project was terminated shall not be deemed invalid on the ground that the priority status has been withdrawn or that a Project Decision Schedule is no longer legally binding.

(c) A decision by the Board to withdraw a priority designation shall be subject to judicial review under the provisions of this Act.

(d) Termination of a priority designation is not subject to section 102(2)(C) of the National Environmental Policy Act of 1969.

ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

SEC. 20. (a)(1) If any Federal, State, or local agency has failed to make a decision or take an action within the time required by a Project Decision Schedule, the Board may make the decision or perform the action in lieu of the agency.

(2) In making the decision or performing the action in lieu of the agency, the Board shall apply the decision criteria in the Federal, State, or local law that would have been applied had the Federal, State or local agency made the decision.

(3) If the Board determines that an agency has failed to make a decision or perform an action within the time required by a Project Decision Schedule and that the Board will decide in lieu of the agency, the Board shall so notify the agency, and the agency shall, upon receiving such notification, transmit to the Board forthwith all records in the possession of the agency pertinent to that decision or action. The Board may take whatever additional action is necessary to develop an adequate record for a final decision or action within the time periods permitted by this Act, such action may, in the discretion of the Board, include a period for written public comment.

(b)(1) If any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an enforcement action in United States district court.

(2) In any action brought under this subsection, if the court determines that any Federal, State, or local agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the existing schedule where such action would be practical and would not deny any person due process of law.

(3) If the court determines that the agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would clearly be impractical or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable consistent with due process of law. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(4) Notwithstanding any other provision of law including any other provision of this Act, any action brought under this subsection shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. Except as provided in section 31, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review all rulings of the district court pursuant to this section. The Temporary Emergency Court of Appeals shall expedite such review pursuant to the provisions of this Act: *Provided,* That the Board may not exercise its authority pursuant to subsection (a) to make a final decision under a State comprehensive siting law before the last deadline on the Project Decision Schedule.

(c) Nothing in this Act shall be construed as denying any Federal, State, or local agency the authority, pursuant to applicable law, to disapprove any application for a permit, license, lease, or other approval required by applicable law for a priority energy project, except at such time the Board exercises its authority pursuant to subsection (a) to make the decision or perform the action in lieu of such agency.

(d) Subject to the provisions of section 17, the Board shall act as provided for in subsection (a) or (b) within sixty days following failure of any Federal, State, or local agency to comply with a Project Decision Schedule, except where the Board determines that more expeditious action would result from deferral of action under subsections (a) and (b), and the appropriate Federal, State, or local agency concurs.

CERTIFICATION OF COMPLETED AGENCY REVIEW

SEC. 21. (a) If the Board has been notified by the agencies with authority to grant such approvals or perform such actions or by a reviewing court that all agency actions and approvals on the Project Decision Schedules relating to a priority energy project (i) have been granted, or (ii) have been performed, or (iii) are not necessary and if judicial review of such actions or approvals is completed or is barred by section 25 of this Act, the Board shall certify the same to the project. Such certification shall indicate any conditions and the expiration date of any approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute conclusive evidence in any judicial or executive proceeding that all actions and approvals necessary to the completion and initial operation of the project have been granted for the duration and subject to the conditions specified on the certificate.

WATER LAW

SEC. 22. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

PRECEDENCE OVER OTHER LAWS

SEC. 23. Notwithstanding any other provisions of law, the actions of Federal, State, and local officers or agencies pursuant to this Act shall not be subject to judicial review except as provided in this Act.

LIMITATION OF ACTIONS

SEC. 24. (a) Except as provided by subsection (b), any petition for review of any action pursuant to this Act or of the validity of this Act shall be brought not later than twenty days following the date of actual or constructive notice of the final agency action relating to the action which is being challenged.

(b) Any petition for review of the reasonableness of any deadline in a Project Decision Schedule shall be brought not later than thirty days after such deadline is listed on the Project Decision Schedule and published in the Federal Register or such challenge shall be barred. The party challenging the reasonableness of the deadline shall have the burden of proof.

(c) Any petition for review of the validity of this Act or of any action pursuant to this Act shall be barred unless a complaint is filed prior to the expiration of the time limits prescribed by this Act.

ADMINISTRATIVE PROCEDURES

SEC. 25. (a) Except as provided in subsection (b) of this section, the Board shall be exempt from sections 553 through 559 of title 5, United States Code.

(b) The establishment of procedures by the Board pursuant to this Act and the establishment of any special procedures by a Federal agency pursuant to section 18 of this Act shall be subject to sections 553, 704, and 706 of title 5, United States Code and any judicial review of such procedures shall be conducted in the Temporary Emergency Court of Appeals pursuant to section 26 of this Act.

REVIEW IN THE TEMPORARY EMERGENCY COURT OF APPEALS

SEC. 26. (a)(1) A petition for review of the validity of this Act or of any action pursuant to this Act shall be filed in the Temporary Emergency Court of Appeals. Except as provided by this Act, such court shall have exclusive jurisdiction to determine such proceeding in accordance with procedures hereinafter provided and no other district court or Court of Appeals of the United States and no other court of any State or locality shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act.

(2) Notwithstanding any provisions of section 211 of the Economic Stabilization Act of 1970 as amended by the Economic Stabilization Act Amendments of 1971, Public Law 92-210, the Temporary Emergency Court of Appeals shall exercise its powers and prescribe rules governing its procedures in such manner as to expedite the determination of cases over which it has jurisdiction under this Act. Such rules may set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Appellate Procedure.

(3) In any proceeding before the Tempo-

rary Emergency Court of Appeals, the chief judge of the Temporary Emergency Court of Appeals shall designate at least one judge from the circuit in which the priority energy project or the most significant portion thereof would be located to sit on the panel presiding over the proceeding.

(4) There are hereby authorized to be appropriated such sums as are necessary to expand the capacity of the Temporary Emergency Court of Appeals in order to carry out the provisions of this Act.

(b) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c)(1) Notwithstanding any other provision of law, jurisdiction over any challenge to agency action pursuant to this Act which is pending before any court other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this Act shall remain with such court unless the Temporary Emergency Court of Appeals issues an order transferring such civil action to the Temporary Emergency Court of Appeals pursuant to subsection (d) of this section.

(2) If the court before which such civil action is pending retains jurisdiction, such court shall assign the case for hearing and completion at the earliest possible date, and shall expedite the case in every way. All appeals from such court shall be to the Temporary Emergency Court of Appeals and shall be filed within fifteen days of the final decision of such court. On appeal the Temporary Emergency Court of Appeals shall comply with the procedures established in subsection (b) of this section.

(d) If any appeal involving a challenge to any agency action pursuant to this Act is pending before any State appellate court or any United States Court of Appeals other than the Temporary Emergency Court of Appeals at the time such agency action becomes an action pursuant to this Act, the chief judge of the Temporary Emergency Court of Appeals, or any other judge of the Temporary Emergency Court of Appeals designated by the chief judge, may issue an order transferring such civil action to the Temporary Emergency Court of Appeals. Such transfers may be made whenever the transfer will expedite judicial review of the civil action and will not cause material prejudice to any party. Proceedings for the transfer of any action under this subsection may be initiated by the chief judge of the Temporary Emergency Court of Appeals or by any other judge authorized by the chief judge on his own initiative, by the Board, or by any party to the appeal.

ACTIONS SUBJECT TO EXPEDITED REVIEW

SEC. 27. For the purposes of this Act "an action pursuant to this Act" means—

(a) any significant action by the Board pursuant to this Act including, but not limited to, any action pursuant to sections 20 and 21 of the Act. An action of the Board shall be deemed significant if the Board determines that expedited review of such action would expedite completion of any priority energy project; or

(b) any action by any Federal agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule; or

(c) any action by any State or local agency or officer if such action is subject to a deadline on a Project Decision Schedule, including any action which is an intermediate step to an action listed on such Schedule;

(d) any other action by any Federal, State, or local agency or officer relating to a priority energy project which the Board determines requires expedited judicial review in order to expedite completion of a priority energy project; or

(e) any action by any United States district court or any State or local trial court with respect to a case involving an action pursuant to this Act.

JUDICIAL REVIEW UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 28. Except as specifically provided by this Act, the scope of judicial review under the National Environmental Policy Act of 1969 shall not be limited by this Act.

LIMITATION ON REVIEW OF PRIORITY DESIGNATIONS

SEC. 29. A decision of the Board designating a project or class of projects as a priority energy project shall not be subject to judicial review and no court shall hold unlawful or set aside any Board or agency action, finding, rule, or conclusion on the basis of a decision designating a project or class of projects as a priority energy project.

INTERVENTION AUTHORITY

SEC. 30. The Board may intervene in any Federal, State, or local agency proceeding and shall appear as a party of right in any judicial proceeding, if such agency or judicial proceeding involves an action pursuant to this Act. The Board shall encourage expedited action or decisionmaking by the agency or court in such proceeding.

SUPREME COURT REVIEW

SEC. 31. (a) The Supreme Court shall have exclusive jurisdiction to review any interlocutory judgment or order of the Temporary Emergency Court of Appeals, or any United States Court of Appeals or the final court in any State in any case involving an action pursuant to this Act. This petitioner must file a petition for certiorari or a certification as provided in section 1254 of title 28, United States Code within fifteen days after the decision of the court of appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court.

INJUNCTIVE RELIEF

SEC. 32. (a) Except as provided in subsection (b), no court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this Act except in conjunction with a final judgment entered in a case involving an action pursuant to this Act.

(b) No court shall have jurisdiction to grant any injunctive relief preventing the enforcement of a Project Decision Schedule except in conjunction with a final judgment. If the court on review determines that a deadline on a Project Decision Schedule is not reasonable, the Court may instruct the Board to extend the deadline.

ACTION ON REMAND

SEC. 33. Immediately following any decision remanding to an agency any case or controversy involving the validity of this Act or, an action pursuant to this Act, the Board shall revise the Project Decision Schedule as necessary to expedite any further proceedings required by the decision of the court. Such revisions shall be consistent with section 17 of this Act.

AUTHORIZATION

SEC. 34 There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

WAIVER OF NEW REQUIREMENTS

SEC. 35. (a) The Board is authorized to waive the application of any Federal, State, or local statute, regulation, or requirement enacted or promulgated after the commencement of construction of a critical energy facility, unless Congress explicitly prohibits such waiver. No waiver pursuant to this section shall take effect unless—

(1) the Board finds that the waiver is necessary to ensure timely and cost-effective completion and operation of the facility; and

(2) the Board, after consultation with the agency responsible for implementing the statute, regulation, or requirement to be waived, finds that the waiver will not unduly endanger public health or safety.

(b) For the purposes of this section, "commencement of construction" means that the owner or operator of a critical energy facility has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (1) begun or caused to begin, a continuous program of physical onsite construction of the facility including site clearance, grading, dredging, or land filling in preparation for the fabrication, erection, or installation of the building components of the facility, or (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time. For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 36. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

PROJECT SPECIFIC EXPEDITED CONGRESSIONAL REVIEW

SEC. 37. (a)(1) This section applies to Federal statutes, rules, regulations, and standards which present a substantial impediment to the implementation of a Project, as determined by the Board.

(2) On its own motion or upon petition of a Priority Energy Project, the Board may, in its discretion, recommend to the President, in accordance with this section, the suspension, modification, or amendment of any Federal statute, rule, regulation, or standard as it applies to the Priority Energy Project if such Federal statute, rule, regulation, or standard was enacted, or promulgated, during the period specified in subsection (b).

(3) The Board may exercise its authority under this section to make a recommendation under paragraph (2) only during the period beginning on the date of designation of the energy project as a Priority Energy Project and ending on the date of initial commercial operation of such Project, as determined by the Board.

(b)(1) The Federal statutes, rules, regulations, and standards subject to suspension, modification, or amendment under this section are as follows—

(A) In the case of any Project which commenced construction before the date of enactment of this Act; any Federal statute,

rule, regulation, or standard which was enacted or promulgated before the date of enactment of this Act.

(B) In the case of any Project commenced construction on or after the date of enactment of this Act: any Federal statute, rule, regulation, or standard which was enacted or promulgated on or before the earlier of the date on which—

(i) construction of the Project commenced; or

(ii) application is submitted for designation of the energy project as a Priority Energy Project.

The application referred to in clause (ii) is the application which results in designation of the energy project as a Priority Energy Project.

(2) This section shall not apply to any Federal statute, rule, regulation, or standard which is enacted or promulgated after the date of initial commercial operation of the Project, as determined by the Board.

(c) For purposes of this section, the term "commenced construction" has the meaning provided by section 35(b).

(d)(1) Whenever the Board commences, on its own motion or upon petition, to exercise its authority to make a recommendation under subsection (a)(2), the Board shall—

(A) notify the Project, the affected Federal and non-Federal agencies, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Governor of each State in which the Project is, or is proposed to be, located, and

(B) publish notice in the Federal Register.

(2) The notice referred to in paragraph (1) shall identify the Federal statute, rule, regulation, or standard that will be considered by the Board for suspension, modification, or amendment pursuant to a recommendation under subsection (a)(2), set forth the date and place of the hearing referred to in paragraph (3) of this subsection, and provide a brief summary of the possible need for such recommendation. At the time the Board provides such notice, the Board need not indicate the action, if any, it will take under this section.

(3) After notice under paragraph (1), the Board shall conduct an informal public hearing. The hearing shall be completed within forty-five days following the date such notice is provided, unless the Board determines, in its discretion, that a longer period is necessary. The hearing shall be conducted in accordance with such procedures as the Board may prescribe, except that—

(A) the hearing shall be conducted in the vicinity of the Project unless the Board determines that another location would be more convenient;

(B) a transcript of the hearing shall be maintained; and

(C) any interested person, the Project, and any affected Federal or non-Federal agency, shall have an opportunity to present oral and written testimony.

The purpose of the hearing shall be to gain information for the Board to consider in exercising its authority under this section. Sections 554, 556, and 557 of title 5 of the United States Code shall not apply to such hearing.

(e) The Board may not make a recommendation under subsection (a)(2) unless it finds, after the hearing required by this section, that—

(1) the Federal statute, rule, regulation, or standard to which the recommendation applies was enacted or promulgated during the period specified in subsection (b);

(2) the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended presents a substantial impediment to the implementation of the Project;

(3) there is substantial evidence that implementation of the recommendation will not result in substantial harm to public health or safety (taking into account (A) the purposes for which the Federal statute, rule, regulation, or standard was enacted or promulgated and (B) the terms and conditions imposed by the Board pursuant to subsection (f) of this section concerning health and safety);

(4) the recommendation is not prohibited in whole or in part under subsection (o); and

(5) adoption of the recommendation is in the national interest and will further the purposes of this Act.

(f) Each recommendation of the Board under subsection (a)(2) shall identify the Project to which the recommendation applies, contain an identification number, and provide—

(1) a detailed identification of the Federal statute, rule, regulation, or standard to be suspended, modified, or amended;

(2) a precise statement of the suspension, modification or amendment; and

(3) such terms and conditions as the Board deems necessary—

(A) to mitigate any adverse effects which are anticipated to result from the proposed suspension, modification, or amendment, including such effects on public health safety, welfare, and the environment (including fish and wildlife and related resources); and

(B) to enhance the environment—

(i) related to the Project, and

(ii) affected by the suspension, modification, or amendment.

(g) Each recommendation of the Board under subsection (a)(2) shall be accompanied by—

(1) a statement of the findings referred to in subsection (e), as well as the basis for each findings; and

(2) a statement of the Board's reasons for making the recommendation.

(h)(1) Upon transmittal to the President, the Board shall publish its recommendation under this section in the Federal Register and shall transmit copies to the Speaker of the United States House of Representatives, the President of the United States Senate, and the Governor of each State in which the Project is, or is proposed to be, located.

(2) The President shall not act upon such recommendation prior to the expiration of at least thirty days from the date of publication of the recommendation in the Federal Register. During such thirty-day period, or such longer period as the President may specify, the public may submit written comments upon such recommendation for the consideration of the President.

(i) The President after considering public comments submitted pursuant to subsection (h) may, in his discretion—

(1) transmit to Congress the Board's recommendation, or any modification thereof;

(2) remand the recommendation to the Board for further consideration;

(3) take no action with respect to the Board's recommendation; or

(4) reject the Board's recommendation.

(j) The President may recommend to Congress a suspension, modification, or amendment pursuant to subsection (i) only if the President determines that—

(1) the Federal statute, rule, regulation, or standard to which the recommendation applies was enacted or promulgated during the period specified in subsection (b);

(2) the adoption of the recommendation is in the national interest and will further the purposes of this Act;

(2) the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended presents a substantial impediment to the implementation of the Project;

(4) the recommendation is not prohibited in whole or in part under subsection ((o);

(5) there is substantial evidence that implementation of the recommendation will not result in substantial harm to public health or safety (taking into account (A) the purposes for which the Federal statute, rule, regulation, or standard was enacted or promulgated and (B) the terms and conditions to be imposed by the President under subsection (k) concerning public health and safety; and

(6)(A) to the extent the President's recommendation incorporates the recommendation of the Board, there is substantial evidence to support the Board's recommendation and the findings made by the Board in connection with such recommendation;

(B) to the extent the President's recommendation modifies the recommendation of the Board, there is substantial evidence to support the President's modification.

(k) Any recommendation submitted by the President to the Congress under this section shall identify the Project to which the recommendation applies, contain an identification number and provide—

(1) a detailed identification of the Federal statute, rule, regulation, or standard to be suspended, modified, or amended;

(2) a precise statement of the suspension, modification or amendment recommended;

(3) terms and conditions—

(A) to mitigate any adverse effects which are anticipated to result from the proposed suspension, modification, or amendment including such effects on public health, safety, welfare, and the environment (including fish and wildlife and related resources);

(B) to enhance the environment—

(i) related to the Project, and

(ii) affected by the proposed suspension, modification, or amendment; and

(C) for the imposition of less stringent requirements or other alternatives to the Federal statute, rule, regulation, or standard proposed to be suspended, modified, or amended; and

(4) for enforcement of the recommendation.

(l) Each recommendation of the President to the Congress under this section shall be accompanied by—

(1) a statement of the determinations referred to in subsection (j);

(2) a statement of the President's reasons for making the recommendation, including the reasons for any modification of the Board's recommendation; and

(3) a summary of any agency views received by the Board or the President with respect to the recommendation.

(m)(1) Any recommendation of the President transmitted to Congress under this section shall be transmitted to both Houses of Congress on the same day while such Houses are in session. Immediately following its transmittal, the recommendation shall be referred to the committee having jurisdiction over the Federal statute, rule, regulation, or standard concerned. Upon such transmittal, the President shall publish the recommendation in the Federal Register. The President may not amend or modify the recommendation after its transmittal to Congress.

(2) Any recommendation of the President transmitted to Congress under this section shall be effective and have the force and effect of law only if approved in accordance with this subsection. A recommendation transmitted pursuant to this section may be considered approved in accordance with this subsection only if—

(A) the Senate and House of Representatives pass a joint resolution described in paragraph (4)(B)(i) approving such recommendation during the period beginning on the day after the date of its reciept by the Senate and House of Representatives and ending upon the expiration of sixty calendar days of continuous session of Congress, and

(B) such joint resolution thereafter becomes law.

(3) For purposes of this subsection—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty calendar day period.

(4)(A) This paragraph is enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subparagraph (B) of this paragraph; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(B) For purposes of this section, the term "resolution" means only a joint resolution described in clause (i) or (ii) of this subparagraph.

(i) A joint resolution of either House of Congress—

(I) which is entitled: "Joint resolution relating to Presidential recommendation numbered for Priority Energy Project .",

(II) which does not contain a preamble, and

(III) the matter after the resolving clause of which is: "That the Congress of the United States approves the recommendation for Priority Energy Project , numbered and transmitted by the President to the Congress on , 19 .",

the blank spaces therein appropriately filled.

(ii) A joint resolution of either House of Congress—

(I) which is entitled: "Joint resolution relating to Presidential recommendation numbered for Priority Energy Project .",

(II) which does not contain a preamble, and

(III) the matter after the resolving clause of which is: "That the Congress of the United States disapproves the recommendation for Priority Energy Project , numbered and transmitted by the President to the Congress on , 19 .",

the blank spaces therein appropriately filled.

(C) A resolution once introduced in accordance with the provisions of this section with respect to a Presidential recommendation shall immediately be referred to the committee having jurisdiction over the Federal statute, rule, regulation, or standard recommended to be suspended, modified, or amended (and all resolutions with respect to the same recommendation shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(D)(i) If any committee to which a resolution has been referred under this paragraph has not reported a resolution of approval described in subparagraph (B)(i) at the end of forty calendar days of continuous session of Congress after its referral and if such committee has not adopted, before the expiration of such forty calendar day period, a motion not to report such resolution in accordance with this subsection, it shall be in order to move either to discharge such committee from further consideration of that resolution or to discharge such committee from further consideration of any other resolution with respect to such recommendation which has been referred to such committee.

(ii) Any motion not to report a resolution of approval described in subparagraph (B)(i) to the appropriate House from the committee under clause (i) may be adopted only by an affirmative vote of a majority of the full membership of the committee at a meeting at which a quorum is present. When such motion is adopted by a committee of either House of Congress, the chairman of the committee shall notify the presiding officer of that House. A quorum for such purposes shall be determined according to the same rules that apply in the committee for purposes of reporting a bill. At any time during the sixty-calendar-day period referred to in paragraph (2)(A) and after adoption by the committee of a motion not to report from the committee a resolution described in subparagraph (B)(i), it shall be in order in the committee to move to approve such resolution. Upon submission of written notice to the chairman by three or more members of the committee requesting a meeting of the committee to consider such resolution, the chairman shall order a meeting of the committee prior to expiration of the forty-calendar-day period referred to in clause (i) at which meeting it shall be in order to consider and adopt a motion to report a resolution under this subsection or to consider and adopt a motion not to report such resolution.

(iii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged, and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. Except as provided in subparagraph (G)(i), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(iv) If, the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Presidential recommendation.

(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(ii) Debate on the resolution referred to in clause (i) shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion to further limit debate shall not be debatable. Except to the extent provided in subparagraph (G)(ii), an amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(ii) Appeals from the decision of the chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

(G) With respect to any recommendation transmited by the President to the Congress under this section—

(i) In the consideration of any motion to discharge any committee from further consideration of any resolution on any such recommendation, it shall be in order after debate allowed for under subparagraph (D)(iii) to offer an amendment in the nature of a substitute for such motion—

(I) consisting of a motion to discharge such committee from further consideration of a resolution described in subparagraph (B)(i) with respect to any recommendation, if the discharge motion sought to be amended relates to a resolution described in subparagraph (B)(ii) with respect to the same such recommendation, or

(II) consisting of a motion to discharge such committee from further consideration of a resolution described in subparagraph (B)(ii) with respect to any recommendation, if the discharge motion sought to be amended relates to a resolution described in subparagraph (B)(i) with respect to the same recommendation.

An amendment described in this clause shall not be amendable. Debate on such an amendment shall be limited to not more than one hour, which shall be divided equally between those favoring and those opposing the amendment.

(ii) In the consideration of any resolution on any such recommendation which has been reported by a committee, it shall be in order after the debate allowed for under subparagraph (E)(ii) to offer an amendment in the nature of a substitute for such resolution—

(I) consisting of the text of a resolution described in subparagraph (B)(i) with respect to any recommendation, if the resolution sought to be amended is a resolution described in subparagraph (B)(ii) with respect to the same such recommendation, or

(II) consisting of the text of a resolution described in subparagraph (B)(ii) with respect to any recommendation, if the resolution sought to be amended is a resolution described in subparagraph (B)(i) with respect to the same such recommendation.

An amendment described in this clause shall not be amendable. Debate on such an amendment shall be limited to not more than one hour, which shall be divided equally between those favoring and those opposing the amendment.

(iii) If one House receives from the other House a resolution with respect to a recommendation, then the following procedure applies:

(I) the resolution of the other House with respect to such recommendation shall not be referred to a committee;

(II) in the case of a resolution of the first House with respect to such recommendation, the procedure with respect to that or other resolutions of such House with respect to such recommendation shall be the same if no resolution from the other House with respect to such recommendation had been received; but on any vote on final passage of a resolution of the first House with respect to such recommendation a resolution from the other House with respect to such recommendation which has the same effect shall be automatically substituted for the resolution of the first House.

(iv) Notwithstanding any of the preceding provisions of this paragraph, if a House has approved a resolution with respect to a recommendation, then it shall not be in order to consider in that House any other resolution under this section with respect to such recommendation.

(n)(1) There shall be a separate Presidential and a separate joint resolution for each Federal statute, rule, regulation, or standard to be suspended, modified, or amended pursuant to this section.

(2) Each recommendation submitted by the President and each joint resolution adopted pursuant to this section shall apply to only one priority energy project.

(3) During a single Congress, the President

may not transmit recommendations for suspensions, modifications, or amendments pursuant to this section identifying more than twelve Priority Energy Projects.

(o)(1) No Board or Presidential recommendation may be made under this section and no such recommendation may take effect if the recommendation would—

(A) suspend, modify, or amend any Federal statute, rule, regulation, or standard which relates to—

(i) the rights, working conditions, (including health and safety), compensation, pensions, or hours of employment of workers or their representatives;

(ii) civil rights;

(iii) securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934, or State and local securities laws;

(iv) the Internal Revenue Code of 1954; or

(v) antitrust laws, as defined in section 3(1) of the Public Utility Regulatory Policies Act of 1978; or

(B) cause a violation of any primary air quality standard established under the Clean Air Act;

(C) impair or abridge the rights of any person under the United States Constitution;

(D) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(E)(i) suspend, modify, or amend the criminal sanctions of any Federal, State, or local criminal code; or

(ii) suspend, modify, or amend a criminal sanction in any Federal, State, or local law, unless the recommendation also suspends, modifies, or amends the provision of law which is punishable by such criminal sanction.

(2) No recommendation may be made under this section, and no such recommendation may take effect, if the recommendation would have the effect of reversing or modifying a final Federal or non-Federal agency decision or action made or taken at any time specifically for the Priority Energy Project identified in such recommendation.

(3)(A) The prohibition contained in paragraph (2) shall not apply to a recommendation under this section which would have the effect of reversing or modifying a final agency decision or action as provided in paragraph (2) if the final agency decision or action is made or taken after the Board transmits to the President a recommendation with respect to the Federal statute, rule, regulation, or standard on which such agency decision or action is based.

(B) The prohibition contained in paragraph (2) shall not apply to a recommendation under this section which would have the effect of reversing or modifying a final agency decision or action as provided in paragraph (2) if the final agency decision or action is stayed pursuant to this subparagraph and the recommendation is approved during the period the stay is in effect. If a final agency decision or action is taken or made—

(i) after the date on which the Board provides notice under subsection (d)(1) that it is considering the suspension, modification, or amendment of a Federal statute, rule, regulation, or standard on which such agency decision or action is based, and

(ii) before the Board transmits, or determines not to transmit, the recommendation to the President under this section,

the Board may issue an order staying the application of that agency decision or action. A stay under this subparagraph may be issued only after such agency decision or action becomes final and before the Board transmits the recommendation to the President under this section. The stay shall apply only for such period as determined by the Board to be necessary for the Board, the President, and the Congress to act.

SUMMARY OF MAJOR PROVISIONS, PRIORITY ENERGY PROJECT ACT

1. Composition of the Energy Mobilization Board (EMB).—

The bill would create an Energy Mobilization Board to oversee the fast track process. The Board would consist of a Chairman and three members appointed by the President with the advice and consent of the Senate. The Chairman would have exclusive decisionmaking authority except in the selection of priority energy projects.

2. Designation of Priority Energy Projects.—

No project could be designated a priority energy project unless the Board finds the project will reduce directly or indirectly the Nation's dependence upon imported energy.

3. Deadlines for Decisionmaking.—

The Board would have the power to set reasonable deadlines for decisionmaking by Federal, State and local agencies. The deadlines may be shorter than the time required for agency decisions under existing Federal, State or local law.

Federal, State and local agencies would be authorized to adopt special, expedited procedures for meeting the deadlines set by the Board. These procedures could include substitution of legislative-type hearings for trial-type hearings, shorter time periods than those allowed under existing statutory law, and consolidated agency proceedings. The Board would also have authority to prescribe special expedited procedures for Federal agencies.

If any Federal, State or local agency fails to meet a deadline set by the Board, the Board could make the decision in lieu of the agency, or the Board could seek a court order enforcing the deadline. In making a decision in place of another agency, the Board must apply the decision criteria that the agency would have been required to apply.

4. Grandfather Authority.—

The Board would not have general authority to alter or waive substantive Federal, State or local law. However, the Board could waive Federal, State or local law as it applied to a priority energy project if the law was adopted after construction of the priority energy project had commenced. As a precondition to granting a waiver, the Board would have to find that the waiver is necessary to timely completion of the project and that the waiver would not unduly endanger public health or safety.

5. Expedited Legislative Process.—

The President, upon recommendation by the Board, could recommend to Congress the suspension, modification or amendment of certain Federal statutes, rules, regulations and standards. The recommendation of the President can only take effect if approved by a joint resolution of Congress enacted using the procedures set out in the law.

6. Water Law.—

Water law would be exempt from any waiver provisions in the bill. The bill would explicitly provide that all priority energy projects must obtain water pursuant to State law. The bill would also explicitly provide that terms and conditions on State water law permits for priority energy projects shall not be deemed to constitute a burden on interstate commerce.

7. Environmental Impact Statements.—

The Board would be authorized to require that only one environmental impact statement be prepared on a priority energy project and that the statement be used by all Federal, State and local agencies subject to a NEPA-type requirement. The Board would also be authorized to designate the Lead Federal Agency for preparation of the impact statement and to assessing responsibilities to other Federal agencies for cooperating in preparing the environmental impact statement.

8. Judicial Review.—

All Federal, State and local agency actions involving priority energy projects would be reviewed in the Temporary Emergency Court of Appeals. TECA would have appellate jurisdiction only, but would have authority to remand issues of fact to agencies for further proceedings.●

By Mr. JACKSON:

S. 669. A bill to amend the existing geothermal leasing and permitting laws, and for other purposes; to the Committee on Energy and Natural Resources.

GEOTHERMAL STEAM ACT AMENDMENTS OF 1981

● Mr. JACKSON. Mr. President, I am introducing today the Geothermal Steam Act Amendments of 1981. This bill would modify the Geothermal Steam Act of 1970 to facilitate and require accelerated exploration and development of geothermal steam resources on Federal lands. Among other things, the bill contains provisions designed to assure competition in the geothermal industry and protect nationally significant geothermal features in national parks and monuments. The bill is very similar to S. 1388 as reported by the Committee on Energy and Natural Resources in May of 1980.

I understand that the administration intends to submit a legislative proposal to Congress soon. I also am aware that the geothermal industry is developing legislative recommendations. In view of the broad general agreement on the need to revise the 1970 act, I am hopeful that Congress can act this year.●

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

S. 670. A bill to amend title 38, United States Code, to improve certain programs of Veterans' Administration benefits for veterans who are former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

EX-PRISONERS OF WAR BENEFITS IMPROVEMENTS ACT OF 1981

Mr. CRANSTON. Mr. President, I am introducing today, on behalf of Senators MATSUNAGA and DECONCINI and myself, S. 670, the proposed Ex-Prisoners of War Benefits Improvements Act of 1981. This measure would amend title 38, United States Code, in order to make certain improvements in Veterans' Administration compensation and health-care programs as they relate to veterans who are ex-prisoners of war. The measure is based, in part, on the findings, conclusions, and recommendations for legislative actions made by the VA in its report, entitled "Study of Former Prisoners of War," which was submitted to the Congress on June 2, 1980, pursuant to section 305 of the Veterans' Disability Compensation and Survivors' Benefits Act of 1978—Public Law 95-479.

BACKGROUND

As former chairman of the Senate Veterans' Affairs Committee and now as ranking minority member, I am well acquainted with the deep concerns that many have—and which I share fully—for these 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.

I authored the VA study provisions enacted in 1978 because of growing concerns about claims—particularly by ex-POW's from World War II who were interned in the Pacific theater—of long-lasting and progressive physical and psychological damage attributable to the conditions of the internment. The VA study provision was designed to require a comprehensive examination of the service-connected compensation and health-care needs of ex-POW's, including an analysis of the adequacy of repatriation procedures and medical records, disabilities particularly prevalent among ex-POW's, and an analysis of medical research into the health-related problems of ex-POW's.

Mr. President, I would like to summarize very briefly some of the salient aspects of the report on the VA study.

One incontrovertible and very significant finding was that, although the particular type and source of hardship differed significantly according to place and time of internment, American POW's from each of the three most recent wars—World War II, Korea, and Vietnam—were subjected to widespread hardships that often included extreme malnutrition, great psychological stress and abuse, inadequate medical care, brutal living conditions, and, very frequently, physical and psychological torture.

Not surprisingly, data in the report show that, in comparison to other wartime veterans, a far greater proportion of ex-POW's have been determined to be suffering from service-connected disabilities. For example, 42.8 percent of all World War II and Korea ex-POW's as compared to 9.6 percent of all veterans of those conflicts are receiving service-connected disability compensation.

However, the study also showed that there is cause for concern that some disabilities of ex-POW's that may well be attribtuable to their internment are not considered to be service connected. The report cited the statements of physicians, including ex-POW physicians, to the effect that the conditions to which POW's were subjected can have long-term effects that may not be identifiable for extended periods of time and that, because of the lack of definitive medical knowledge regarding the effects of internment, might never be diagnosed as having their origins in the POW experience. It was also noted that most American physicians have difficulty in recognizing the residuals of malnutrition.

The report quoted the statements that several physicians who were World War II POW's gave in a survey conducted by the War Claims Commission in 1950. One from the European theater stated:

> Since practically all POW's suffered from some degree of malnutrition, gastritis, dysentery, respiratory diseases, skin diseases, arthritis, frostbite, exposure, and/or nervous conditions. I feel that every POW should automatically be service connected for these ailments or any related to them.

Two from the Pacfic theater expressed the view that no one could fully recover from the prolonged and severe deprivations that the POW's from that theater experienced. Medical experts consulted by the Commission identified optic atrophy, peripheral neuropathy, and beriberi as being residuals of Pacific theater internment.

In general, the VA report concluded:

> Serious limitations in knowledge as to the delayed effects of such stresses and deprivations as [were] experienced by prisoners of war [are] * * * a major obstacle for decision-makers [in the VA claims adjudications process].

In addition to suffering from disabilities that are difficult to detect or difficult to attribute to a specific cause, ex-POW's from World War II and Korea claiming service connection are often confronted with problems arising from the absence of records of their repatriation examinations. According to the VA report, physicians who reviewed a sample of World War II European and Pacific theater ex-POW's claims folders found that less than one-fifth of the European theater ex-POW's, only three-fifths of those from Pacific, and 85 percent from the Korean conflict who had filed claims for compensation had evidence of a repatriation examination.

Moreover, the physicians who reviewed the folders "made subjective professional judgments on the repatriation examinations." They found the few examinations that they reviewed from the European theater to be "generally * * * satisfactory," but only approximately three-fourths of the exams from the Pacific theater and 85 percent from the Korean conflict to be "good or adequate."

The physicians also found some omissions from the examinations which either made other portions of the examinations difficult to understand or contributed to the examination being judged less than good or adequate. Over half of the examinations contained either no medical history prior to capture or a poor history. Approximately one-third of the examinations had inadequate evaluations of the POW's mental status and psychiatric conditions.

The conduct of the VA medical examinations that are conducted at the time that the ex-POW submits a claim for compensation may also pose problems. As part of the study, the VA had physicians review a sample of claims folders, and the physicians found that 90 percent of VA examinations reviewed were thorough. However, in response to the question whether the information derived from those exams—on the basis of which the claims adjudicators would base their decisions, at least in part—"permitted a reasonable judgment of whether the medical conditions found may be attributable wholly or in part to the POW experience * * *," the physician reviewers said that "the information was adequate or very good for such judgment" in only about three-fourths of the cases reviewed.

Thus, it seems clear that, although relatively high percentages of ex-POW's have been awarded disability compensation, an ex-POW with a disability resulting from the conditions of his internment face practical difficulties in providing that internment was the cause.

In recognition of some of these difficulties, in 1970, Public Law 91-376 was enacted to create rebuttable presumptions of service connection with respect to certain disorders.

Thus, under current law, section 312(c) of title 38 specifies that, in the case of an ex-POW who was subjected to conditions of dietary deficiencies, forced labor, or inhumane treatment in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949, and who suffers from one of certain specified disabilities—including avitaminosis, beriberi, malnutrition, and pellagra and any other nutritional diseases—the disability will be considered to be service connected if it has become manifest to a degree of 10 percent or more, despite the fact that there may be no record of such disabilities during the veteran's service. Under section 312(c), in order for a psychosis of an ex-POW who has suffered such conditions so to be presumed to be service connected, the disability must become manifest to a degree of 10 percent within 2 years following discharge from service.

Most ex-POW's suffering from these specified disabilities do not have to prove that they were subjected to conditions violating the Geneva Conventions in order to benefit from these presumptions. Section 312(b) of title 38 provides that a veteran who was held as a prisoner of war for 6 months or more during World War II, the Korean conflict, or the Vietnam era shall be deemed to have suffered from conditions that violated the conventions.

The presumptions, however, are not conclusive. Section 313 of title 38 provides that a presumption of service connection created by section 312 (b) and (c) may be rebutted by evidence showing that the disease is not actually service connected.

It should be stressed that these current law provisions do not preclude the granting of service-connected compensation to ex-POW's who do not meet the criterion of 6 months of captivity or manifestation of a psychosis within 2 years, or whose disabilities are not specified in section 312(c). Indeed, many ex-POW's now receive compensation from the VA for disabilities incurred as a result of less than 6-months' captivity, for psychoses which became manifest more than 2 years following discharge, and for disabilities not specified in section 312(c). Rather, the current law provisions relieve the ex-POW veteran who meets the criteria from certain evidentiary burdens: Having to submit proof that the disability is service related. However, ex-POW's who do not meet these criteria or who seek service-connected disability compensation for a condition not specified must generally submit such proof.

It should be noted that there are thousands of ex-POW's who do not meet the 6-month period of captivity criterion. According to the VA's study, the largest numbers of European theater POW's was captured after D-Day, and the Battle of the Bulge in December 1944

resulted in the capture of almost 25,000 POW's. The fact that the average length of internment for POW's in the European theater—347 days—is relatively short reflects the fact that most European theater POW's were captured in the 1944–45 period. As a result, it appears, although specific figures on the point have apparently not been compiled, that many European theater ex-POW's fail to meet the 6-month criterion by only a few weeks. Thus, under current law, these veterans must first submit evidence to the VA to substantiate that they suffered from conditions of dietary deficiencies, forced labor, or inhumane treatment in violation of the Geneva Conventions before the VA may apply the presumption that disabilities such as avitaminosis or other nutritional deficiencies from which they suffer are service connected.

With respect to psychosis, the VA's review of pertinent medical literature indicated that "psychosis related to the POW experience frequently appears years after service, not just immediately after separation." According to the report—

[T]his is understandable in view of the psychological torture and "brainwashing" to which these POW's were subjected.

However, under current law, in order to be presumed to be service related, the psychosis must become manifest within that period.

In the case of diseases or disabilities not specified in section 312(c)—such as residuals of frozen feet, anxiety neuroses, chronic respiratory conditions, and arthritis—the ex-POW generally must also submit satisfactory evidence that the condition is service connected.

SUMMARY OF THE BILL—IMPROVEMENTS RELATED TO VA DISABILITY COMPENSATION

Mr. President, in light of the facts shown in the VA study, it seems clear to us that legislation is needed to help overcome the still unduly burdensome and difficult requirements that some ex-POW's face in trying to prove service connection. Thus, our proposal would make four amendments to section 312 of title 38 in order to relieve the ex-POW of the burden, in certain cases, of producing evidence of the service-related nature of the disability for which compensation is sought. I believe that these changes are particularly appropriate since many of these individuals have already suffered hardships most people cannot even imagine, and the burden of producing documentation years later—particularly in a case in which medical records may be less than complete or the veteran's repatriation examination was only perfunctory or the record of it is missing—is one that may be reasonably removed.

First, our proposal would remove the two-part criterion by which, under current law, certain diseases of ex-POW's who were held captive for 6 months or more are presumed to be service connected. Thus, in the cases of disabilities specified in current law that become manifest to a degree of 10 percent or more—avitaminosis, beriberi, chronic dysentery, helminthiasis, malnutrition, pellagra, and other nutritional diseases—the rebuttable presumption of service connection would apply to all ex-POW's, not just those who either prove that they were subjected to conditions of internment in violation of the Geneva Conventions or are deemed, by virtue of having been held captive for 6 months or longer, to have been subjected to such conditions. Thus, the effect of this legislation would be to provide that certain disabilities manifested by any veteran who was held as a prisoner of war—regardless of the length of captivity or the conditions of internment—would be presumed to have been incurred in or aggravated by military service.

In proposing to remove the 6-month criterion, I want to point out that, with respect to this requirement as enacted in Public Law 91–376, the VA's POW study noted—

Nowhere in the recorded legislative history of the provision for presumption of service-connection for certain POW-related conditions . . . is there discussion as to how it was decided that a minimum 180 days internment would be required before a former POW would be presumed to have undergone dietary deficiency, forced labor or inhumane treatment.

Second, this measure would remove the 2-years-within-discharge test applicable in the case of a former POW seeking to establish service connection for a psychosis which becomes manifest to a degree of 10 percent or more. The bill thus would have the effect of providing that an ex-POW is to be presumed to be service-connected disabled for a psychosis regardless of when, after service, the psychosis became manifest.

This provision is consistent with the VA recommendation for legislative action that—

Title 38 be amended to eliminate the requirement that psychoses suffered by POW's must become manifest within two years following service separation before the rebuttable presumption of service-connection arises.

As I noted previously, the VA's study concluded that psychosis related to the POW experience frequently appears years after service. In addition, the VA notes that followup studies on ex-POW's have provided further evidence of a "significant amount of psychosis among former POW's many years after repatriation" and a "significantly higher amount [than would otherwise be statistically predictable] of POW deaths from the time of repatriation to the present attributable to suicides, accidents, and other forms of trauma" that could result from the extreme psychological stress experienced by ex-POW's.

Third, Mr. President, our proposal expand the list of specified disabilities and diseases of an ex-POW that are to be presumed to be related to military experience to include neuroses. In this regard, the VA study concluded:

The most remarkable finding of the review of the types of former POW disabilities is that anxiety neurosis is the most prevalent disability among former POWs from the time of repatriation to the present. The significance of this disability relative to veterans controls [a control group of veterans] remains regardless of the length of internment. This is especially apparent among former European Theater POWs, in which those POWs interned less as well as more than six months exhibit significantly higher rates of anxiety neurosis compared to other service-connected World War II veterans.

Further, the VA's study showed that in each category of former POW's on which there is data available at this point—World War II Europe, World War II Pacific, and Korean conflict—anxiety neurosis is the statistically most significant service-connected disability.

Thus, this provision is designed to remove from the ex-POW the burden of documentation and evidence and to provide for award of service-connected compensation for a neurosis on a presumption—unrebutted by the VA—that the disability is related to the veteran's service.

The VA's study recommendation in this regard was for administrative action to include an explicit reference to former POW's in its guidelines for the diagnosis, treatment, and rating of posttraumatic stress neurosis. Under those guidelines—to be issued in the very near future as a revision to DVB program guide 21–1—ex-POW's who manifest certain symptoms, such as startle reaction, insomnia, survivor guilt, and memory lapses, that are generally considered to be related to the POW experience, are to be granted service connection for the neurosis.

Although I am in agreement with the steps that the VA has taken pursuant to this recommendation—as far as they go—there appears to be no reason for treating neurosis differently from psychosis in this regard. Thus, the bill would codify the administrative action that the VA has taken with respect to posttraumatic stress neurosis in the cases of ex-POW's and include other forms of ex-POW neurosis as well.

Fourth, and finally with respect to the VA's compensation program, our bill would specify that, consistent with guidelines that would be required to be developed by the Administrator, the disability of a former POW who experienced conditions of internment that the Administrator has determined could reasonably be expected to result in that disability, shall be deemed to have been incurred or aggravated during the veteran's service if it has become manifest to a degree of 10 percent or more. The purpose of this provision is to establish a process under which the Administrator would have the necessary flexibility to specify criteria for the presumption of service-connected disability in the cases of disabilities which are not specified in the law but which would reasonably—though not conclusively—be expected to have resulted from the POW experience. These might include disabilities such as those I mentioned earlier—residuals of frozen feet, chronic respiratory disorders, and arthritis. This provision would provide that the Administrator take into account, in adjudicating claims of former POW's, the expanding body of medical knowledge in terms of the effects of captivity on individuals.

Mr. President, with this authority, the Administrator would also have the flexi-

bility to tailor presumptions for interments at certain periods of time and in certain geographical areas with respect to certain disabilities. Thus, if the Administrator were to determine that the state of medical knowledge warranted a presumption of service connection for certain genitourinary diseases of World War II Pacific Theater ex-POW's only, or certain residual effects of exposure in the cases of World War II European Theater and Korean conflict ex-POW's only, appropriately limited presumptions could be incorporated in the guidelines.

I want to stress in proposing this provision that the intention is for this authority to be used for the benefit of ex-POW's in all situations in which it is reasonable to do so. To that end, the measure mandates—not just authorizes—the prescribing of the guidelines in which the Administrator would specify the disabilities that the Administrator has determined could reasonably be expected to result from internment or from internment in certain places at certain times. In addition, the bill would require the Administrator, in developing or revising the guidelines, to consult with the advisory committee on former prisoners of war—which the bill would establish, and the membership of which would include at least one ex-POW from each of the two World War II Theaters, Korea, and Vietnam—and with representative groups concerned with the well-being of veterans who are ex-POW's and disabled veterans.

The bill would also require the Administrator, not later than 60 days after prescribing or revising the guidelines, to provide the Veterans' Affairs Committees with a report on the reasoning underlying the guidelines.

These provisions—together with the provisions requiring biennial reports from the advisory committee—are designed to keep the process a vital and up-to-date one and to assure that the Congress is fully advised with respect to the use of this authority and of the possible advisability of legislative changes that may be necessitated by any failure of the Administrator to use the authority as fully as it could appropriately be.

HEALTH CARE AND OTHER BENEFITS

Mr. President, the effect of these amendments would be that any ex-POW whose disability is determined to be service connected for purposes of disability compensation under chapter 11 of title 38 as a result of the amendments would also be considered to be service connected for purposes of all other VA programs. Thus, where any additional eligibility criteria are met, the ex-POW would be eligible for vocational and other rehabilitation services and assistance under chapter 31 of title 38 and health-care services under chapter 17 as a service-connected disabled veteran, and, as appropriate, specially adapted housing assistance under chapter 21 and adaptive auto assistance under chapter 39.

In addition, in recognition of the special sacrifices of former POW's, the bill we are introducing would amend section 612(i) of title 38—which establishes four priority categories for the provision of VA outpatient treatment to otherwise eligible veterans—to place former POW's who have no disease or injury that has been determined to be service connected in the third priority category, a category they would share with veterans with service-connected disabilities rated 40 percent or less and thus be afforded priority ahead of all other nonservice-connected disabled veterans. I believe that this provides appropriate recognition for this special class of veterans.

Thus, with respect to VA health-care services, this measure would facilitate to an appropriate degree the ability of ex-POW's to attain eligibility based on the compensable service connection of their disabilities. By operation of the existing chapter 17 provisions with respect to the health-care eligibility of a veteran having a compensable service-connected disability, those who obtain service connection would be eligible for all hospital, nursing home, and outpatient services needed for the care and treatment of their service-connected disabilities. They would also be eligible for hospital and nursing home care for any other disability—without regard to the general requirement that a veteran be unable to defray the costs of care or be over age 65 in order to be eligible for such care for a nonservice-connected disability.

With respect to outpatient eligibility, those whose service-connected disabilities are rated at 50 percent or more would have eligibility for outpatient treatment for any disability, and those rated 100-percent disabled would also have comprehensive dental outpatient eligibility.

In addition, with respect to the section 612(i) priorities for VA outpatient care, all ex-POW's—along with service-connected disabled veterans—would be in the first priority when seeking treatment for a service-connected disability, in the second priority if their service-connected disability is rated at 50 percent or more, and in the third priority in all other cases.

Mr. President, I would note that the provisions of this bill—in addition to providing more assistance to ex-POW's in establishing service connection—thus apply to a far broader range of benefits than a provision that the Senate passed in 1976 in section 103(a) of S. 2908, the Veterans' Omnibus Health Care Act of 1976. Under that provision, which the House rejected, any disability of an ex-POW with more than 6 months captivity would, for purposes of VA health-care eligibility only, have been considered to be service connected unless there were clear and convincing evidence that it was not.

Mr. President, no new eligibility would be created, however, for outpatient care for a nonservice-connected disability of an ex-POW with no service-connected disability, as the VA study recommended be done. The VA study recommended an amendment "to authorize eligibility to former POW's for VA hospital care and medical services for any disease or neuropsychiatric disability." The purpose of this recommendation was to overcome what the study identified as a problem confronting former POW's suffering health problems, the difficulty—because of a frequent absence of medical information at the time of repatriation and the lack of conclusive medical science to link various disabilities to the POW experience—in establishing service connection. Thus, the recommendation was to provide ex-POW's with general eligibility for health care for disabilities that have not been established as service connected. The study concluded that such an amendment "would assure that former POW's receive health-care benefits for all disabilities which may be attributable to their internment." But it would also assure that they receive these benefits for disabilities determined not to be service related.

In evaluating the report's recomendation in this respect, it must be kept in mind that it was made in the absence of the provisions that we are proposing to facilitate the establishment of service connection by means of more advantageous presumptions and otherwise.

In my view, facilitating determinations of service connection in this manner and providing for compensation, health care, and other benefits eligibility to flow from that determination is far preferable to providing all ex-POW's who have no service-connected disabilities—including those to whom a presumption in current law applies but has been conclusively rebutted—with such broad health-care eligibility. Two important considerations, I believe, support our approach.

First, I believe that the VA recommendation would be inequitable to veterans with disabilities that have been determined to be service connected and would, to a certain extent, undermine the integrity of the existing eligibility criteria in chapter 17. With respect to diseases and psychiatric conditions, the VA recommendation would provide ex-POW's who would have been unable—despite all of the special advantages provided for in this bill—to establish the existence of a service-connected disability with the same hospital-care eligibility as any veteran who has a service-connected disability, the same outpatient treatment eligibility as any veteran whose service-connected disability has been rated as 50 percent or more disabling, and much greater outpatient treatment eligibility than is provided to veterans with service-connected disabilities rated as high as 40 percent. With full respect for the sacrifices and special problems encountered by former POW's, I do not believe such a result is justified for those who have no disabilities considered to be service connected. It is far preferable, in my view, to eliminate the real problem identified by the study of actually establishing service connection for all those health problems that can reasonably and appropriately be linked to service.

The second problem inherent in the study recommendation is that, if adopted, its recommendation would establish a new category of veterans eligible for health care at the very time the VA system is under severe budgetary pressure to provide appropriate care to those currently eligible. Again, with full

respect for all former POW's, I do not believe that such a result is advisable.

ADVISORY COMMITTEE ON FORMER PRISONERS OF WAR

Finally, Mr. President, as I indicated earlier, my proposal would establish an advisory committee on former prisoners of war, which would be responsible for advising the Administrator on the administration of benefits to former POW's and the compensation, health care, and rehabilitation needs of such veterans. The committee would be required to submit biennial reports to the Administrator on the programs and the activities of the VA that pertain to former POW's, including an assessment of the compensation, health care, and rehabilitation needs. Such reports would also be required to be submitted to the Congress. The committee would consist of veterans who are former POW's from each theater of operations for each period of war occurring after December 6, 1941, and individuals who are recognized authorities in fields pertinent to disabilities prevalent among former POW's. The VA's Chief Medical Director and Chief Benefits Director would serve as ex officio members of the committee.

The establishment of this advisory committee is based on an administrative recommendation made in the VA's POW study. At this time, Mr. President, I ask unanimous consent that there be printed in the RECORD an excerpt from the report outlining the need for and the attempts to establish such a committee, and an exchange of letters bebetween former Administrator Cleland and myself regarding the establishment of the committee.

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

EXCERPT FROM VA'S POW STUDY

The review of the literature on the health related problems of former POWs indicates that there are still unanswered questions on the service-connected nature of many alleged former POW disabilities (e.g., are significantly higher ex-POW mortality rates due to trauma and cirrhosis related to the malnutrition and stress of internment? Is a relatively higher amount of arteriosclerotic heart disease in former POWs caused by the stress of internment?) The review of the types and severity of former POW disabilities also raises the question of whether the most recently published NAS/NRC morbidity data on former POW disabilities is still valid in light of currently available VA data on former POW disabilities.

In 1978, the VA Department of Medicine and Surgery proposed that a "blue ribbon" panel, composed of widely respected authorities in such fields as psychiatry, psychology, internal medicine, nutrition, and epidemiology, be formed which could assess the medical evidence on these and related questions and render expert advisory opinions to the Administrator of the VA and his staff concerning these issues.

In 1979, the VA submitted a request to the General Services Administration for formation of an Advisory Committee on Repatriated Prisoners of War. This request noted that such a "blue ribbon" panel was necessary not only because VA medical professionals needed the assistance of such a committee in assessing the medical evidence on former POWs, but also because the convening of such a body of experts would lend considerable credibility and prestige to the VA decisionmaking process concerning former POWs. The request stated the purpose of the committee would be to draw conclusions on existing information concerning the residual effects of internment, review new statistical and clinical information on former POWs (such as the latest POW morbidity study currently being conducted by the NAS/NRC) and identify for the Administrator and his staff those areas where changes in former POW policy might be warranted. The VA is currently negotiating with the OMB to form such a committee.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., October 13, 1980.

Hon. MAX CLELAND,
Administrator of Veterans' Administration
Washington, D.C.

DEAR MAX: I am writing with regard to the VA's proposal, currently under consideration by the General Services Administration, to establish an Advisory Committee on Former Prisoners of War. The proposed charter for this advisory committee would establish as the general objective of the committee the review of the adverse effects of internment on the health and adjustment of ex-POW's. In addition, the proposed charter provides that the committee would report to you only through the Chief Medical Director and the Assistant CMD for Professional Services.

In my view, there are close interrelationships between the difficulties encountered by ex-POW's in connection with compensation claims and the adverse effects of internment on their health and readjustment. For example, the review of specific disorders prevalent among ex-POW's may entail a review of issues arising in the adjudication process and the award or denial of service connection for such disorders. Thus, it seems to me that the proposed charter should include, as a specific objective, the review of compensation issues as they relate to ex-POW's and also require that the advisory committee report through the Chief Benefits Director and the Director of the Compensation and Pension Service as well as through the CMD and the Assistant CMD.

I also understand that the proposed charter would require that the membership of the advisory committee include ex-POW's. I strongly endorse this concept, but I believe that it would be advisable for the charter to specify the inclusion of disabled ex-POW's from each of the three periods of war—World War II and the Korean and Vietnam conflicts.

Max, I would greatly appreciate receiving your views on these recommendations concerning the pending proposed charter. I look forward to receiving early in November your report on the implementation of the various administrative recommendations endorsed by the Committee in its report (S. Rept. No. 96-876, pages 41-43) accompanying S. 2649, including the Committee's recommendation that a contact person be appointed at each VA regional office and medical center for the effective coordination of matters relating to ex-POW's.

Thank you, Max, for your continuing cooperation with the Committee.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

VETERANS ADMINISTRATION,
Washington, D.C., December 3, 1980.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of October 13, 1980, you requested my views concerning your proposal that the charter for the Advisory Committee on Former Prisoners of War include several additional elements. Specifically, you suggested that the committee report through the Chief Benefits Director of the Compensation and Pension Service as well as the Chief Medical Director and the Assistant Chief Medical Director for Professional Services, and include a review of compensation issues. You also suggested that the charter specify that the committee membership include disabled former POWs from each of the three periods of war.

On October 28, before we had completed our review of your suggestions, we were notified by the Committee Management Secretariat of the General Services Administration that our request to establish the committee had been approved. I should add that the approval related to the charter which we submitted with our letter to the Committee Management Secretariat on September 25. Due to the need for the valuable information and opinions which can be derived from the Advisory Committee on Former Prisoners of War (the establishment of which we first requested in April 1979), the amount of time which is required to form and convene such a committee, and the impact which medical issues have for both health care and compensation, I directed that we proceed at once with implementation of the POW study report recommendation to establish the committee, on the basis of the charter which had been approved.

With regard to the interrelationship between compensation and health care matters, the VA representatives who conducted the study, and others who have familiarity with issues concerning former POWs, agreed early during the development of the advisory committee proposal that many aspects of this committee's activities would involve diagnosis and medical care which have ramifications for the Chief Benefits Director as well. However, in the earlier work and data review on POWs, it seemed that most of the major concerns were in the areas of diagnosis, health status, and availability of health care services. Moreover, there are many aspects of health status that relate to new clinical information and research which may impact on former POWs, and it is frequently clinical studies which lead to decisions relating to compensation and pension review. Even so, we do see value in your proposed revision to the charter to include the review of compensation and pension issues, with the committee reporting through the Chief Benefits Director as well as through the Chief Medical Director. In such a revision, however, we do not think that it would be necessary to also specify the Director of the Compensation and Pension Service in the formal charter.

Since the early planning stages of the advisory committee, we have envisioned that it would be a representative body which would include former prisoners of war from the three periods of war you mentioned—World War II, the Korean conflict, and the Vietnam era. We intend to adhere to this approach.

The proposals concerning the charter reflecting membership of POWs on the committee, the addition of the Chief Benefits Director in the reporting process, and the review of compensation issues would require substantial revision of the formal charter which has recently been approved. The proposed revision would also require review and approval by the Committee Management Secretariat (and the Office of Management and Budget) prior to implementation of any changes. A formal mechanism exists for appraisal and development of recommendations of this type. Paragraph 1 of Transmittal No. 5 of OMB Circular A-63 provides for a comprehensive review of each advisory committee annually. Transmittal No. 5 specifies that this review will result in an agency determi-

nation of whether "to continue, merge, terminate, or revise responsibilities of, as appropriate, each advisory committee established by the agency." We propose to include the suggestions which you have made within the review of the Advisory Committee on Former Prisoners of War during our annual review, which will be conducted within several months. The annual review is an appropriate forum for clarification of any issues which may have an impact on the responsibilities, objectives and scope of the Advisory Committee on Former Prisoners of War. I should also mention that our emphasis on the health care and compensation needs of former POWs and the implementation of the POW study report's recommended administrative actions add to our awareness of the interrelationship between compensation issues, health care and the tasks of the advisory committee.

Thank you very much for providing us with the benefit of your thoughts and suggestions on the advisory committee charter and for the opportunity for continued dialogue on issues concerning former prisoners of war.

Sincerely,

MAX CLELAND,
Administrator.

Mr. CRANSTON. Mr. President, I realize that the VA has, as indicated in the Administrator's December 3, 1980, letter to me, obtained approval for the administrative establishment of the committee from the General Services Administration and that on February 25 a notice was published in the Federal Register indicating that the VA, GSA, and the Office of Management and Budget have determined that establishment of an advisory committee on the needs of ex-POW's is necessary and in the public interest. However, I believe it is important that the committee be given a permanent, legislative authority so that it is assured of existence beyond the 2-year limit imposed on advisory committees by the Federal Advisory Committee Act—Public Law 92-463—and that its responsibilities to the Administrator and the Congress that I have described be specified in law and carried out. Otherwise, the existence of such a committee would depend upon the prevailing mood of the Chief Executive and would not derive from congressional sanction. The freedom of such a committee to make its evaluations and recommendations without undue executive branch pressure would be substantially enhanced by such statutory charter for its activities.

CONCLUSION

Mr. President, I ask unanimous consent that the text of the bill and a document showing the changes it would make in current law be inserted in the RECORD at this point.

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

S. 670

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 "Ex-Prisoners of War Benefits Improvement Act of 1981".

SEC. 2. Section 312 of title 38, United States Code, is amended by amending subsections (b) and (c) to read as follows:

"(b) For the purposes 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 was held as a prisoner of war the disease of—

"(1) Avitaminosis,
"(2) Beriberi (including heart disease),
"(3) Helminthiasis,
"(4) Malnutrition (including optic atrophy associated malnutrition),
"(5) Pellagra,
"(6) Any other nutritional deficiency, or
"(7) Psychosis or neurosis

which became manifest as a disability to a degree of 10 per centum or more after such 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.

"(c)(1) For the purposes of this title and subject to section 313 of this title, in the case of any veteran who, while serving in the active military, naval, or air service was held as a prisoner of war, experienced conditions of internment that the Administrator has determined, in accordance with guidelines which the Administrator shall prescribe for resolving the claims for compensation of veterans who are former prisoners of war, generally can be reasonably expected to result in the type of disability from which such veteran is suffering and such disability shall be considered to have been incurred or aggravated by such service if such disability became manifest to a degree of 10 per centum or more, notwithstanding that there is no record of such disability during the period of service.

"(2) In developing the guidelines required to be prescribed by paragraph (1) of this subsection and in developing any revisions of such guidelines, the Administrator shall consult with the Advisory Committee on Former Prisoners of War established pursuant to section 221 of this title and with other organizations that the Administrator determines to be concerned with the well-being of disabled veterans and veterans who are former prisoners of war. Not later than sixty days after prescribing or revising such guidelines, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report describing and explaining the provisions of such guidelines or of the revisions made therein, as the case may be, and describing the activities that were undertaken in compliance with the provisions of the preceding sentence with respect to the prescribing or revising of the guidelines.".

SEC. 3. Section 612(1)(3) of title 38, United States Code, is amended by inserting before the period at the end "and to any veteran who is a former prisoner of war".

SEC. 4. (a) Chapter 3 of title 38, United States Code, is amended by inserting after section 220 the following new section: "§221. Advisory committee on former prisoners of war

"(a)(1) The Administrator shall appoint 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, shall serve for terms to be determined by the Administrator, not to exceed three years, and shall include—

"(A) veterans who are former prisoners of war, including at least one veteran from each theater of operations for each period of war occurring after December 6, 1941; and

"(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, psychology, nutrition, psychiatry, and internal medicine.

"(3) The Committee shall also include as ex officio members the Chief Medical Director and the Chief Benefits Director, or their designees.

"(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 to veterans who are former prisoners of war and the compensation, health-care, and rehabilitation needs of such veterans.

"(c) Not later than July 1, 1982, and not later than July 1 of each even-numbered 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 and shall include in each such report an assessment of the compensation, health-care, and rehabilitation needs of such veterans, 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 actions, as the Committee determines appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee determines appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.".

(b) The table to 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.".

CHANGES IN EXISTING LAW PROPOSED TO BE MADE BY S. 670

Changes in existing law proposed to be made by the bill 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—VETERANS' BENEFITS

* * * * *

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 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 appoint 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, shall serve for terms to be determined by the Administrator, not to exceed three years, and shall include—

(A) veterans who are former prisoners of war, including at least one veteran from each theater of operations for each period of war occurring after December 6, 1941; and

(B) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, psychology, nutrition, psychiatry, and internal medicine.

(3) The Committee shall also include as ex officio members the Chief Medical Director and the Chief Benefits Director, or their designees.

(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 to veterans who are former prisoners of war and the compensation, health-care, and rehabilitation needs of such veterans.

(c) Not later than July 1, 1982, and not later than July 1 of each even-numbered 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 and shall include in each such report an assessment of the compensation, health-care, and rehabilitation needs of such veterans, 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 actions, as the Committee determines appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee determines appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.

* * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

§ 312. Presumptions relating to certain diseases and disabilities

* * * * *

(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.]

For the purposes 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 was held as a prisoner of war the disease of—

(1) Avitaminosis,

(2) Beriberi (including heart disease),

(3) Helminthiasis,

(4) Malnutrition (including optic atrophy associated malnutrition),

(5) Pellagra,

(6) Any other nutritional deficiency, or

(7) Psychosis or neurosis

which became manifest as a disability to a degree of 10 per centum or more after such 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.

(c) [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), the disease of—

(1) Avitaminosis,

Beriberi (including beriberi heart disease),

Chronic dysentery,

Helminthiasis,

Malnutrition (including optic atrophy associated with malnutrition),

Pellogra, 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;

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.]

(1) For the purposes of this title and subject to section 313 of this title, in the case of any veteran who, while serving in the active military, naval, or air service was held as a prisoner of war, experienced conditions of internment that the Administrator has determined, in accordance with guidelines which the Administrator shall prescribe for resolving the claims for compensation of veterans who are former prisoners of war, generally can be reasonably expected to result in the type of disability from which such veteran is suffering and such disability shall be considered to have been incurred or aggravated by such service if such disability became manifest to a degree of 10 per centum or more, notwithstanding that there is no record of such disability during the period of service.

(2) In developing the guidelines required to be prescribed by paragraph (1) of this subsection and in developing any revisions of such guidelines, the Administrator shall consult with the Advisory Committee on Former Prisoners of War established pursuant to section 221 of this title and with other organizations that the Administrator determines to be concerned with the well-being of disabled veterans and veterans who are former prisoners of war. Not later than sixty days after prescribing or revising such guidelines, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report describing and explaining the provisions of such guidelines or of the revisions made therein, as the case may be, and describing the activities that were undertaken in compliance with the provisions of the preceding sentence with respect to the prescribing or revising of the guidelines.

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 612. Eligibility for medical treatment

* * * * *

(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 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 discharged 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.

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).

(g) Where any veteran is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance, the Administrator, within the limits of Veterans' Administration facilities, may furnish the veteran such medical services as the Administrator finds to be reasonably necessary.

(h) The Administrator shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11, or increased pension as a veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Administrator shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

(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 disability rated as service-connected *and to any veteran who is a former prisoner of war.*

(4) To any veteran being furnished medical services under subsection (g) of this section.

By Mr. PELL (for himself, Mr. GLENN, Mr. GOLDWATER, and Mr. HUDDLESTON):

S. 671. A bill to amend section 402 of title 23, United States Code, relating to establishment by each State of comprehensive alcohol-traffic safety programs as part of its highway safety program;

to the Committee on Commerce, Science, and Transportation.

ESTABLISHMENT OF COMPREHENSIVE ALCOHOL-TRAFFIC SAFETY PROGRAMS

Mr. PELL. Mr. President, I am pleased to join today with Senators GLENN, GOLDWATER, and HUDDLESTON in launching a campaign against America's No. 1 highway safety problem: drunk driving.

This is an easy problem to dismiss as having little relevance in our daily lives—until a drunk driver touches your life or the life of someone you know. I learned this all too well just a few years ago, when in the space of 18 months, two of my valued aides were killed in separate accidents due to the actions of drunk drivers.

Both accidents were well publicized, and—just as when any accident occurs involving drinking and the loss of young lives—there was a sense of outrage and, on the part of some, a call for swifter, stronger penalties. But all too often, except for the immediate families and friends of those killed, the image of the tragic accident fades quickly, along with the recognition that our laws must be changed.

As a legislator, the loss of my two aides caused me to consider whether the Federal Government is truly powerless to attack the drunk driver problem. I recognize that any legislative effort will fail without a major change in the American public's acceptance of drinking and driving. But I am convinced that once people realize the odds of a drunk driver affecting their own life, or that of a loved one, that popular attitudes will change, as they have in other countries. Consider a few statistics:

According to the National Highway Traffic Safety Administration, 1 of every 100 infants born this year can expect to die in an alcohol-related traffic accident.

Of all fatal highway accidents, which number consistently between 50,000 and 55,000 each year, slightly more than half are the result of the actions of drunk drivers.

Six of every ten drivers who kill themselves in single-vehicle accidents are drunk at the time. In the 16 to 24 age group alone, alcohol is responsible for 8,000 highway deaths each year, and causes an additional 40,000 young people to be injured, many of them crippled or impaired for life.

I believe the Federal Government can encourage State and local governments to expand enforcement against drunk drivers, and at the same time establish a strong national deterrent which will put every drinking driver on notice that he or she can expect mandatory punishment wherever an arrest occurs. The legislation I am introducing today attacks the drunk driving problem in four key areas:

First. Mandatory sentencing: The cases involving the deaths of my own staff members convinced me of the lack of uniformity in State laws, and the high probability that convicted drunk drivers will receive suspended or deferred sentences from the courts, or some form of probation. Drunk drivers must be on notice that a conviction for this life-threatening offense will involve a mandatory deprivation of their personal liberty. My bill would mandate enforcement programs in each of the States requiring that any person found driving with a BAC level—percentage of alcohol by weight as determined by a blood test—of 0.10 percent or higher shall be deemed to be driving while under the influence of alcohol.

First time drunk driver offenders shall be sentenced to perform a minimum of 10 days of community service, as the alternative and equivalent of jail. This would be a minimum standard, to which the States could add fines or stronger punishment to comport with local standards.

Those persons convicted of drunk driving two or more times within a 5-year period would be sentenced to a mandatory minimum jail sentence of 10 days in jail. This means no suspended or deferred sentences, and no probation.

Second. Rehabilitation and alcohol safety: No effort to attack the drunk driver effort is realistic unless greater emphasis is placed on identifying and rehabilitating the problem drinker. My bill requires that, in addition to the aforementioned criminal penalties, convicted drunk drivers be required to participate in a traffic safety program, or a treatment program for problem drinkers. My own State of Rhode Island, for instance, has a highly innovative and successful "DWI Counterattack School," which is mandatory for all convicted drunk drivers.

Third. Uniform procedures for license suspension and revocation: One of the most effective levers against the drinking driver is the threat of loss of the driving privilege. My bill would establish minimum standards for license suspension and revocation, with the provision for first time offenders to obtain restricted "daytime only" licenses for work-related or other essential driving purposes.

Fourth. Better recordkeeping: One of the most frustrating parts of the drunk driver problem is the inability of the courts to identify repeat offenders. Because of the lack of adequate records, it is possible for some drunk drivers to be arrested repeatedly in different jurisdictions within a State, or in different States, without ever being identified by the courts as habitual offenders. My bill would encourage the establishment of driver record systems, readily accessible to all State courts, which are capable of identifying repeat offender drunk drivers.

In that regard, improved efforts are necessary at the Federal level to help the courts identify drivers whose licenses have been suspended or revoked in other States, because of drunk driver convictions. I am today introducing separate legislation which would upgrade and computerize the functions of the National Driver Register, within the Department of Transportation. This legislation has been introduced in the House by Representative JAMES OBERSTAR of Minnesota, and would go a long way toward helping the courts and licensing agencies keep drunk drivers off our highways.

My bill does not create any additional Federal programs or bureaucracy, and does not involve the appropriation of new Federal funds. By fostering national uniformity in an area where tremendous differences currently exist in State requirements, it demonstrates a seriousness of purpose and resolve to attack a problem that is truly national in scope.

My bill goes hand in hand with stepped up efforts already underway in many States to increase public awareness of the drinking driver problem. As an indispensable part of a comprehensive national effort including preventative education, my legislation has been endorsed by the National Safety Council, the American Council on Alcoholism, and a number of other organizations concerned with highway safety.

The time has come for our society to put an end to the needless slaughter of human life on the Nation's highways. We have the highest rate of alcohol-related traffic fatalities in the world—a problem that is consuming over $5 billion each year in medical payments and property damage, to say nothing of the immeasurable toll in broken human lives. Driving safety is much like a chain; it is only as strong as the weakest link. As long as the Government can estimate that 1 out of every 10 drivers on Friday and Saturday nights is legally drunk, none of us can be safe from the ticking time bomb represented by the drunk driver. My legislation is a realistic response to a problem in which congressional action is long overdue and I urge my colleagues to join Senators GLENN, GOLDWATER, and HUDDLESTON in the campaign against drunk driving.

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

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

S. 671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(b)(1) of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(H) provide for comprehensive alcohol-traffic safety programs to reduce the incidence of driving while under the influence of alcohol, including (i) mandatory enforcement programs which require, at a minimum, that any person found to be driving a motor vehicle on a public highway when the percentage of alcohol by weight in the blood of such person is 0.10 percent or higher shall be deemed to be driving while under the influence of alcohol for purposes of such programs and that any person convicted of driving while under the influence of alcohol (I) perform not less than 10 days of community service and, in the case of a person convicted of driving while under the influence of alcohol more than once in any 5-year period, such person be imprisoned for not less than 10 days for each such conviction after the first, (II) participate in a traffic safety or alcohol treatment program, and (III) have his license or privilege to operate a motor vehicle suspended or revoked for not less than one year, except that, in the case of a first offender who needs such license or privilege for work-related or other essential purposes, the license or privilege of such offender may be restricted for not less than one year in lieu of such suspension

or revocation, (ii) alcohol treatment programs, (iii) traffic safety programs, (iv) a driver record system which identifies repeat offenders and is readily accessible to the courts in such State, and (v) monitoring programs to assure compliance with court ordered imprisonment and community service.".

SEC. 2. The amendment made by the first section of this Act shall become effective on the day after the last day of the two-year period beginning on the date of enactment of this Act.

● Mr. GLENN. Mr. President, I am pleased to join Senators PELL and GOLDWATER in sponsoring S. 671. Its prompt enactment will be a strong step toward the elimination of alcohol related deaths on our Nation's highways.

The statistics tell a gruesome story: 25,000 Americans die each year in alcohol related accidents, and tens of thousands more are injured. That means 70 deaths today, Mr. President, 70 deaths tomorrow and the next day. This is a tragic and senseless drain on our Nation, and we must put a stop to it.

Drunk driving deaths can be reduced. Years of experience at the Federal, State, and local levels suggest that the most effective means of attacking the problem is through a program built upon public information, strict enforcement, improved adjudication, assured penalties, and coordinated management. These are like pieces of a puzzle, and our legislation is designed to put the pieces together.

Simply put, the legislation would hinge a State's receipt of Federal highway traffic safety funds on the establishment of a coordinated alcohol traffic safety program. These programs would be buttressed by mandatory minimum sentences for those convicted of drunk driving, providing a nationwide deterrent against this most serious offense. First offenders would serve 10 days in a community service program and would lose their driving privilege for up to 1 year. Repeaters would be dealt with more harshly. Those convicted two or more times within 5 years would serve 10 days in jail, lose their license for at least 1 year, be enrolled in an alcohol treatment program, and be subject to whatever additional penalties the States may determine are warranted.

Mr. President, the word to stress in describing S. 671 is coordination. At the present time, a full scale crackdown on drunk driving in one jurisdiction may go unrecognized and unappreciated in neighboring jurisdictions. Local prosecutors and judges are often unable to handle the increased caseload such crackdowns produce. In fact, judges are too often unaware of whether a drunk driving case involves a first offender or a repeater, and may have no means of obtaining such information.

Such facts are not intended to slight the efforts of State enforcement officials. These men and women are doing the best possible job with the tools available to them. The effectiveness of their efforts is dampened, not by a lack of will or expertise, but by a lack of coordination and uniformity.

Let me take a few moments to explain what our bill is not. It is not another big money Federal program. No additional funds are involved in excess of those already being disbursed through the Department of Transportation's highway traffic safety program. Nor does the bill extend the heavy hand of the Federal Government into the management of a State's affairs. Every State currently has an alcohol traffic safety program, and every one of these programs will continue to be managed by local officials. Our bill simply injects a certain amount of uniformity into these programs, so the right hand knows what the left is doing and all hands are working toward the same end. And it provides a uniform, blanket deterrent against drunk driving in the form of mandatory minimum sentences.

Nor does this legislation conflict with the President's policies. Indeed, the White House budget package released on February 18, in referring to the highway traffic safety program, specifically mentions that grantees should "channel resources into effective traffic programs such as alcohol safety * * *."

After 250,000 highway deaths in alcohol related accidents during the last decade, it should be clear that drunk driving is everybody's business. No community is immune. Who among us has not lost a family member, relative, or friend in this senseless manner? It is time to join forces and do something about it.●

By Mr. PELL:

S. 672. A bill to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals; to the Committee on Commerce, Science, and Transportation.

NATIONAL DRIVER REGISTER ACT OF 1981

Mr. PELL. Mr. President, I am pleased today to introduce a bill that is of vital importance in the field of highway safety. This bill is identical to H.R. 2052, and should truly be known as the "Oberstar bill," after its chief sponsor and driving force in the House, Congressman JAMES L. OBERSTAR of Minnesota.

My major concern in the highway safety area has been the threat posed by the drunk driver, and I have introduced comprehensive legislation aimed at ending the slaughter on our highways due to the actions of drinking drivers. A very closely related problem is safety threat represented by the over 20 million drivers on the road today who have had their driving licenses suspended or revoked, many of them for driving while under the influence of alcohol.

The Oberstar bill will help the States prevent the issuance of a license to an individual whose driving privilege has previously been denied or suspended in another State. It will streamline the presently outdated National Driver Register within the Department of Transportation, which for over 20 years has relied on direct mail exchanges between the States for a national clearinghouse to help identify individuals with unsafe driving records.

The files contained in the National Driver Register are limited to those drivers whose licenses have been suspended, revoked, or denied by one or more States. The States voluntarily participate in the NDR by mailing in a notification when an individual's driving privilege has been revoked or suspended, and in turn requesting checks on applicants for original or renewal licenses. Inquiries from the State motor vehicle registeries are received by the NDR through the mail and positive identification reports are mailed back, a process taking about 2 weeks, if everything works well.

Since Congress created the NDR in 1960, its level of effectiveness has been diminishing steadily. Because of the reliance on time-consuming mail exchanges, a number of States have ceased to rely on the Register, especially with the advent of automated driving licensing systems which enable motor vehicle registrars to provide over-the-counter service to applicants. As participation in the NDR has decreased, the accuracy and reliability of its information has decreased, to the point that the National Driver Register is becoming an anachronism.

Improved driver records are an indispensible part of a sensible national highway safety program. At present, there is little to stand in the way of the person with a revoked license who is seeking the driving privilege in another State. Many of the individuals with revoked or denied licenses are chronic offenders responsible for multiple traffic accidents.

A tragic example of the scope of this problem is the story of a southern New Englander named Kenneth Nathanson, who is now the leader of a nationwide citizens group supporting improved driver records. Six years ago, Mr. Nathanson and his family were driving through Rhode Island, on their way to a holiday reunion in nearby Massachusetts. Their automobile was struck from behind by a truck driver, killing their 14-year-old daughter. The truck driver has a record of 25 driving violations in a period of 8 years, including a license suspension 3 months earlier by the State of New Jersey. At the time of the accident which claimed the life of young Kamy Nathanson, the truck driver was using a license he had obtained from the State of Arizona, so he could continue to operate his truck on the highways. An improved NDR system would prevent the issuance of the driving privilege to this type of chronic offender.

The Oberstar bill would convert the existing National Driver Register to an online, rapid response communications network, significantly improving the exchange of problem driver information between the States. Under this proposal, all substantive data on the driver's history would remain in the State of record—only identification data and the name of the State would be maintained by the Register. Incoming inquiries would be referred electronically to the designated State of record, which would then provide an abstract of the driver's record to the State where the new application is sought. The driver history summary would be furnished to the in-

quiring State, by means of the data processing facilities of the Register, within 5 minutes. The Department of Transportation has concluded that this "problem driver pointer system" is the least expensive alternative for providing an effective national clearinghouse on driver records.

Under the improved NDR, the authority for licensure of drivers will remain with the States, and State driver licensing officials will continue to make the final judgment on whether to issue a license. The electronic NDR would only facilitate the exchange of information between different licensing jurisdictions, but at an estimated one-fifth of the cost of the present mail exchange system.

The improved NDR would fully comply with the Privacy Act of 1974, especially in providing criminal penalties for the unlawful use of information obtained through the NDR, and provisions relating to the accuracy and timeliness of data. An individual would continue to have the right to obtain information on his own record as contained in the Register, and to correct records in the event of inaccuracies. The improved NDR would not conflict with the individual's right to appeal any license denial through existing State law procedures.

An improved, more responsive NDR has long had the support of a wide range of interest groups, including State motor vehicle officials, national trucking organizations, and citizen highway safety organizations. The legislation I am introducing is identical to H.R. 2052, and I urge my colleagues to join me in supporting this positive step in assisting the States to carry out their licensing responsibilities.

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

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

S. 672

SHORT TITLE

SECTION 1. This Act may be cited as the "National Driver Register Act of 1981".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "Advisory Committee" means the National Driver Register Advisory Committee established in section 9(a);

(2) the term "alcohol" has the meaning given such term by the Secretary of Transportation under regulations prescribed by the Secretary;

(3) the term "chief driver licensing official" means the official in each State who is authorized to (A) maintain any record regarding any motor vehicle operator's license issued by such State; and (B) grant, deny, revoke, or cancel any motor vehicle operator's license issued by such State;

(4) the term "controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(5) the term "highway" means any road or street;

(6) the term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway, except that such term does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail or rails;

(7) the term "motor vehicle operator's license" means any license issued by a State that authorizes an individual to operate a motor vehicle on a highway;

(8) the term "participating State" means any State that has notified the Secretary of its participation in the Register system, pursuant to section 5;

(9) the term "Register" means the National Driver Register established under section 4(a);

(10) the term "Secretary" means the Secretary of Transportation;

(11) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(12) the term "State of record" means any State that has transmitted to the Secretary, pursuant to section 6, any report regarding any individual who is the subject of a request for information made under section 7.

REPEAL OF EXISTING STATUTE

SEC. 3. The Act entitled "An Act to provide for a register in the Department of Commerce in which shall be listed the names of certain persons who have had their motor vehicle operator's licenses revoked" (Public Law 86-660; 74 Stat. 526) hereby is repealed, effective at the expiration of the 4-year period following the date of the enactment of this Act.

ESTABLISHMENT OF REGISTER

SEC. 4. (a) The Secretary shall establish and maintain a register to be known as the "National Driver Register", to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The Register shall contain an index of the information that is reported to the Secretary under section 6, and shall be designed to enable the Secretary to—

(1) electronically receive any request for information made by the chief driver licensing official of any participating State under section 7;

(2) electronically refer such request to the chief driver licensing official of any State of record; and

(3) electronically relay to such chief driver licensing official of a participating State any information provided by any chief driver licensing official of a State of record in response to such request.

(b) The Secretary shall not be responsible for the accuracy of any information relayed to the chief driver licensing official of any participating State under subsection (a)(3), except that the Secretary shall maintain the Register in a manner that ensures against any inadvertent alteration of such information during such relay.

(c)(1) The Secretary shall determine whether any information contained in any record maintained under the Act described in section 3 shall be maintained in the Register, except that no such information shall be maintained in the Register after the expiration of the 6-year period following the date of the enactment of this Act if maintaining such information is inconsistent with the provisions of this Act. Any other record maintained under the Act described in section 3 shall be disposed of in accordance with chapter 33 of title 44, United States Code.

(2) The Secretary shall not maintain any report or information in the Register for more than a 7-year period after the date such report or information is entered into the Register. Such report or information shall be disposed of in accordance with chapter 33 of title 44, United States Code.

(d) The Secretary shall assign to the administration of this Act such personnel as may be necessary to ensure the effective functioning of the Register system.

(e) The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

STATE PARTICIPATION

SEC. 5. (a) Any State may become a participating State under this Act by notifying the Secretary of its intention to be bound by the provisions of section 6.

(b) Any participating State may terminate its status as a participating State under this Act by notifying the Secretary of its withdrawal from participation in the Register system.

(c) Any notification made by a State under subsection (a) or (b) shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

REPORTS BY CHIEF DRIVER LICENSING OFFICIALS

SEC. 6. (a) The chief driver licensing official in each participating State shall, before the end of the applicable period established in subsection (c), transmit to the Secretary a report containing the information required in subsection (b) regarding any individual who—

(1) is denied a motor vehicle operator's license by such State, or is granted such a license by such State following such denial;

(2) has his motor vehicle operator's license cancelled, revoked, or suspended by such State, or has such license reinstated following such cancellation, revocation, or suspension; or

(3) is convicted in such State of, or, following such conviction, is acquitted or pardoned of—

(A) a traffic offense comprising the operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) a traffic offense associated with a fatal traffic accident, reckless driving, or racing on the highways; or

(C) any other traffic offense, if the Secretary determines, in accordance with regulations prescribed by the Secretary, that information regarding any individual who is convicted of such traffic offense should be listed in the Register in order to assist any person authorized by section 7 to receive information by means of the Register system.

(b) Any report regarding an individual that is transmitted by a chief driver licensing official pursuant to subsection (a) shall contain—

(1) the legal name, date of birth (including day, month, and year), and sex of such individual;

(2) the name of the State transmitting such report; and

(3) the social security account number and the motor vehicle operator's license number of such individual; except that any report, concerning an occurrence specified in paragraph (1), (2), or (3) of subsection (a) that occurs during the 2-year period preceding the date on which such State becomes a participating State, shall be sufficient if it contains all such information that is available to such chief driver licensing official on such date.

(c) Any report required to be transmitted by a chief driver licensing official of a State under subsection (a) shall be transmitted to the Secretary—

(1) not later than 30 days after any occurrence specified in paragraph (1), (2), or (3) of subsection (a) that is the subject of such report, if the date of such occurrence is after the date on which such State becomes a participating State; or

(2) not later than the expiration of the 2-year period following the date on which such State becomes a participating State, if such report concerns an occurrence specified in paragraph (1), (2), or (3) of subsection

(a) that occurs during the 2-year period preceding such date.

(d) Nothing in this section shall be construed to require any State to report any information concerning any occurrence that occurs before the 2-year period preceding the date on which such State becomes a participating State.

ACCESSIBILITY OF REGISTER INFORMATION

SEC. 7. (a)(1) For purposes of fulfilling his duties with respect to driver licensing, driver improvement, or highway safety, any chief driver licensing official of a participating State may request the Secretary to electronically refer any request for information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

(2) The Secretary shall electronically relay to any chief driver licensing official of a participating State who requests information under paragraph (1) any information received from the chief driver licensing official of any State of record regarding an individual identified pursuant to paragraph (1), except that the Secretary may refuse to relay any information to such official if he is the chief driver licensing official of a participating State that is not in compliance with the provisions of section 6.

(b)(1) The Administrator of the Federal Aviation Administration, for purposes of requesting information regarding any individual who has applied for, or received, a license to pilot an aircraft, may request the chief driver licensing official of the State in which the primary office of the Administrator is located, if such State is a participating State, to obtain information under subsection (a) regarding such individual. The Administrator may receive any such information obtained by such chief driver licensing official regarding such individual.

(2) The Chairman of the National Transportation Safety Board, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by the Board, may request the chief driver licensing official of the State in which the primary office of the Chairman is located, if such State is a participating State, to obtain information under subsection (a) regarding such individual. The Chairman may receive any such information obtained by such chief driver licensing official regarding such individual.

(3) Any employer of any individual who is employed as a driver of a motor vehicle, or any prospective employer of any individual who seeks employment as a driver of a motor vehicle, may request the chief driver licensing official of the State in which the individual involved is employed, or seeks employment, if such State is a participating State, to obtain information under subsection (a) regarding such individual. Such employer or prospective employer may receive any such information obtained by such chief driver licensing official regarding such individual.

(4) Any individual, for purposes of requesting information regarding such individual, may request the chief driver licensing official of any participating State to obtain information under subsection (a) regarding such individual. Such individual may receive any such information obtained by such chief driver licensing official regarding such individual.

(5) Any request made under this subsection shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

(c) The Secretary shall permit the use of any information maintained by the Secretary relating to the operation of the Register and any information contained in the Register, other than information specified in paragraph (1) or (3) of section 6(b), by any person who requests such information for purposes of conducting statistical research relating to the operation or utilization of the Register. Such person shall pay all direct costs of the processing of such request. Any such request shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

(d) Any request for, or receipt of, information by means of the Register system shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal law, except that—

(1) the Secretary shall not relay, or otherwise transmit, information specified in paragraph (1) or (3) of section 6(b) to any person not authorized by this section to receive such information;

(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

(3) any receipt of information by any person authorized by this section to receive information shall be considered to be a disclosure for purposes of subsection (c) of section 552a of title 5, United States Code, except that the Secretary shall not be required to retain the accounting made under paragraph (1) of such subsection for more than a 7-year period after the date of such disclosure.

CRIMINAL PENALTIES

SEC. 8. (a) Any person, other than an individual described in section 7(b)(4), who receives under section 7 information specified in paragraph (1) or (3) of section 6(b), the disclosure of which is not authorized by section 7, and who, knowing that disclosure of such information is not authorized, willfully discloses such information, shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(b) Any person who knowingly and willfully requests or obtains under false pretenses information specified in paragraph (1) or (3) of section 6(b) from any person who receives such information under section 7 shall be fined not more than $10,000 or imprisoned not more than one year, or both.

ADVISORY COMMITTEE

SEC. 9. (a) There hereby is established a National Driver Register Advisory Committee, which shall advise the Secretary concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records.

(b) The Advisory Committee shall consist of 15 members, appointed by the Secretary, as follows:

(1) 3 members from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, and who are not employees of the Federal Government or of any State; and

(2) 12 members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

(c)(1) Except as provided in paragraph (2) and paragraph (3), each member of the Advisory Committee shall be appointed for a term of 3 years.

(2) Of the members first appointed—

(A) one of the members described in subsection (b)(1) and four of the members described in subsection (b)(2) shall be appointed for a term of one year;

(B) one of the members described in subsection (b)(1) and four of the members described in subsection (b)(2) shall be appointed for a term of 2 years; and

(C) one of the members described in subsection (b)(1) and four of the members described in subsection (b)(2) shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(3) Any vacancy in the Advisory Committee shall be filled in the same manner as original appointments. Any member appointed to fill any vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term until his successor has taken office.

(d) The members of the Advisory Committee shall serve without compensation, but the Secretary is authorized to reimburse such members for all reasonable travel expenses incurred by them in attending the meetings of the Advisory Committee.

(e)(1) The Advisory Committee shall meet not less than once each year.

(2) The Advisory Committee shall elect a Chairman and a Vice Chairman from among the members of the Advisory Committee.

(3) Eight members of the Advisory Committee shall constitute a quorum.

(4) The Advisory Committee shall meet at the call of the Chairman or a majority of the members of the Advisory Committee.

(f) The Advisory Committee may receive from the Secretary such personnel, penalty mail privileges, and similar services, as the Secretary considers necessary to assist it in performing its duties and functions under this section.

(g) Not less than once each year, the Advisory Committee shall prepare and submit to the Secretary a report concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records. Such report shall include any recommendations of the Advisory Committee for changes in the Register system.

(h) The Advisory Committee shall be exempt from the requirements of section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

REPORT BY SECRETARY

SEC. 10. Not later than the expiration of the 9-year period following the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the extent and level of participation in the Register system, and the effectiveness of such system in the identification of unsafe drivers. Such report shall include any recommendations of the Secretary concerning the desirability of extending the authorization of appropriations for this Act beyond the period of authorization provided in section 11.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal year 1981, and for each of the succeeding 9 fiscal years.

By Mr. DOMENICI:

S. 673. A bill to amend the Internal Revenue Code of 1954 to provide a 5 barrel-per-day exemption from the windfall profit tax in the case of stripper well oil, and for other purposes; to the Committee on Finance.

FIVE-BARREL-PER-DAY EXEMPTION WINDFALL PROFIT TAX

Mr. DOMENICI. Mr. President, the bill I am introducing would allow a 5-barrel-per-day exemption from the windfall profit tax for stripper oil wells. A stripper well is an oil well that does not produce more than 10 barrels of oil per day. These wells are normally in oilfields that are almost depleted. As these wells

decline in production, the cost of producing the wells exceeds their revenues, often requiring the wells to be abandoned. The purposes of this amendment is to provide additional economic incentive to keep stripper wells in production so that the maximum amount of oil can be recovered.

The Congress recognized the need to provide special treatment for stripper wells in 1973 when stripper wells were exempt from price controls. This exemption allowed wells that produced as little as two or three barrels per days to remain in production. When the Senate passed the windfall profit tax, stripper wells were exempt from this excise tax. Unfortunately, the conference dropped the stripper well exemption. The Senate also passed a two-barrel-a-day exemption for stripper wells on the reconciliation bill but the exemption did not survive conference.

My colleagues will remember that the "theory" of the windfall profit tax was to have the Federal Government recover some of the increased revenues of oil producers resulting from former President Carter's order to gradually decontrol the price of oil. The idea was to tax only the difference between the precontrol price and the postdecontrol price. Because the Congress had already recognized the need for economic incentives for the operation of stripper wells, the price of oil from these wells had already been decontrolled.

By placing a tax on the difference between the decontrolled price and an arbitrary base price established in the windfall profit tax, we effectively reduced the revenues to stripper well operators to levels below those received prior to decontrol. The Interstate Oil Compact Commission (IOCC), an organization of 30 oil and gas producing States, found that the rollback of net revenues to independent operators amounts to 17 percent while major operators experience a 34 percent rollback.

In their report "the effects of the crude oil windfall profits tax on recoverable crude oil resources," the IOCC goes on to calculate that this rollback in revenues will reduce the operating well lifes for stripper wells by 45 years for independents and 8.1 years for majors. What does this mean? It simply means we have reduced the amount of recoverable oil in the United States by 356 million barrels because we will prematurely shut in wells which are not economic to produce.

Mr. President, the stripper wells of this country produce over 1 million barrels of oil per day. This is a resource that we cannot allow to slip away.

The second portion of this bill relates to injection wells, counting them as wells for determining a stripper property. The applicable energy statute, I believe, have always permitted injection and other production selected wells to be counted for stripper status determinations. But, it is necessary to clarify that counting injection wells specifically for windfall profit tax purposes has consistently been the intent of the Congress.

Mr. President, the last portion of the bill I introduce today is an effort to insure that the clear intent of the Congress when it passed the Crude Oil Windfall Profit Tax Act of 1980 is carried out with respect to one of the most successful domestic oil programs initiated by the Department of Energy.

I refer to the DOE's front-end tertiary program established in 1979 by section 212.78 of the DOE regulations. Under that program to date, approximately 350 qualifying tertiary projects have been initiated across the country for the purposes of extracting more oil from declining domestic fields than could be extracted utilizing primary or secondary methods of recovery.

Perhaps the major reasons for the success of this program are its simplicity and the absence of direct Government participation, intervention, or supervision. Through the front-end teritary program, the DOE simply allowed qualified producers to sell certain price-controlled crude oil at market prices to recoup specifically allowed expenses of certain teritary projects directed at increasing production from older, depleted domestic oil fields.

The Congress strongly endorsed this program in the Windfall Profit Tax Act by specifying that until October 1, 1981, the date of decontrol of crude oil under the decontrol schedule, front-end oil is either exempt from the tax or a tax refund is available for the windfall tax paid on front-end oil to the extent that qualifying expenditures exceed the amount actually recovered under the front-end financing program. The exemption is applicable to oil deregulated to finance a tertiary project controlled by independent producers, as defined in the act, and the refund mechanism is applicable to oil deregulated to finance a tertiary project not controlled by independent producers.

The Windfall Profit Tax Act, as everyone knows, is not without ambiguities and, unfortunately that is true with respect to the front-end tertiary provisions. It is generating some confusion and a great deal of legitimate concern on the part of producers, particularly independent producers who undertook expensive, risky tertiary projects fully expecting that the congressional promise of relief from the tax until October 1, 1981, would be kept.

Now, there is some cloud on that prospect as arguments are made that one or two words in the front-end tertiary provisions require that the promised relief from the tax be terminated because of the President's order decontrolling crude oil ahead of the schedule with which the Congress was working when it passed the Windfall Profit Tax Act.

For my part, I understood and supported the front-end tertiary provision on the basis that regardless of the date crude oil was decontrolled, producers establishing qualifying front-end projects could count on either being exempt from the tax or receiving an appropriate refund for sales for oil for recoupment purposes through September 30, 1981. In my opinion, then and now, that understanding is the only way to give meaning and effect to Congress expressed intention that for any oil to be classified as front-end oil, it must be removed from the premises before October 1, 1981. There were no optional deadline dates for removal specified, such as either October 1, 1981, or the end of price controls.

I continue to feel strongly that this relief from the windfall profit tax is essential to make good this Government's commitment to those who undertook expensive and risky tertiary projects and while I feel that existing law allows current tax treatment of front-end oil to be continued until October 1, 1981, I want to remove any lingering questions.

As a final point, it should be noted that, compared with previous and existing projections of revenue from the windfall profit tax, there would be no reduction as a result of this bill. That is true because such projections are based on what I feel are the clear intentions of the Congress—the current tax treatment for front-end oil continuing until October 1, 1981.

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

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

S. 673

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

SECTION 1. STRIPPER WELL OIL EXEMPTION.

(a) IN GENERAL.—Section 4991(b) of the Internal Revenue Code of 1954 (relating to categories of oil) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a comma and the word "and", and

(3) by adding at the end thereof the following new paragraph:

"(5) any exempt stripper well oil.".

(b) EXEMPT STRIPPER WELL OIL DEFINED.—Section 4994 of such Code (relating to definitions and special rules relating to exemptions) is amended by adding at the end thereof the following new subsection:

"(f) EXEMPT STRIPPER WELL OIL.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'exempt stripper well oil' means that amount of domestic crude oil produced during a quarter from a stripper well property, within the meaning of the June 1979 energy regulations, which does not exceed the qualified amount for such stripper well property.

"(2) QUALIFIED AMOUNT.—For purposes of this subsection, the qualified amount for a stripper well property for any quarter is the product of—

"(A) 5 barrels, multiplied by

"(B) the number of days in such quarter.

"(3) PRODUCTION EXCEEDS QUALIFIED AMOUNT.—If the production of oil from a stripper well property for a quarter exceeds the qualified amount for such stripper well property, the qualified amount shall be allocated on the basis of removal prices of the oil produced from such stripper well property during such quarter, beginning with the highest of such prices.".

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 4991(d)(1) of such Code (defining tier 2 oil) is amended to read as follows:

"(A) any oil from a stripper well property (within the meaning of the June 1979 energy regulations) which is not exempt stripper well oil, and".

SEC. 2. DEFINITION OF STRIPPER WELL PROPERTY.

Section 4996 of the Internal Revenue Code of 1954 (relating to other definitions and special rules) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) STRIPPER WELL PROPERTY.—For purposes of determining whether a property is a stripper well property within the meaning of the June 1979 energy regulations, there shall be taken into account in determining the total number of wells on the property each well which—

"(1) is producing crude oil, or

"(2) is actively utilized for the purpose of injecting water or any other material into a producing reservoir for the purpose of enhancing crude oil recovery.".

SEC. 3. DEFINITION OF FRONT-END TERTIARY OIL.

Subparagraph (B) of section 4994(c)(4) of the Internal Revenue Code of 1954 (defining front-end tertiary oil) is amended by striking out "solely".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable periods beginning after December 31, 1980.

By Mr. THURMOND (for himself, Mr. HEFLIN, Mr. DECONCINI, Mr. SIMPSON, and Mr. EAST):

S. 675. A bill to establish a Federal Jurisdiction Review and Revision Commission; to the Committee on the Judiciary.

FEDERAL JURISDICTION REVIEW AND REVISION COMMISSION ACT

Mr. THURMOND. Mr. President, today I am introducing, along with the Senator from Alabama (Mr. HEFLIN), the Senator from Arizona (Mr. DECONCINI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from North Carolina (Mr. EAST), legislation to establish a Federal Jurisdiction Review and Revision Commission. The Commission would study the jurisdiction and limited sovereignty of the United States in relation to the jurisdiction and limited sovereignty of the States.

The bill is identical to legislation which I introduced during the final days of the last Congress. I offered the bill then as I do now because I believe that the legal system of this country is approaching a crisis through the growing confusion of jurisdiction between State and Federal courts.

I have often felt that perhaps the most important, but most ignored, amendment to the Constitution is the 10th amendment which reserves to the States and people all power not specifically granted to the Federal Government. If greater attention were paid to the 10th amendment, the caseload of the Federal courts would be more manageable and much of the misery and social dislocation we have brought upon ourselves could be avoided.

Last summer, in remarks before the American Law Institute, Chief Justice Warren Burger noted:

In the past decade Congress has enacted not less than 70 new statutes enlarging the jurisdiction of Federal courts. Many of these statutes expand Federal jurisdiction to cover relief already available in State courts. It is fair to say that the Federal courts, and ultimately, the Supreme Court, have tended to give expansive, rather than restricted, interpretation to these statutes, along with a narrowing of the scope of immunity of Government officials.

This commentary by the Chief Justice holds as true today as it did last summer; for in the interim, the situation has grown worse. Increasing caseloads in the Federal courts reveal a trend which could eventually lead to a total breakdown to traditional federalist principles as we know them.

The bill would establish a Commission made up of 16 members: 4 to be appointed by the President; 4 by the Senate; 4 by the House; and 4 by the Chief Justice of the United States. The membership shall be selected in a manner that will represent a broad range of interests, needs and concerns.

The Commission would be asked to study the relevant aspects of Federal and State court jurisdiction, including problems of substantive law, civil and criminal procedure, workload and caseload of the courts, case processing and State and Federal bars. It would also be asked to make recommendation for legislative action. The Commission will be in existence for only 2 years and is to issue a final report upon completion of its work.

Mr. President, often the creation of commissions simply leads to a report that ends up gathering dust on the shelf. I cannot believe, however, that the subject of this study will suffer that fate. The relationship between Federal and State courts is one that should have the attention of everyone interested in our judicial system.

As State courts surrender more and more jurisdiction to the Federal courts, traditional concepts of federalism are eroded. Federal courts were originally intended to deal only with unique and narrow disputes involving national rights and obligations, while State courts were left to deal with the day-to-day legal disputes of citizens. Interest in the development and nurturing of State courts may well diminish if all the emphasis is on Federal courts.

The ultimate question has been stated eloquently by the Honorable Laurence M. Cooke, Chief Judge of the State of New York. In a recent address at Fordham University School of Law in a John F. Sonnett Memorial Lecture, Judge Cooke stated:

The responsibility for providing justice must be divided between the federal and state court systems so as to realize their maximum total potential by employing the full capacity of each as efficaciously as possible. As American citizens we live under a government committed "to establish justice" and a malfunction of our judicial apparatus anywhere is reason for the disquiet of all of us. If we allot spheres of jurisdiction in such a way as to avoid overlapping and free judicial components repetition of effort, then we will not squander our judicial substance, and delay in the delivery of justice will be reduced to a minimum. We can then say, "Waste not, wait not".

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

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

S. 675

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Jurisdiction Review and Revision Commission Act".

ESTABLISHMENT AND PURPOSE OF THE COMMISSION

SEC. 2. (a) ESTABLISHMENT AND PURPOSE.—There is established a Federal Jurisdiction Review and Revision Commission (hereafter in this Act referred to as the "Commission"). The Commission shall study the jurisdiction of the courts of the United States and of the several States, and shall report to the President and the Congress on the revisions, if any, of related provisions of the Constitution and laws of the United States which the Commission deems advisable on the basis of such study.

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of sixteen members appointed, within ninety days from the date or enactment, as follows:

(1) Four members appointed by the President of the United States.

(2) Four members of the Senate appointed by the President pro tempore of the Senate, two of whom shall be appointed upon the recommendation of the majority leader and two of whom shall be appointed upon the recommendation of the minority leader.

(3) Four members of the House of Representatives appointed by the Speaker of the House of Representatives, two of whom shall be appointed upon the recommendation of the majority leader and two of whom shall be appointed upon the recommendation of the minority leader.

(4) Four members appointed by the Chief Justice of the United States.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the jurisdiction of Federal and State courts.

(c) TERM OF OFFICE AND VACANCIES.—The term of office of each member shall be for the life of the Commission. Vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and a Vice Chairman from among its members.

(c) QUORUM.—Eight members of the Commission shall constitute a quorum.

COMPENSATION OF THE MEMBERS OF THE COMMISSION

SEC. 4. (a) FEDERALLY EMPLOYED MEMBERS.—A member of the Commission who is an officer, or full-time employee, of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) OTHER MEMBERS.—A member of the Commission from the private sector shall receive $200 per diem for each day (including traveltime) during which he or she is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

POWERS OF THE COMMISSION

SEC. 5. (a)(1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated members, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon applications by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, to produce evidence if so ordered, or to give testimony touching the matter under inquiry; and failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information and assistance as the Commission deems necessary to carry out its functions under this Act, consistent with applicable provisions of law.

(c) ADMINISTRATIVE POWERS.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) CONTRACTING AUTHORITY.—The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(e) NONGOVERNMENTAL ASSISTANCE.—The Commission is authorized to receive financial assistance from sources other than the Federal Government, including assistance from private foundations.

FINAL REPORT

SEC. 6. The Commission shall transmit to the President and to the Congress, not later than two years after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the study conducted by the Commission under section 2, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 7. Ninety days after the submission to Congress of the final report provided for in section 6, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 9. This Act shall take effect October 1, 1981.

By Mr. STEVENS:

S. 677. A bill to amend chapter 83 of title 5 of the United States Code to provide an equitable system of cost-of-living adjustments for civil service annuitants, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE COST-OF-LIVING ADJUSTMENT ACT OF 1981

Mr. STEVENS. Mr. President, I am introducing a bill today which should be viewed as an alternative to annualizing the cost-of-living adjustments on Federal retirement under the bill, a Federal employee who retires and receives Federal retirement before age 60 will see his basic annuity adjusted once a year at 50 percent of the Consumer Price Index (CPI). Between age 60 and 65, the same retiree will receive a full CPI adjustment once a year. At age 65 and over, he will receive full semiannual adjustments. Employees who retire on disability will be excluded from this change.

Mr. President, I am introducing this bill today with great reluctance. Last year I fought strenuously to save the semiannual adjustment formula, and we won. This year, however, we face a different scenario. Economic conditions in this country have progressed from bad to worse over the last few years. We must get a handle on the economy and the budget now. We have a mandate from the people of this country to pare the Federal budget wherever possible. Many worthy Federal programs will be cut. Yet, if we want to see the economy of this country turned around, funding for the even most worthy Federal programs must be reduced.

I feel that the Federal retirement systems are of the most worthy Federal programs. Federal retirement is not controversial. It is not a program that produces intangible results. It is a commitment, a covenant, to the people of this country who devoted their careers to Federal service. Retirement benefits are a part of compensation. They are, in a sense, deferred wages and act as an allurement to individuals to accept employment.

Nevertheless, the costs of the Federal retirement program are out of control. Federal retirement accounts for approximately 40 percent of the Federal payroll. In addition, significant numbers of retired Federal employees take private sector jobs after they retire from Federal service. Since the average age of retirement from the Federal Government is 58, even more could get jobs and hence supplement their retirement income.

The cost of living formula can be changed to protect those who are completely vulnerable to inflationary pressures, that is, the elderly and the disabled, and at the same time cut outlays by reducing the adjustments to those who are able to supplement their income. That is why I am proposing semiannual adjustments be retained for retirees age 65 and older and for the disabled. The need to fully adjust retirement income for inflationary changes, however, is not as great for younger and healthy retirees. I understand savings in the first full year of implementation will approximate $350 million as compared to savings of $510 million through simple annualization of annuities. However, savings in the outyears through enactment of this bill will be considerably more than that generated by annualization.

Mr. President, let me say again—I still favor the present semiannual adjustment formula. But, if a change is to be made, let it be the most equitable change possible. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 677

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 "Civil Service Retirement Cost-of-Living Adjustment Act of 1981".

SEC. 2. (a) Subsection (b) of section 8340 of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2)—

"(A) effective March 1 of each calendar year, each annuity payable from the Fund which has a commencing date not later than such March 1, and—

"(i) which is payable to an employee or Member (or widow or widower thereof) who has not attained the age of 65 on or before such March 1 shall be increased by the percentage increase in the price index published for December of the preceding calendar year over such index for December of the second preceding calendar year, and

"(ii) which is payable to an employee or Member (or widow or widower thereof) who has attained the age of 65 on or before such March 1 shall be increased by the percentage increase in the price index published for December of the preceding calendar year over such index for June of the preceding calendar year; and

"(B) effective September 1 of each year, each annuity payable from the Fund which has a commencing date not later than such September 1 and which is payable to an employee or Member (or widow or widower thereof) who has attained the age of 65 on or before such September 1 shall be increased by the percentage increase in the price index published for June of such year over such index for December of the preceding year.

"(2) In the case of an annuity payable from the Fund to an employee or Member (or widow or widower thereof) who has not attained the age of 60 on or before March 1 of the applicable year, paragraph (1)(A)(i) shall be applied by inserting '50 percent of' before 'the percentage increase'.

"(3) Any percent change in an annuity under this subsection shall be adjusted to the nearest 1/10 of 1 percent.".

(b)(1) Subparagraph (A) of section 8340 (c)(1) of title 5, United States Code, is amended by inserting "(1/12 if such first increase is determined under subsection (b)(1)(A)(ii))" after "⅛".

(2) Paragraph (3) of section 8340 (c) of title 5, United States Code, is amended by inserting "subsection (b)(1)(A)(i) of" before "this section" the first place it appears.

SEC. 3. The amendments made by this Act shall apply to any increase in any annuity taking effect on or after the date of the enactment of this Act.

By Mr. STEVENS (for himself, Mr. MATHIAS and Mr. GLENN):

S. 678. A bill to amend title 39 of the United States Code to require that any extension of the ZIP code be part of a voluntary service option with a reduced rate; to the Committee on Governmental Affairs.

LEGISLATION TO MAKE NINE-DIGIT ZIP CODE A VOLUNTARY SERVICE WITH A REDUCED RATE

Mr. STEVENS. Mr. President, I am today introducing legislation which would prohibit the U.S. Postal Service from requiring any mailer or individual to use the new proposed nine-digit ZIP code. The U.S. Postal Service has proposed that a "ZIP+4" or nine-digit ZIP code be established. In order to take advantage of technological advances in mail processing equipment, this change would allow the U.S. Postal Service to save some $600 million a year beginning by 1987. As part of the proposal, business mailers who agree to use the nine-digit ZIP code would become eligible for a lower postal rate.

This legislation would put into law the requirement that the ZIP code system be voluntary in nature. The public will not, and we cannot, accept the imposition of a mandatory nine-digit ZIP code. From what I have learned, there is absolutely no reason to make such a code mandatory.

There is a refreshing consensus in this country that at long last we are going to slow down and stop the regulatory burden of the Federal Government on the American public. The electorate has let it be known that the oppressive weight of Government must be lifted starting now. This Congress and President Reagan are going to make a healthy start in that direction. We are also going to cut back on the costs of the Federal Government, a cost ultimately borne by the public. Wherever we can, we must accomplish needed savings through identifying and eliminating waste and inefficiencies. We must look to improve productivity and use of modern technology to cut costs where we can. We do not want to cut back on essential services, however. The U.S. Postal Service should not, and will not, be exempt from this philosophy.

I do not see how we can tie the hands of the Postal Service by limiting their capability to cut future costs. I see no reason why we would want to. In fact, the Postal Service is simply living up to the law which requires them to look for ways to cut costs. None of us wants to see cuts in the service they provide. But we are kidding ourselves if we think the Postal Service can simply wave a magic wand and absorb double digit inflation, budget cuts, increased employee demands, reduction in revenue, without realizing savings, where they are able to, through technological improvements.

There is no way the Postal Service can continue to attempt to give us better service with the tremendous pressures to do more with less, unless they can find some very significant and concrete innovations to do the same job more efficiently. I think they have got a start with the nine-digit ZIP or "ZIP+4" concept.

As chairman of the Governmental Affairs Subcommittee on Civil Service, Post Office, and General Services, I am particularly concerned that we search for ways to achieve efficiencies and economies in the U.S. Postal Service. Our subcommittee has begun a series of hearings on the Postal Service plans for improved automation with its "ZIP+4" or nine-digit ZIP code proposal. The longer ZIP code would be justified only in terms of additional efficiencies and savings in the processing of the mail. Bulk mailers who utilize this longer code would and should get the benefit of those savings through lower postage. After all, it does cost money, considerable amounts of money, for business mailers to change their address files and addressing practices to comply with this four-digit add-on.

We must not restrict the business community from improving their mailing capabilities and from cutting costs by utilizing the nine-digit ZIP code. I think that any nine-digit ZIP code or "ZIP+4" mailing incentive should be available as an additional mailing option along with the presort discounts and other alternatives already offered various mailers. If this new nine-digit ZIP code proposal is limited to mailers who wish to use this option and who will receive a reduced rate for using it, we cannot reasonably prohibit or delay its development or implementation. This proposal will benefit the average American who writes an occasional letter. Although he or she would not qualify for a rate reduction because of lack of volume, he would benefit by a slowdown in future rate increases because of the cost savings.

I believe this bill is a fair and reasonable way to allow the Postal Service and large mailers to utilize this new technology to their financial benefit without inconveniencing the public.

Mr. President, I ask unanimous consent to have the entire text of my bill printed at the end of my comments.

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

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 404 of title 39, United States Code, is amended by adding the following new subsection:

"(c) Notwithstanding any other provision of this title, the Postal Service shall not require the inclusion of any ZIP Code in the address of any mail piece, except as a condition for mailing at a reduced rate or rates for a subclass established to recognize the costs of handling mail bearing such code.".

By Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. CHAFEE, Mr. PACKWOOD, Mr. CANNON, Mr. GORTON, and Mr. MITCHELL):

S. 681. A bill to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes; ordered held at the desk.

OIL SPILL LIABILITY AND COMPENSATORY OF 1981

Mr. STAFFORD. Mr. President, on behalf of myself, Senator RANDOLPH, Senator CHAFEE, Senator PACKWOOD, Senator CANNON, Senator GORTON, and Senator MITCHELL I send a bill to the desk to provide a comprehensive system of liability and compensation for oil spill damage and removal costs, and for other purposes.

Mr. President, in connection with that bill, which I am sending to the desk, on behalf of Senator MITCHELL and myself I offer an amendment to that bill.

The PRESIDING OFFICER. The bill and the amendment will be received and appropriately referred.

Mr. STAFFORD. Mr. President, late in the last Congress, the so-called superfund bill was enacted into law, establishing a system of response, compensation, and liability for releases of poisonous chemicals. It had been hoped that the toxics superfund would be amended on the Senate floor to add a title dealing with oil spills and pollution. For a variety of reasons, that was not possible.

As part of the debate in the Senate and in the House of Representatives, I assured several Members that an oil spill bill would be introduced and acted on early in this legislative session. In fulfillment of that commitment, I am today introducing the Oil Spill Liability and Compensation Act of 1981.

I am pleased to say that this bill's other sponsors include Senators PACKWOOD and CANNON of the Committee on Commerce, Science, and Transportation, as well as my good friend, Senator RANDOLPH, who is, of course, the ranking minority member of the Committee on Environment and Public Works; Senators CHAFEE and MITCHELL, who are chairman and ranking minority member of the Subcommittee on Environmental Pollution; and Senator GORTON, who is chairman of the Merchant Marine Subcommittee. Collectively, they represent the Members most concerned with and involved in this issue.

Senator CHAFEE has indicated his intention to hold hearings before the end of the month. With the introduction of this bill and the scheduling of hearings, I consider my personal commitment fulfilled.

I ask unanimous consent that the text of the bill and amendment be printed in the RECORD.

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

S. 681

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 "Oil Spill Liability and Compensation Act of 1981".

TITLE I—OIL SPILL LIABILITY AND COMPENSATION

DEFINITIONS

SEC. 101. For the purpose of this act—

(1) the terms "oil", "discharge", "public vessel", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility" and "barrel" shall have the meaning provided in section 311(a) of the Federal Water Pollution Control Act;

(2) the terms "navigable waters" and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 102(a)(2) of this Act;

(7) the term "facility" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft;

(8) the term "Fund" means the Oil Spill Liability Trust Fund established under title II of this Act;

(9) the term "guarantor" means any person, other than the owner or operator, who agrees with the owner or operator of a vessel or an offshore facility subject to section 105 of this Act or section 311(p) of the Clean Water Act to insure or indemnify any risk under this Act;

(10) the term "liable" or "liability" under this title shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act;

(11) the term "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(12)(A) the term "owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, (ii) in the case of an onshore facility or an offshore facility, any person owning or operating such facility, and (iii) in the case of any abandoned facility, any person who owned, operated, or otherwise controlled activities at such facility immediately prior to such abandonment. Such term does not include a person who (either directly or through a trust or singly or in combination with others) (I) holds title to or any indicia of ownership of a vessel or facility and without participating in the management or operation of such vessel or facility, leases or charters to any other person (with whom such person is not otherwise affiliated), or (II) holds indicia of ownership primarily to protect his security interest in the vessel or facility. In the case of an offshore facility, the term includes the operating holder of a leasehold interest or permit for the exploration of oil;

(B) the term "affiliated" means a relationship in which a person owns (in whole or in part), is owned by (in whole or in part), or is under common control with, another person;

(13) the term "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body;

(14) the term "refinery" means a terminal which receives oil for the purpose of refinement;

(15) the term "terminal" means any permanently situated onshore or offshore facility which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, or any pipeline including the pipeline constructed under the Trans-Alaska Pipeline Authorization Act;

(16) the terms "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction;

(17) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

LIABILITY FOR DAMAGES AND REMOVAL

SEC. 102. (a) Except where an owner or operator of a vessel or a facility can prove that a discharge was caused solely by an act of God, an act of war, or an act or omission of a third party as provided in subsection (d)(1) of this section, and notwithstanding any other provision or rule of law, such owner or operator of a vessel or a facility from which oil is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be liable for—

(1)(A) all actual costs of removal (including personnel costs, depreciation costs for capital equipment, and overhead) incurred by the United States Government or a State under subsection (c), (d), (e), or (f)(4) of section 311 of the Federal Water Pollution Control Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other costs or expenses incurred by any person to remove oil as the term "remove" or "removal" are defined in section 311(a)(8) of the Federal Water Pollution Control Act, not inconsistent with the national contingency plan; and

(2) the following damages for economic loss or loss of natural resources resulting from such a discharge:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(C) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources or loss of use of such property or natural resources, without regard to the ownership of such property or natural resources, to the extent that such damages were sustained during the two-year period beginning on the date the claimant first suffered such loss, and if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(B) of this section, liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such natural resources.

(c)(1) Except as provided in paragraph (2) of this subsection, the liability of an owner or operator of a vessel or a facility for damages and removal costs under this section, including any removal costs incurred on behalf of such owner or operator, and inclusive of the limits of liability established under section 311(f) of the Federal Water Pollution Control Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil in bulk as cargo or as residue of cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A)(i) the discharge of oil was the result of willful negligence or willful misconduct within the privity or knowledge of the owner or operator, or (ii) the primary cause of the discharge was a violation (within the privity or knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations, or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Federal Water Pollution Control Act. With respect to regulated carriers subject to the provisions of title 49 of the United States Code or vessels subject to the provisions of title 33 or 46 of the United States Code, subparagraph (A)(ii) of this paragraph shall be deemed to refer to Federal standards or regulations.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(4) The President is authorized to establish by regulation, with respect to any class or category of facility subject to paragraph (1)(E) of this subsection, a maximum limit of liability under this section of less than $50,000,000 but not less than $8,000,000. Such regulations shall take into account the size, type, location, storage, and handling capacity and other matters relating to the likelihood of release in each such class and to

the economic impact of such limits on each such class.

(5) The President shall from time to time, but at least biannually, review and, when appropriate, increase the liability limits established by paragraph (1) of this subsection to reflect the following:

(A) increased potential for damage due to increases in vessel size, alterations in design or construction, or other relevant changes in circumstances or operation; and

(B) increases in the relative costs of responding to a discharge due to inflation or other circumstances.

(d)(1) There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the discharge of oil and the damages resulting therefrom were caused solely by an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier), if the defendant establishes by a preponderance of the evidence that (a) he exercised due care with respect to such oil, taking into consideration the characteristics of such oil, in light of all relevant facts and circumstances, and (b) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions.

(2) In any case where the owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God or an act of war), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. If such third party was the owner or operator of a vessel, other than a vessel which caused the discharge of oil from an offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act, the liability of such third party shall not exceed the limitation applicable to such vessel under subsection (c) of this section. Where the owner or operator of a vessel carrying oil as cargo or an onshore or offshore facility which handles or stores oil in bulk or commercial quantities, from which oil is discharged, alleges that such discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God or an act of war), such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such costs of removal or damages from such third party under this subsection.

(e) A discharge of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign nation shall be deemed to be a discharge in violation of section 311(b)(3) of the Federal Water Pollution Control Act for purposes of this section, and claims for compensation for damages and removal costs may be made under this Act by any citizen of a foreign nation or by any foreign nation, if such damages or removal costs resulted from a discharge of oil, or threat of a discharge of oil, from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel incident occurring in the navigable waters of the United States; or

(3) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States. This subsection shall apply only if recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

(f) The owner or operator of a vessel shall be liable in accordance with this section notwithstanding any provision of the Act of March 3, 1951 (46 U.S.C. 183ff).

(g)(1) In addition to the damages for which claims may be asserted and without regard to any limitation of liability provided in this section, the owner or operator of a vessel or a facility from which oil is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be liable to a claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim occurred to the date upon which the claimant is paid, inclusive, less the period (if any) from the date upon which such owner or operator shall offer to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim to the date upon which the claimant shall accept such amount, inclusive. However, if such owner or operator shall offer to the claimant, within sixty days of the date upon which the claim was presented, an amount equal to or greater than that finally paid in satisfaction of the claim, such owner or operator shall be liable for the interest on the amount paid in satisfaction of the claim for the periods only from the date upon which the offer was accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) of this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the period from which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a discharge or threat of discharge under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

(2) Nothing in this title, including the provisions of paragraph (1) of this subsection, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

USE OF LIABILITY FUND

SEC. 103. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of any claim for costs of removal or damages finally decided pursuant to section 104 of this title, resulting from discharges or threats of discharges of oil;

(2) all removal costs or expenses or other costs of carrying out the national contingency plan established under section 311(c) of the Federal Water Pollution Control Act resulting from discharges or threats of discharges of oil, including removal costs incurred by any person and approved under such national contingency plan;

(3) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act (with respect to discharges of oil), and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such national contingency plan;

(4) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil;

(5) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil;

(6) subject to such amounts as are provided in appropriation Acts, not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act (with respect to discharges of oil) to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, the Coast Guard, and the National Oceanic and Atmospheric Administration. Such research shall include, but not be limited to, (A) development and refinement of protocols to determine the type and extent of short- and long-term injury or loss of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or lost resources, (C) laboratory or field research on the effects of oil on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations; and

(7) subject to such amounts as are provided in appropriation Acts, the administrative and personnel costs of administering the Fund and this Act.

(b)(1) Claims against or presented to the Fund shall not be valid or paid in excess of the total money in the Fund at any one time. Such claims become valid only when additional money is collected, appropriated, or otherwise added to the Fund. Should the total claims outstanding at any time exceed the current balance of the Fund, the President shall pay such claims, to the extent authorized under this Act and subject to section 202(a), in full in the order in which they were finally determined.

(2) Paragraphs (2), (3), (4), (5), (6), and (7) of subsection (a) of this section shall in the aggregate be subject to such amounts as are provided in appropriation Acts.

(c) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State operating under a contract or cooperative agreement with the Federal Government.

(d) The President shall provide for the promulgation of rules and regulations with respect to the notice to be provided to potential injured parties by an owner and operator of any vessel, or facility from which oil has been discharged. Such rules and regulations shall consider the scope and form of the notice which would be appropriate to carry out the purposes of this title. Upon promulgation of such rules and regulations, the owner and operator of any vessel or facility from which oil has been discharged shall provide notice in accordance with such rules and regulations. With respect to releases from public vessels, the President shall pro-

vide such notification as is appropriate to potential injured parties. Until the promulgation of such rules and regulations, the owner and operator of any vessel or facility from which oil has been discharged shall provide reasonable notice to potential injured parties by publication in local newspapers serving the affected area.

(e)(1) In accordance with regulations promulgated under section 301(c) of Public Law 96-510, damages for injury to, destruction of, or loss of natural resources resulting from discharge of oil, for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act, shall be assessed by Federal officials designated by the President under the national contingency plan published under section 311(c) of the Federal Water Pollution Control Act, and such officials shall act for the President as trustee under this section and section 311(f)(5) of the Federal Water Pollution Control Act.

(2) Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 102 of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(f) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

(g) The Inspector General of each department or agency to which responsibility to obligate money in the Fund is delegated shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. Each such Inspector General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. Each such Inspector General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Inspector General in carrying out this subsection.

CLAIMS PROCEDURE

SEC. 104. (a) All claims which may be asserted against the Fund pursuant to section 103 of this title shall be presented in the first instance to the owner, operator, or guarantor of the vessel or facility from which oil has been discharged, if known to the claimant and to any other person known to the claimant who may be liable under section 102 of this title. In any case where the claim has not been satisfied within sixty days of presentation in accordance with this subsection, the claimant may elect to commence an action in court against such owner, operator, guarantor, or other person or to present the claim to the Fund for payment.

(b)(1) The President shall prescribe appropriate forms and procedures for claims filed hereunder, which shall include a provision requiring the claimant to make a sworn verification of the claim to the best of his knowledge. Any person who knowingly gives or causes to be given any false information as a part of any such claim shall, upon conviction, be fined up to $5,000 or imprisoned for not more than one year, or both.

(2)(A) Upon receipt of any claim, the President shall as soon as practicable inform any known affected parties of the claim and shall attempt to promote and arrange a settlement between the claimant and any person who may be liable. If the claimant and alleged liable party or parties can agree upon a settlement, it shall be final and binding upon the parties thereto, who will be deemed to have waived all recourse against the Fund.

(B) Where a liable party is unknown or cannot be determined, the claimant and the President shall attempt to arrange settlement of any claim against the Fund. The President is authorized to award and make payment of such a settlement, subject to such proof and procedures as he may promulgate by regulation.

(C) Except as provided in subparagraph (D) of this paragraph, the President shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in implementing this subsection and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the President that advertising is not reasonably practicable. When the services of a State agency are used hereunder, no payment may be made on a claim asserted on behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the President.

(D) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the President may use Federal personnel to implement this subsection.

(3) If no settlement is reached within forty-five days of filing of a claim through negotiation pursuant to this section, the President may, if he is satisfied that the information developed during the processing of the claim warrants it, make and pay an award of the claim. If the claimant is dissatisfied with the award, he may appeal it in the manner provided for in subparagraph (G) of paragraph (4) of this subsection. If the President declines to make an award, he shall submit the claim for decision to a member of the Board of Arbitrators established pursuant to paragraph (4).

(4)(A) Within ninety days of the enactment of this Act, the President shall establish a Board of Arbitrators to implement this subsection. The Board shall consist of as many members as the President may determine will be necessary to implement this subsection expeditiously, and he may increase or decrease the size of the Board at any time in his discretion in order to enable it to respond to the demands of such implementation. Each member of the Board shall be selected through utilization of the procedures of the American Arbitration Association: *Provided, however,* That no regular employee of the President or any of the Federal departments, administrations, or agencies to whom he delegated responsibilities under this Act shall act as a member of the Board.

(B) Hearings conducted hereunder shall be public and shall be held in such place as may be agreed upon by the parties thereto, or, in the absence of such agreement, in such place as the President determines, in his discretion, will be most convenient for the parties thereto.

(C) Hearings before a member of the Board shall be informal, and the rules of evidence prevailing in judicial proceedings need not be required. Each member of the Board shall have the power to administer oaths and to subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented to him for decision. Testimony may be taken by interrogatory or deposition. Each person appearing before a member of the Board shall have the right to counsel. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the President. If a person fails or refuses to obey a subpena, the President may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(D) In any proceeding before a member of the Board, the claimant shall bear the burden of proving his claim. Should a member of the Board determine that further investigations, monitoring, surveys, testing, or other information gathering would be useful and necessary in deciding the claim, he may request the President in writing to undertake such activities. The President shall dispose of such a request taking into account various competing demands and the availability of the technical and financial capacity to conduct such studies, monitoring, and investigations. Should the President decide to undertake the requested actions, all time requirements for the processing and deciding of claims hereunder shall be suspended until the President reports the results thereof to the member of the Board.

(E) All costs and expenses approved by the President attributable to the employment of any member of the Board shall be payable from the Fund, including fees and mileage expenses for witnesses summoned by such members on the same basis and to the same extent as if such witnesses were summoned before a district court of the United States.

(F) All decisions rendered by members of the Board shall be in writing, with notification to all appropriate parties, and shall be rendered within ninety days of submission of a claim to a member, unless all the parties to the claim agree in writing to an extension or unless the President extends the time limit pursuant to subparagraph (I) of this subsection.

(G) All decisions rendered by members of the Board shall be final, and any party to the proceeding may appeal such a decision within thirty days of notification of the award or decision. Any such appeal shall be made to the Federal district court for the district where the arbitral hearing took place. In any such appeal, the award or decision of the member of the Board shall be considered binding and conclusive, and shall not be overturned except for arbitrary or capricious abuse of the member's discretion: *Provided, however,* That no such award or decision shall be admissible as evidence of any issue of fact or law in any proceeding brought under any other provision of this Act or under any other provision of law. Nor shall any prearbitral settlement reached pursuant to subsection (b)(2)(A) or this section be admissible as evidence in any such proceeding.

(H) Within twenty days of the expiration of the appeal period for any arbitral award or decision, or within twenty days of the final judicial determination of any appeal taken pursuant to this subsection, the President shall pay any such award from the Fund. The President shall determine the method, terms, and time of payment.

(I) If at any time the President deter-

mines that, because of a large number of claims arising from any incident or set of incidents, it is in the best interests of the parties concerned, he may extend the time for prearbitral negotiations or for rendering an arbitral decision pursuant to this subsection by a period not to exceed sixty days. He may also group such claims for submission to a member of the Board of Arbitrators.

(c)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation the rights of the claimant to recover those costs of removal or damages for which it has compensated the claimant from the person responsible or liable for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge of oil shall be subrogated to all rights, claims, causes of action for such damages and costs of removal that the claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this title and, without regard to any limitation of liability, all interest, administrative and adjudicative costs, and attorney's fees incurred by the Fund by reason of the claim. Such an action may be commenced against any owner, operator or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs for which compensation was paid.

(d) No claim may be presented, nor may an action be commenced for damages under this title, unless that claim is presented or action commenced within three years from the date of the discovery of the loss or the date of enactment of this Act, whichever is later.

(e) Regardless of any State statutory or common law to the contrary, no person who asserts a claim against the Fund pursuant to this title shall be deemed or held to have waived any other claim not covered or assertable against the Fund under this title arising from the same incident transaction, or set of circumstances, nor to have split a cause of action. Further, no person asserting a claim against the Fund pursuant to this title shall as a result of any determination of a question of fact or law made in connection with that claim be deemed or held to be collaterally estopped from raising such question in connection with any other claim not covered or assertable against the Fund under this title arising from the same incident, transaction, or set of circumstances.

FINANCIAL RESPONSIBILITY

SEC. 105. (a) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel), other than a public vessel, using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain in accordance with the procedures of section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subjected under section 102(c)(1) of this Act. The provisions of paragraphs (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect October 1, 1981.

(b)(1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 102(c)(1) of this Act or $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall take effect one hundred and eighty days after enactment of this Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

(3) Where an offshore facility is owned or operated by more than one person, evidence of financial responsibility covering the facility may be established and maintained by one of the owners or operators, in consolidated form, by or on behalf of two or more owners or operators. When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant shall be shown. The evidence shall be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(c)(1) Any claim authorized by this Act may be asserted directly against any guarantor for the owner or operator of the vessel or offshore facility from which oil was discharged. In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this Act. The guarantor may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but such guarantor may not invoke any other defense that such guarantor might have been entitled to invoke in a proceeding brought by the owner or operator against such guarantor.

(2) The total liability under this Act of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility under this Act, or any higher amount for which that guarantor has agreed that claims under this Act may be asserted directly against that guarantor, except that nothing in this subsection shall be construed to limit the liability of a guarantor to the owner or operator for refusing to settle any claim in good faith, nor to alter the liability of any person under section 102 of this Act.

(d) Nothing in this Act shall affect the requirements for evidence of financial responsibility for motor carriers under section 30 of the Motor Carrier Act of 1980, Public Law 96-296.

RELATIONSHIP TO OTHER LAW

SEC. 106. Reserved.

AUTHORITY TO DELEGATE, ISSUE REGULATIONS

SEC. 107. The President is authorized to delegate and assign any duties or powers imposed upon or assigned to him and to promulgate any regulations necessary to carry out the provisions of this title.

TITLE II—TRUST FUND ESTABLISHMENT AND COLLECTIONS

ESTABLISHMENT OF OIL SPILL LIABILITY TRUST FUND

SEC. 201. (a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Oil Spill Liability Trust Fund" (hereinafter referred to in this title as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or as may be transferred to such Trust Fund under this Act.

(b) TRANSFER TO TRUST FUND OF CERTAIN AMOUNTS.—

(1) AMOUNTS EQUIVALENT TO CERTAIN COLLECTION, ETC.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury (hereinafter referred to as the "Secretary") to be equivalent to—

(A) the amounts received in the Treasury under section 4691 of the Internal Revenue Code of 1954,

(B) the amounts recovered or collected on behalf of the Trust Fund under title I of this Act, and

(C) any penalties imposed under title I of this Act or under section 311 of the Federal Water Pollution Control Act (insofar as it relates to oil).

(2) TRANSFER OF FUNDS.—There shall be transferred to the Trust Fund—

(A) the unobligated balance remaining as of the date of enactment of this Act under section 311(k) of the Federal Water Pollution Control Act (and not transferred to the Hazardous Substance Response Trust Fund under Public Law 96-510),

(B) all assets of the Trans-Alaska Pipeline Liability Fund,

(C) all assets of the Deepwater Port Liability Fund, and

(D) all assets of the Offshore Oil Pollution Compensation Fund established under title III of the Outer Continental Shelf Lands Act Amendments of 1978.

(c) EXPENDITURES FROM TRUST FUND.—

(1) IN GENERAL.—Amounts in the Trust Fund shall be available only for purposes of making expenditures which are described in section 103 of this Act (as in effect on the date of the enactment of this Act).

(2) CLAIMS INCLUDE CERTAIN EXPENSES.—For purposes of paragraph (1), the amounts payable out of the Trust Fund shall include the costs incurred by the United States by reason of any claim under title I of this Act (including processing costs, investigating costs, court costs, and attorney fees).

LIMITATION ON PAYMENT OF CLAIMS BY FUND

SEC. 202. (a) GENERAL RULE.—No amount in the Trust Fund established by this title shall be used to pay any claim (other than a claim for removal costs) to the extent that the payment of such claim would reduce the amount in such Fund to an amount less than $30,000,000.

(b) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Trust Fund established by this title is unable (by reason of subsection (a)) to pay all of the claims (other than for removal costs) payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND

SEC. 203. (a) GENERAL RULE.—Any claim for damages filed against the Trust Fund established by this title may be paid only out of that Trust Fund. Nothing in this Act (or in any amendment made by this Act) shall authorize the payment by the United States Government of any additional amount for damages with respect to any such claim out of any source other than the Trust Fund established by this title.

(b) BORROWING FROM GENERAL FUND OF THE TREASURY.—

(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund established by this title, as repayable advances, such sums as may be necessary to carry out the purposes of the Fund.

(2) LIMITATIONS.—

(A) The maximum aggregate amount which may be appropriated pursuant to paragraph (1) to the Trust Fund which is outstanding at any one time shall not exceed $75,000,000.

(B) No advance may be made under this subsection after September 30, 1985.

(3) REPAYMENT OF ADVANCES.—Advances made pursuant to this paragraph shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund. Such interest shall be at rates computed in the same manner as provided in section 204(b)(2) and shall be compounded annually.

ADMINISTRATIVE PROVISIONS

SEC. 204. (a) METHOD OF TRANSFER.—The amounts appropriated by section 201(b) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—The Secretary shall be the trustee of the Trust Fund established by this title, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Trust Fund during that fiscal year and on its expected condition and operations during the next five fiscal years. This report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—It shall be the duty of the Secretary to invest such portion of the Trust Fund established by this title as is not, in the judgment of the President, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of the Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 per centum. The income on such investments shall be credited to and form a part of the Trust Fund.

ADJUSTMENT IN TAX FOR BALANCE IN TRANS-ALASKA PIPELINE LIABILITY FUND

SEC. 205. (a) IN GENERAL.—If the Secretary of the Treasury (or his delegate) determines—

(1) that there is a TAP fund surplus, the amount of such surplus shall be treated as an advance payment of the tax imposed by section 4691 of the Internal Revenue Code of 1954 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination, or

(2) that there is a TAP fund deficit, the tax imposed by section 4691 on crude oil first transported through the Trans-Alaska Pipeline after the date of such determination shall be increased by 2 cents per barrel until such time as the total amount of such increased tax equals such deficit.

(b) DEFINITIONS.—For purposes of this section—

(1) TAP FUND SURPLUS.—The term "TAP fund surplus" means the excess (if any) of—

(A) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Oil Spill Liability Trust Fund established by this title, over

(B) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time of such transfer.

(2) TAP FUND DEFICIT.—The term "TAP fund deficit" means the excess (if any) of—

(A) the amount certified by the Secretary of the Interior as the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the assets of such fund are transferred to the Oil Spill Liability Trust Fund established by this title, over

(B) the total amount of the assets transferred from the Trans-Alaska Pipeline Liability Fund to the Oil Spill Liability Trust Fund established by this title.

IMPOSITION OF TAX

SEC. 206. (a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Additional Tax on Petroleum

"Sec. 4691. Imposition of Tax.
"Sec. 4692. Definitions and Special Rules.

"SEC. 4691. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax of 1.3 cents a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) TAX ON CERTAIN USES AND EXPORTATION.—

"(1) IN GENERAL.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 1.3 cents a barrel is hereby imposed on such crude oil.

"(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) PERSONS LIABLE FOR TAX.—

"(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) IMPORTED PETROLEUM PRODUCTS.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1986.

"SEC. 4692. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) DOMESTIC CRUDE OIL.—The term 'domestic crude oil' means any crude produced from a well located in the United States.

"(3) PETROLEUM PRODUCT.—The term "petroleum product' includes crude oil.

"(4) UNITED STATES.—

"(A) IN GENERAL.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) UNITED STATES INCLUDES CONTINENTAL SHELF AREAS.—The principles of section 638 shall apply for purposes of the term 'United States'.

"(C) UNITED STATES INCLUDES FOREIGN TRADE ZONES.—The term 'United States' includes any foreign trade zone of the United States.

"(5) UNITED STATES REFINERY.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) REFINERIES WHICH PRODUCE NATURAL GASOLINE.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) PREMISES.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) BARREL.—The term 'barrel' means 42 United States gallons at sixty degrees Fahrenheit.

"(9) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4691 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) ONLY ONE TAX IMPOSED WITH RESPECT TO ANY PRODUCT.—No tax shall be imposed under section 4691 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4691.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"Subchapter C. Additional Tax on Petroleum.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1981.

TITLE III—MISCELLANEOUS PROVISIONS

EFFECTIVE DATES, SAVINGS PROVISION

SEC. 301. (a) Unless otherwise provided, all provisions of this Act shall be effective on the date of enactment of this Act.

(b) Any regulation issued pursuant to any provisions of section 311 of the Clean Water Act which is repealed or superseded by this Act and which is in effect on the date immediately preceding the effective date of this Act shall be deemed to be a regulation issued pursuant to the authority of this Act and shall remain in full force and effect unless or until superseded by new regulations issued thereunder.

(c) Any regulation—

(1) respecting financial responsibility,

(2) issued pursuant to any provision of law repealed or superseded by this Act, and

(3) in effect on the date immediately preceding the effective date of this Act shall be deemed to be a regulation issued pursuant to the authority of this Act and shall remain in full force and effect unless or until superseded by new regulations issued thereunder.

(d) Nothing in this Act shall affect or modify in any way the liabilities of any person under other Federal or State law, including common law, with respect to releases of oil. The provisions of this Act shall not be considered, interpreted, or construed in any way as reflecting a determination, in part or whole, of policy regarding the inapplicability of strict liability, or strict liability doctrines, to activities relating to oil discharges, or pollution.

LITIGATION, JURISDICTION, AND VENUE

SEC. 302. (a) Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within ninety days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of removal costs.

(b) Except as provided in subsection (a) of this section, the United States district courts shall have exclusive original jurisdic-

tion over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or damages occurred, or in which the defendant resides, may be found, or has his principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any controversy or other matter resulting from the assessment of collection of any tax, as provided by title II of this Act, or to the review of any regulation promulgated under the Internal Revenue Code of 1954.

(d) No provision of this Act shall be deemed or held to moot any litigation concerning any discharge of oil, or any damages associated therewith, commenced prior to enactment of this Act.

CONFORMING AMENDMENTS

SEC. 304. (a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska";

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability and Compensation Act of 1981.".

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Trust Fund established by title II of this Act. The Oil Spill Liability Trust Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act, and shall assume all liability incurred by the officers or trustees in the execution of their duties involving the Trans-Alaska Pipeline Liability Fund, other than the liability of those officers or trustees for gross negligence or willful misconduct.

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the tax due under title II of this Act on barrels of oil, and the Secretary may remit such tax until such time as the total amount of the taxes so remitted equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the tax imposed under title II on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of taxes established under title II of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees remitted. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of taxes under title II of this Act is remitted.

(D) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under title II of the Oil Spill Liability and Compensation Act of 1981 shall be available to the Secretary for actions taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under title II of the Oil Spill Liability and Compensation Act of 1981, as appropriate,".

(2) The unobligated balance remaining as of the date of enactment of this Act under subsection (k) of such section 311 shall be transferred to the Fund established under title II of this Act.

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18 (1) of this Act;" and insert in lieu thereof "section 105 of the Oil Spill Liability and Compensation Act of 1981.".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in lieu thereof "fund established under title II of the Oil Spill Liability and Compensation Act of 1981".

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

STUDY

SEC. 304. The President, in cooperation with the Comptroller General shall undertake a study of possible incentives to safer operation of vessels and facilities to reduce the potential of discharges of oil, and generally of measures to prevent or avoid the occurrence of such discharges. Such study shall address (1) the feasibility of a variable fee for replenishment of the Fund under subsection (c) of this section which takes into account the likelihood of a discharge and the operational experience of individuals or classes, and (2) whether current practices in the insurance and banking industries provide any incentives or disincentives to reducing the potential for discharges of oil. Such study shall be conducted in consultation with other appropriate Federal and State agencies, the affected industries, and other interested parties. A first report of such study, together with legislative recommendations, if any, shall be submitted to the Congress not later than July 1, 1983, and as appropriate thereafter.

SEPARABILITY

SEC. 305. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances and the remainder of this Act shall not be affected thereby.

AMENDMENT NO. 6

On page 31, strike lines 12 and 13 and add a new title and subsection as follows:

"PROTECTION ON PREEMPTION

"SEC. 106. Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liabilities or requirements with respect to oil pollution, spills, discharges or other releases within such State."

Mr. CHAFEE. Mr. President, I would like to congratulate the distinguished senior Senator from Vermont for the work he has done on this piece of legislation.

This bill is an effort to try to protect our coastlines from the serious threat of oilspills. It is particularly important to Rhode Island and New England because all of our petroleum is imported into the region, much of it by barge and tanker. It is important that a comprehensive liabiliy system becomes law so that oil shippers will have an incentive to handle their product more carefully.

Under the legislation, shippers will have to demonstrate a significant financial responsibility in order to carry petroleum products on U.S. waters. For a vessel carrying oil as its cargo, the liability is $300 per gross ton, or $500,000, whichever is greater. For any other vessel, the liability is $300 per gross ton. Deepwater ports and Outer Contenental Shelf facilities will have a liability of $50 million.

In addition to establishing a comprehensive liability system for handling damages, the bill also establishes a trust fund. This fund, which will be filled by a 1.3-cent-per-barrel fee on oil received in the United States, will be used to compensate persons injured or damaged by spills, and for cleanup of the spills themselves.

If passed, the legislation will provide greater protection for our coastal ecosystems from the chance of catastrophic spills because of these new requirements to be placed on shippers.

The Subcommittee on Environmental Pollution and Resource Protection will hold several days of hearings on the bill later this month. Those hearings will focus on the relationship of this program to existing State programs, as well as the financial burden that this will place on those persons engaged in the business of handling oil.

Mr. MITCHELL. Mr. President, I am

pleased to cosponsor the Oil Spill Liability and Compensation Act of 1981. This legislation will provide a comprehensive system of liability and compensation for damage resulting from oil spills.

A uniform solution to potential catastrophes from oil pollution is long overdue. Those of us who represent coastal States are well aware of the dangers of oil spills. Many of our citizens depend on water resources for their livelihood—from fishing, tourism, and other marine-related activities.

Recent events have highlighted the problem of massive oil spills. In December of 1976, the *Argo Merchant* ran aground 27 miles southeast of Nantucket Island, spilling 8.5 million gallons of fuel oil. The entire Cape Cod coastline was threatened with devastation, which would have occurred had the oil not been blown out to sea. However, the mere threat of millions of gallons of oil washing ashore was sufficient to alert New Englanders to the enormous potential harm of oil spills.

The expense to the United States just to monitor this disaster was approximately $2 million.

The devastation of natural resources that was feared from the wreck of *Argo Merchant* actually occurred 2 years later when the *Amoco Cadiz* went aground off the coast of France. The 240,000-ton supertanker lost its entire cargo of 67 million gallons of oil. The estimates of total claims for damage to real and personal property and to natural resources are over $1 billion.

This country will continue to use petroleum products and the risks associated with transportation of those products will remain with us for the foreseeable future. This bill is an attempt to put into place a comprehensive law to provide adequate and timely compensation to persons who have been victims of oil pollution.

Our bill does this in the following manner:

An owner or operator of a vessel carrying oil is made strictly liable for the discharge of oil into the navigable waters of the United States;

The discharger is responsible for the costs of cleanup of the oil, as well as for damage to a person's real or personal property, a person's loss of use of natural resources, and a person's loss of income resulting from an oil spill;

The discharger is also responsible for compensating the Federal Government, or a State government, for injury to its natural resources;

A fund is established through a fee on each barrel of oil produced in or imported into the United States to provide cleanup costs and compensation for damage resulting from oil spills, when the damage exceeds the limits of the owner's liability or the responsible party cannot be found; and

States retain their ability to enact oil pollution statutes, financed by fees on oil, to provide funds for oil cleanup and compensation to individuals over and above the Federal coverage.

Mr. President, the State of Maine has been in the forefront in enacting comprehensive oil spill legislation. We have long recognized that our water resources are an invaluable and irreplaceable part of our State economy.

In 1969, we enacted the Maine coastal conveyance law. It imposes strict liability for the discharge of oil into any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the State, or into any river, stream, sewer, surface water drain, or other waters of the State.

It establishes the Maine Coastal Protection Fund, financed through a 1-cent-per-barrel fee on oil offloaded at a Maine port. The fund provides for the cleanup of oil spills, and for compensation to third parties for damages to real or personal property, or loss of income directly or indirectly as a result of an oil discharge.

The Maine statute remains one of the strongest in the country. But since the Maine law imposes liability only for spills into the State waters and the Maine fee is imposed only on oil contained in vessels which come directly into Maine ports, it does not deal with tankers which pass through the Gulf of Maine enroute to or from other American ports. Obviously, a comprehensive Federal law is needed to provide minimum protection from oil pollution damage. But any State wishing to impose a greater degree of protection for its resources must be permitted to do so. I could not, in good conscience, support legislation that preempts the right of Maine to compensate its citizens more fully than would any Federal law in the event of an oil spill.

Mr. President, there is an urgent need to enact an oil pollution statute that will provide minimum Federal cleanup and compensation requirements.

In this bill, we provide a nonregulatory mechanism to accomplish that end. We are not imposing additional regulations on those who handle oil; we are simply prescribing the consequences for failure to handle oil in an environmentally acceptable manner.

We are at the same time permitting States to continue to provide additional protection for their natural resources if they so desire.

This bill will be given expedited consideration by the Environment and Public Works Committee on which I serve. I look forward to participating in the hearings and committee action on this legislation.

● Mr. PACKWOOD. Mr. President, today legislation is being introduced that will provide compensation to parties damaged by oil spills. and provide uniformity of compensation by combining a number of Federal compensation schemes into one. I, and two other members of the Senate Committee on Commerce, Science, and Transportation, Senators CANNON and GORTON, have agreed to cosponsor this legislation along with several members of the Senate Environment and Public Works Committee. In the past, all oil spill superfund legislation has been jointly referred to our two committees. Because both committees have recognized that such legislation contains substantial areas of interest and concern peculiar to each committee, we have again agreed to a joint referral. This represents a positive first step in developing legislation that is acceptable to the entire Senate, the House of Representatives and the administration.

The interest of the Commerce Committee in this legislation is substantial. Virtually all modes of transportation are affected: Railroads, motor carriers, aircraft, pipelines, and vessels. This legislation involves the activities of the Outer Continental Shelf, the ports and highways of our Nation, and the integrity of our coastal zone resources, including marine fisheries. The objective of the Commerce Committee in dealing with this legislation is to balance the needs of industry and interstate commerce with the necessity to protect our marine resources. The impact of this legislation can affect the smallest domestic business establishments as well as large multinational corporations.

I want the legislation to be workable and effective and to encourage that appropriate responses to oil spills be undertaken by the responsible parties. The legislation should encourage and afford small businesses the opportunity to obtain insurance, where appropriate, for liabilities which they might incur under this act. I want both private and public sector entities to be compensated for damages resulting from oil spills. Such damages should be compensated with a minimum of judicial involvement, and claims should be paid promptly and fairly.

The present legislation attempts to accomplish the goals set out above. Although our two committees have enjoyed an extremely close working relationship during the development of this bill, it is, indeed, possible that changes will have to be made and compromises reached. The close examination of the proposed legislation resulting from committee hearings will highlight those portions of the legislation that will require additional consideration.

Lastly, let me state that both committees have agreed to develop language concerning the relationship between this bill and certain other States and Federal laws. As the legislative process moves along, and as both committees have a clearer view of the ultimate content of the legislation, I am certain that satisfactory language on the above subject can be worked out.

Mr. President, in closing, let me say I look forward to working with my colleagues from the Environment and Public Works Committee on this legislation which is of such importance to our Nation.●

By Mr. RIEGLE (for himself, Mr. EXON, Mr. PRESSLER, Mr. JOHNSTON, Mr. PRYOR, Mr. ANDREWS, Mr. ABDNOR, Mr. ZORINSKY, Mrs. HAWKINS, Mr. CRANSTON, Mr. DECONCINI, Mr. LAXALT, Mr. LEVIN, Mr. SASSER, Mr. GRASSLEY, Mr. WILLIAMS, and Mr. DIXON):

S. 682. A bill to place a moratorium on decisions by the Federal Trade Commission in shared monopoly proceedings un-

til the Congress establish the existence of the violation and defines its elements; to the Committee on the Judiciary.

MORATORIUM ON SHARED MONOPOLY CASES

● Mr. LEVIN. Mr. President, my decision to cosponsor the bill introduced by Senator RIEGLE today which places a moratorium on the Federal Trade Commission's shared monopoly cases, is based upon my belief that the shared monopoly doctrine which is being proposed by the FTC, if it exists at all in the antitrust laws, should be pursued by the Justice Department before a Federal judge. A theory, so vague and vast in its reach, should be delineated in the first instance by the Congress or courts, not by an administrative agency.●

By Mr. BAKER (for Mr. DOLE) (for himself, Mr. BAKER, Mr. ROTH, Mr. STEVENS, Mr. DANFORTH, Mr. CHAFEE, Mr. HEINZ, Mr. WALLOP, Mr. DURENBERGER, Mr. ARMSTRONG, Mr. SYMMS, Mr. GRASSLEY, Mr. KASTEN, Mr. JEPSEN, Mr. BOSCHWITZ, Mr. LAXALT, Mr. PERCY, Mr. THURMOND, Mr. HUMPHREY, Mr. WARNER, Mr. TOWER, Mr. HATCH, Mr. SCHMITT, Mr. HAYAKAWA, Mr. GARN, Mr. COHEN, Mr. ANDREWS, Mr. SIMPSON, Mrs. HAWKINS, Mr. MURKOWSKI, Mr. HELMS, Mr. EAST, Mr. MATTINGLY, Mr. QUAYLE, Mr. DOMENICI, Mr. NICKLES, Mr. RUDMAN, Mr. MCCLURE, Mr. ABDNOR, Mr. COCHRAN, Mr. LUGAR, Mr. GOLDWATER, Mr. PRESSLER, Mr. D'AMATO, Mr. STAFFORD, and Mrs. KASSEBAUM) (by request):

S. 683. A bill to amend the Internal Revenue Code of 1954 to encourage economic growth through reduction of the tax rates for individual taxpayers and acceleration of capital cost recovery of investment in plant, equipment, and real property; to the Committee on Finance.

ECONOMIC RECOVERY TAX ACT OF 1981

(The remarks of Mr. DOLE, Mr. BAKER, Mr. ROTH, Mr. STEVENS, and Mr. CHAFEE appear earlier in today's RECORD.)

The text of the bill reads as follows:

S. 683

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Economic Recovery Tax Act of 1981".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 code.

TITLE I—INDIVIDUAL TAX RATE CUTS

Sec. 101. Reduction in individual rates.
Sec. 102. Reduction in alternative minimum tax.

TITLE II—INCENTIVES FOR PLANT, EQUIPMENT, AND REAL PROPERTY

Sec. 201. Accelerated cost recovery for plant and equipment.
Sec. 202. Accelerated and simplified cost recovery of certain real property.
Sec. 203. Shorter period requirements for investment tax credit.
Sec. 204. Amendments relating to depreciation.
Sec. 205. Disposition of recovery property subject to recapture under section 1245.
Sec. 206. Minimum tax amendment.
Sec. 207. Earnings and profits.
Sec. 208. Extension of carryover period for net operating loses and certain credits.
Sec. 209 Carryover of recovery attribute in section 381 transactions.
Sec. 210. Effective dates.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INDIVIDUAL TAX RATE CUTS

SEC. 101. REDUCTION IN INDIVIDUAL RATES.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b), of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year,

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined under the applicable schedule for the taxable year, and

"(5) estate and trust a tax determined under the applicable schedule for the taxable year,

"(b) APPLICABLE SCHEDULES.—

"(1) APPLICATION OF SCHEDULES TO INDIVIDUALS.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 1,

"(B) individuals described in subsection (a)(2) is schedule 2,

"(C) individuals described in subsection (a)(3) is schedule 3,

"(D) individuals described in subsection (a)(4) is schedule 4, and

"(E) estate and trusts described in subsection (a)(5) is schedule 5.

"(2) APPLICATION OF SCHEDULES TO CALENDAR YEAR 1981.—The schedules in effect for taxable years beginning in 1981 are as follows:

"(A) SCHEDULE 1.—MARRIED INDIVIDUAL FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	13% of the excess over $3,400.
Over $5,500 but not over $7,600.	$273 plus 15% of the excess over $5,500.
Over $7,600 but not over $11,900.	$588 plus 17% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,319 plus 20% of the excess over $11,900.
Over $16,000 but not over $20,000.	$2,139 plus 23% of the excess over $16,000.
Over $20,200 but not over $24,600.	$3,105 plus 27% of the excess over $20,200.
Over $24,600 but not over $29,900.	$4,293 plus 30% of the excess over $24,600.
Over $29,900 but not over $35,200.	$5,883 plus 35% of the excess over $29,900.
Over $35,200 but not over $45,800.	$7,738 plus 41% of the excess over $35,200.

"(A) SCHEDULE 1.—MARRIED INDIVIDUAL FILING JOINT RETURNS AND SURVIVING SPOUSES—Continued

Over $45,800 but not over $60,000.	$12,084 plus 47% of the excess over $45,800.
Over $60,000 but not over $85,600.	$18,758 plus 51% of the excess over $60,000.
Over $85,600 but not over $109,400.	$31,814 plus 56% of the excess over $85,600.
Over $109,400 but not over $162,400.	$45,142 plus 61% of the excess over $109,400.
Over $162,400 but not over $215,400.	$77,472 plus 65% of the excess over $162,400.
$215,400 and over	$111,922 plus 66% of the excess over $215,400.

"(B) SCHEDULE 2.—HEADS OF HOUSEHOLDS

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	13% of the excess over $2,300.
Over $4,400 but not over $6,500.	$273 plus 15% of the excess over $4,400.
Over $6,500 but not over $8,700.	$588 plus 17% of the excess over $6,500.
Over $8,700 but not over $11,800.	$962 plus 21% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,613 plus 23% of the excess over $11,800.
Over $15,000 but not over $18,200.	$2,349 plus 25% of the excess over $15,000.
Over $18,200 but not over $23,500.	$3,149 plus 29% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,686 plus 34% of the excess over $23,500.
Over $28,800 but not over $34,100.	$6,488 plus 40% of the excess over $28,800.
Over $34,100 but not over $44,700.	$8,608 plus 44% of the excess over $34,100.
Over $44,700 but not over $60,600.	$13,272 plus 51% of the excess over $44,700.
Over $60,600 but not over $81,800.	$21,381 plus 56% of the excess over $60,600.
Over $81,800 but not over $108,300.	$33,253 plus 60% of the excess over $81,800.
Over $108,300 but not over $161,300.	$49,153 plus 65% of the excess over $108,300.
$161,300 and over	$83,603 plus 66% of the excess over $161,300.

"(C) SCHEDULE 3.—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	10% of the excess over $2,000.
Over $3,400 but not over $4,400.	$143 plus 15% of the excess over $3,400.
Over $4,400 but not over $6,500.	$293 plus 17% of the excess over $4,400.
Over $6,500 but not over $8,500.	$650 plus 18% of the excess over $6,500.
Over $8,500 but not over $10,800.	$1,010 plus 20% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,470 plus 23% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,953 plus 25% of the excess over $12,900.
Over $15,000 but not over $18,200.	$2,478 plus 28% of the excess over $15,000.
Over $18,200 but not over $23,500.	$3,374 plus 32% of the excess over $18,200.
Over $23,500 but not over $28,800.	$5,070 plus 37% of the excess over $23,500.
Over $28,800 but not over $34,100.	$7,031 plus 42% of the excess over $28,800.
Over $34,100 but not over $41,500.	$9,257 plus 47% of the excess over $34,100.
Over $41,500 but not over $55,300.	$12,735 plus 52% of the excess over $41,500.
Over $55,300 but not over $81,800.	$19,911 plus 60% of the excess over $55,300.
Over $81,800 but not over $108,300.	$35,811 plus 65% of the excess over $81,800.
$108,300 and over	$53,036 plus 66% of the excess over $108,300.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS:

If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	13% of the excess over $1,700.
Over $2,750 but not over $3,800.	$136.50 plus 15% of the excess over $2,750.
Over $3,800 but not over $5,950.	$294 plus 17% of the excess over $3,800.
Over $5,950 but not over $8,000.	$659.50 plus 20% of the excess over $5,950.
Over $8,000 but not over $10,100.	$1,069.50 plus 23% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,552.50 plus 27% of the excess over $10,100.
Over $12,300 but not over $14,950.	$2,146.50 plus 30% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,941.50 plus 35% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,869 plus 41% of the excess over $17,600.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS—Continued

Over $22,900 but not over $30,000.	$6,042 plus 47% of the excess over $22,900.
Over $30,000 but not over $42,800.	$9,379 plus 51% of the excess over $30,000.
Over $42,800 but not over $54,700.	$15,907 plus 56% of the excess over $42,800.
Over $54,700 but not over $81,200.	$22,571 plus 61% of the excess over $54,700.
Over $81,200 but not over $107,700.	$38,736 plus 65% of the excess over $81,200.
$107,700 and over	$55,961 plus 66% of the excess over $107,700.

"(E) SCHEDULE 5.—ESTATES AND TRUSTS

If taxable income is:	The tax is:
Not over $1,050	13% of taxable income.
Over $1,050 but not over $2,100.	$136.50 plus 15% of the excess over $1,050.
Over $2,100 but not over $4,250.	$294 plus 17% of the excess over $2,100.
Over $4,250 but not over $6,300.	$659.50 plus 20% of the excess over $4,250.
Over $6,300 but not over $8,400.	$1,069.50 plus 23% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,552.50 plus 27% of the excess over $8,400.
Over $10,600 but not over $13,250.	$2,146.50 plus 30% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,941.50 plus 35% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,869 plus 41% of the excess over $15,900.
Over $21,200 but not over $28,300.	$6,042 plus 47% of the excess over $21,200.
Over $28,300 but not over $41,100.	$9,379 plus 51% of the excess over $28,300.
Over $41,100 but not over $53,000.	$15,907 plus 56% of the excess over $41,100.
Over $53,000 but not over $79,500.	$22,571 plus 61% of the excess over $53,000.
Over $79,500 but not over $106,000.	$38,736 plus 65% of the excess over $79,500.
$106,000 and over	$55,961 plus 66% of the excess over $106,000.

"(3) APPLICATION OF SCHEDULES TO CALENDAR YEAR 1982.—The schedules in effect for taxable years beginning in 1982 are as follows:

"(A) SCHEDULE 1.—MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	12% of the excess over $3,400.
Over $5,500 but not over $7,600.	$252 plus 14% of the excess over $5,500.
Over $7,600 but not over $11,900.	$546 plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,191 plus 18% of the excess over $11,900.
Over $16,000 but not over $20,200.	$1,929 plus 21% of the excess over $16,000.
Over $20,200 but not over $24,600.	$2,811 plus 24% of the excess over $20,200.
Over $24,600 but not over $29,900.	$3,867 plus 27% of the excess over $24,600.
Over $29,900 but not over $35,200.	$5,298 plus 31% of the excess over $29,900.
Over $35,200 but not over $45,800.	$6,941 plus 37% of the excess over $35,200.
Over $45,800 but not over $60,000.	$10,863 plus 42% of the excess over $45,800.
Over $60,000 but not over $85,600.	$16,827 plus 47% of the excess over $60,000.
Over $85,600 but not over $109,400.	$28,859 plus 50% of the excess over $85,600.
Over $109,400 but not over $162,400.	$40,759 plus 55% of the excess over $109,400.
Over $162,400 but not over $215,400.	$69,909 plus 58% of the excess over $162,400.
$215,400 and over	$100,649 plus 60% of the excess over $215,400.

"(B) SCHEDULE 2.—HEADS OF HOUSEHOLDS

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	12% of the excess over $2,300.
Over $4,400 but not over $6,500.	$252 plus 14% of the excess over $4,400.
Over $6,500 but not over $8,700.	$546 plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800.	$876 plus 19% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,465 plus 20% of the excess over $11,800.
Over $15,000 but not over $18,200.	$2,105 plus 22% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,809 plus 26% of the excess over $18,200.
Over $23,500 but not over $28,000.	$4,187 plus 31% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,830 plus 36% of the excess over $28,800.
Over $34,100 but not over $44,700.	$7,738 plus 39% of the excess over $34,100.

"(B) SCHEDULE 2.—HEADS OF HOUSEHOLDS—Continued

Over $44,700 but not over $60,600.	$11,872 plus 46% of the excess over $44,700.
Over $60,600 but not over $81,800.	$19,186 plus 51% of the excess over $60,600.
Over $81,800 but not over $108,300.	$29,998 plus 54% of the excess over $81,800.
Over $108,300 but not over $161.300.	$44,308 plus 58% of the excess over $108,300.
$161,300 and over	$75,048 plus 60% of the excess over $161,300.

"(C) SCHEDULE 3.—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	12% of the excess over $2,300.
Over $3,400 but not over $4,400.	$132 plus 14% of the excess over $3,400.
Over $4,400 but not over $6,500.	$272 plus 15% of the excess over $4,400.
Over $6,500 but not over $8,500.	$587 plus 16% of the excess over $6,500.
Over $8,500 but not over $10,800.	$907 plus 18% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,321 plus 20% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,741 plus 22% of the excess over $12,900.
Over $15,000 but not over $18,200.	$2,203 plus 26% of the excess over $15,000.
Over $18,200 but not over $23,500.	$3,035 plus 29% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,572 plus 33% of the excess over $23,500.
Over $28,800 but not over $34,100.	$6,321 plus 37% of the excess over $28,800.
Over $34,100 but not over $41,500.	$8,282 plus 42% of the excess over $34,100.
Over $41,500 but not over $55,300.	$11,390 plus 47% of the excess over $41,500.
Over $55,300 but not over $81,800.	$17,876 plus 54% of the excess over $55,300.
Over $81,800 but not over $108,300.	$32,186 plus 58% of the excess over $81,800.
$108,300 and over	$47,556 plus 60% of the excess over $108,300.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	12% of the excess over $1,700.
Over $2,750 but not over $3,800.	$126 plus 14% of the excess over $2,750.
Over $3,800 but not over $5,950.	$273 plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000.	$595.50 plus 18% of the excess over $5,950.
Over $8,000 but not over $10,000.	$964.50 plus 21% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,405.50 plus 24% of the excess over $10,100.
Over $12,300 but not over $14,950.	$1,933.50 plus 27% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,649 plus 31% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,470.50 plus 37% of the excess over $17,600.
Over $22,900 but not over $30,000.	$5,431.50 plus 42% of the excess over $22,900.
Over $30,000 but not over $42,800.	$8,413.50 plus 47% of the excess over $30,000.
Over $42,800 but not over $54,700.	$14,429.50 plus 50% of the excess over $42,800.
Over $54,700 but not over $81,200.	$20,379.50 plus 55% of the excess over $54,700.
Over $81,200 but not over $107,700.	$34,954.50 plus 58% of the excess over $81,200.
$107,700 and over	$50,324.50 plus 60% of the excess over $107,700.

"(E) SCHEDULE 5.—ESTATES AND TRUSTS

If taxable income is:	The tax is:
Not over $1,050	12% of taxable income.
Over $1,050 but not over $2,100.	$126 plus 14% of the excess over $1,050.
Over $2,100 but not over $4,250.	$273 plus 15% of the excess over $2,100.
Over $4,250 but not over $6,300.	$595.50 plus 18% of the excess over $4,250.
Over $6,300 but not over $8,400.	$964.50 plus 21% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,405.50 plus 24% of the excess over $8,400.
Over $10,600 but not over $13,250.	$1,933.50 plus 27% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,649 plus 31% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,470.50 plus 37% of the excess over $15,900.
Over $21,200 but not over $28,300.	$5,431.50 plus 42% of the excess over $21,200.
Over $28,300 but not over $41,100.	$8,413.50 plus 47% of the excess over $28,300.
Over $41,100 but not over $53,000.	$14,429.50 plus 50% of the excess over $41,100.

"(E) SCHEDULE 5.—ESTATES AND TRUSTS—Continued

Over $53,000 but not over $79,500.	$20,379.50 plus 55% of the excess over $53,000.
Over $79,500 but not over $106,000.	$34,954.50 plus 58% of the excess over $79,500.
$106,000 and over	$50,324.50 plus 60% of the excess over $106,000.

"(4) APPLICATION OF SCHEDULES TO CALENDAR YEAR 1983.—The schedules in effect for taxable years beginning in 1983 are as follows:

"(A) SCHEDULE 1.—MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500.	11% of the excess over $3,400.
Over $5,500 but not over $7,000.	$231 plus 12% of the excess over $5,500.
Over $7,600 but not over $11,900.	$483 plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000.	$1,085 plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200.	$1,741 plus 19% of the excess over $16,000.
Over $20,200 but not over $24,600.	$2,539 plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900.	$3,507 plus 24% of the excess over $24,600.
Over $29,900 but not over $35,200.	$4,779 plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800.	$6,263 plus 33% of the excess over $35,200.
Over $45,800 but not over $60,000.	$9,761 plus 38% of the excess over $45,800.
Over $60,000 but not over $85,600.	$15,157 plus 42% of the excess over $60,000.
Over $85,600 but not over $109,400.	$25,909 plus 45% of the excess over $85,600.
Over $109,400 but not over $162,400.	$36,619 plus 49% of the excess over $109,400.
Over $162,400 but not over $215,400.	$62,589 plus 52% of the excess over $162,400.
$215,400 and over	$90,149 plus 53% of the excess over $215,400.

"(B) SCHEDULE 2.—HEADS OF HOUSEHOLDS

It taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	11% of the excess over $2,300
Over $4,400 but not over $6,500.	$231 plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700.	$483 plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800.	$791 plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,318 plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200.	$1,894 plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,534 plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800.	$3,806 plus 27% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,237 plus 32% of the excess over $28,800.
Over $34,100 but not over $44,700.	$6,933 plus 35% of the excess over $34,100.
Over $44,700 but not over $60,600.	$10,643 plus 41% of the excess over $44,700.
Over $60,600 but not over $81,800.	$17,162 plus 45% of the excess over $60,600.
Over $81,800 but not over $108 300.	$26,702 plus 48% of the excess over $81,800.
Over $108,300 but not over $161,300.	$39,422 plus 52% of the excess over $108,300.
$161,300 and over	$66,982 plus 53% of the excess over $161,300.

"(C) SCHEDULE 3.—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	11% of the excess over $2,300.
Over $3,400 but not over $4,400.	$121 plus 12% of the excess over $3,400.
Over $4,400 but not over $6,500.	$241 plus 13% of the excess over $4,400.
Over $6,500 but not over $8,500.	$514 plus 14% of the excess over $6,500.
Over $8,500 but not over $10,800.	$794 plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,162 plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,540 plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200.	$1,960 plus 22% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,664 plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800.	$4,042 plus 29% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,579 plus 34% of the excess over $28,800.

(C) SCHEDULE 3.—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)—Continued

Over $34,100 but not over $41,500.	$7,381 plus 38% of the excess over $34,100.
Over $41,500 but not over $55,300.	$10,193 plus 42% of the excess over $41,500.
Over $55,300 but not over $81,800.	$15,989 plus 48% of the excess over $55,300.
Over $81,800 but not over $108,300.	$28,709 plus 52% of the excess over $81,800.
$108,300 and over	$42,489 plus 53% of the excess over $108,300.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If taxable income is:	The tax is:
Not over $1,700	No tax
Over $1,700 but not over $2,750.	11% of the excess over $1,700.
Over $2,750 but not over $3,800.	$115.50 plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950.	$241.50 plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000.	$542.50 plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100.	$870.50 plus 19% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,269.50 plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950.	$1,753.50 plus 24% of the excess over $12,300.
Over $14,950 but not over $17,600.	$2,389.50 plus 28% of the excess over $14,950.
Over $17,600 but not over $22,900.	$3,131.50 plus 33% of the excess over $17,600.
Over $22,900 but not over $30,000.	$4,880.50 plus 38% of the excess over $22,900.
Over $30,000 but not over $42,800.	$7,578.50 plus 42% of the excess over $30,000.
Over $42,800 but not over $54,700.	$12,954.50 plus 45% of the excess over $42,800.
Over $54,700 but not over $81,200.	$18,309.50 plus 49% of the excess over $54,700.
Over $81,200 but not over $107,700.	$31,294.50 plus 52% of the excess over $81,200.
$107,700 and over	$45,074.50 plus 53% of the excess over $107,700.

"(E) SCHEDULE 5.—ESTATES AND TRUSTS

If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100.	$115.50 plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250.	$241.50 plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300.	$542.50 plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400.	$870.50 plus 19% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,269.50 plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250.	$1,753.50 plus 24% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,389.50 plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200.	$3,131.50 plus 33% of the excess over $15,900.
Over $21,200 but not over $28,300.	$4,880.50 plus 38% of the excess over $21,200.
Over $28,300 but not over $41,100.	$7,578.50 plus 42% of the excess over $28,300.
Over $41,100 but not over $53,000.	$12,954.50 plus 45% of the excess over $41,100.
Over $53,000 but not over $79,500.	$18.309.50 plus 49% of the excess over $53,000.
Over $79,500 but not over $106,000.	$31,294.50 plus 52% of the excess over $79,500.
$106,000 and over	$45,074.50 plus 53% of the excess over $106.000.

"(5) APPLICATION OF SCHEDULES OF CALENDAR YEAR 1984.—The schedules in effect for taxable years beginning in 1984 are as follows:

"(A) SCHEDULE 1.—MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES

If taxable income is:	The tax is:
Not over $3, 400	No tax.
Over $3, 400 but not over $5, 500.	10% of the excess over $3, 400.
Over $5, 500 but not over $7, 600.	$210 plus 11% of the excess over $5, 500.
Over $7, 600 but not over $11, 900.	$441 plus 13% of the excess over $7, 600.
Over $11, 900 but not over $16, 000.	$1, 000 plus 15% of the excess over $11, 900.
Over $16, 000 but not over $20, 200.	$1, 615 plus 18% of the excess over $16, 000.
Over $20, 200 but not over $24, 600.	$2, 371 plus 21% of the excess over $20, 200.
Over $24, 600 but not over $29, 900.	$3, 295 plus 23% of the excess over $24, 600.
Over $29, 900 but not over $35, 200.	$4, 514 plus 27% of the excess over $29, 900.

"(A) SCHEDULE 1.—MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES—Continued

Over $35,200 but not over $45, 800.	$5, 945 plus 32% of the excess over $35, 200.
Over $45, 800 but not over $60, 000.	$9, 337 plus 36% of the excess over $45, 800.
Over $60,000 but not over $85,600.	$14,449 plus 40% of the excess over $60,000.
Over $85,600 but not over $109,400.	$24,689 plus 43% of the excess over $85,600.
Over $109,400 but not over $162,400.	$34,923 plus 47% of the excess over $103,400.
Over $162,400 but not over $215,400.	$59,833 plus 49% of the excess over $162,400.
$215,400 and over	$85,803 plus 50% of the excess over $215,400.

"(B) SCHEDULE 2.—HEADS OF HOUSEHOLDS

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400.	10% of the excess over $2,300.
Over $4,400 but not over $6,500.	$210 plus 11% of the excess over $4,400.
Over $6,500 but not over $8,700.	$441 plus 13% of the excess over $6,500.
Over $8,700 but not over $11,800.	$727 plus 16% of the excess over $8,700.
Over $11,800 but not over $15,000.	$1,223 plus 17% of the excess over $11,800.
Over $15,000 but not over $18,200.	$1,767 plus 19% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,375 plus 23% of the excess over $18,200.
Over $23,500 but not over $28,800.	$3,594 plus 26% of the excess over $23,500.
Over $28,800 but not over $34,100.	$4,972 plus 31% of the excess over $28,800.
Over $34,100 but not over $44,700.	$6,615 plus 34% of the excess over $34,100.
Over $44,700 but not over $60,600.	$10,219 plus 39% of the excess over $44,700.
Over $60,600 but not over $81,800.	$16,420 plus 43% of the excess over $60,600.
Over $81,800 but not over $108,300.	$25,536 plus 46% of the excess over $81,800.
Over $108,300 but not over $161,300.	$37,726 plus 49% of the excess over $108,300.
$161,300 and over	$63,696 plus 50% of the excess over $161,300.

"(C) SCHEDULE 3.—UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS)

If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400.	10% of the excess over $2,300.
Over $3,400 but not over $4,400.	$110 plus 11% of the excess over $3,400.
Over $4,400 but not over $6,500.	$220 plus 12% of the excess over $4,400.
Over $6,500 but not over $8,500	$472 plus 13% of the excess over $6,500.
Over $8,500 but not over $10,800.	$732 plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900.	$1,100 plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000.	$1,478 plus 19% of the excess over $12,900.
Over $15,000 but not over $18,200.	$1,877 plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500.	$2,549 plus 25% of the excess over $18,200.
Over $23,500 but not over $28,800.	$3,874 plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100.	$5,358 plus 32% of the excess over $28,800.
Over $34,100 but not over $41,500.	$7,054 plus 36% of the excess over $34,100.
Over $41,500 but not over $55,300.	$9,718 plus 40% of the excess over $41,500.
Over $55,300 but not over $81,800.	$15,238 plus 46% of the excess over $55,300.
Over $81,800 but not over $108,300.	$27,428 plus 49% of the excess over $81,800.
$108,300 and over	$40,413 plus 50% of the excess over $108,300.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS

If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750.	10% of the excess over $1,700.
Over $2,750 but not over $3,800.	$105 plus 11% of the excess over $2,750.
Over $3,800 but not over $5,950.	$220.50 plus 13% of the excess over $3,800.
Over $5,950 but not over $8,000.	$500 plus 15% of the excess over $5,950.
Over $8,000 but not over $10,100.	$807.50 plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300.	$1,185.50 plus 21% of the excess over $10,100.
Over $12,300 but not over $14,950.	$1,647.50 plus 23% of the excess over $12,300.

"(D) SCHEDULE 4.—MARRIED INDIVIDUALS FILING SEPARATE RETURNS—Continued

Over $14,950 but not over $17,600.	$2,257 plus 27% of the excess over $14,950.
Over $17,600 but not over $22,900.	$2,972.50 plus 32% of the excess over $17,600.
Over $22,900 but not over $30,000.	$4,668.50 plus 36% of the excess over $22,900.
Over $30,000 but not over $42,800.	$7,224.50 plus 40% of the excess over $30,000.
Over $42,800 but not over $54,700.	$12,344.50 plus 43% of the excess over $42,800.
Over $54,700 but not over $81,200.	$17,461.50 plus 47% of the excess over $54,700.
Over $81,200 but not over $107,700.	$29,916.50 plus 49% of the excess over $81,200.
$107,700 and over	$42,901.50 plus 50% of the excess over $107,700.

"(E) SCHEDULE 5.—ESTATES AND TRUSTS

If taxable income is:	The tax is:
Not over $1,050	10% of taxable income.
Over $1,050 but not over $2,100.	$105 plus 11% of the excess over $1,050.
Over $2,100 but not over $4,250.	$220.50 plus 13% of the excess over $2,100.
Over $4,250 but not over $6,300.	$500 plus 15% of the excess over $4,250.
Over $6,300 but not over $8,400.	$807.50 plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600.	$1,185.50 plus 21% of the excess over $8,400.
Over $10,600 but not over $13,250.	$1,647.50 plus 23% of the excess over $10,600.
Over $13,250 but not over $15,900.	$2,257 plus 27% of the excess over $13,250.
Over $15,900 but not over $21,200.	$2,972.50 plus 32% of the excess over $15,900.
Over $21,200 but not over $28,300.	$4,668.50 plus 36% of the excess over $21,200.
Over $28,300 but not over $41,100.	$7,224.50 plus 40% of the excess over $28,300.
Over $41,100 but not over $53,000.	$12,344.50 plus 43% of the excess over $41,100.
Over $53,000 but not over $79,500.	$17,461.50 plus 47% of the excess over $53,000.
Over $79,500 but not over $106,000.	$29,916.50 plus 49% of the excess over $79,500.
$106,000 and over	$42,901.50 plus 50% of the excess over $106,000.

(b) REPEAL OF MAXIMUM RATE ON PERSONAL SERVICE INCOME.—Section 1348 is repealed.

(c) WITHHOLDING TABLES.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second sentence and inserting in lieu thereof the following new sentence: "With respect to wages paid after June 30, 1981, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1980, except that such tables shall be modified to the extent necessary to reflect the amendments made by section 101 of the Economic Recovery Tax Act of 1981."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

(2) MAXIMUM TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

(3) WITHHOLDING TABLES.—The amendment made by subsection (c) shall apply to remuneration paid after June 30, 1981.

SEC. 102. REDUCTION IN ALTERNATIVE MINIMUM TAX RATE.

(a) GENERAL RULE.—Section 55 (relating to alternative minimum tax) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) ALTERNATIVE MINIMUM TAX IMPOSED.

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, if the amount of gross alternative minimum tax determined under paragraph (2) of this subsection exceeds the regular tax for the taxable year, then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess.

"(2) GROSS ALTERNATIVE MINIMUM TAX.—For purposes of paragraph (1) of this subsection, the amount of gross alternative minimum tax is

"(A) For taxable years beginning before January 1, 1982—

"(i) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000, plus

"(ii) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(iii) 25 percent of so much of the alternative minimum taxable income as exceeds $100,000.

"(B) For taxable years beginning after December 31, 1981 and before January 1, 1983—

"(i) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000, plus

"(ii) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(iii) 24 percent of so much of the alternative minimum taxable income as exceeds $100,000.

"(C) For taxable years beginning after December 31, 1982 and before January 1, 1984—

"(i) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000, plus

"(ii) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(iii) 21 percent of so much of the alternative minimum taxable income as exceeds $100,000.

"(D) For taxable years beginning after December 31, 1983—

"(i) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000, plus

"(ii) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000."

(b) CONFORMING CHANGES.—

(1) Subparagraphs (A), (B), and (C) of section 55(c)(2) are amended by deleting "the tax imposed by subsection (a)" each time it appears, and inserting in lieu thereof "the tax imposed by paragraph (1) of subsection (a)".

(2) Subsection (a) of section 58 is amended by deleting "paragraph (1) of section 55(a)" and inserting in lieu thereof "paragraph (2) of section 55(a)."

(3) Paragraph (A) of section 897(a)(2) is amended by deleting "section 55(a)(1)(A)" and inserting in lieu thereof "section 55(a)(2)(A)(i)", and by adding at the end thereof the following new sentence: "For taxable years beginning after December 31, 1981 and before January 1, 1983, the reference to section 55(a)(2)(A)(i) in the first sentence of this subparagraph shall instead be to section 55(a)(2)(B)(i). For taxable years beginning after December 31, 1982 and before January 1, 1984, the reference to section 55(a)(2)(A)(i) in the first sentence of this subparagraph shall instead be to section 55(a)(2)(C)(i). For taxable years beginning after December 31, 1983, the reference to section 55(a)(2)(A)(i) in the first sentence of this subparagraph shall instead be to section 55(a)(2)(D)(i)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

TITLE II—INCENTIVES FOR PLANT, EQUIPMENT, AND REAL PROPERTY

SEC. 201. ACCELERATED COST RECOVERY DEDUCTION FOR PLANT AND EQUIPMENT

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 167 the following new section:

"SEC. 168. ACCELERATED COST RECOVERY DEDUCTION FOR PLANT AND EQUIPMENT.

"(a) ALLOWANCE OF DEDUCTION.—In the case of recovery property, there shall be allowed, in lieu of any deduction allowed by any other section of this part, the recovery deduction provided by this section.

"(b) AMOUNT OF DEDUCTION.—Except as provided in subsection (g) (relating to transitional rules applicable before January 1, 1985) and (h)(2) (relating to recovery property predominantly used outside the United States), the amount of the deduction allowable by subsection (a) for any taxable year shall be the aggregate amount determined by applying to the unadjusted basis of recovery property the applicable percentage determined in accordance with the following table:

ACCELERATED COST RECOVERY

"If the recovery year is:	The applicable percentage for the class of property is: 10-year	5-year	3-year
1	10	20	33
2	18	32	45
3	16	24	22
4	14	16	
5	12	8	
6	10		
7	8		
8	6		
9	4		
10	2		

"(c) RECOVERY PROPERTY.—For purposes of this title—

"(1) RECOVERY PROPERTY DEFINED.—Except as provided in subsection (f), the term 'recovery property' means tangible property of a character subject to the allowance for depreciation—

"(A) used in a trade or business, or

"(B) held for the production of income, and includible in one of the classes described in paragraph (3).

"(2) CLASSES OF RECOVERY PROPERTY.—Each item of recovery property shall be classified as 10-year property, 5-year property, or 3-year property.

"(3) CLASSES DEFINED.—

"(A) 10-YEAR PROPERTY.—The term '10-year property' means—

"(i) qualified owner-user buildings (including all structural components); and

"(ii) public utility property (other than section 1250 property except to the extent clause (i) applies) with a midpoint life of greater than 18 years.

"(B) 5-YEAR PROPERTY.—The term 5-year property means recovery property which is tangible section 1245 property and which is not 10-year property or 3-year property.

"(C) 3-YEAR PROPERTY.—The term '3-year property' means—

"(i) automobiles;

"(ii) light-duty trucks; and

"(iii) tangible section 1245 property used in connection with research and experimentation.

"(4) QUALIFIED OWNER-USER BUILDING DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified owner-user building' means any section 1250 property if—

"(i) such property is owned by the taxpayer (other than as a condominium as determined under applicable state law); and

"(ii) at all times during the taxable year in which placed in service and for taxable years thereafter, but before the earlier of the taxable year—

"(I) the property is disposed of, or

"(II) deductions have been allowed under subsection (a) for the full unadjusted basis of such property,

at least 80 percent of the usable area of such property is used by the taxpayer for a qualified use. For purposes of clause (ii) all times during the taxable year shall mean, in the case of the taxable year in which the property is placed in service, after the date such property is placed in service.

"(B) QUALIFIED USE.—For purposes of this paragraph, the term 'qualified use' means use as an industrial building or as a distribution facility.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) MEMBERS OF AFFILIATED GROUP.—Members of the same affiliated group of corporations which file a consolidated return under section 1501 for the taxable year shall be treated as 1 taxpayer.

"(ii) HUSBAND AND WIFE.—A husband and wife, as determined under section 143, shall be treated as 1 taxpayer.

"(D) QUALIFIED OWNER-USER BUILDING CEASING TO QUALIFY.—If, in any taxable year, any property which, for all prior taxable years in which such property was held by the taxpayer, was a qualified owner-user building (within the meaning of subparagraph (A)), ceases to be a qualified owner-user building, the recovery allowance for such taxable year and all subsequent taxable years shall be determined under section 167(r). For purposes of the preceding sentence the property shall be taken into account at its adjusted basis at the beginning of the taxable year in which it ceases to be a qualified owner-user building and the allowance shall be computed under the straight line method using a recovery period of—

"(i) In the case of property described in section 167(r)(1)(A), 18 years less the number of years a recovery deduction was allowed to the taxpayer with respect to such property under subsection (a); and

"(ii) In the case of property described in section 167(r)(1)(B), 15 years less the number of years a recovery deduction was allowed to the taxpayer with respect to such property under subsection (a).

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) PUBLIC UTILITY PROPERTY.—The term 'public utility property' means property described in section 167(l)(3)(A).

"(B) MIDPOINT LIFE.—The term 'midpoint life' means the asset guideline period prescribed as the class life by the Secretary under section 167(m) applicable as by December 31, 1980.

"(C) SECTION 1245 PROPERTY.—The term 'section 1245 property' means tangible property described in section 1245(a)(3) other than subparagraphs (C) and (D).

"(D) SECTION 1250 PROPERTY.—The term 'section 1250 property' means property described in section 1250(c) and property described in section 1245(a)(3)(C).

"(E) SECTION 1245 PROPERTY USED IN CONNECTION WITH RESEARCH OR EXPERIMENTATION.—Section 1245 property is used in connection with research or experimentation if such property is described in section 174(c).

"(F) INDUSTRIAL BUILDING.—The term 'industrial building' means section 1250 property used for manufacturing, production, extraction, cultivation of the soil, raising of livestock (including poultry), furnishing of transportation or communications services, as public utility property, or as a research facility used in connection with any of the activities described in this subparagraph. The term does not include an office building.

"(G) DISTRIBUTION FACILITY.—The term 'distribution facility' means section 1250 property used for the storage or for the sale of goods.

"(H) RESEARCH FACILITY.—The term 'research facility' means section 1250 property used in connection with research or experimentation if such property is described in section 174(c).

"(6) SAME RECOVERY PERIOD FOR COMPONENTS.—For purposes of this section, structural components of 10-year property shall have the same recovery period as the property to which they relate. The recovery period for any such component shall begin when the component is placed in service (but no earlier than the time the property to which it relates is placed in service) except

to the extent that subsection (d)(3) applies. This paragraph shall not apply to any structural components for which amortization (in lieu of depreciation) is properly elected.

"(d) UNADJUSTED BASIS.—

"(1) IN GENERAL.—For purposes of this section, the term 'unadjusted basis' means the basis of the property determined under Part II of Subchapter O of Chapter 1 without regard to the adjustments described in paragraphs (2) or (3) of section 1016(a).

"(2) TIME FOR TAKING BASIS INTO ACCOUNT.—

"(A) IN GENERAL.—Except as provided in paragraph (3), the unadjusted basis of property shall be first taken into account under subsection (b) for the taxable year in which the property is placed in service.

"(B) REDUCTIONS IN UNADJUSTED BASIS.—If If the unadjusted basis of property taken into account under subparagraph (A) is reduced (such as by readjustment of the purchase price), the recovery deduction allowable under subsection (a) for the taxable year of the change and succeeding taxable years shall be adjusted in accordance with regulations prescribed by the Secretary.

"(3) SPECIAL RULES FOR PROPERTY NOT YET PLACED IN SERVICE.—

"(A) IN GENERAL.—Any qualified progress expenditure with respect to progress expenditure property shall be treated for purposes of this section as if such expenditure were property placed in service at the time the expenditure is made.

"(B) QUALIFIED PROGRESS EXPENDITURE; PROGRESS EXPENDITURE PROPERTY.—Except as provided in subparagraph (C), for purposes of this subsection, the terms 'qualified progress expenditure' and 'progress expenditure property' have the respective meanings given to such terms by subsection (d) of section 46 (relating to qualified progress expenditures for purposes of the investment credit).

"(C) EXCEPTION.—For purposes of this subsection, clause (ii) of section 46(d)(2)(A) shall be applied by substituting 'recovery property' for 'new section 38 property'.

"(D) COORDINATION WITH PARAGRAPH (1).—The unadjusted basis of property which (but for this paragraph) would be first taken into account when placed in service shall be reduced (but not below zero) by any amount that was a qualified progress expenditure under this subsection with respect to such property.

"(E) PUBLIC UTILITY PROPERTY ELECTION.—For the election for subparagraph (A) not to apply with respect to public utility property, see subsection (h)(3).

"(e) RECOGNITION OF GAIN OR LOSS AND ADJUSTMENT TO UNADJUSTED BASIS ON RETIREMENT OTHER DISPOSITION.—

"(1) GENERAL RULE.—Gain or loss as provided by section 1001(a) shall be recognized on the disposition of recovery property unless nonrecognition is specifically required or permitted by another provision of this chapter.

"(2) MASS ASSET ACCOUNTS.—In lieu of recognizing gain or loss, a taxpayer who maintains one or more mass asset accounts of recovery property may, under regulations prescribed by the Secretary, elect to include in income all proceeds realized on the disposition of such property.

"(3) ADJUSTMENT TO BASIS.—Except as provided under regulations prescribed by the Secretary under subsection (h)(7), for purposes of subsection (b), on the disposition of recovery property (other than property with respect to which the election under paragraph (2) is made), the unadjusted basis of such property shall cease to be taken into account as of the beginning of the taxable year in which such disposition occurs.

"(4) DISPOSITION INCLUDES RETIREMENT.—For purposes of this subsection, the term 'disposition' includes retirement.

"(f) PROPERTY EXCLUDED FROM APPLICATION OF SECTION.—

"(1) CERTAIN PROPERTY EXCLUDED.—The term 'recovery property' does not include—

"(A) property placed in service by the taxpayer before January 1, 1981,

"(B) property with respect to which the taxpayer—

"(i) is entitled to elect amortization (in lieu of depreciation), and

"(ii) elects such amortization; and

"(C) section 1250 property (as defined in section 1250(c)) which is not 10-year property (as defined in subsection (c)(3)(A)).

"(2) CERTAIN METHODS OF DEPRECIATION.—The term 'recovery property' does not include—

"(A) property if—

"(i) the taxpayer elects to exclude such property from the application of this section, and

"(ii) for the first taxable year for which a deduction would (but for this election) be allowable under this section with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years, or

"(B) property which is a leasehold improvement which the taxpayer properly elects to depreciate or amortize over the term of the lease.

"(3) SPECIAL RULE FOR RRB PROPERTY.—

"(A) GENERAL RULE.—Notwithstanding paragraph (2), the term 'recovery property' includes RRB property.

"(B) RRB PROPERTY DEFINED.—For purposes of this section the term 'RRB property' means property which under the taxpayer's method of depreciation before January 1, 1981 would have been depreciated using the retirement-replacement-betterment method.

"(4) SPECIAL RULE FOR CERTAIN PUBLIC UTILITY PROPERTY.—

"(A) IN GENERAL.—Public utility property (within the meaning of section 167(l)(3)(A)) shall be treated as recovery property only if the taxpayer uses a normalization method of accounting.

"(B) USE OF NORMALIZATION METHOD DEFINED.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) either—

"(I) in the case of property for which a recovery allowance would not be allowable but for subsection (d)(3)(A), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such recovery allowance, or

"(II) in the case of property to which (I) does not apply, if the amount allowable as a deduction under this section with respect to such property exceeds the amount that would be allowable as a deduction under section 167 (determined without regard to subsection (l) thereof) using the method and period used to compute regulated tax expense under subparagraph (B)(i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

"(C) PUBLIC UTILITY PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of public utility property which, by reason of this paragraph, is not treated as recovery property, the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (B)(i).

"(5) CERTAIN SALES, LEASES, AND OTHER TRANSACTIONS IN PROPERTY PLACED IN SERVICE BEFORE 1981.—In the case of recovery property acquired directly or indirectly from a person who used such property before January 1, 1981, if—

"(A) after the property is so acquired, the property is leased back to such person;

"(B) the person so acquiring the property bears a relationship specified in section 267(b) or section 707(b)(1) to the person using such property before January 1, 1981;

"(C) the person so acquiring the property and the person using such property before January 1, 1981, are engaged in trades or businesses under common control (within the meaning of subsections (b) and (c) of section 414); or

"(D) under regulations prescribed by the secretary, the property is acquired in a transaction the principal purpose of which is to avoid subparagraph (A) of subsection (f)(1);

then the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under section 312(k)(3). For property described in this paragraph, subsection (g) shall not apply. For purposes of subparagraph (B), in applying section 267(b) and section 707(b)(1) '10 percent' shall be substituted for '50 percent'. For purposes of subparagraph (C), in applying section 414(b), 'more than 50 percent' shall be substituted for 'at least 80 percent' each time it appears in section 1563(a)(1). For purposes of this paragraph, property owned by an individual shall be treated as also owned by his or her spouse.

"(g) TRANSITIONAL APPLICABLE PERCENTAGES FOR 10-YEAR PROPERTY AND 5-YEAR PROPERTY.—

"(1) IN GENERAL.—The Secretary shall prescribe tables settings forth transitional applicable percentages—

"(A) for 10-year property placed in service before January 1, 1985, and

"(B) for 5-year property placed in service before January 1, 1985.

Except as provided in paragraph (6), paragraph (9), subsection (f)(5), and subsection (h)(2), if for any taxable year for any property there is a transitional applicable percentage, such percentage shall be substituted for the applicable percentage set forth in subsection (b).

"(2) TRANSITIONAL APPLICABLE PERCENTAGES FOR 10-YEAR PROPERTY.—The transitional applicable percentages for 10-year property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR 10-YEAR PROPERTY

"For property placed in service in.	The transitional applicable percentage shall be based on a recovery period of the following number of years:
1981	ADR lower limit.
1982	ADR lower limit minus 2 years
1983	ADR lower limit minus 4 years
1984	ADR lower limit minus 6 years

The recovery period determined under this paragraph shall in no case be less than 10 years.

"(3) TRANSITIONAL APPLICABLE PERCENTAGES FOR CERTAIN 5-YEAR PROPERTY.—The transitional applicable percentages for 5-year property shall be determined in accordance with the following assigned recovery periods:

"TRANSITIONAL RECOVERY PERIODS FOR CERTAIN 5 -YEAR PROPERTY

"For property placed in service in—	The transitional applicable percentage shall be based on a recovery period of the following number of years:
1981	ADR lower limit.
1982	ADR lower limit minus 1 year.
1983	ADR lower limit minus 2 years.
1984	ADR lower limit minus 3 years.

The recovery period determined under this paragraph shall in no case be less than 5 years.

"(4) ADR LOWER LIMIT DEFINED.—For purposes of paragraphs (2) and (3), the ADR lower limit for any class of property is the lower limit of the asset depreciation range for such class of property under section 167(m) in effect on December 31, 1980. For purposes of the preceding sentence, lower limits in excess of 18 years in the case of 10-year property, or 9 years in the case of 5-year property, shall be treated as equal to 18 years or 9 years, respectively, and any lower limit which is not a whole number of years shall be reduced to the next lower whole number of years. For purposes of this paragraph, in the case of property for which on December 31, 1980 no asset depreciation range was in effect, the ADR lower limit shall be considered 18 years in the case of 10-year property, and 9 years in the case of 5-year property.

"(5) TABLES TO BE SIMILAR TO SUBSECTION (b) TABLE.—The tables prescribed under paragraph (1) for any class of property for any assigned recovery period shall be based on principles similar to those used in the computation of the table under subsection (b) for that class of property.

"(6) SPECIAL RULE FOR CERTAIN 5-YEAR PROPERTY.—

"(A) IN GENERAL.—In the case of 5-year property placed in service after December 31, 1980 and before January 1, 1985, at the election of the taxpayer, paragraph (1) shall not apply to property placed in service with an aggregate unadjusted basis (in whole or in part) not exceeding $100,000 for any taxable year (and for which such year is recovery year 1).

"(B) FISCAL YEARS.—In the case of any taxable year that is not a calendar year and which begins before January 1, 1981 or ends after December 31, 1984, the $100,000 referred to in subparagraph (A) shall be reduced by an amount which bears the same relationship to $100,000 as the number of months of the taxable year before January 1, 1981 or after December 31, 1984, as the case may be, bears to the number of months in the taxable year.

"(C) SHORT TAXABLE YEARS.—In the case of any taxable year that is less than 12 months, the $100,000 referred to in subparagraph (A) and (B) shall be reduced by an amount which bears the same relationship to $100,000 as the number of months less than 12 in the taxable year bears to 12.

"(D) SELECTION OF PROPERTY TO BE TREATED UNDER SPECIAL RULE.—In the case of any taxable year to which this paragraph applies, and in which the aggregate of the unadjusted basis of 5-year property for which such year is recovery year 1 exceeds the applicable limitations determined under subparagraphs (A), (B) and (C), the taxpayer shall select the items of 5-year property to which the transitional applicable percentages determined under paragraph (3) shall apply.

"(E) LIMITATIONS.—For purposes of applying the dollar limitation provided by this paragraph, the following rules shall apply:

"(i) CONTROLLED GROUP OF CORPORATIONS.—

"(I) IN GENERAL.—All component members of a controlled group of corporations shall be treated as one taxpayer.

"(II) APPORTIONMENT.—The dollar limitation shall be apportioned among the component members of such controlled group in accordance with regulations prescribed by the Secretary.

"(III) CONTROLLED GROUP DEFINED.—For purposes of this clause, the term 'controlled group' has the meaning assigned to it by section 1563(a) except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1).

"(ii) MARRIED INDIVIDUALS.—In the case of a husband or wife (who are married as determined in section 143) who file a separate return, the limitation shall be one-half of the limitation applicable to the taxpayer without regard to this clause. This clause shall not apply if the spouse of the taxpayer has no 5-year recovery property which may be taken into account under this paragraph for the taxable year of the spouse which ends with or within the taxapayer's taxable year.

"(7) QUALIFIED EXPENDITURES.—For purposes of this subsection, qualified progress expenditures described in subsection (d)(3) shall be considered property placed in service in the year the expenditure are made.

"(8) TRANSITIONAL RULE FOR FISCAL YEAR TAXPAYERS.—If—

"(A) the taxpayer's taxable year is a period other than the calendar year, and

"(B) for purposes of subsection (b) a transitional applicable percentage applies to recovery property

then the transitional applicable percentage with respect to each separate property shall be the appropriate percentage with respect to the calendar year in which the property was placed in service (or qualified progress expenditure was made).

"(9) SPECIAL RULE FOR RRB PROPERTY.—This subsection shall not apply to RRB property (as defined in subparagraph (B) of subsection (f)(3)) that is 5-year property.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) RECOVERY YEAR 1, ETC.—The term 'recovery year 1' means the first taxable year for which a deduction with respect to recovery property is allowable under subsection (a). The immediately following taxable year shall be recovery year 2, and the taxable years which follow shall be numbered accordingly.

"(2) RECOVERY PROPERTY PREDOMINANTLY USED OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—In the case of recovery property which, during the taxable year, is predominantly used outside the United States (within the meaning of paragraph (2) of section 48(a)), the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under section 312(k)(3). For property described in this paragraph, subsection (g) will not apply.

"(B) SPECIAL RULE.—For purposes of this subsection, paragraph (2) of section 48(a) shall be applied by substituting 'recovery property' for 'section 38 property'.

"(3) PUBLIC UTILITY MAY ELECT NOT TO TAKE INTO ACCOUNT PROGRESS PAYMENTS.—

"(A) IN GENERAL.—In the case of public utility property (within the meaning of section 167(1)(3)), the taxpayer may, at its own option and without regard to any requirement imposed by an agency described in section 167(1)(3)(A), elect to treat all expenditures and additions to capital account for the period before the property is placed in service as made during the taxable year in which the property is placed in service.

"(B) EFFECT OF ELECTION.—An election under subparagraph (A) shall apply to all public utility property of the taxpayer for the taxable year for which the election is made and all subsequent taxable years unless the Secretary consents to a revocation of such election.

"(4) MANNER AND TIME FOR MAKING ELECTIONS.—

"(A) IN GENERAL.—Any election under this section shall be made for the taxable year in which the property is placed in service. For purposes of this paragraph, property shall be treated as placed in service in the first taxable year in which expenditures with respect to such property are qualified progress expenditures under subsection (d)(3)(A).

"(B) MADE ON RETURN.—Any election under this section shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year concerned.

"(C) REVOCATION ONLY WITH CONSENT.—Any election under this section, once made, may be revoked only with the consent of the Secretary.

"(5) SHORT TAXABLE YEARS.—In the case of a taxable year that is less than 12 months, the amount of the deduction under subsections (b), (f)(5), or (h)(2) shall be an amount which bears the same relationship to the amount of the deduction, determined without regard to this paragraph, as the number of months in the short taxable year bears to 12. In such case, the amount of deduction for subsequent taxable years shall be appropriately adjusted in accordance with regulations prescribed by the Secretary. The determination of when a taxable year begins shall be made in accordance with regulations prescribed by the Secretary.

"(6) LEASEHOLD IMPROVEMENTS.—For purposes of determining whether a leasehold improvement which is recovery property shall be amortized over the term of the lease, the recovery period of such property shall be taken into account in lieu of its useful life.

"(7) SPECIAL RULE FOR NONRECOGNITION TRANSACTIONS.—The application of this section in cases in which recovery property is acquired or is disposed of in a transaction in which gain or loss is not recognized, in whole or in part, shall be made in accordance with regulations prescribed by the Secretary.

"(i) CROSS REFERENCE.—For special rules with respect to certain gain derived from disposition of recovery property, see section 1245."

SEC. 202. ACCELERATED AND SIMPLIFIED COST RECOVERY OF CERTAIN REAL PROPERTY.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsections (r) and (s) as subsection (s) and (t), respectively, and by inserting after subsection (q) the following new subsection:

"(r) SHORTENED AND AUDIT-PROOF RECOVERY PERIODS FOR CERTAIN BUILDINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), (9), and (11), in the case of section 167(r) property, the allowance under subsection (a) shall be computed under the straight line method using a recovery period of—

"(A) 18 years in the case of residential rental property (other than low-income rental housing), and

"(B) 15 years in the case of—

"(i) low-income rental housing; and

"(ii) all other section 167(r) property.

"(2) TRANSITIONAL RECOVERY PERIODS FOR 15-YEAR PROPERTY.—Except as provided in paragraphs (9) and (11), in the case of property described in subparagraph (B) of paragraph (1) which is placed in service after December 31, 1980 and before January 1, 1983, the allowance under subsection (a)

shall be computed under the straight line method using the following recovery periods:

"For property placed in service in:	(In years) The recovery period is:
1981	18
1982	16

For purposes of this paragraph, qualified progress expenditures shall be considered property that is placed in service in the year the expenditures are made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) SECTION 167(r) PROPERTY.—The term 'section 167(r) property' means section 1250 property (as defined in section 1250(c) and property described in section 1245(a)(3)(C)) which is not recovery property (as defined in section 168(c)).

"(B) LOW INCOME RENTAL HOUSING.—The term 'low-income rental housing' means property described in subparagraphs (B) and (C) of subsection (k)(3).

"(C) RESIDENTIAL RENTAL PROPERTY.—The term 'residential rental property' means property described in subsection (j)(2)(B) except that 'if more than 20 percent' shall be substituted for 'only if 80 percent or more.'

"(4) 15-YEAR PROPERTY CEASING TO QUALIFY.—If, in any taxable year, any property which, for all prior taxable years in which held by the taxpayer, was either property described in section 168(c) or in subsection (r)(1)(B), becomes property described in paragraph (r)(1)(A); the recovery allowance for the taxable year and all subsequent taxable years shall be determined under this subsection as modified by this paragraph. For purposes of the preceding sentence, the property shall be taken into account at its adjusted basis at the beginning of the first taxable year in which it becomes property described in paragraph (r)(1)(A) and the allowance shall be computed under the straightline method using a recovery period of 18 years less the number of years a deduction was previously allowed to the taxpayer with respect to such property under subsection (a) or section 168(a).

"(5) SHORT TAXABLE YEARS.—In the case of a taxable year which is less than 12 months, the allowance under subsection (a) shall be an amount which bears the same relationship to the amount determined without regard to this paragraph, as the number of days in the short taxable year bears to 365.

"(6) FIRST-YEAR ALLOWANCE.—The allowance under subsection (a), with respect to property described in this subsection, for the taxable year in which such property is placed in service shall be an amount which bears the same relationship to the full year allowance as the number of days the property is in service during such taxable year bears to the number of days in the taxable year.

"(7) LAST-YEAR ALLOWANCE.—The allowance under subsection (a), with respect to property described in this subsection, for the taxable year in which such property is disposed of (including retirement), shall be an amount which bears the same relationship to the full year allowance as the number of days during such taxable year the property is in service bears to the number of days in the taxable year.

"(8) EXCLUDED PROPERTY.—For purposes of this subsection, the following shall not be considered section 167(r) property—

"(A) property placed in service before January 1, 1981;

"(B) property with respect to which the taxpayer—

"(i) is entitled to elect amortization (in lieu of depreciation) including amortization under subsection (k) or section 191, and

"(ii) elects such amortization;

"(C) property which is a leasehold improvement which the taxpayer properly elects to depreciate or amortize over the term of the lease;

"(D) public utility property (within the meaning of subsection (1)(3)(A)), unless the taxpayer uses a normalization method of accounting (within the meaning of section 168(f)(4)(B)).

In the case that public utility property is not considered section 167(r) property by reason of subparagraph (D), the rule described in section 168(f)(4)(C) shall apply.

"(9) CERTAIN SALES, LEASES, AND OTHER TRANSACTIONS IN PROPERTY PLACED IN SERVICE BEFORE 1981.—In the case of section 167(r) property acquired directly or indirectly from a person who used such property before January 1, 1981, if—

"(A) after the property is so acquired, the property is leased back to such person;

"(B) the person so acquiring the property bears a relationship specified in section 267(b) or section 707(b)(1) to the person using such property before January 1, 1981;

"(C) the person so acquiring the property and the person using such property before January 1, 1981, are engaged in trades or businesses under common control (within the meaning of subsections (b) and (c) of section 414); or

"(D) under regulations prescribed by the Secretary, the property is acquired in a transaction the principal purpose of which is to avoid subparagraph (A) of paragraph (8);

then the allowance provided by paragraph (1) shall be computed using a recovery period of 30 years, and paragraph (2) shall not apply. For purposes of subparagraph (B), in applying section 267(b) and section 707(b)(1), '10 percent' shall be substituted for '50 percent'. For purposes of subparagraph (C), in applying section 414(b), 'more than 50 percent' shall be substituted 'for at least 80 percent' each time it appears in section 1563(a)(1). For purposes of this paragraph, property owned by an individual shall be treated as also owned by his or her spouse.

"(10) SAME RECOVERY PERIOD FOR COMPONENTS.—For purposes of this section, structural components of section 167(r) property shall have the same recovery period as the property to which they relate. The recovery period for any such component shall begin when the component is placed in service (but no earlier than the time the property to which it relates is placed in service) except to the extent that paragraph (12) applies. This paragraph shall not apply to any structural component for which amortization (in lieu of depreciation) is properly elected.

"(11) PROPERTY LOCATED OUTSIDE THE UNITED STATES.—In the case of section 167(r) property that is located outside the United States, the allowance provided for by paragraph (1) shall be computed using a recovery period of 30 years, and paragraph (2) shall not apply.

"(12) SPECIAL RULE FOR PROPERTY NOT YET PLACED IN SERVICE.—

"(A) IN GENERAL.—For purposes of this subsection, any qualified progress expenditure with respect to progress expenditure property shall be treated as if such expenditure were property placed in service at the time the expenditure is made.

"(B) QUALIFIED PROGRESS EXPENDITURE; PROGRESS EXPENDITURE PROPERTY.—Except as provided in subparagraph (C), for purposes of this paragraph, the terms 'qualified progress expenditure' and 'progress expenditure property' have the respective meanings given to such terms by subsection (d) of section 46 (relating to qualified progress expenditures for purposes of the investment credit).

"(C) EXCEPTION.—For purposes of this paragraph, clause (ii) of section 46(d)(2)(A) shall be applied by substituting 'section 167(r) property' for 'new section 38 property'.

"(D) COORDINATION WITH PARAGRAPH (1).—The unadjusted basis of property which (but for this paragraph) would be first taken into account when placed in service shall be reduced (but not below zero) by any amount that was a qualified progress expenditure under this subsection with respect to such property.

"(E) PUBLIC UTILITY MAY ELECT NOT TO TAKE INTO ACCOUNT PROGRESS PAYMENTS.—

"(i) IN GENERAL.—In the case of public utility property (within the meaning of subsection (1)(3)), the taxpayer may, at its own option and without regard to any requirement imposed by an agency described in subsection (1)(3)(A), elect to treat all additions to capital account for the period before the property is placed in service as made during the taxable year in which the property is placed in service.

"(ii) EFFECT OF ELECTION.—An election under clause (i) shall apply to all public utility property of the taxpayer for the taxable year for which the election is made and all subsequent taxable years unless the Secretary consents to a revocation of such election.

"(13) MANNER AND TIME FOR MAKING ELECTIONS.—

"(A) IN GENERAL.—Any election under this subsection shall be made for the taxable year in which the property is placed in service. For purposes of this paragraph, property shall be treated as placed in service in the first taxable year in which expenditures with respect to such property are qualified progress expenditures under paragraph (12).

"(B) MADE ON RETURN.—Any election under this subsection shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year concerned.

"(C) REVOCATION ONLY WITH CONSENT.—Any election under this subsection, once made, may be revoked only with the consent of the Secretary.

"(14) LEASEHOLD IMPROVEMENTS.—For purposes of determining whether a leasehold improvement which is section 167(r) property shall be amortized over the term of the lease, the recovery period of such property shall be taken into account in lieu of its useful life.

"(15) SALVAGE VALUE EXCLUDED.—For purposes of determining the allowance under paragraph (1), salvage value shall not be taken into account.

"(16) COORDINATION WITH SUBSECTION (j).—In the case of property to which this subsection applies, subsection (j) shall not apply."

SEC. 203. SHORTER PERIOD REQUIREMENTS FOR INVESTMENT TAX CREDIT.

(a) APPLICABLE PERCENTAGE.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(7) APPLICABLE PERCENTAGE FOR RECOVERY PROPERTY.—Notwithstanding paragraph (2), the applicable percentage for purposes of paragraph (1) shall be—

"(A) in the case of 10-year or 5-year recovery property (within the meaning of section 168(c)), 100 percent, and

"(B) in the case of 3-year recovery property (within the meaning of section 168(c)), 60 percent."

(b) REVISION OF PROGRESS EXPENDITURE RULES.—

(1) Paragraph (1) of section 46(d) is amended to read as follows:

"(1) INCREASE IN QUALIFIED INVESTMENT.—

"(A) IN GENERAL.—The amount of the qualified investment of any taxpayer for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to the aggregate of the applicable percentage of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

"(B) APPLICABLE PERCENTAGE.—

"(i) RECOVERY PROPERTY.—For purposes of subparagraph (A), the applicable percentage for recovery property (within the meaning of section 168) shall be determined under subsection (c)(7) based on a reasonable expectation of what the character of the property will be when it is placed in service. The preceding sentence shall be applied on the basis of the facts known at the close of the taxable year of the taxpayer in which the expenditure is made.

"(ii) NONRECOVERY PROPERTY.—For purposes of subparagraph (A), the applicable percentage for property which is not recovery property (within the meaning of section 168) shall be determined under subsection (c)(2) based on a reasonable expectation of what the useful life of the property will be when it is placed in service. The preceding sentence shall be applied on the basis of the facts known at the close of the taxable year of the taxpayer in which the expenditure is made."

(2) Clause (ii) of section 46(d)(2)(A) (defining progress expenditure property) is amended by striking out "having a useful life of 7 years or more".

(3) Paragraph (6) of section 46(d) is repealed and paragraph (7) of section 46(d) is redesignated paragraph (6).

(c) AMENDMENT OF RECAPTURE RULES.—

(1) IN GENERAL.—Subsection (a) of section 47 (relating to certain dispositions, etc. of section 38 property) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR RECOVERY PROPERTY.—

"(A) GENERAL RULE.—If, during any taxable year, section 38 recovery property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer before the close of the recapture period, then, except as provided in subparagraph (D), the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) RECAPTURE PERCENTAGE.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

'If the recovery property ceases to be section 38 property within:	The recapture percentage is: For 10-year and 5-year property	For 3-year property
(i) One full year after placed in service.	100 percent	100 percent.
(ii) One full year after the close of the period described in clause (i).	80 percent	66 percent.
(iii) One full year after the close of the period described in clause (ii).	60 percent	33 percent.
(iv) One full year after the close of the period described in clause (iii).	40 percent	0 percent.
(v) One full year after the close of the period described in clause (iv).	20 percent	0 percent.

"(C) PROGRESS EXPENDITURES.—If, during any taxable year, any recovery property taken into account in determining qualified investment under section 46(d)(1) becomes, with respect to the taxpayer, recovery property of a character other than that expected in determining the applicable percentage under section 46(d)(1)(B)(i), then the tax under this chapter for such taxable year shall be adjusted in accordance with regulations prescribed by the Secretary.

"(D) LIMITATION.—The tax for the taxable year shall be increased under subparagraph (A) only with respect to the credits allowed under section 38 which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carrybacks and carryovers under section 46(b) shall be appropriately adjusted.

"(E) DEFINITIONS AND SPECIAL RULES.—

"(i) SECTION 38 RECOVERY PROPERTY.—For purposes of this paragraph, the term 'section 38 recovery property' means any section 38 property which is recovery property (within the meaning of section 168).

"(ii) RECAPTURE PERIOD.—For purposes of this paragraph, the term 'recapture period' means, with respect to any recovery property, the period consisting of the first full year after the property is placed in service and the 4 succeeding full years (the 2 succeeding full years in the case of 3-year property).

"(iii) CLASSIFICATION OF PROPERTY.—For purposes of this paragraph, property shall be classified as provided in section 168(c).

"(iv) PARAGRAPH (1) NOT TO APPLY.—Paragraph (1) shall not apply with respect to any recovery property."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (D) of section 47(a)(3) is amended to read as follows:

"(D) COORDINATION WITH PARAGRAPHS (1) AND (5).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), or a disposition, cessation, or change in expected use described in paragraph (5), then paragraph (1) or (5), as the case may be, shall be applied as if any credit, which was allowable by reason of section 46(d) and which has not been required to be recaptured before such disposition, cessation, or change in use were allowable for the taxable year the property was placed in service.

(B) Paragraph (6) of section 47(a) (as redesignated by paragraph (1) of this subsection) is amended by striking out "paragraph (1) or (3)" and inserting in lieu thereof "paragraph (1), (3), or (5)".

(C) Subparagraph (B) of section 47(a)(7) (as redesignated by paragraph (1)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

(d) TECHNICAL AMENDMENTS RELATING TO CERTAIN PUBLIC UTILITY PROPERTY.—Section 46(f) (relating to limitation of the investment credit in the case of certain regulated companies) is amended:

(1) by adding at the end of paragraph (1) thereof the following new sentence: "In the case of property placed in service after December 31, 1981, other than property to which the immediately preceding sentence applies, subparagraph (A) shall not apply if the taxpayer's cost of service for rate making services is reduced by not more than a ratable portion of the credit allowed by section 38 (determined without regard to this subsection)."

(2) by adding at the end of subparagraph (2) thereof the following new sentence: "This paragraph shall not apply in the case of property placed in service after December 31, 1981."

(e) TECHNICAL AMENDMENT RELATING TO NONCORPORATE LESSORS.—Paragraph (3) of section 46(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), in the case of recovery property (within the meaning of section 168(c)), the following useful lives shall apply:

In the case of—	The useful life is (In years)
3-year property	5
5-year property	10
10-year property	20

(f) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 46(c) is amended by amending the sentence before the table to read as follows:

"(2) APPLICABLE PERCENTAGE IN CERTAIN CASES.—For purposes of paragraph (1), except as provided in paragraphs (3), (6) and (7), the applicable percentage for any property shall be determined under the following table:"

(2) Subparagraph (A) of section 46(c)(6) (relating to special rules for commuter highway vehicles) is amended to read as follows:

"(A) IN GENERAL.—Notwithstanding paragraph (2) or (3), in the case of a commuter highway vehicle the useful life of which is 3 years or more, or which is recovery property (within the meaning of section 168), the applicable percentage for purposes of paragraph (1) shall be 100 percent."

(3) Subparagraph (C) of section 48(1)(2) (defining energy property) is amended by inserting at the end thereof "or which is recovery property (within the meaning of section 168)."

(4) The last sentence of section 48(a)(1) (defining section 38 property) is amended by striking out "includes only property" and inserting in lieu thereof "includes only recovery property (within the meaning of section 168) (without record to any useful life) and any other property".

(g) APPLICATION OF AT RISK RULES TO INVESTMENT CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 46 (relating to qualified investment) is amended by adding at the end thereof the following new paragraphs:

"(8) LIMITATION TO AMOUNT AT RISK.—In the case of any person to whom section 465 (relating to certain amounts at risk) applies, the basis of each new section 38 property under paragraph (1)(A) and the cost of each used section 38 property under paragraph (1)(B) shall not exceed the amount which the taxpayer has at risk (within the meaning of section 465(b) without regard to paragraph (5) thereof) with respect to such property at the time such property is placed in service."

"(9) SUBSEQUENT INCREASES IN THE TAXPAYER'S AMOUNT AT RISK WITH RESPECT TO THE PROPERTY.—

"(A) IN GENERAL.—If, at the close of a taxable year subsequent to the year in which property was placed into service, the amount which the taxpayer has at risk with respect to such property has increased (as determined under subparagraph (B)), such increase shall be taken into account as additional qualified investment in such property in accordance with subparagraph (C).

"(B) INCREASES TO BE TAKEN INTO ACCOUNT.—For purposes of subparagraphs (A) and (C), the amount which a taxpayer has at risk with respect to a property shall be treated as increased by the sum of the cash and the fair market value of property (other than property with respect to which the taxpayer is not at risk) used to reduce the principal sum of any amount with respect to which the taxpayer is not at risk.

"(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—For purposes of determining the amount of credit allowed under section 38 and amount of credit subject to the early disposition rules under section 47, an increase in a taxpayer's qualified investment in property (determined under subparagraph (B)) shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed into service. However, the credit determined by taking into account the increase in qualified investment under this paragraph shall be considered a credit earned in the taxable year of such increase."

(2) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY THAT CEASES TO BE AT RISK.—

If the taxpayer ceases to any extent to be at risk (within the meaning of section 465(b) without regard to paragraph (5) thereof) with respect to property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from substituting, in determining qualified investment, the amount determined under section 46(c)(8) with respect to such property if the taxpayer had not been at risk with respect to such property on the date it was placed in service, for the amount of such qualified investment on the date it was placed in service."

SEC. 204. AMENDMENTS RELATED TO DEPRECIATION

(a) RECOVERY DEDUCTION TREATED AS DEPRECIATION.—Subsection (a) of section 167 (relating to depreciation) is amended by adding at the end thereof the following new sentence: "In the case of recovery property (within the meaning of section 168), the deduction allowable under section 168 shall be deemed to constitute the reasonable allowance provided by this section."

(b) NO ADDITIONAL FIRST-YEAR DEPRECIATION FOR RECOVERY PERIOD.—Subsection (a) of section 179 is amended by adding after "In the case of section 179 property" the following: "placed in service before January 1, 1981"

(c) TERMINATION OF CLASS LIFE SYSTEM.—Subsection (m) of section 167 (relating to class lives is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—This subsection shall not apply with respect to recovery property (within the meaning of section 168) and section 167(r) property placed in service after December 31, 1980."

(d) RETIREMENT-REPLACEMENT-BETTERMENT METHOD OF DEPRECIATION.—

(1) GENERAL RULE.—Section 167(s), as redesignated by section 202 of this Act, is repealed as of January 1, 1981 and the allowance for depreciation under section 167(a) for railroad track shall be computed using a ratable method. The repeal of section 167(s) and use of a ratable method shall be treated under sections 446 and 481 as a change of accounting method.

(2) TRANSITIONAL RULE.—

(A) PRE-1981 PROPERTY.—For purposes of section 167(a) with respect to property placed in service before January 1, 1981 to which paragraph (1) of section 204(d) of the Act applies, such property shall be depreciated using a useful life of not less than 10 years and a method described in section 167(b).

(B) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by this section to change its method of accounting as of January 1, 1981—

(i) such change shall be treated as having been made with the consent of the Secretary,

(ii) for purposes of section 481(a)(2), such change shall be treated as a change not initiated by the taxpayer, and

(iii) under regulations prescribed by the Secretary, the net amount of adjustments required by section 481(a) to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(e) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 167 the following new item:

"Sec. 168. Accelerated cost recovery deduction for plant and equipment."

SEC. 205. DISPOSITION OF RECOVERY PROPERTY SUBJECT TO RECAPTURE UNDER SECTION 1245.

(a) GENERAL RULE.—Paragraph (1) of section 1245(a) (relating to ordinary income) is amended by inserting after "December 31, 1962," the following: "or recovery property (as defined in section 168(c)) is disposed of after December 31, 1980,"

(b) RECOMPUTED BASIS.—Paragraph (2) of section 1245(a) (relating to recomputed basis) is amended by adding the following new subparagraph immediately following subparagraph (D):

"(E) with respect to any recovery property (within the meaning of section 168), its adjusted basis recomputed by adding thereto all adjustments attributable to periods for which a recovery deduction is allowed under section 168(a) (as added by the Economic Recovery Tax Act of 1981)."

(c) OWNER-USER BUILDING.—Subsection (b) of section 1250 (relating to additional depreciation defined) is amended by adding after paragraph (4) the following new paragraph:

"(5) OWNER-USER BUILDING.—The term 'additional depreciation' also means in the case of property which for any prior taxable year was a qualified owner-user building (as defined in section 168(c)(4)) in the hands of the taxpayer and which ceased to be a qualified owner-user building, the amount of deductions allowed under section 168(a). In such case, the provision of paragraph (1) relating to property held for more than one year, shall not apply with respect to the deduction allowed under section 168(a)."

(d) CONFORMING CHANGES.—

(1) SECTION 1250.—

(A) Clause (i) of section 1250(a)(1)(A) (relating to general rule) is amended by deleting "(1) or (4)" and inserting in lieu thereof "(1), (4), or (5)".

(B) Subsection (d) of section 1250 (relating to exceptions and limitations) is amended by adding after paragraph (10) the following new paragraph:

"(11) RECOVERY PROPERTY.—Subsection (a) shall not apply to the disposition of property which at the time of such disposition is recovery property (as defined by section 168(c))."

(2) SECTION 1245.—Paragraph (2) of section 1245(a) is amended by inserting after "1976)," each time it appears "168 (as added by the Economic Recovery Tax Act of 1981),".

SEC. 206. MINIMUM TAX AMENDMENT.—

(a) ELIMINATION OF MINIMUM TAX FOR REAL PROPERTY WITH SHORTENED, AUDIT-PROOF LIFE.—Paragraph (2) of section 57(a) (relating to accelerated depreciation on real property as an item of tax preference) is amended by adding at the end thereof the following sentence: "For purposes of the preceding sentence, in the case of property described in section 167(r), the recovery period applicable under that section shall be considered the useful life of such property."

(b) RULES FOR RECOVERY PROPERTY.—Subsection (a) of section 57 (defining items of tax preference) is amended by inserting after paragraph (11) the following new paragraph:

"(12) ACCELERATED COST RECOVERY DEDUCTION.—

"(A) IN GENERAL.—With respect to each recovery property which is subject to a lease, the amount (if any) by which the recovery deduction allowed for the taxable year exceeds the amount determined under section 312(k) for such year with respect to such property.

"(B) LIMITATIONS; CORPORATIONS.—This paragraph shall not apply to any taxpayer which is a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)).

"(C) PARAGRAPHS (2) AND (3) DO NOT APPLY TO RECOVERY PROPERTY.—Paragraphs (2) and (3) shall not apply to recovery property (within the meaning of section 168)."

SEC. 207. EARNINGS AND PROFITS.

(a) Subsection (k) of section 312 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXCEPTION FOR RECOVERY PROPERTY AND SECTION 167(r) PROPERTY.—

"(A) GENERAL RULE.—Except as otherwise provided in subparagraph (C), if for any taxable year a recovery deduction is allowable under section 168(a) with respect to recovery property (as defined in section 168(c)), or under section 167(r) with respect to section 167(r) property (as defined in section 167(r)(3)(A)), then the adjustment to earnings and profits for depreciation for such year shall be, in lieu of the amount determined under section 168 or 167(r), the applicable percentage of the unadjusted basis determined under subparagraph (B).

"(B) APPLICABLE PERCENTAGE.—The applicable percentages described in subparagraph (A) are as follows:

In the case of:	The applicable percentage is:
3-year recovery property	20 percent.
5-year recovery property	10 percent.
10-year recovery property (other than section 1250 property).	5 percent.
10-year section 1250 recovery property and section 167 (r) property.	3.33 percent.

"(C) ADJUSTMENT AFTER CLOSE OF RECOVERY PERIOD.—

"(i) IN GENERAL.—The adjustment provided under paragraph (A) shall continue with respect to property following the close of the applicable recovery period until the earlier of—

"(I) 100 percent of the unadjusted basis of such property is charged to earnings and profits; or

"(II) the property is disposed of.

"(ii) RECOVERY PERIOD.—For purposes of this subparagraph, the 'recovery period' for any property is the period during which a deduction is allowable with respect to such property under section 168(a) or section 167(a) as the case may be.

"(D) DEFINITIONS AND SPECIAL RULES.—

"(i) FIRST-YEAR APPLICABLE PERCENTAGE.—

"(I) If, with respect to recovery property, the taxable year in which the recovery deduction allowable under section 168(a) is recovery year 1, then the applicable percentage shall be one-half the percentage provided in subparagraph (B).

"(II) If, with respect to section 167(r) property, the taxable year in which the deduction allowable under section 167(a) is the year the property is placed in service, then the applicable percentage shall be the percentage provided in subparagraph (B) times a fraction the numerator of which is the number of days in the taxable year the property is in service, and the denominator of which is the total number of days in the taxable year.

"(ii) RECOVERY YEAR 1.—For purposes of this section, the term 'recovery year 1' has the same meaning as insection 168(h)(1).

SEC. 208. EXTENSION OF CARRYOVER PERIOD FOR NET OPERATING LOSSES AND CERTAIN CREDITS.

(a) NET OPERATING LOSS.—Subparagraph (B) of section 172(b)(1) (relating to net operating loss carryovers) is amended by substituting "10 taxable years" for "7 taxable years".

(b) OPERATIONS LOSS OF LIFE INSURANCE COMPANIES.—Paragraph (1) of section 812(b)(1) (relating to operations loss carrybacks and carryovers of life insurance companies) is amended by substituting "10 taxable years" for "7 taxable years".

(c) UNUSED LOSS DEDUCTION OF MUTUAL INSURANCE COMPANIES.—Paragraph (1) of section 525(d) (relating to unused loss carrybacks and carryovers of mutual life insurance companies) is amended by substituting "10 taxable years" for "7 taxable years".

(d) INVESTMENT CREDIT.—Paragraph (1) of section 46(b) (relating to carryback and

carryovers of unused investment credits) is amended by adding at the end thereof the following new sentence: "In the case of an unused credit for an unused credit year ending after December 31, 1973, this paragraph shall be applied by substituting '10 taxable years' for '7 taxable years' in subparagraph (B), and by substituting '13 taxable years' for '10 taxable years,' and '12 taxable years' for '9 taxable years' in the second sentence."

(e) WORK INCENTIVE PROGRAM CREDIT.—Paragraph (1) of section 50A(b) (relating to carryback and carryover of unused work incentive program credit) is amended by adding at the end thereof the following new sentence: "In the case of an unused credit for an unused credit year ending after December 31, 1973, this paragraph shall be applied by substituting '10 taxable years' for '7 taxable years' in subparagraph (B), and by substituting '13 taxable years' for '10 taxable years,' and '12 taxable years' for '9 taxable years' in the preceding sentence."

(f) NEW EMPLOYEE CREDIT.—Paragraph (1) of section 53(c) (relating to carrybacks and carryovers of new employee credit) is amended by substituting "10 taxable years" for "7 taxable years" in subparagraph (B) and by substituting "13 taxable years" for "10 taxable years" and "12 taxable years" for "9 taxable years".

SEC. 209. CARRYOVER OF RECOVERY ATTRIBUTE IN SECTION 381 TRANSACTIONS.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(28) METHOD OF COMPUTING RECOVERY ALLOWANCE FOR RECOVERY PROPERTY AND CERTAIN REAL PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation for purposes of computing the depreciation allowance under subsection (r) of section 167 and for purposes of computing the recovery deduction under subsection (a) of section 168 on property acquired in a distribution or transfer with respect to so much of the basis in the hands of the acquiring corporation as does not exceed the adjusted basis in the hands of the distributor or transferor corporation."

SEC. 210. EFFECTIVE DATES.—

(a) GENERAL RULE.—Except as provided in subsections (b), (c), (d), (e), and (f), the amendments made by this title shall apply to property placed in service after December 31, 1980, in taxable years ending after such date.

(b) SPECIAL RULE FOR PROGRESS EXPENDITURES.—The amendment made by subsection (b) of section 203 shall apply to progress expenditures made after December 31, 1980.

(c) SPECIAL RULE FOR SECTION 46(f).—The amendment made by subsection (d) of section 203 shall apply to property placed in service after December 31, 1981.

(d) SPECIAL RULE FOR AT RISK.—The amendment made by subsection (g) of section 203 shall not apply to—

(i) property placed in service by the taxpayer before February 18, 1981, and

(ii) property placed in service by the taxpayer after February 18, 1981, where such property is acquired by the taxpayer pursuant to a binding commitment entered into on or before that date.

(e) SPECIAL RULE FOR RRB PROPERTY.—The amendment made by subsection (d) of section 204 shall apply after December 31, 1980.

(f) SPECIAL RULE FOR CARRYOVERS.—The amendments made by subsections (a), (b), and (c) of section 208 shall apply to net operating losses in taxable years ending after December 31, 1975. The amendments made by subsections (d) and (e) of section 208 shall apply to unused credit years ending after December 31, 1973. The amendment made by subsection (f) of section 208 shall apply to unused credit years beginning after December 31, 1976.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. SIMPSON, Mr. HEFLIN, Mr. LAXALT, Mr. LUGAR, Mr. BOREN, Mr. ARMSTRONG, Mr. EAST, Mr. DENTON, Mr. GRASSLEY, and Mr. PRESSLER):

S.J. Res. 43. Joint resolution proposing an amendment to the Constitution to alter Federal fiscal decisionmaking procedures; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO PROMOTE FISCAL RESPONSIBILITY

Mr. THURMOND. Mr. President, today, along with Senators HATCH, DECONCINI, SIMPSON, HEFLIN, LAXALT, LUGAR, BOREN, ARMSTRONG, EAST, DENTON, GRASSLEY, and PRESSLER, I am introducing a joint resolution proposing an amendment to the U.S. Constitution to promote fiscal responsibility.

This legislation is similar to a joint resolution I introduced earlier this year, Senate Joint Resolution 9, but contains several technical amendments to Senate Joint Resolution 9 that I believe improve the legislation and will encourage wider support for the resolution.

First, section 2 has been changed by adding the words "be retained for the use of the Treasury in an amount" before the words "which exceeds." This change addresses the concern of some that since receipts in any given year can vary with regard to actual retention by the U.S. Treasury, the Congress may be tempted to estimate incorrectly tax revenues for the next year. Thus, this clarification is intended to insure that revenue levels remain stable from year to year.

The other change in this joint resolution is in section 4 which gives Congress the power to enforce the provisions of the amendment by appropriate legislation. The language in section 4 of Senate Joint Resolution 9 has been criticized as too restrictive. The new language gives more flexibility to the amendment and permits the Congress to take appropriate steps to assure a balanced budget.

Mr. President, the changes that I am offering today to this proposed legislation were similar to ones adopted by the Judiciary Committee prior to a vote on this legislation in March of last year. Although the pending joint resolution failed to be reported from the full committee by a vote of 9 to 8, the changes I have just mentioned did receive approval by the committee prior to a final vote on the resolution.

The effort to reach final approval of legislation sending an amendment to balance the budget to the States for ratification is now close to success. The recent elections have given "balance the budget" supporters the boost I think was needed to get congressional adoption in this Congress.

In addition, 30 States have now passed the necessary legislation calling on the Congress to convene a constitutional convention to consider a balance the budget amendment. Legislative bodies in four more States have recently approved similar legislation that simply awaits approval in companion houses in each of these States. In short, if 34 States call for a constitutional convention, under the provisions of the Constitution, the Congress has no choice but to convene one.

Mr. President, this legislation can be passed early this year and sent to the States for their consideration. I urge my colleagues to join in this effort to restore fiscal responsibility to America.

By Mr. DECONCINI:

S.J. Res. 44. Joint resolution requesting the President to designate July 18 of each year as "National POW/MIA Recognition Day"; to the Committee on the Judiciary.

NATIONAL PRISONERS OF WAR—MISSING IN ACTION RECOGNITION DAY

Mr. DECONCINI. Mr. President, I am introducing today a resolution to establish "National Prisoners of War/Missing in Action Recognition Day" as an annual observance. Both the 95th and 96th Congresses passed legislation designating July 18 as a day of national recognition for our POW's and MIA's, and I think the time has come to pay tribute to these brave individuals on an annual basis.

The entire Nation shared a sense of joy and relief with the safe return of our hostages from Iran. The aftermath of the euphoria surrounding that event is a particularly opportune moment to reflect upon the tremendous sacrifices endured by former POW's, their families, and the families of those who are still listed as missing in action. Despite physical torture, inhumane living conditions, and deprivations of every kind, our POW's maintained total allegiance to their Nation. Despite the severe psychological readjustment problems suffered by many, their families remained loyal. Despite the agony of not knowing the fate of loved ones, relatives of our MIA's have never lost faith. These sacrifices must not be forgotten.

The horrors of war will never be erased from the minds of the combatants. The additional traumas suffered by POW's, who saw their comrades die as a result of

torture, starvation, exposure, disease, and the lack of medical attention, have left emotional scars that can never be truly healed. But this Nation can express its debt of gratitude for their selfless service, and it is fitting that we do so.

The numbers of living prisoners of war are not insignificant. The Veterans' Administration indicated that there were approximately 94,176 former POW's still alive on January 1, 1981. These individuals have suffered emotional and long-term health problems as a result of their internment, yet many have found it difficult to prove service connection either because they were not interned for the requisite 6-month period or because there was an absence of adequate medical information available at the time of their repatriation.

I know that Senator CRANSTON is introducing a bill today to rectify some of the problems which our POW's have encountered and I urge the Members of this body to give this legislation the serious attention it deserves. In the interim, I call upon my colleagues to support the resolution I am introducing today to designate July 18 of each year as "National POW-MIA Recognition Day." We owe an enormous debt of gratitude to all our veterans, but the extreme sacrifices endured by our POW's deserve special recognition. Likewise, let us honor the relatives and families of those whose wartime fate remains unresolved. These are indeed the bravest of the brave.

By Mr. HEINZ (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. NICKLES, Mr. JEPSEN, Mr. GOLDWATER, and Mr. BOSCHWITZ):

S.J. Res. 45. Joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO LONG-TERM ECONOMIC RECOVERY

Mr. HEINZ. Mr. President, I believe the Reagan administration deserves commendation for the bold step that its budget submission today represents. By proposing fiscal savings totaling some $55.9 billion for fiscal year 1982, the administration will hopefully be able to reverse the alarming trend of recent years by which the Federal Government consumes an ever-increasing share of the Nation's output as measured by GNP.

As encouraging as the leadership demonstrated by the Reagan administration is, however, I am concerned that we now lack a mechanism for imposing fiscal discipline in future years—when we may not have a President who is willing to demonstrate such leadership and who enjoys such broad popular support.

That is why I am today proposing, along with my distinguished colleague from Georgia (Senator NUNN) and a number of other Senators, an amendment to the Constitution limiting the growth of the Federal Government. Specifically, this amendment limits the growth in Federal spending to the growth in national income as measured by the gross national product.

I should emphasize that is not a balanced budget amendment, although over time it would result in balanced budgets and reductions in the level of public debt. Balancing the budget can be accomplished in one of two ways: By reducing spending, or by increasing taxes. We could easily have a balanced budget of $1 trillion. There would be no Federal deficit—but the burden of taxation resulting would be oppressive and the further growth of the Federal Government at the expense of State and local governments and the economic freedoms supposed to be protected under the Constitution would be intolerable, to my way of thinking.

As President Reagan correctly points out, the key to solving simultaneously the problems of double-digit inflation and high unemployment is to bring under control the amount of our output, the amount of our productive resources, usurped by the Federal Government. That is why the President has proposed an economic program that not only limits the growth of Federal spending and taxation, but also limits other forms of Federal intervention in the economy that have contributed to declining productivity, such as allocation of credit and overregulation. The amendment proposed today is consistent with the goal announced by the Reagan administration of restoring the Federal Government to the role relative to the States and private citizens, envisioned by the framers of the Constitution.

This joint resolution, drafted with the assistance of Nobel laureate Dr. Milton Friedman and the National Tax Limitation Committee, would accomplish this goal in the following ways:

First, it would limit the growth in Federal spending to the growth in national output as measured by nominal gross national product.

Second, it would require that any budget surpluses be used to retire the national debt.

Third, it would authorize increases in the spending limitation following emergency declarations by the President and supermajority votes of Congress.

Fourth, it would prohibit the Federal Government from requiring additional services to be performed by the States without also providing the financial resources to pay for them.

The case for passage of this joint resolution is clear and compelling, as evidenced by the alarming trends of recent years. Federal spending as a percentage of GNP has increased from 18 percent in 1965 to a target level of 23 percent in fiscal year 1981.

For 10 of the past 15 years, Federal spending has increased at a faster rate than has GNP. In 1 year alone, fiscal year 1967, Federal spending increased by more than twice the 8.2-percent increase in GNP. In 3 other years, Federal spending increased by 4.5 percent or more than the most recent increase in the GNP.

My joint resolution—unlike measures which would limit Federal spending to a fixed percentage of GNP—would bring about reductions in the growth of spending gradually. Thus provided would be a reasonable transition period to the fiscal discipline we so desperately need, without drastic cuts in ongoing programs.

Mr. President, thanks to a considerable amount of analysis, I can provide some idea of the benefits of this legislation. For example, had it been in effect just since 1970:

Our national debt would be lower today than it was in 1970, instead of its actually being $624 billion higher.

Interest payments on the national debt would be at least $35 billion lower this year, instead of being over $60 billion.

Federal debt per household would have been cut significantly from $6,098 per household in 1970 to $4,788 today. Unfortunately, in the real world without this legislation, the Federal debt per household today is instead a staggering $11,652.

I ask unanimous consent that tables demonstrating the impact which this measure would have had on Federal outlays since 1965 (table 1) and Federal debt since 1970 (table 2) be inserted in the RECORD.

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

TABLE 1.—TOTAL OUTLAYS OF THE FEDERAL GOVERNMENT, 1965–82

Year	Total outlays (billions)		Year to year (percent change)		Share of GNP (percent)	
	Actual	Amendment	Actual	Amendment	Actual	Amendment
1965	118.4	NA	−0.2	NA	18.0	NA
1966	134.7	NA	13.8	NA	18.7	NA
1967	158.3	NA	17.5	NA	20.4	NA
1968	178.8	NA	13.0	NA	21.5	NA
1969	184.6	NA	3.2	NA	20.4	NA
1970	196.6	200.6	6.5	8.6	20.5	20.9
1971	211.4	215.0	7.5	7.2	20.7	21.1
1972	232.0	224.5	9.7	4.4	20.9	20.2
1973	247.1	241.7	6.5	7.7	20.0	19.5
1974	271.1	265.4	9.7	9.8	19.9	19.5
1975	334.2	294.0	23.3	10.8	22.9	20.2
1976	373.7	313.1	11.8	6.5	23.0	19.3
Transition quarter	96.5	79.8	NA	NA	NA	NA
1977	411.4	339.1	8.0	6.6	22.4	18.5
1978	461.2	375.0	12.1	10.6	22.6	18.4
1979	505.4	413.3	9.6	10.2	22.1	18.1
1980	543.5	456.3	7.5	10.3	21.7	18.2
1981	589.5	502.1	8.5	10.0	21.4	18.2
1982	626.0	544.6	6.2	8.5	20.7	18.0

Source: Actuals: Budget of the United States (1980). Amendment: Simulation assume total outlays are equal to maximum permissible outlays.

TABLE 2.—DEBT OF THE FEDERAL GOVERNMENT, 1970–82

Year	Annual Federal deficit (surplus) (billions)		Total Federal debt (billions)		Federal debt/household (dollars)		Federal interest payments (billions)		Outlays less interest (billions)	
	Actual	Amendment	Actual	Amendment	Actual	Amendment	Actual	Amendment	Actual	Amendment
1970	2.9	6.9	382.6	386.6	6,035	6,098	18.3	18.5	178.3	182.1
1971	23.0	26.6	409.5	417.0	6,319	6,435	19.6	20.0	191.8	195.0
1972	23.4	15.9	437.3	437.3	6,556	6,556	20.6	20.6	211.4	203.9
1973	14.9	9.5	468.4	463.0	6,858	6,779	22.8	22.5	224.3	219.2
1974	6.2	.5	486.2	475.1	6,956	6,797	28.0	27.4	243.1	238.0
1975	53.2	13.0	544.1	492.8	7,653	6,931	30.9	28.0	303.3	266.0
1976	73.7	13.1	631.9	520.0	8,668	7,133	34.5	28.4	339.2	284.7
1977	53.6	(18.7)	709.1	508.2	9,570	6,858	38.0	27.2	373.4	311.9
1978	59.2	(27.0)	780.4	493.3	10,268	6,491	44.0	27.8	417.2	347.2
1979	49.4	(42.7)	839.2	460.0	10,828	5,935	52.8	28.9	452.6	384.4
1980	40.9	(46.3)	899.0	432.6	11,365	5,469	57.0	27.4	486.5	428.9
1981	12.7	(74.8)	940.3	386.4	11,652	4,788	59.1	24.3	530.4	477.7
1982	(26.6)	(108.0)	951.9	316.7	11,566	3,848	59.5	19.8	566.5	524.8

In short, Mr. President, passage of this joint resolution is necessary because—like the compulsive eater, the chronic gambler, and the alcoholic—the Federal Government needs to be saved from itself. Although like following a doctor's advice, many may be reluctant at first to embrace what we prescribe. But I am convinced this treatment will help reverse the habits of nearly two decades that have weakened our economy and productive base.

I believe the end result will be to liberate enormous reserves of creative energy and productivity today latent in America.

I strongly urge my distinguished colleagues to support this constitutional amendment.

I ask that the text of the joint resolution be printed at this point in the RECORD.

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

S.J. RES. 45

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. (a) Total outlays of the Government of the United States during any fiscal year shall not increase by a percentage greater than the percentage increase in the nominal gross national product during the last calendar year ending prior to the beginning of such fiscal year.

"(b) For purposes of subsection (a), total outlays includes both budget and off-budget outlays, but does not include redemption of the public debt or emergency outlays authorized under section 3 of this article.

"SEC. 2. When, for any fiscal year, total revenues received by the Government of the United States exceed total outlays, the surplus shall be used to reduce the public debt of the United States until such debt is eliminated.

"SEC. 3 Following a declaration of an emergency by the president, the Congress may authorize, by a concurrent resolution agreed to in each House by a two-thirds vote, a specified amount of emergency outlays in excess of the limit prescribed by section 1 for the fiscal year then in progress.

"SEC. 4. The Congress may prescribe, by a concurrent resolution agreed to in each House by a three-fourths vote, a specified amount by which the limit on total outlays prescribed by section 1 may be changed. Any such change shall become effective beginning with the fiscal year beginning after the date on which the Congress adopts such concurrent resolution.

"SEC. 5. The Congress may not require or authorize any department, agency, or instrumentality of the Government of the United States to require, directly or indirectly, that a State or local government, in order to qualify for any program of the Government of the United States, engage in additional or expanded activities unless the Congress requires such department, agency, or instrumentality to compensate such State or local government for the costs incurred in carrying out such additional or expanded activities.

"SEC. 6. The Congress shall have the power to enforce this article by appropriate legislation.".

● Mr. NUNN. Mr. President, today I join Senator HEINZ in introducing a constitutional amendment designed to protect America now and in the future against excessive taxation and spending by the Federal Government. I do not do this lightly. I feel we need a constitutional amendment to address the problem of ever increasing Government spending, because I believe that these increases, left unchecked, will gradually weaken and eventually destroy our economy.

WHY AMENDMENT IS NECESSARY

Consider that total government spending at all levels amounts to almost 45 percent of total personal income. That means that 45 cents out of every dollar the average citizen earns goes directly back to government through one tax or another. This figure does not even include the indirect taxes we pay because of price increases brought about by business taxes, et cetera. By contrast, in 1960, government took 34 cents of every dollar and in 1940 the figure was only 23 cents. If this pattern continues, by the year 2000 government spending will exceed 56 cents of every dollar earned and the taxpayer will have less than 44 cents left. It is, of course, very easy to say that we have reached a peak now but how many people in 1960 were able to envision current government spending levels?

Admittedly, Federal Government spending is only a part of the problem, but a large part; in 1965 it made up 18 percent of the GNP. By 1980 it had almost reached 24 percent. Some States are already making serious efforts to control spending along the same lines we are proposing. Seven States have passed amendments to their constitutions that would not allow State spending to rise faster than personal income—or some other suitable economic indicator. Similar movements exist in many other States. But the States cannot bear this burden without the leadership of the Federal Government. Well over half of all spending already originates at the Federal level.

WHY AMENDMENT IS APPROPRIATE

Throughout the period of Government spending's seemingly inexorable rise, legislators have attempted to slow or stop its growth. Unfortunately, most of those efforts have failed. For instance, the 1974 Congressional Budget Act has not provided the discipline we hoped it would bring. Some progress was made, however, in slowing the rise in Federal expenditures in the 96th Congress. Now, President Reagan has proposed an ambitious program of budget cuts which I believe are essential. I support the President's overall thrust. In the long run, however, I believe statutory efforts to control spending by the Government will still fall short because of the pressures on Congress inherent in our system. As Milton Friedman, a proponent of this amendment, said:

> The fundamental defect is that we have no means whereby the public at large ever gets to vote on the total budget of the government.
>
> Our system is one in which each particular spending measure is treated separately. For any single spending measure, therefore, there is always a small group that has a very strong interest in the measure.

BENEFITS OF AMENDMENT

The benefits of passing this constitutional amendment extend beyond correcting the present drift toward ever increasing Government spending. Such an amendment would provide stability for the whole economy. Business, labor, and Government will all know that Government spending will not outstrip economic growth and all three can plan accordingly for not just a few months, but a few years ahead. This increased predictability alone should reduce some of the inflationary pressures on our economy. Businessmen and workers alike can look to the future with increased confidence that what they see is what they will get.

Another major benefit of the amendment is that it provides a structure within which Congress must realistically set priorities. We must realize that there are many worthwhile programs which we simply cannot afford and look at each expenditure in the context of the entire budget. We as Senators know that we need such an overview. President Reagan has asked us this year to review many such programs. This amendment not only insures our taking this approach, but will also make special interest groups aware that their lobbying efforts take place within a finite economic system. Everyone receiving Government money will now have an incentive to find and eliminate waste and purposeless programs.

PROVISIONS OF THE AMENDMENT

This amendment does the following. It ties total Federal outlays to the rate of increase in the GNP so that the Government's share of our wealth may not increase. The limit is tied to increases in GNP over a 21-month period so as to make the amendment countercyclical. The amendment includes off-budget outlays in the limit but excludes emergency outlays.

Section 2 of the amendment provides that any surplus will be applied to reducing the public debt. The combination of this section and section 1 exclusion of redemption of public debt from the limit should contribute to lowering that debt over time, thereby reducing the system's inflationary pressures.

Section 3 allows for the President and Congress to exceed the limit in times of emergency. Such a clause is intended to provide the flexibility needed to handle an unexpected national crisis. For the amendment to achieve its goal of protecting the peoples' purse it is vital that any emergency provision require a supermajority. We choose the two-thirds level which is required in other sections of the Constitution. In a time of genuine emergency, such a majority would certainly be attainable.

Section 4 provides Congress a means for permanently changing the limit should there be a clear national consensus that it had become too low. Such a change would require a three-fourths vote and would obviously only occur if the limitation in the amendment became unacceptable to the vast majority of the American people.

Section 5 assures that the Federal Government will not limit its spending by simply requiring the States to pay for the programs that the Federal Government previously funded.

That is the amendment. I would call attention to the fact that my distinguished Georgia colleague Congressman ED JENKINS cosponsored a similar amendment with Congressman BARBER CONABLE in the 96th Congress. Their House resolution was cosponsored by 109 House Members. This year they have reintroduced their spending limit amendment with good prospects for greatly increasing their support. I look forward to working closely with them on this important matter.

Our amendment will help bring stability to our economic structure; it will also help reduce the inflationary pressure which results from burgeoning Government spending and the deficits which accompany that spending.●

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 2, a bill to amend the Internal Revenue Code of 1954.

S. 20

At the request of Mr. DURENBERGER, his name was added as a cosponsor of S. 20, a bill to amend title 18 of the United States Code to prohibit the robbery of a controlled substance from a pharmacy.

S. 32

At the request of Mr. CHAFEE, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 32, a bill to grant a Federal Charter to the Italian American War Veterans of the United States of America.

S. 52

At the request of Mr. HAYAKAWA, the Senator from Indiana (Mr. QUAYLE) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 52, a bill to amend the Clean Air Act to repeal the requirement that State implementation plans provide for periodic inspection and testing of motor vehicles.

S. 63

At the request of Mr. HEINZ, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 63, a bill to amend the Clean Air Act to provide compliance date extensions for steel-making facilities on a case-by-case basis to facilitate modernization.

S. 69

At the request of Mr. CANNON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 69, 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.

S. 170

At the request of Mr. PACKWOOD, the Senator from Wisconsin (Mr. KASTEN) and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 170, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

At the request of Mr. MOYNIHAN, the Senator from Texas (Mr. TOWER), the Senator from California (Mr. CRANSTON), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 170, supra.

S. 255

At the request of Mr. MATHIAS, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 255, a bill to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product.

S. 267

At the request of Mr. DECONCINI, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 267, a bill to amend title 28, United States Code, to provide that the Federal tort claims provisions of that title are the exclusive remedy in medical malpractice actions and proceedings resulting from federally authorized National Guard training activities, and for other purposes.

S. 287

At the request of Mr. HEINZ, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1954 to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 329

At the request of Mr. PELL, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 329, a bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for certain home heating costs.

S. 341

At the request of Mr. EAGLETON, the Senator from Rhode Island (Mr. PELL), the Senator from Missouri (Mr. DANFORTH), the Senator from Kansas (Mr. DOLE), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 341, a bill for the relief of Isaac N. Hulver of Kansas City, Mo.

S. 351

At the request of Mr. WALLOP, the Senator from South Dakota (Mr. ABDNOR), the Senator from Nevada (Mr. LAXALT), the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. NUNN), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 351, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 354

At the request of Mr. PERCY, the Senator from Indiana (Mr. LUGAR), the Senator from Montana (Mr. BAUCUS), the Senator from Iowa (Mr. GRASSLEY), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of S. 354, a bill to amend the Export Administration Act of 1979.

S. 391

At the request of Mr. CHAFEE, the Senator from Wisconsin (Mr. KASTEN), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from North Carolina (Mr. EAST), the Senator from Indiana (Mr. QUAYLE), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 391, a bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying agents, inform-

ants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

S. 398

At the request of Mr. ARMSTRONG, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 398, a bill to amend the Walsh-Healey Act and the Contract Work Hours Standards Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes.

S. 445

At the request of Mr. MITCHELL, the Senator from Massachusetts (Mr. TSONGAS), the Senator from California (Mr. CRANSTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Rhode Island (Mr. PELL), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maryland (Mr. SARBANES), the Senator from Montana (Mr. BAUCUS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 445, a bill to establish a State setaside system for propane, middle distillates, motor gasoline, residual fuel oil, and aviation fuels, and for other purposes.

S. 451

At the request of Mr. LEAHY, the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 451, a bill to require Federal agencies to take steps to mitigate losses of U.S. agricultural land caused by Federal programs or actions, and for other purposes.

S. 508

At the request of Mrs. KASSEBAUM, the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 508, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

S. 528

At the request of Mr. JOHNSTON, the Senator from Utah (Mr. GARN), the Senator from Nevada (Mr. CANNON), the Senator from Oklahoma (Mr. BOREN), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 528, a bill to establish reasonable limits on the power of courts of the United States in the imposition of injunctive relief in suits to protect the constitutional rights of individuals in public education and to authorize the Attorney General to institute suits to enforce such limits.

S. 533

At the request of Mr. MOYNIHAN, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 523, a bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes.

S. 569

At the request of Mr. JEPSEN, the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from South Dakota (Mr. ABDNOR), the Senator from Arkansas (Mr. PRYOR), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 574

At the request of Mrs. KASSEBAUM, the Senator from North Dakota (Mr. ANDREWS), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 574, a bill to amend the Internal Revenue Code of 1954 to allow the estate of a decedent a deduction for certain bequests of interests in property used in farms or other trades or businesses, and for other purposes.

S. 597

At the request of Mr. JEPSEN, the Senator from Washington (Mr. GORTON) and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 597, a bill to eliminate the position of elevator operator in the Senate office buildings.

S. 612

At the request of Mr. BOSCHWITZ, the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 612, a bill to amend the Internal Revenue Code of 1954 to clarify the valuation, for estate tax purposes, of farm and other real property when such property is rented by a member of a decedent's family, and for other purposes.

S. 628

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 628, a bill for the relief of Martin Alfredo P. Marasigan, M.D., also known as Freddie del Prado Marasigan, M.D.

S. 651

At the request of Mr. BENTSEN, his name was added as a cosponsor of S. 651, a bill to provide for the reinstatement and validation of U.S. oil and gas lease No. W-46102.

SENATE JOINT RESOLUTION 4

At the request of Mr. BURDICK, the Senator from Iowa (Mr. GRASSLEY), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 4, a joint resolution to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

SENATE JOINT RESOLUTION 28

At the request of Mr. MATHIAS, his name was added as a cosponsor of Senate Joint Resolution 28, a joint resolution designating the week beginning March 8, 1981, as "Women's History Week."

At the request of Mr. HATCH, the Senator from Oklahoma (Mr. BOREN), the Senator from Kentucky (Mr. FORD), the Senator from Vermont (Mr. STAFFORD), the Senator from Idaho (Mr. SYMMS), the Senator from Iowa (Mr. JEPSEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S.J. Res. 28, supra.

SENATE JOINT RESOLUTION 40

At the request of Mr. RIEGLE, the Senator from Vermont (Mr. LEAHY), the Senator from Delaware (Mr. ROTH), the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mr. D'AMATO), the Senator from Iowa (Mr. GRASSLEY), the Senator from Tennessee (Mr. BAKER), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate April 26, 1981, as "National Recognition Day for Veterans of the Vietnam era."

SENATE CONCURRENT RESOLUTION 14—CONCURRENT RESOLUTION RELATING TO EXTENSION OF AGREEMENTS WITH TAIWAN AND KOREA ON FOOTWEAR

Mr. HEINZ (for himself, Mr. TSONGAS, Mr. WILLIAMS, Mr. MITCHELL, Mr. RANDOLPH, Mr. COHEN, Mr. MOYNIHAN, Mr. GLENN, Mr. EAGLETON, Mr. PELL, Mr. HOLLINGS, Mr. SARBANES, Mr. LEVIN, Mr. KASTEN, Mr. KENNEDY, Mr. SASSER, Mr. CHILES, Mr. FORD, Mr. BAKER, Mr. BUMPERS, and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 14

Whereas two hundred forty thousand Americans in thirty-eight states depend on the domestic footwear industry for employment;

Whereas following two unanimous findings of injury due to imports by the International Trade Commission, limited import relief in the form of two Orderly Marketing Agreements with Taiwan and Korea and authority to impose controls on imports from other nations was instituted in 1977;

Whereas no action was taken to control the surge of imports from countries not covered by the Orderly Marketing Agreements;

Whereas these uncontrolled imports have retarded the beneficial effects intended by Congress in the Trade Act of 1974 and total shoe imports did not decline, resulting in the loss of thirteen thousand additional footwear manufacturing jobs;

Whereas the benefits intended by Congress would be realized if existing import restrictions and control authority were given additional time to work; and

Whereas the footwear industry and the affected unions have filed for an extension of the import relief program as provided for in the Trade Act of 1974.

Be it resolved by the Senate (the House of Representatives concurring), That the Congress urges the President to extend for three years at current levels, under Section 203(h)(3) of the Trade Act of 1974 (19 USC § 2253(h)(3)), the Orderly Marketing Agreements entered into in June 1977, between the United States and Taiwan, and between the United States and the Republic of Korea, which limit the exportation from Taiwan and the Republic of Korea, respectively, of nonrubber footwear to the United States and the authority to take appropriate action against surge countries.

● Mr. HEINZ. Mr. President, along with 20 of my colleagues I am today submitting a concurrent resolution expressing support for a further extension of our

footwear orderly marketing agreements with Taiwan and Korea.

This is the second time since I began my term in the Senate that this industry has come to the International Trade Commission for help. In 1977 when relief was being considered, Pennsylvania was the most important footwear-producing State in the country, with nearly 18,000 employees in 82 establishments. Today, despite the relief that was provided, we have fewer than 14,000 employees in 68 establishments, a continuation of the shrinkage that has been occurring in this industry for the past 15 years.

What is happening in my State is not unique. Nationally, import penetration is up, domestic production is down, employment is down, factories are continuing to close. This data is provided in detail in a factsheet following this statement. It leads to two questions: Why is this happening, and what, if anything, should the Government be doing about it?

There are two answers to the first question. The decline continues, in part, due to the same complex of factors the Commission considered in 1977. The international terms of trade are changing; this industry is threatened with losing its comparative advantage and is faced with countries that for a variety of reasons have been successful at penetrating our market. This problem, of course, is a long-term one and is the very difficulty the 201 process is supposed to assist in correcting by providing time for adjustment.

I should add that the footwear industry is not alone in this situation, though it has not had the size and political clout of some other industries and has not secured for itself their degree of protection.

The other reason for the industry's difficulties relates directly to the pending care before the ITC—the failure of the import relief provided in 1977. I recall at that time the Commission recommended a tariff-rate quota, but that the administration instead negotiated orderly marketing agreements with Taiwan and Korea. Hindsight suggests that the Commission was right and the administration wrong, and that the latter greatly oversold the utility of the form of relief they decided upon. The OMA's leaked as Taiwan circumvented them by transshipping through other countries, and as increased imports from third countries more than offset the decline from Taiwan and Korea. Assurances by the administration that these problems would be dealt with if they occurred were not honored, at least not until a year ago, when the essential damage was already done.

In short, despite the Commission's best effort, a disappointing effort by the past administration made sure this industry never received in fact the relief the Commission decided it merited and that it was told it was getting.

Parenthetically, I might add that part of the blame for this rests on deficiencies in the interagency process that reviews Commission recommendations. The role of the U.S. Trade Representative in essentially brokering a compromise among other agencies which almost always take predictable positions on import relief regardless of the merits of the case usually produces a lowest common denominator solution which might please everyone but in reality solves nothing. At another time and place I intend to comment more extensively on that problem.

For present purposes, however, second question is the more important—what is the Government's responsibility in these circumstances?

The answer, in my judgment, can be summed up in one word: adjustment. Very simply, free trade and changing economic conditions create victims, and it is the Government's responsibility to help those victims adjust, as the price of our free trade policy.

The 201 escape clause process was created for precisely this reason—to determine, through a judgment of injury caused by imports, if an industry has been import-impacted in a serious way, and to propose a solution to that problem. This is not a process unique to the United States. The safeguard concept is a GATT-sanctioned internationally agreed-upon device to help industry deal with import surges or long-term changes in comparative advantage.

Relief is to be limited in duration and should not increase in magnitude over time. I do not think anyone in Congress regards the escape clause process as a device to indefinitely protect inefficient industries from real competition.

On the contrary, it is perceived as a mechanism for buying some time to help industry adjust to new circumstances by becoming more competitive. Adjustment does not mean and should not mean saving every plant and every worker.

But it does mean giving every one of the plants and workers a chance to save themselves by becoming more competitive. At the end of the prescribed relief period, if the industry has not used the time wisely, has not developed new technology, new marketing strategies or new products, then the Government rightly should not sustain it indefinitely.

In the case of the footwear industry, however, it is clear the relief program has not functioned effectively, and that the industry, therefore, has not received the fair chance to adjust I believe it is entitled to. The only conclusion, it seems to me, is that the Government should continue the program and this time get it right.

Under the law, the Commission's present responsibility is clear—to advise the President as to whether removal of the relief would adversely affect the industry. The answer to that question is equally clear—it would.

The industry has spent considerable time and effort in the past 4 years modernizing and finding new markets and marketing techniques.

Exports, for example, have nearly tripled. The American Shoe Center has been established in Philadelphia to assist in the development of new technology to improve productivity. But the favorable impact of these efforts has been negated by the incomplete nature of the import relief program.

Clearly what is needed beyond a simple extension of the existing OMA's is their proper enforcement and renewed administration commitment to take other action if imports move beyond acceptable levels. The Commission should begin this process by making a clear statement that removal of the OMA's would adversely affect the industry. This resolution encourages precisely that decision.

Finally, Mr. President, we should all understand the depth of support this industry has in the Congress. The footwear industry in the United States, though no longer as large as it once was, retains the interest and strong support of many Members of Congress. In 1977, when the administration was considering the Commission's recommendation, nearly 50 Senators wrote the President to urge its implementation.

Today I am introducing a resolution of support for extension of the OMA's with a total of 21 sponsors. If the Commission agrees with us that the relief should be extended, I expect many additional Senators to join me in writing President Reagan on the industry's behalf.

I think the reason for this high degree of support is clear. The history of this industry is well-known in Congress. Its problems have existed for some time, and many members view it as kind of a test case of the liability of our escape clause procedures.

If we as a nation wish to follow a policy of free trade, then we must also be prepared to share in the burden of adjustment for those industries that become targets of import competition.

Notice I say share in the burden, because it is the industry itself that must make the greatest investment in its own future. The escape clause process is not a "bail-out" for industry.

It is a means of giving an industry a fair opportunity to preserve itself. If the opportunity is not used in good faith, then the industry should not expect additional Government support.

In the case of footwear, however, it is not the industry's good faith but the Government's that is being tested. The industry asks only for the opportunity you originally decided it should have in 1977. I believe it should have that opportunity, and I hope the Commission will so indicate in its advice to the President.

Mr. President, I ask that a fact sheet from the American Footwear Industries Association appear at this point in the RECORD.

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

[Fact Sheet]

EXTENSION OF IMPORT RELIEF FOR THE NON-RUBBER FOOTWEAR INDUSTRY

ISSUE

The domestic non-rubber shoe industry requires a full three-year extension of the Orderly Marketing Agreements (OMA's) with Taiwan and Korea.

BACKGROUND

1. After two unanimous findings of serious import injury by the International Trade Commission (ITC), the domestic non-

rubber footwear industry received a four-year (1977 to 1981) import relief program The program consisted of two Orderly Marketing Agreements with Taiwan and Korea and the authority of the U.S. Government to take appropriate actions against any footwear "surge" countries.

2. With the four-year program expiring on June 30, 1981, the domestic industry has petitioned the ITC for a full three-year extension of the OMA's with Taiwan and Korea. A hearing before the ITC will be held on March 9, and the Commission will issue its report/recommendation to the President on April 22.

3. The domestic industry (management and its unions) has filed this petition for continued import relief since we are one of the most import-impacted industries in the U.S. Shoe imports account for 48.5% of the domestic market, compared to roughly 16% for steel and 27% for automobiles.

Why an extension of import relief is justified:

1. Import penetration is higher now than when the "import relief" program was initiated.

When President Carter announced his intention to grant the industry import relief in 1977, he stated "only problems as extreme as those faced by the American shoe industry could force me to see even modest mandatory limits on imports". In 1977, import penetration was 47%. By 1979, it had increased to an all-time record of 51%, and thus far in 1980 imports account for a high 48.5% of the non-rubber footwear market.

There has been no rollback in non-rubber imports. Imports rose from 370 million pairs in 1976 to a record 404.6 million pairs in 1979. Thus far this year, imports still are nearly as high as they were in 1976, the base year of the OMA's, and the year that imports reached the disastrous levels that prompted the President to grant relief to the industry.

2. Taiwan and Korea have circumvented the Agreements.

Both countries used a technical loophole to circumvent the Agreements. They shipped essentially non-rubber footwear under a category not covered by the OMA's—so called rubber/fabric footwear.

In 1978, Korea's total exports of non-rubber and rubber/fabric footwear were higher than ever before (90.1 million pairs compared to 75.4 million pairs in 1976).

While Taiwan's exports of non-rubber footwear under the OMA's dropped by 24.7% between 1976 and 1978 (to 117.2 million pairs from 155.7 million pairs), its total non-rubber and rubber/fabric exports decreased by only a modest 4% (to 212 million pairs from 220.9 million pairs).

In 1978, Taiwan transshipped footwear through Hong Kong to avoid the quota restrictions of the OMA's. This necessitated the negotiation of a Certificate of Origin program with Hong Kong in November, 1978.

3. Dramatic surges from third countries totally negated the rollback in imports from Taiwan and Korea.

Between 1976 and 1979, non-rubber footwear imports from Taiwan and Korea declined by 50.4 million pairs, but imports from the rest of the world surged by 85 million pairs.

During this period, imports from some traditional suppliers such as Italy increased dramatically. In addition, a number of new countries, such as Hong Kong, the Philippines, and Singapore, whose imports had been minimal, quickly became major footwear exporters.

Imports from Italy rose from 47.2 million pairs to 97.1 million pairs—an increase of 106%.

Imports from Hong Kong rose from 6.6 million pairs in 1976 to 22.1 million pairs in 1979—an increase of 233%.

Imports from the Philippines grew from a negligible 400,000 pairs in 1976 to 13.2 million pairs in 1979.

Singapore, which exported virtually no footwear to the U.S. in 1976, shipped 5.6 million pairs in 1979.

The People's Republic of China (PRC) could emerge as a major threat to the U.S. footwear industry. Imports rose to 1.6 million pairs in the first ten months of 1980 from 700,000 pairs in the comparable year earlier period.

4. Effective action was not taken to halt the surges in imports.

It was not until February, 1980, after imports already had reached record high levels in 1979, that the Administration recognized that footwear imports were excessive and committed to take "appropriate" action if imports did not fall towards pre-surge levels. By this time, 2½ years of the four-year import relief program had elapsed and an additional period of time is necessary to make the program effective.

Impact of higher imports on the domestic non-rubber footwear industry:

1. Domestic production and employment have continued to decline.

Production declined from 422.5 million pairs in 1976 to 398.5 million pairs in 1979, its lowest level since 1938.

Thirteen thousand jobs were lost between 1976 and 1979.

2. Lack of effective import relief hampered the industry's effort to revitalize.

The industry has undertaken a number of initiatives to enhance its competitiveness and adjust to import competition.

An ambitious export program has resulted in a near tripling of exports in 1980—from 5.4 million pairs in 1977 to nearly 14 million pairs projected for this year—with additional gains likely in the future.

Roughly one-third of domestic firms have taken advantage of a special trade adjustment assistance program administered by the Department of Commerce, which promises to result in marketing, management, and productivity improvements.

The American Shoe Center was established in 1980 to foster technological improvements in the industry.

However, many benefits are still to be realized and the industry needs additional time in which to become more competitive.

SOLUTION

The growth in imports and import penetration indicates that there is no "magical barrier" at which imports will stop. The OMA's with Taiwan and Korea have the potential, if properly enforced, to moderate import growth and must be extended for the maximum allowable period (three years) at current levels. Also, the Administration must take other appropriate actions necessary to ensure the effectiveness of the relief program.

NONRUBBER FOOTWEAR FACTS

	1970	1976	1977	1978	1979	January to October 1980	Percent change 1976–79
Import penetration:							
Nonrubber imports (million pairs)	241.6	370.0	368.1	373.5	404.6	305.9	+9.4
Imports as a percent of apparent domestic consumption	30.1	47.0	47.1	47.6	51.0	48.5	+8.5
Domestic production/employment:							
Production (million pairs)	562.3	422.5	418.1	418.9	398.5	335.3	−5.7
Employment (thousand workers)	212.7	164.2	156.9	158.4	151.2	151.5	−7.9
Net factory openings/(closings)	(55)	(2)	(12)	10	(29)	[1](7)	[2](31)
Cumulative openings/(closings) since 1970	(55)	(227)	(239)	(229)	(258)	(265)	[2](31)
Surge countries (million pairs):							
Taiwan	42.0	155.7	166.5	117.2	124.9	118.7	−30.8
Korea	1.9	44.0	58.7	30.6	24.4	30.5	−19.6
Taiwan and Korea	43.9	199.7	225.1	147.8	149.3	149.2	−50.4
Italy	80.7	47.2	39.7	62.9	97.1	40.6	+49.9
Hong Kong	5.5	6.6	8.7	28.3	22.1	17.0	+15.5
Philippines		.4	.6	8.4	13.2	12.0	+12.9
Singapore				1.2	5.6	2.6	+5.6
Other	111.5	116.1	94.0	124.9	117.3	84.5	+1.2
Total other	197.7	170.3	143.0	225.7	255.3	156.7	+85.0
World total	241.6	370.0	368.1	373.5	404.6	305.9	+34.6

[1] January to June 1980.

[2] Net factories closings, 1976–79.

CONSUMER PRICE INDEX (CPI)

[Percentage increase over preceding period]

	1977	1978	1979	January to November 1980
CPI:				
Footwear	4.7	4.4	7.9	7.9
All items	6.5	7.7	11.3	13.6

SENATE RESOLUTION 89—RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO MEMBERS OF CONGRESS

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was ordered placed on the calendar:

S. RES. 89

Resolved, That, with respect to the recommendations of the President which were transmitted to the Congress with the President's budget for fiscal year 1982 pursuant to section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358), the Senate disapproves the recommendations for increases in rates of pay for positions described in subparagraph (A) of section 225(f) of such

Act (2 U.S.C. 356(A)), relating to Members of Congress.

SENATE RESOLUTION 90—RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO CERTAIN OFFICES AND POSITIONS IN THE LEGISLATIVE BRANCH

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was ordered placed on the calendar:

S. RES. 90

Resolved, That, with respect to the recommendations of the President which were transmitted to the Congress with the President's budget for fiscal year 1982 pursuant to section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358), the Senate disapproves the recommendations for increases in rates of pay for positions described in subparagraph (B) of section 225(f) of such Act (2 U.S.C. 356(B)), relating to certain positions in the legislative branch.

SENATE RESOLUTION 91—RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO CERTAIN PERSONNEL IN THE JUDICIAL BRANCH

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was ordered placed on the calendar:

S. RES. 91

Resolved, That, with respect to the recommendations of the President which were transmitted to the Congress with the President's budget for fiscal year 1982 pursuant to section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358), the Senate disapproves the recommendations for increases in rates of pay for positions described in subparagraph (C) of section 225(f) of such Act (2 U.S.C. 356(C)), relating to certain positions in the judicial branch.

SENATE RESOLUTION 92—RESOLUTION DISAPPROVING THE PAY RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO OFFICES AND POSITIONS UNDER THE EXECUTIVE SCHEDULE

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was ordered placed on the calendar:

S. RES. 92

Resolved, That, with respect to the recommendations of the President which were transmitted to the Congress with the President's budget for fiscal year 1982 pursuant to section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358), the Senate disapproves the recommendations for increases in rates of pay for positions described in subparagraph (D) of section 225(f) of such Act (2 U.S.C. 356 (D)), relating to certain positions under the Executive Schedule.

AMENDMENTS SUBMITTED FOR PRINTING

OIL SPILL LIABILITY AND COMPENSATION ACT OF 1981

AMENDMENT NO. 6

(Ordered held at the desk.)

Mr. STAFFORD (for himself and Mr. MITCHELL) submitted an amendment intended to be proposed by them to the bill (S. 681) to provide a comprehensive system of liability and compensation for oil spill damages and removal costs, and for other purposes.

(The remarks of Mr. STAFFORD on this amendment appear with his remarks on the introduction of S. 681.)

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. MATHIAS. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia of the Governmental Affairs Committee will hold a hearing on S. 640, a bill to extend the borrowing authority for the District of Columbia government. The hearing will be held on Wednesday, March 18, 1981, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

For information, contact Margaret Sims of the subcommittee staff at 224–4161.

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Subcommittee on Labor of the Labor and Human Resources Committee will hold 2 days of public hearings on March 24 and 25. The subject of the hearings will be youth unemployment as it relates to the provisions of the Fair Labor Standards Act. Two bills on this subject have been introduced thus far: S. 348 by Senator HATCH and S. 430 by Senator PERCY. Today, I am introducing a third proposal. The hearings will start at 9:30 a.m.

Those persons wishing to testify should send a written request to the Senate Labor Subcommittee as soon as possible.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. The Senate Budget Committee will meet to mark up a second revised budget resolution for fiscal year 1981, incorporating fiscal year 1982 reconciliation instructions during the week of March 16–20. Sessions will begin every morning at 10 a.m. in room 6202 of the Dirksen Senate Office Building, and afternoon and evening sessions are likely.

For more information, contact Mr. Bill Stringer of the Budget Committee staff at 224–0538.

CHANGE IN TIME FOR BUDGET COMMITTEE HEARING

Mr. DOMENICI. The Senate Budget Committee hearing with David Stockman, originally scheduled for 10 a.m. on Thursday, March 12, 1981, has been changed to convene at 9:30 a.m. The hearing will be held in room 6202 of the Dirksen Building as originally planned.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON LABOR

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee of Labor and Human Resources be authorized to meet during the session of the Senate today to hold hearings on S. 398, a bill to amend the Walsh-Healey Act.

Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee of Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 12, to hold hearings on S. 351 and S. 496, bills to amend the Mine Safety and Health Act.

ADDITIONAL STATEMENTS

MEXICAN MIGRATION: A NECESSARY BUT TEMPORARY SAFETY VALVE

● Mr. SCHMITT. Mr. President, if several of recently published recommendations of the Select Commission on Immigration and Refugee Policy are implemented, we will be marching down a road ending in chaos for Mexico and eventually for the United States. The effect of "restrictionism," the policy that underlies the Commission's recommendation on undocumented workers from Mexico, will be to seriously hurt an important ally; foster discrimination against our own Hispanic citizens; deprive thousands of small- and medium-sized businesses of ready, willing, and able workers; and eliminate many jobs for U.S. citizens which depend on these workers. In short, a policy aimed at closing a border 2,000 miles long, at employer sanctions without discrimination, and at identity cards for workers in a free country has no relation to domestic or international reality.

The March 4, 1981, edition of the Washington Post included an article by Lee Lescaze which reported comments by President Reagan concerning Mexican worker migration. In contrast to the Select Commission on Immigration and Refugee Policy, the President is quoted as being favorably disposed toward the free movement of people between the United States and Mexico. This proposal will be discussed by the President when he meets President Jose Lopez Portillo late next month, and follows on the President's earlier statement favoring some form of temporary worker program for Mexican nationals.

The President recognizes something that the Select Commission on Immigration and Refugee Policy has reportedly decided to ignore. Reagan has noted the fact that seasonal and temporary migration to this country acts as a "safety valve" for Mexico. The President said—

> It is to our government's interest also that that safety valve is not shut off so that there is no breaking of the stability south of the border.

That observation is a key to S. 47, the United States-Mexico Good Neighbor Act, introduced on January 5 of this year. This bill is virtually identical to a bill which I and others sponsored in the 96th Congress. The Good Neighbor Act is the legislative proposal for a program I call Los Companeros, that is, the friends or companions. S. 47 would create a temporary worker program which would allow Mexican citizens to obtain a temporary visa for 240 days during which they could work at any worksite in this country unless the Labor Department certifies there are adequate and willing domestic workers. Freed from the restric-

tions of a site-specific labor contract or illegality, the temporary visa holder could reap the full benefit of U.S. law and derive more benefit from his labors. The employment acts as an efficient form of foreign aid to Mexico.

In contrast to this approach, the Select Commission on Immigration and Refugee Policy decided to concentrate their attention on the issue of restricting migration without regard to the upheaval this will cause in Mexico. I, like others, recognize that the American populace does not want a permanent underclass of temporary workers coming to this country for work. But this desire cannot be achieved unless we create a self-enforcing program that relates with reality.

The reality is that Mexico has 20 to 30 percent of unemployment in a population, 50 percent of which is under the age of 15, while we have a substantial number of low-skill seasonal jobs that would go unfilled at a tremendous, unnecessary cost to American businesses and their employees unless Mexican migrant workers have access to them. Furthermore, we cannot keep them out unless we are willing to create and enforce a so-called Tortilla Curtain at great economic and human cost to both the United States and Mexico.

The beauty of the Los Companeros program is that if it is enacted, we will not have to radically increase our border enforcement. At present, although illegal migration may average several million persons annually, most return to Mexico after an average stay in the United States of approximately 6 months. Several recent studies document this fact, notably, "Mexican Migration to the United States: Causes, Consequences and U.S. Responses," published by the Center for International Studies at the Massachusetts Institute of Technology by Dr. Wayne Cornelius, now at the University of California, San Diego. Thus, S. 47, if passed, would be a self-enforcing program. With a sunset provision of 10 years, it would give Mexico adequate time to react to a tightened U.S. immigration policy without causing a social upheaval in Mexico that would destabilize our southern borders.

I commend S. 47 to my colleagues and would welcome their cosponsorship along with Senators GOLDWATER, HATFIELD, LAXALT, LUGAR, and MCCLURE who have already cosponsored this bill.

Mr. President, I ask that the article I referred to earlier be printed in the RECORD.

The article follows:

REAGAN EYES OPEN U.S.-MEXICAN BORDER

(By Lee Lescaze)

President Reagan said yesterday that he is intrigued by a proposal that the Mexican-American border be opened to free movement by the citizens of both countries and that Mexicans currently in the United States illegally be given the right to remain.

Reagan said he would discuss this proposal with Mexican President Jose Lopez Portillo when they next meet in late April.

Reagan said that Mexico's unemployment rate creates pressures for which immigration to the United States is a vital "safety valve."

"It is to our government's interest also that that safety valve is not shut off" so that there is no "breaking of the stability south of the border," Reagan told Walter Cronkite in an hour-long interview broadcast last night by CBS.

In addition, if immigrants had legal status, U.S. employers could not take advantage of them and the U.S. Treasury would benefit from their taxes, Reagan said.

"They would be able to legally back across the border if they wanted to, and come back across, but the border would become a two-way border for all our people," Reagan said in describing the proposal that has been suggested by governors of U.S. and Mexican border states.

On foreign policy questions, the president told Cronkite that one obstacle to a Soviet-American summit might be removed if the Soviets indicated they would eventually withdraw their troops from Afghanistan.

He also said that there is no parallel between El Salvador today and Vietnam in the early 1960s, but that it is important to draw the line against communist activity because "it isn't just going to stop at El Salvador. We know that there are evidences of this."

Reagan said that he only learned after the fact of one of his administration's first moves against the Soviet Union. He said that he had no advance word that the State Department had decided to withdraw Soviet Ambassador Anatoliy Dobrynin's privilege of riding in his limousine directly into the State Department building.●

EXPORT TRADING COMPANIES—V

● Mr HEINZ. Mr. President, at the International Finance and Monetary Policy Subcommittee's hearing on February 18, Mr. Douglas R. Stucky, first vice president of the First Wisconsin National Bank of Milwaukee, presented testimony on behalf of the American Bankers Association endorsing S. 144, the Export Trading Company Act of 1981. Mr. Stuckey persuasively stated the case for expanding our present export situation where only 250 of the 250,000 business organizations in this country account for 80 percent of all U.S. exports. He also defended the need for banks to have equity positions, including control, of export trading companies, one of the important issues being debated in this bill. Mr. President, I ask that Mr. Stucky's testimony be printed in the RECORD at this point.

The testimony follows:

S. 144—THE EXPORT TRADING COMPANY ACT OF 1981

(Testimony of Douglas R. Stucky)

Mr. Chairman, and Members of the Subcommittee, I am Douglas R. Stucky, First Vice President of the First Wisconsin National Bank of Milwaukee and a member of the American Bankers Association's International Banking Division's Executive Committee. In addition, I served as Chairman of the Task Force assigned to study the forerunner of your bill, The Export Trading Company Act of 1980. The American Bankers Association is a trade association with a membership of over 90 percent of the nation's 14,500 full service banks.

Gentlemen, we are pleased to have the opportunity to express our strong support for passage of S. 144, The Export Trading Company Act of 1981. As you know, Mr. Chairman, the ABA testified last year in support of S. 2718 which passed the Senate by a vote of 77–0, but eventually expired in the House of Representatives.

One need only view the United States continually growing deficit in our balance of payments to realize that the United States must increase its exports of high quality goods and services today, if it is to have a chance of reducing the trade deficit tomorrow. The purpose of this legislation is to improve U.S. export performance by creating U.S. export trading companies which would perform export services for tens of thousands of small and medium-sized producers. The concept of this legislation dates back to early 1978 when this subcommittee recommended the establishment of U.S. export trading companies. Since then, numerous hearings have been held canvassing virtually every sector of the commercial, financial and governmental communities and as a result of those hearings, I believe everyone can draw the same conclusion and that is—Establishing U.S. Export Trading Companies Can Improve Our Export Performance.

Mr. Chairman, the ABA testimony today will attempt to address the following issues:

(1) Do small and medium-sized firms actively participate in the U.S. exporting effort? Why or why not?

(2) What are the essential elements (i.e., antitrust and trade financing) that must be included in S. 144?

(3) Why it is prudent and necessary for banking organizations to have the right to have equity positions (possibly up to 100 percent) or control of export trading companies (ETC's).

(4) Competitive equality for firms, both commercial and financial intermediaries, and banking organizations, that elect to form export trading companies.

THE PARTICIPATION OF SMALLER FIRMS IN EXPORTING

It is estimated that of the 250,000 business organizations in the United States only about 25,000 directly engage in the sale of their goods and services in overseas markets. Of the 25,000 organizations that export, it is further reported that 250 firms account for 80 percent of U.S. exports. This would certainly seem to support the conclusion that major corporations tend to dominate or account for the nation's present export performance, and, correspondingly that most other firms—regardless of size—are either not committed to or do not have the expertise to actively participate or seek sales in overseas markets. The non-exporting firms to which I allude are indeed the smaller and medium-sized firms of the United States. The Department of Commerce realistically estimates that at least 20,000 U.S. firms could become exporters—primarily those of the economic size just mentioned.

Why don't or aren't small and medium-sized firms involved in exporting? The following reasons are cited:

(1) In spite of good efforts and programs by the Department of Commerce, most firms still don't know how to find or assess the size of overseas markets for their products.

(2) They do not have the financial resources or flexibility to staff up for an independent, internal group to seek export business. Or, alternatively, they may choose to allocate their resources to the domestic market where lesser risks are perceived or a better return on available capital can be obtained.

(3) The documentation required for export sales, the labyrinth of U.S. and foreign regulations that must be contended or complied with the longer cash flow cycle related to the conclusion of most export orders, and other concerns, are impediments for a businessman trying to decide whether his firm should actively, on an on-going basis, seek sales in offshore markets.

(4) Limited—but prior—experience with an export order has been unpleasant or resulted in a potential or real business loss—possibly because the firm did not seek or could not obtain good advice on how to control or minimize the various risks involved in an export sale.

(5) Qualified personnel often cannot be

obtained to establish a full-fledged export department within the existing wage and salary policies of a corporation.

(6) Commercial banks, for various reasons, are not able or prepared to provide facilities to support all the credit needs that a corporation has for both domestic and export sales.

No doubt you could cite other valid reasons besides those just mentioned. In our opinion, a properly organized and staffed ETC offers the smaller exporter the opportunity to overcome the above problems, but yet allows it to gain the "economy of scale" benefits of a larger organization (the ETC) at an affordable price, while transferring or minimizing most of the risks to an export order to an ETC who is experienced and prepared to assume the related political and commercial risks of an overseas sale. In effect, the ETC has the ability to convert an export order to the equivalent of a domestic sale for the smaller firm.

ESSENTIAL ELEMENTS FOR INCORPORATION INTO S. 144

The preamble of S. 144 effectively highlights the needs and reasons why U.S. firms, both financial and non-financial, should be allowed and openly encouraged to form ETC's. The ABA strongly supports the needs and commercial justification for forming trading companies. In our opinion, the following areas of the proposed legislation are critical to the improved export performance of our nation and to the success of ETC's which are formed:

(1) Antitrust Exemption.—

It is realistic to assume that successful ETC's will and must deal with numerous smaller firms that have products which in most cases will be complementary but in isolated cases may be competitive. This competitive aspect should not be magnified out of proportion, because there are natural factors in the marketplace, that limit the practical reality of an ETC being able to control or monopolize the smaller firm. Most foreign buyers make the actual purchase decision and will not delegate such responsibility to a little-known ETC. Additionally, the ETC sales representative cannot understand the technical specifications of a product as well as the actual user. Finally, one must not overlook the very real fact that most products—especially capital goods—are produced by multiple manufacturers in both the U.S. and foreign countries. This virtually assures that the competitive, global marketplace will provide an effective counterbalance to the limited, but logical antitrust exemption that an ETC requires to properly represent sizable numbers of smaller firms, some of which may, on occasion, be competing for the same foreign order. We feel that the bill, as proposed, has adequate controls to punish any firms which might intentionally violate the spirit of the antitrust provisions of the bill.

(2) Bank Equity Participation.—

Mr. Chairman, the ABA is aware of the concerns of this Subcommittee, the federal banking agencies, and other parties have expressed on the issue of controlling interests by a commercial bank in an ETC. Our member banks are just as interested as this Committee in avoiding the problems that some banks have encountered in their REIT ventures, foreign exchange dealings, and other similar experiences in various specialized areas of banking. We also want the legislation to provide reasonable controls or safeguards that would prevent the occurrence of similar difficulties in the activities of bank-controlled export trading companies.

Initially, we wish to declare our position that the American Bankers Association strongly supports the position of the right of banks to have controlling interests in Export Trading Companies. We intend to look at this position from the following viewpoints:

(a) The implied responsibilities of non-controlled investments by banks.

(b) Safeguards, through statutory language, that would clearly spell out those activities in which ETC's with controlling bank ownership would be excluded from engaging or arranging through such firms.

(c) Structural forms in which bank-controlled ETC's might operate.

(d) The analysis of risks inherent to ETC's and whether such risks need unfavorably impact on a bank or bank holding company.

It is our conviction that the legislation should recognize that while the ETC concept is well-known around the world, it is in its infancy in the United States. Thus, final language should provide for flexibility to allow for the concept to develop in this country in line with actual experience of ETC's, the evolving role ETC's will logically play in a changing world of the future, and provide for administrative freedom to modify permitted activities and roles for an ETC without having to pass amendatory language each time a change is agreed upon by the requisite federal authorities.

NON-CONTROLLED INVESTMENT BY BANKS

Many commercial banks regardless of size or location, have had unfavorable experiences with investments in banking affiliates wherein they have had a minority and non-controlling equity position. This results from the fact that a bank is often—in such situations—not in a position to preclude such activities that it considers unsound simply because it does not have either voting or management control of an affiliate. No matter what public declarations are made, the parent bank is unable to avoid the implied responsibilities that go with any investment made by a bank in a non-controlled affiliate. Thus, the rationale is adopted that if implied financial responsibility attaches to a bank—regardless of ownership position—then bank management will undoubtedly decide to invest in firms where it has equal responsibility and ownership positions.

Not all commercial banks will want controlling ownership rights in an ETC firm for reasons of policy or philosophy best known to them—but this should not preclude other banks from having controlling ownership in such enterprises. We believe that controlling positions are best processed on a specific application or approval basis by the appropriate Federal banking agencies. This is in line with the present language and controls of S. 144.

STATUTORY SAFEGUARDS

When we appeared here last July concerns were raised that the current language in S. 2718 could conceivably allow bank-related ETC's to use such enterprises to become security dealers or underwriters or even commodity traders. As assessed from discussions by both the ABA Trading Company Task Force and its Government Relations Council, let me assure you that it is not the intent of bank-related ETC's to engage in the above mentioned activity or activities. Furthermore, S. 144 specifically states that a bank-related ETC may engage in security business only to the extent that its bank investor is permitted under Federal and State banking laws and regulations.

Some discussion has also evolved around the meaning of the term "principally engaged" as it relates to ETC's. We would hope that any attempt at defining such term would include language that would allow an ETC to be involved in the exportation or importation of products, or for that matter, permit an ETC to be formed to carry out project-type activities required by buyers desiring a turn-key sales proposal. While the emphasis on exporting activities must predominate, it is realistic to recognize that an ETC can fill a useful role by also handling the importing needs of an existing client as well. From the ETC management viewpoint, it allows them to better rationalize its staff, its fixed assets, and its distribution network, if allowed to serve both the exporting and importing needs of a client. No doubt such additional activities—without undue risk—could also enhance the operating profits and financial substance of an ETC.

From a client standpoint it is advantageous to (a) have "one-stop" shopping for both export and import activities, and, (b) the cost benefits of larger scale purchases by an ETC, and, (c) relief from credit facilities of a client at his local bank, and, (d) assured compliance with trading regulations and documentation for both buyer and seller.

Additionally, we feel it might be helpful if some clarification could be provided in the legislative language which prohibits bank-related ETC's from engaging in manufacturing or agricultural production activities. We could envision a problem arising out of a possible joint venture arrangement between a bank and a manufacturing or agriculture production concern. The current language appears to be too broad and sweeping and quite frankly a bit discriminating in view of the fact that this prohibition applies exclusively to bank-related export trading companies. Further, we cannot uncover why this prohibition was included in this section of the bill and that is the principal reason why we would hope that this provision could be modified or at least clarified.

STRUCTURE OF EXPORT TRADING COMPANIES

ETC's will be formed in many different ways to capitalize on the ingenuity of different management philosophies of both financial and nonfinancial corporations. This is sound and appropriate because it allows changing trading customs and patterns to be accommodated by capable marketers operating in the global environment. The final language of S. 144 should attempt to capture this needed flexibility so as not to inhibit the growth and success of the total ETC concept likely to be employed by diverse U.S. firms.

Some banks, with large international branch networks and/or trade service arms, will wish to have wholly-owned ETC subsidiaries to best serve the needs of their existing or potential export clients. This form could result in better risk minimization and more efficient banking systems or forms for both the ETC and the client.

In a different part of the ETC spectrum, other banks—probably the regionals—may wish to enter into joint venture ETC's with certain customers of the bank. The idea of including an existing customer in a joint venture would be to tap the superior marketing or technical skills of a firm that is already highly sophisticated in handling international business. Let it be said that it may be advantageous—in joint venture or consortium arrangement—to have both U.S. or foreign partners that can contribute their own special skills and contacts to the operations of an ETC. The foreign partners could and should be allowed to be either banking and/or non-banking partners.

Similarly, it is not unrealistic to assume that private companies, such as grain dealers, could be very successful ETC's. They probably have excellent contacts with foreign government officials who make sizable purchase commitments on behalf of their nations.

Consumable goods would logically and conveniently be best sold through such ETC related firms. Finally, capital goods manufacturers, who have existing dealer networks spanning the globe in many countries, could

very logically form an ETC that would purchase and sell accessory or complementary products used by local buyers of the basic capital goods produced by other U.S. based or multinational firms. Such multinational firms could choose to form an ETC as a wholly-owned subsidiary, or, a joint venture with U.S. and/or foreign partners.

It is clear to us that early passage of ETC legislation is more important than the extent to which the legislation describes the approved organizational structure that an ETC might have. The longer it takes to pass S. 144 the greater time it allows traders in other countries to lock up new markets or obtain greater market shares in existing terriorities. The job of exporting is now, not later.

RISKS INHERENT TO ETC'S

Prior testimony before this Subcommittee on ETC's during the 96th Congress has adequately addressed most of the risks, or such issues may be addressed by other witnesses appearing today. We have thus purposely chosen not to duplicate such efforts.

In summary, Mr. Chairman by no means do we see the enactment of S. 144 as a panacea for our export deficiencies, but the ABA does feel that this legislation is a much needed step in the right direction. It is in this spirit that the American Bankers Association strongly endorses S. 144.

We thank the Committee for the opportunity to appear today and we would be pleased to answer any questions you might have.●

STATEMENT OF FORMER SENATOR FANNIN ON TRADE BETWEEN JAPAN AND UNITED STATES

● Mr. GOLDWATER. Mr. President, a highly respected former colleague of ours, the Honorable Paul Fannin, who has for many years held a deep interest in trade between Japan and our country, testified before the Senate Finance Committee this past week on aspects of this subject that bother him. It is a brilliant paper and I ask that Senator Fannin's testimony be printed in the RECORD.

The material follows:

TESTIMONY OF THE HONORABLE PAUL J. FANNIN

Mr. Chairman, Members of the Finance Committee:

As I will illustrate later in my remarks, I believe the United States will subsidize the Japanese Government in the next year by fifty billion dollars or more.

Back over the years, while their country was becoming a world-wide leader in the electronic industry, the steel industry, and becoming the largest ship-builders in the world as well as builders of more cars than any other nation, it is my opinion that the United States subsidized Japan with several hundred billion dollars.

This has been done by the United States assuming most of what should have been Japan's fair share of defense expenditures for the maintenance and increased building of a military complex for the protection of the countries of the free world. Since the early sixties, Japan's economy has been in a position to allocate a larger share of their GNP than have most of the NATO nations, including the United States, but as you know, has only devoted a small percentage of their GNP compared with the NATO countries.

Japan, being relieved of the principal part of their fair share of defense obligations, has been able to have lower taxes for individuals, business and industry, and to give special concessions on interest rates, along with many other inducements for the promotion of manufacturing, especially on items to be exported. This savings has been a great factor in their steel, ship-building and other industries, having such a rapid and successful growth.

For about ten years of my tenure in the US Senate, I was involved with our Japanese trade relationship. In that connection, my work outside the Senate was with American corporation executives who were promoting exports, with our State Department, the Japanese Embassy officials in Washington; and in Japan as a Congressional Delegate where we were trying to get Japanese cooperation for more equitable trade and tariff regulations.

Although I devoted considerable time on this subject before becoming a member of the Finance Committee, most of my work on this problem was in connection with the Finance Committee which was responsible for Tariff and import quota, reciprocal trade agreements and revenue matters generally. I quote from a speech made by me on the floor of the Senate on January 26, 1973:

"In the years just after World War II the United States was so dominant in world trade that we could virtually ignore foreign economic relations. Political relations were foremost in the minds of our government leaders and we could afford to be generous in trade agreements."

"The situation began to change by the mid-1950's, and it should have been evident by the 1960's that trouble was ahead. The Kennedy Round of Trade Negotiations was supposed to ease trade problems, but it only compounded them as far as the United States was concerned. We demolished our barriers to imports, but got nothing in return."

"In 1971, we had our first trade deficit of the century. In 1972 our trade deficit plunged even deeper and continued downward." I made other statements on this subject on the Senate floor, in Finance Committee meetings and to various groups in Arizona and other states.

As a result of this lack of awareness and concern, our government did not seriously challenge discrimination against US goods in Foreign Markets. We tolerated the closed economy of Japan, and at the same time, we maintained a substantial open-market policy on imports of goods into America.

I'm not taking away from the greatness of Japanese industries or their workers. Again, I am saying, we have, and are still subsidizing Japan, Inc., by relieving them of financing their fair share of the free world defense including their own defense.

Auto manufacturing is the bloodstream of our nation's economy, creating one out of every twelve manufacturing jobs in addition to being one of the largest purchasers of basic materials.

As our automobile factories decrease in production capabilities so does our potential defense effort in time of war.

Chrysler is a large producer of tanks and other defense materials, as are the other automotive companies.

A good percentage of our war production during World War II came from these companies and the conversion to war-time production of these plants would be only a fraction of the time it would take to build new factories.

This committee is to be commended for holding these hearings to determine what can be done to assist in maintaining a healthy automotive industry in our nation and still be fair with other nations that are importing cars into this country.

Since presently about 80 percent of our car imports are from Japan, they are creating our most immediate problem. Part of the time while I was in the Senate, the shoe was on the other foot. The Japanese were fighting to keep American cars from being shipped into their country. At that time I observed the hopelessness of getting American products into Japan if the Japanese government did not want them to compete with their manufactured products and I understand that circumstance still prevails today, even in the automotive industry.

Now they say, "We do not have any tariff on American cars shipped into Japan" but I know your committee has determined all the other requirements on car imports including modifications, so realize we pay a tremendous penalty in exporting cars to Japan.

In the early seventies I was a member of a Congressional delegation meeting in Tokyo with the Japanese government and business leaders to discuss trade and tariff regulations. As one of the spokesmen for the Senate members, I asked if the Japanese would assist the United States in correcting the inequities in the General Agreement on Tariff and Trade Schedules on United States exports of cars into Japan. Their answer was a firm "No." They stated that they were satisfied with the provisions.

Why wouldn't they like the stipulations which gave them full access to our markets for a 4½ percent tariff going down ½ percent a year with their tariff at that time being 17½ percent base with an additional charge on each American car for weight, wheel base, motor size, etc. Bringing the total import fee to 100 percent or more usually doubling the price of even a medium size car.

The world situation has changed dramatically since we negotiated agreements with Japan. Thirty years of varying degrees of prosperity have changed the world order. The commitments made and responsibilities assumed by the United States for an overwhelming share of the defense of the free world is no longer a viable solution to actual defense requirements. Events in recent years and more pointedly in recent months clearly illustrate the necessity of the other free nations of the world to carry heavier commitments.

In regard to Japanese responsibility to share in the defense of the free world and their own nation, I quote excerpts from a speech I made in the Senate on May 15, 1975, speaking on defense commitments of the free world nations: "We've had a relationship with Japan that has been in effect since World War II. This relationship has proved the ability of the victor to assist a nation that has gone down in defeat in making an almost unbelievable comeback. Japan was a devastated nation, but one with great determination: and they have made an industrial comeback that has been the envy of the world. We have participated in that endeavor, being the greatest foreign contributor to their efforts in making this remarkable recovery."

"But we have a responsibility to the American people to recognize the responsibility that the Japanese have to our nation."

"This relationship of complete dependence must cease, and the Japanese must accept the burden of defense which their productive economy can sustain." End of quote.

When Japan was getting their exports booming, they were spending less than ¼ of 1 percent of their Gross National Product on defense, whereas the United States was spending from 5 to 9.3 percent of our GNP. In the seventies we averaged about 5.5 percent while Japan was still spending only around ¼ of 1 percent late in the decade when they claimed they worked up to 9/10 of 1 percent of GNP in 1979.

As I understand—in the United States 1981 budget ending September 30, 1981, we will spend 5.5 percent or more of our GNP on defense. The total budget amount for 1981 will be about $650 billion with over $170 billion for defense if present projections hold. This does not include the U.S. billions

spent in the Middle East and other areas of the world that affect the oil lanes on which the Japanese are even more dependent than the United States.

The 1980 reported Japanese budget ending April 1, 1981, provided for total expenditures of $202.8 billion with defense expenditures at $10 billion, including one billion for supporting U.S. forces in Japan.

The Carter budget submitted for 1982 is approximately $740 billion with defense spending listed at approximately $180 billion. In the new Reagan budget, reported defense expenditure will be near $200 billion, or about 7 percent of our GNP. That is, of course, dependent on Congressional approval.

The reported contemplated Japanese budget for their fiscal year ending April 1, 1982, will be $223.8 billion with defense expenditures as reported, being around $12 billion, or about 1 percent of Japan's GNP.

This indicates that just our increases in defense spending will amount to over four times their total defense budget.

Japan has one-half the population of the United States, a GNP of approximately 40 percent the size of the United States' with a budget that was running about ⅓ the size of the United States'. I feel that Japan has an obligation to have a defense budget of at least ⅓ the size of that of the United States.

On that basis they should have a defense expenditure next year of not $12 billion but over $20 billion.

This year if Japan equaled economically troubled Great Britain's 5 percent defense expenditures as a percentage of GNP, the free world's defense budget would increase by 20 percent.

Following is a comparison of some of the free world nations in regard to the percentage of their defense expenditures as to their GNP:

For the year 1979:	(Percent)
United States (plus)	5.0
Great Britain	4.7
Turkey	4.5
Belgium	3.5
West Germany	3.4
France	3.3
Canada	1.8
Japan	0.9

Russia's defense expenditures are estimated to be averaging about 15 percent of their GNP.

Senator Orrin Hatch, shortly after coming back from participating in the October 1980 Tokyo Conference to Commemorate the 20th anniversary of the United States-Japan Mutual Security Treaty, reported the following from speeches of two former Japanese Defense Agency Chiefs. Former Defense Chief Asao Mihara stated: "The Japan-United States security system actually has played a decisively important role as a pillar of freedom, peace, security and prosperity for Japan for nearly thirty years. Under the security-treaty system, the Japanese people were able to fully exercise their national energy concentrating their efforts, first on recovery from World War II and then on the development of our economic strength and attaining the status of a great economic power, becoming the country with the second highest industrial production in the free world."

Mihara said there was no mutualness in the current security treaty since although the United States was obligated to defend Japan, Japan was not required to do the same. "This may have been permissible when Japan's economy was only one-tenth that of the United States," said Mihara, "but today, when the ratio is one to two the treaty needs to be revised."

Another former Defense Agency Chief, Shin Kanemaru, said: "Japan's defense capabilities should not be determined by arbitrarily mathematical formulas such as the current government policy restricting defense expenditures to 1 percent of the GNP."

Kanemaru also said that the "Japanese defense posture is so weak it can not be considered a fighting force," and urged the nation to improve drastically its defense forces.

Japan should heed the words of its own defense ministers.

American Ambassador to Japan, Mike Mansfield, had some success in getting Japan to build up their defense budget and I praise him for that great effort. But still it's just a start, and we must insist that more be done . . . many times as much.

One of the leaders of Japan, Heigo Fujii, a Vice President of Nippon Steel Corporation had this to say back in the early seventies, when he wrote an article in a book titled Japan and Current World Affairs. I quote: "Defense spending now requires only 8 to 9 percent of Japan's national budget and until some years ago there was almost no defense spending by Japan at all. It was because Japan was able to divert the greater part of its capital accumulation to both public and private investment that it was able to achieve such a rapid economic growth."

"To the best of our knowledge it was, unfortunately, Japan that started the Pacific War, and, as a result paid a great price . . . and lost. If the United States, which had paid the greatest sacrifices since Pearl Harbor had demanded half of Japan's territory or even the island Kyushu; Japan, under the conditions existing at the time the war ended was in no position to say "No." However, the United States did not seek any territory whatever. Instead, America provided 3½ billion dollars worth of economic aid to Japan, and earnestly cooperated in Japan's economic reconstruction. At the same time the United States abetted Japan in setting up the new system called Democracy in Japan. All this made possible the economic growth Japan has achieved today." End of quote.

No longer can we accept excuses of the Japanese Constitution or obsolete treaties prohibiting a defense buildup. The freedom of all Western countries is at stake with Japan one of the most vunerable to Russia's powerful navy and air forces.

Whatever needs to be done to enable Japan to meet their fair share of the free world's defense must be rapidly accomplished.

If we had subsidized Chrysler to the extent of 15 to 20 percent of their budget, as we have subsidized Japan and its industries, Chrysler would be prosperous today.

What are my conclusions as to the actions that should be taken to keep many of the leading manufactures of our nation from bankruptcy and to give equitable treatment to the Japanese during these troubled times when the very survival of the free world is threatened?

Number One:

Immediately Japan and the United States should negotiate an orderly marketing agreement as a temporary measure. If the Japanese refuse to act with fairness in this regard, we must at once cut back on their imports and insist on changes in GATT to protect our interests.

Number Two:

Within three years the defense expenditures of the Japanese should equal the average of the NATO countries on a GNP basis. The NATO countries and Japan should equal the United States in defense spending on an equitable formula basis within five years.

Number Three:

The failure of Japan to increase their defense expenditures on a fair and equitable basis comparable to the NATO nations will result in a continuance of the United States subsidy to their economy. Therefore, if the Japanese insist their industries have the unfair advantage over our industries, we must follow the lead of other nations in drastically reducing their imports that are flooding our markets.●

CHESTER ALLEN BITTERMAN III

● Mr. SPECTER. Mr. President, it is with a deep sense of loss and outrage that I rise today to speak in memory of Chester Allen Bitterman, formerly of Lancaster, Pa. His violent death last Saturday at the hands of Colombian guerrillas stands in shocking contrast to the selfless, committed work to which he devoted his life. Living in Colombia to help translate Bibles for Colombian Indians, Chester Bitterman became an innocent victim in the political struggle between the M–19 guerrilla group and the Colombia Government. His lifetime's work, despite allegations of U.S. Government involvement, was far removed from politics and even farther from the violence by which he died. As Saturday's State Department statement so clearly noted: Mr. Bitterman "had come to Colombia as a man of peace and faith and was innocent of any wrongdoing."

I join in strongly condemning the guerrilla group which participated in this tragic and senseless death. Mr. Bitterman was one of those rare human beings who chose to live his life in service of others. In a sense, he was also forced to die in that service. His family's strength in this time of great personal loss is a tribute to the strength and courage which guided Chester's life and continues to guide the lives of those closest to him. That strength comes in part from the knowledge that his short 28-year life was rich with great personal reward and sacrifice. Mr. Bitterman's work will continue through the hundreds of Bibles he has made intelligible for the Colombian tribes and through the selfless example he has set.

His death points up again the desperate need for a concerted world effort against terrorism, kidnapings, and other brutal ways of using human beings as political pawns.●

SERVICES ATTRACTING MORE. BETTER PEOPLE

● Mr. COHEN. Mr. President, a recent Baltimore Sun article lends encouragement to all of us who are concerned about the ability of the Nation's armed services to attract and retain quality personnel.

The article, "Services Attracting More. Better People, Pentagon Figures Say," appeared in the February 12 Sun. It detailed how the Armed Forces are showing measurable improvement in numbers and quality of new enlistees, as well as better success in retaining trained personnel.

The improvements are described in the piece as "a source of encouragement to the Reagan administration." That is the light in which they should be viewed.

The services must build on the early successes in this fiscal year, rather than become complacent or overly optimistic about recruiting trends. At the same

time, those of us in Congress who are concerned about our Armed Forces must use the legislative initiatives we approved last year as the base for further improvements.

We continue to have serious manpower problems. The positive results of one quarter are encouraging, but they remind us of how much more remains to be done.

So that my colleagues have the benefit of this information, I ask that the Sun article, along with a Defense Department news release on the recruiting results, be printed in the RECORD.

The material follows:

[From the Baltimore Sun, Feb. 12, 1981]

SERVICES ATTRACTING MORE, BETTER PEOPLE, PENTAGON FIGURES SAY

(By Charles W. Corddry)

WASHINGTON.—The armed forces are showing measurable improvement in numbers and quality of new enlistees as well as better success in retaining trained personnel.

Latest results are not bringing raves in the Defense Department, but they are a source of encouragement to the Reagan administration, which opposes any return to compulsory service if it can be avoided.

Figures made public at the Pentagon yesterday showed that all-service enlistments totaled 101 percent of the goal for the October–December quarter, compared with 96 percent in the same quarter of 1979.

Of the new male recruits, 75 percent had high school diplomas, compared with 50 percent in the 1979 quarter. The number of women high school graduates was up from 87 percent to 91 percent. The services find high school graduates far more likely to succeed in military service than high school dropouts.

The percentage of enlistees scoring in the first three categories in military qualification tests bounced up from 69 in 1979 to 78 in 1980.

In the all-important matter of retaining trained manpower, the services reported that reenlistment rates for career personnel went up from 70.5 percent in the 1979 quarter to 76.5 percent a year later.

Defense officials attributed the better picture of recruiting and retention to economic conditions, that is, youth unemployment, and to the allocation of both money and manpower to a drive to buck up the services.

The retention situation may have been brightened somewhat by the 11.7 percent pay raise voted by Congress last fall, though officials were inclined to think the benefits of that raise and others now planned would be seen later on. Some reenlisted on the gamble the raise would come through; more will stay, probably, now that the raise is real.

Numerous other possible factors behind the improved manpower situation were cited: Congressional mandates that the services focus on improving the quality of enlistees, draft registration requirements which made young men more aware of the services and caused 15 percent of those registering to indicate their names could be passed on to recruiters, an upsurge of patrotism caused by the hostage holding in Iran.

Whatever the reasons, one official said, "The picture is pretty good—much improved over a year."

The figures showed that the services wanted 79,000 recruits in the last quarter of 1980 and signed on 80,100. The Army missed it goal of 29,200 by just 300 and the Navy, Marine Corps and Air Force exceeded theirs.

In two measures having to do with quality of personnel, over which Congress made an issue, the statistics showed that the services are exceeding legislated goals.

The Army, Congress decided last year, must recruit high school graduates to the tune of 65 percent of all new males enlisted. In the last 1980 quarter, 72 percent of its male recruits met the test compared with 40 percent the year earlier.

Congress also ruled that no more than 25 percent of recruits servicewide could score in the fourth, or bottom, category in qualification tests.

The results published yesterday showed that 22 percent were in that category. For the Army alone, however, the figure was 39 percent and, under the congressional mandate, this must be brought down to 25 percent in 1982.

MILITARY MANPOWER STRENGTH ASSESSMENT, RECRUITING AND REENLISTMENT RESULTS FOR OCTOBER–DECEMBER 1980*—ACTIVE FORCE

Mr. Robert A. Stone, Acting Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), announced that the active force strength of the four Military Services at the end of December 1980 was 2,050,000. This was about 8,000 higher than the December 1980 plan as shown in the President's FY 1982 Budget. The Navy attained 101% of its planned strength for December, while the other Services were at 100% of planned strength.

ACTIVE MILITARY STRENGTH[1]

END OF DECEMBER 1980, 1ST QUARTER FISCAL YEAR 1981

[In thousands]

Service	December 1980 objective in President's fiscal year 1982 budget	Actual	Actual as percent of objective
Army	769	772	100
Navy	527	532	101
Marine Corps	187	187	100
Air Force	560	560	100
DOD total	2,042	2,050	100

[1]Excludes active duty military personnel paid from civil functions and Reserve and National Guard appropriations.

RECRUITING SUMMARY

Mr. Stone noted that the Military Services achieved 101% of the DoD-wide recruiting objective for the first quarter of FY 1981 (October–December) as compared to 96% for the same period a year ago. The Navy, Air Force and Marine Corps each exceeded their overall first quarter objectives. The Army achieved 99% of its overall objective. The Army recruiting objective for FY 1981 is considerably below FY 1980. FY 1980 Army recruiting requirements were high due to the need to overcome the recruiting shortage that resulted in FY 1979.

* Numbers in all tables may not add due to rounding.

Service	October–December, fiscal year 1981			October–December, fiscal year 1980		
	Objective	Actual	Percent of objective	Objective	Actual	Percent of objective
Enlisted accessions—All sources:						
Army	29,200	28,900	99	40,500	38,400	95
Navy	22,300	22,900	103	21,900	21,500	99
Marine Corps	8,600	9,200	107	9,100	7,900	88
Air Force	18,900	19,000	101	16,800	16,800	100
DOD total	79,000	80,100	101	88,200	84,700	96

Mr. Stone said that the Navy, Marine Corps and Air Force essentially met or exceeded their recruiting objectives in all three general categories of personnel for which objectives were established, non-prior service male and female and prior service personnel. While exceeding its objective for prior service accessions, the Army achieved 97% and 91% of its non-prior service male and female objectives, respectively. Each Service recruited more prior service personnel in the first quarter of FY 1981 compared to the same period last year, accounting for a DoD-wide increase of over 50%.

Service	October-December, fiscal year 1981			October-December, fiscal year 1980		
	Objective	Actual	Percent of objective	Objective	Actual	Percent of objective
Nonprior service accessions—Male:						
Army	20,400	19,800	97	33,300	29,000	87
Navy	17,800	17,900	101	17,300	16,700	97
Marine Corps	7,700	8,100	105	8,200	7,000	85
Air Force	14,200	14,300	101	12,700	12,700	100
DOD total	60,100	60,100	100	71,500	65,400	92
Nonprior service accessions—Female:						
Army	4,680	4,270	91	4,450	5,890	132
Navy	2,130	2,130	100	2,770	2,840	102
Marine Corps	370	420	115	480	450	95
Air Force	3,080	3,050	99	3,450	3,450	100
DOD total	10,250	9,880	96	11,140	12,630	113
Prior service accessions:						
Army	4,110	4,860	118	2,700	3,550	131
Navy	2,400	2,910	121	1,830	1,960	107
Marine Corps	550	670	122	390	510	131
Air Force	1,640	1,640	100	610	610	100
DOD total	8,700	10,090	116	5,530	6,620	120

Mr. Stone noted that the number of male high school diploma graduates recruited by all of the Services in the first quarter was about 9,700 above the number recruited last year for the same time period. This is a 27 percent increase. This year each Service exceeded the number and proportion of male high school graduates recruited in the first quarter of FY 1980. The Army recruited almost 2,900 more high school graduates and increased its proportion of male graduates from 40 percent in the first quarter of FY 1980 to 72 percent for the same quarter of FY 1981. Compared to the first quarter last year, all the Services increased the proportion of female non-prior service accessions with high school diplomas. Somewhat fewer female high school graduates were recruited overall, however.

NON-PRIOR-SERVICE ACCESSIONS

	High school diploma graduates—Male				High school diploma graduates—Female			
	October–December, fiscal year 1981		October–December, fiscal year 1980		October–December, fiscal year 1981		October–December, fiscal year 1980	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Army	14,300	72	11,500	40	4,000	94	4,100	70
Navy	13,000	73	9,900	59	2,000	92	2,400	86
Marine Corps	5,700	70	4,200	60	400	100	400	99+
Air Force	12,200	85	10,100	79	2,600	84	2,700	79
DOD total	45,300	75	35,600	50	9,000	91	9,700	87

NON-PRIOR-SERVICE ACCESSIONS—MALE AND FEMALE AFOT CATEGORIES I–III

Service	October–December, fiscal year 1981		October–December, fiscal year 1980	
	Number	Percent	Number	Percent
Army	14,700	61	16,600	48
Navy	17,200	86	16,200	84
Marine Corps	6,800	80	5,700	77
Air Force	15,700	91	14,900	92
DOD total	54,400	78	53,700	69

Mr. Stone indicated that the number of non-prior service enlistments DoD-wide that scored in Categories I, II or III on the Armed Forces Qualification Test (AFQT) during the first quarter of FY 1981 was about the same as a year ago. Except for the Air Force, each Service's proportion of new accessions attaining test scores in Categories I, II or III increased above the proportion for the first quarter of FY 1980. The Army experienced the largest increase going from 48 percent to 61 percent over the year.

The number and proportion of black non-prior service enlistees entering military service in this quarter decreased for each Service compared to the number and proportion recruited in the first quarter a year ago. Overall, the proportion of new accessions that were black declined from 24 percent in the first quarter of fiscal year 1980 to 20 percent in fiscal year 1981.

BLACKS

Service	October–December, fiscal year 1981		October–December, fiscal year 1980	
	Number	Percent	Number	Percent
Army	6,940	29	11,380	33
Navy	2,550	13	2,720	14
Marine Corps	1,770	21	1,800	24
Air Force	2,590	15	2,880	18
DOD total	13,850	20	18,780	24

REENLISTMENT SUMMARY

Mr. Stone said that all of the Services reenlisted a larger proportion of their eligible separatees in the first quarter of fiscal year 1981 than in the same period last year. As a result, the Services reenlisted a total of approximately 4,100 more men and women than in the same three-month period last year.

1ST TERM AND CAREER REENLISTMENTS

Service	October–December, fiscal year 1981			October–December, fiscal year 1980			Fiscal year 1980 (percent)
	Eligibles	Reenlist	Percent	Eligibles	Reenlist	Percent	
Army	27,300	18,100	66.4	33,300	20,700	62.2	62.2
Navy	23,400	13,500	57.7	20,000	9,100	45.6	48.2
Marine Corps	8,600	3,600	41.6	9,300	3,700	39.7	35.4
Air Force	25,100	16,700	66.6	23,000	14,400	62.4	60.0
DOD total	84,400	51,900	61.5	85,600	47,900	55.9	55.4

First-term reenlistment rates for the Navy and Air Force increased by 11.7 and 3.6 percentage points, respectively, over the same period last year. Army and Marine Corps rates remained relatively stable compared to last year.

1ST TERM REENLISTMENTS

Service	October–December, fiscal year 1981			October–December, fiscal year 1980			Fiscal year 1980 (percent)
	Eligibles	Reenlist	Percent	Eligibles	Reenlist	Percent	
Army	8,000	4,200	51.8	12,700	6,400	50.9	50.6
Navy	13,500	6,200	45.6	12,700	4,300	33.9	36.7
Marine Corps	5,400	1,300	23.9	5,200	1,300	24.9	23.2
Air Force	11,200	5,000	44.2	10,900	4,400	40.6	35.8
DOD total	38,200	16,600	43.4	41,500	16,500	39.7	39.1

Career reenlistment rates for all Services were higher than last year for the first quarter. The Navy and Marine Corps experienced the most significant increases of 8.0 and 13.8 percentage points, respectively.

CAREER REENLISTMENTS

Service	October–December, fiscal year 1981			October–December, fiscal year 1980			Fiscal year 1980 (percent)
	Eligibles	Reenlist	Percent	Eligibles	Reenlist	Percent	
Army	19,200	13,900	72.5	20,700	14,300	69.1	69.3
Navy	9,900	7,300	74.1	7,300	4,800	66.1	67.0
Marine Corps	3,100	2,300	72.4	4,100	2,400	58.6	50.4
Air Force	13,900	11,800	84.8	12,100	9,900	82.0	81.8
DOD total	46,200	35,300	76.5	44,100	31,400	71.2	70.5

WHERE HAVE ALL THE LAWYERS GONE?

● Mr. MATHIAS. Mr. President, compromise is a crucial ingredient in the operation of a democracy. While no one profession can claim a monopoly over the virtues of compromise and reason, the law teaches its students, in the face of divergent interests, to seek an acceptable common ground.

A recent article appeared in the National Law Journal which points out that the number of lawyers in our national and local legislatures is decreasing. Some believe that now narrow interests will supplant reason and, therefore, will cripple the democratic process. Others welcome the decline of legalistic parochialism and look forward to expanded horizons of experience. Perhaps some people are thinking along the lines of Henry VI (Part 2)—"the first thing we do, let's kill all the lawyers."

Inevitably, it appears, the professional backgrounds of legislators are changing but let us hope that reason and compromise do not become lost arts. For the benefit of all of us who work in a legislative capacity and in deference to our colleague Senator Joseph D. Tydings, who brought the article to my attention. I ask that this article, entitled "Where Have All the Lawyers Gone?" be printed into the RECORD.

The article follows:

WHERE HAVE ALL THE LAWYERS GONE?

(By Stephen Barlas)

When the second Continental Congress met in June 1776 to draft what became the Declaration of Independence, Virginia attorney Richard Henry Lee proposed the motion that ". . . these united Colonies . . . are absolved from all allegiance to the British Crown . . ." John Adams, another lawyer and future president, seconded Mr. Lee's motion. A committee of four, all members of the bar, took Mr. Lee's loosely worded motion into a backroom and emerged with the Declaration's historic language.

Eleven years later, when 55 delegates to the Constitutional Convention met at the Philadelphia State House, attorneys again predominated. From that beginning, the legal establishment more or less controlled the reins of state legislatures and Congress for the next 200 years, becoming to elective politics what doctors are to medicine.

But during the past couple of decades, the number of attorneys in legislatures has been ebbing. Between 1966 and 1979, according to the Insurance Information Institute, the percentage of lawyers in state legislatures dropped from 26 to 20. There are no lawyers in the Delaware legislature, for example.

The just-ended 96th Congress had fewer lawyers than any other Congress in the past 30 years. For the first time in those three decades, less than a majority of the 435 House members had law degrees. And the drop in the number of lawyer/congressmen from 1977 to 1979 was the steepest in 30 years.

Only eight of the 18 new U.S. senators elected in 1980 hold law degrees and a number of those have not practiced law in quite some time.

The unheralded demise of the lawyer/legislator is clearly worrying national and state bar leaders. "I don't think it is good for the country," says Leonard Janofsky, immediate past president of the American Bar Association. "And I don't think it is good for the profession."

"It's like taking all the chemists out of the chemical/petroleum industry," adds former Sen. Joseph Tydings, D-Md., who is now associated with the Washington, D.C., law firm of Dickey, Danzansky & Tydings.

Laymen tend to be much less gloomy about the dwindling ranks of legislating lawyers. "What you want is people of expertise and intelligence, and I don't think professional background would be that important," explains Sen. Malcolm Wallop, R-Wyo., a rancher and the first non-attorney appointed to the Senate Judiciary Committee. "It is not good to have a predominance of any background."

Adds Norman J. Ornstein, a congressional expert and adjunct scholar at the American Enterprise Institute, "We may get a little more intelligibility in political discussion, debates and our law-making."

Mr. Ornstein explains, though, that the increasing absence of lawyers from Congress may also have debilitating side effects. Their places will be frequently taken by members of non-establishment, insurgent groups who are political products of grass roots movements.

Such potentially hard-headed partisans who arrive in Washington with heavy obligations to single-issue lobbies are less likely than litigation-wise attorneys to accept the importance of legislative compromise, Mr. Ornstein says. "There is bound to be more posturing and less concern with the details of legislating," he adds.

Despite unmistakable evidence of the growing disappearance of lawyers from legislatures, no one seems quite sure whether attorneys are just running less frequently for office or whether they are running as often but losing more often.

Those who believe lawyers are running less frequently give a number of reasons for their reluctance to chase seats in state bodies, traditional gateways to Congress.

Until very recently, many state legislatures met for only a few months every other year. Legislating seldom seriously interfered with a state assemblyman's or senator's private law practice.

Today, 37 states are required to convene annual legislative sessions and 18 of those do not limit the duration of the session. According to the National Conference of State Legislatures, the average session lasts 139 days. When sessions end, it is not unusual for interim committees to meet.

Writing in a recent issue of the American Bar Association's Bar Leader, Washington State Senate Majority Leader Gordon L. Walgren explained: "Particularly in those states where legislative pay is low, the difficulty experienced in finding the time to serve one's clients can translate into the harsh economic reality that further public service is not financially feasible."

Joe Gaylord, the Republican National Committee official responsible for recruiting party members for local and state office, says, "When I'm at seminars [for prospective candidates] around the country and I ask people what they do for a living, I don't get the attorney stuff as much anymore."

The U.S. Supreme Court's decision in 1977 allowing attorneys to advertise "routine" legal services may have also hastened the demise of the lawyer/state legislator. According to John Saxon, a counsel to the U.S. Senate Ethics Committee, lawyers—particularly in rural areas—ran for state senate and assembly posts prior to 1977 as a means of advertising their law practice. "Many of them didn't care whether they won or lost," notes Mr. Saxon. "They wanted those free newspaper stories publicizing the name of their firm."

Attorneys may also be running less frequently for legislative posts because of the conflict of interest laws adopted by many states and Congress in the mid-1970s in response to Watergate and the "good government" prodding of various public interest groups. In Alabama, for instance, the percentage of attorneys in the state legislature dropped from 30 in 1977 to 18 in 1979. One reason for the decline, according to former state bar president Oakley Melton Jr., is "a very strict ethics law that prohibits public officials, including legislators, from representing state and local boards or agencies."

Aside from the conflict of interest restrictions that govern congressional service, lawyers contemplating a run for the U.S. House of Representatives face an $8,625 limit on earned outside income if they make it to Washington. The ceiling for U.S. Senators is set at $25,000.

While House rules allow members to affiliate with law firms, the Senate prohibits affiliation as well as the use of a member's name, even as "of counsel," by his former law firm.

Says William Sweeney, executive director of the Democratic Congressional Campaign Committee, "I've met attorneys who say the outside earned income limit makes it too costly for them to be a congressman."

Former Senator Tydings points out that congressional salaries, now at $60,662, are significantly less than that earned by many fellow attorneys in private practice and that congressional pay, in terms of real dollars, has been savaged by inflation. "If I was still in the U.S. Senate," explains Mr. Tydings, "I would have taken a 50 percent pay cut.

"People are willing to put up with much less than fair compensation because of the glamour, excitement and ego gratification," adds Mr. Tydings. "But there is a point beyond which you cannot do it."

Mr. Ornstein is one of those who believe attorneys are running for legislative office as often as ever. But he says they are being elected less frequently because of stiffening competition from non-lawyers.

He explains the civil rights and anti-war movements proved political stepping stones for many non-lawyers. More recently, activists concerned with abortion, the Equal Rights Amendment, consumer issues and right-to-work laws have parlayed grass-roots organizing experience into legislative careers.

Judy Heffner, director of public affairs for the National Conference of State Legislatures, says an example of this trend toward non-establishment legislators is reflected in the doubling of women in state bodies during the past 10 years. "Those women tend not to be lawyers," she says.

None of the five women elected to Congress in 1980 has a law degree. The only incumbent woman to leave Capitol Hill this year, Rep. Elizabeth Holtzman, D-N.Y., is an attorney.

While lawyers are faced with an increasing array of well-financed political challengers, they must also, at the same time, fight a public perception that many members of their profession are less than trustworthy.

Part of the profession's "image" problem stems from Watergate. Of 19 key figures involved, 11 were attorneys. Citing lawyers' Watergate-soiled reputations, a March 1974 U.S. News & World Report cover story asked: "America's Lawyers: A Sick Profession?"

More than six years later, the public seems to be answering that question in the affirmative.

For instance, a November 1980 Louis Harris poll asked 1,199 respondents to express their confidence in leaders of 13 American institutions. Educators were given the highest marks, with 36 percent of those answering saying they had "a great deal of confidence" in the leaders of higher education. Even with the Abscam millstone around their necks, Congress' leaders came out at 18 percent, putting them 5 percentage points ahead of lawyers, who were dumped at the bottom of the barrel.

While Wyoming's Senator Wallop disputes

any notion that lawyers are more unethical than other professionals, he agrees they have an image problem. "As we subside into a legalistic society where the only solutions are in the courts, through lawsuits," he says, "people find more and more of their lives confronted by members of the legal profession."

The nation's legislatures are unlikely to be denuded of barristers anytime soon. But if the profession is as worried about the trend as it appears, practitioners might want to note the words of Supreme Court Justice Louis D. Brandeis, who said: "What the lawyer needs to redeem himself is not more ability . . . but the moral courage in the face of financial loss and personal ill-will to stand for right and justice.●

NEED FOR CONGRESSIONAL ACTION ON EMERGENCY PETROLEUM ALLOCATION PLAN

● Mr. EXON. Mr. President, today the U.S. Senate is considering a measure to provide for an international emergency petroleum allocation system. This program recognizes the need to unite with other nations in a coordinated effort to decrease dependence on foreign oil and hopefully reduce the strategic and economic vulnerability of the member countries which this dependence has fostered.

As we all know, on January 28, President Reagan ordered the immediate decontrol of crude oil and refined product price and allocation controls. The President's order accelerated the phased decontrol program by some 9 months, since the Emergency Petroleum Allocation Act would expire on October 1, 1981. Although I have been a proponent of decontrol, I believe that the phased decontrol program was a more prudent approach. Phased decontrol was designed to soften the inflationary impact of this action as well as provide a transition period where industry, government, and consumers could prepare for the free market forces to take hold.

Although I was opposed to the administration's January 28 order to immediately decontrol, the economy has been operating since that time in a decontrolled environment. This Senator must concur with the recent Federal court decision by Judge Harold H. Greene, that a reimposition of controls would be unwise. The effects on the economy from repeated switching from controlled to decontrolled and back, during a period of but a few months could not fail but to result in greater disruption to the economy. Consumers have been harmed already due to the increases in energy prices as a result of the decontrol order. An "on-again, off-again" policy, however, could only aggravate this situation and would be contrary to the public interest.

In this Senator's mind, decontrol is no longer the issue. We must now face up to what our postdecontrol policy must be and to prepare for inevitable supply interruptions of our Middle East oil lifeline.

Mr. President, it is indeed ironic that we have acknowledged the need for an international emergency petroleum allocation system, but remain unprepared regarding our domestic policy on this crucial matter. On October 1 of this year, there will be no framework provided by law to insure a fair distribution of crude oil and refined products in the event of a severe cutoff by the oil producing nations.

The existence of a crude oil and petroleum product "safety value" is especially important to the agricultural sector of our Nation's economy. Timing is critical to our farming operations. A short disruption in fuel supplies at the wrong time can spell disaster for a full food and fiber production. Although farm energy use represents only 3 percent of total U.S. energy consumption, interruptions in the energy needs for the agricultural community would adversely affect every American consumer and nearly $40 billion in annual exports.

In addition, Mr. President, 45 percent of all on-farm petroleum fuel needs are met by some 8 independent refineries owned and operated by 13 regional farmer cooperatives. Farming and rural energy needs are particularly vulnerable to supply disruptions and it is important that cooperative and other independent refiners serving rural markets receive adequate supplies and at the right time. The administration's January 28 order, however, has left the rural market without assurances that specific needs can be met in shortage periods and has abandoned the emergency set-aside provisions. Pullouts by the major suppliers in the Midwest area have added to the apprehensions of the farm and rural communities.

Mr. President, long before the gas lines appeared around the country in 1979, the American farming community was desperately searching for adequate diesel supplies in a decontrolled diesel market. Absent the set aside allocation program, the agricultural sector would have experienced even greater economic dislocations. The free market can temporarily fail, and it is imperative that some allocation "safety valve" be provided for in the event of supply interruptions.

There is a need for a limited but essential standby authority to deal with supply disruptions which are sure to occur in the future. I am a cosponsor with Senator JOHNSTON on his bill, S. 409, the Standby Petroleum Authorities Act.

I would urge the Senate to act quickly to consider the various standby allocation proposals which have been introduced to address this issue. We cannot afford to wait. We have recognized the importance of a framework for an international petroleum allocation program. We must now move forward to protect our domestic interests with some sort of emergency allocation plan. Our economy and our national security most certainly demand it.●

TOWARD A NEW KIND OF DRAFT

● Mr. GOLDWATER. Mr. President, the subject of a draft is one that is constantly before us and as we attempt to bring up the strength and quality of our military, whether we like it or not, this is going to have to be considered at some time. The Association of the United States Army, which has long been interested in this subject, has prepared its thoughts on a new kind of a draft and I have found it to be most interesting and challenging. I ask that it be printed in the RECORD.

The material follows:

TOWARD A NEW KIND OF DRAFT—A STATEMENT PREPARED BY THE ASSOCIATION OF THE UNITED STATES ARMY

To a greater or lesser degree, all our armed forces are suffering from the impact of having to compete for a dwindling manpower pool, which by 1992 will require the enlistment each year of one in four of the American males who become eligible for military service. Because of its size and the intrinsic nature of service in its ranks, the Air Force has the smallest problem and, for corresponding reasons, the Army has the greatest. All the services are, at the moment, reaching their arbitrary active duty manpower quotas but they are doing so at undue expense in terms of dollars used for recruiting, in terms of the competition among the services to attract highly qualified young people to their ranks, and in terms of the societal imbalances of the recruited force. Further, at least as far as the Army is concerned, our national commitment to a purely voluntary mode of acquiring new service members is also inflicting a costly real decrease in overall readiness by shrinking enlistments in our reserve force at a time when these reserve forces are required to play an enhanced and vital role in any future military contingency.

The impact of the volunteer concept is also felt in another, far more subtle, way—the deliberate depression of manpower authorizations as a way to control the growth of spending on national defense in general and manpower costs in particular. Unlike any other cost-reducing project (base closures or project terminations, for example) there is one absolute truism: the surest and quickest way to cut costs is to cut people. Over the years of our volunteer experience, the authorized strength of the services has been driven mostly by budgetary considerations rather than the recognized need to support basic military tasks. Our Army today is at least 50,000 smaller than it should be to do all the things we expect of it even in its peacetime role.

We have an operative draft today, one of economic coercion, because many young men and women are enlisting for the wrong reasons. They often enlist not because they want to serve but because there are few other acceptable options open. In these instances the military becomes the employer of last resort. The unjustly contorted Selective Service law of the early Vietnam era unfairly discriminated by drafting the less affluent youth who were unable to take advantage of the avoidance authorized by the law of that time. A large percentage of today's volunteers serve because a period in uniform offers something they have not been able to find elsewhere—a *job*. The injustices of the Vietnam draft and the realities of today's economic situation have accomplished the same end; they have brought more economically distressed people into the military ranks and excused the more fortunate. Ever since Vietnam, middle America has not been in the uniform of its country.

When the switch to a purely voluntary system of military accessions was being considered, the Association of the United States Army warned loudly and often that the monetary cost would be high and that the new system would work only if it was supported unstintingly by future administrations and congresses. We never believed this would happen. Our fears were well-founded as the facts will attest. The buying power of military compensation has slipped at least 15 percent behind comparability with the civilian sector, effective educational incentives were permitted to lapse and, as the number

of people serving was driven downward without a corresponding reduction in worldwide military responsibilities, many career personnel found themselves spending more time overseas than at home—one of the most devastating effects of the whole fruitless effort.

The costs associated with keeping people in uniform have continued to rise. Today it is estimated that 80 percent of the Army's budget is committed to feed, pay and house people and to keep the basic system going. In spite of our increased monetary support of people, we have wound up with a force that is substantially undermanned, undertrained and underqualified. This must be the ultimate measure of the failure of the all-volunteer effort.

After eight years of the volunteer experiment, certain facts are clear:

The recruiting effort has been generally successful in supporting authorized active force levels although these levels have been substantially below those actually required.

Recruiting for the reserve components, particularly in the Army, has not been entirely successful, jeopardizing the elevated reliance our current structure places on reserve readiness.

Frequent overseas deployments and noncompetitive compensation have brought pressures on career personnel that are driving them from the ranks in substantial numbers, seriously depleting the level of professionalism through the services.

All of our forces have become unrepresentative of our society.

A herculean recruiting effort has siphoned off thousands of the best and brightest officers and NCO's of all the services, at an annual cost of about one billion dollars, and has put the services in direct competition as they strive to attract highly qualified enlistees from an ever-decreasing pool of eligibles.

The time has come for us to acknowledge the failure of a volunteer ideal as we have attempted to make it work. We must now decide what further extraordinary efforts in the form of compensation and incentives might possibly eliminate the shortfalls, or try another more realistic approach.

The pressure by the new administration to reduce government spending in the interest of restoring economic stability must surely turn aside many of the only effective measures that could have any chance of building a completely viable force of volunteers. We must find other ways to build that essential force. The only obvious system is a form of selective service that brings service to the country back into proper national perspective.

The popular perception of an inequitable Selective Service System, as operated during most of the Vietnam War period, still impacts unfairly on most American thought and public rhetoric. It must be made clear at the outset that any operative selective service plan has to be completely fair for all.

The existing Military Selective Service Act, as modified in 1968, provides a fair and equitable selection system. Under it, 95 percent of our young physically qualified men have an equal opportunity to be considered for military service. Principal elements of the now existing law provide for:

A lottery to provide random selection of the order of call by birthdate.

Exposure to callup for only a year, permitting individuals and employers to make long-term plans.

Elimination of occupational, agricultural, student and paternity deferments.

Stringent controls over deferments for extreme hardship, for medical and ministerial students, and elected officials.

Award of conscientious objector status when properly verified.

Revelation, on request to local and appeals boards, of reasons for adverse classification actions.

Making local boards more representative by lowering the minimum age for members to 18 and forbidding service on a board for more than 20 years.

The Military Selective Service Act could be usefully modified to provide more appropriate punishments for failure to comply with the Act. Instead of the present counterproductive penalty of a $10,000.00 fine and up to five years in jail, it would seem more fitting if the failure to comply with this responsibility of citizenship involved the loss of some of the privileges of citizenship, such as the right to vote, ineligibility for any government assistance, or government employment.

In order to assure the most equitable distribution of the available manpower for all the services, the following regulatory actions must be taken by the Defense Department.

1. All services must be required to gain their first-term non-career personnel through the Selective Service System. (This is most significant.)

Individuals who may wish to volunteer for a specific service might do so but only through the Selective Service System and only within the designated quota for that service for a specified period.

2. The services would be permitted to recruit only for their career force.*

Selectees would be permitted to make a career choice after induction, but only within the limits of the required career content of that service.

3. The total number of inductions in any given period would be based on the difference between the required strength of the services and the actual strength.

4. The term of induction should be for a period of two years.

5. Those eligible to be drafted would be permitted to opt for training and service in local Reserve or National Guard units but with a longer total period of service than that required of those serving a full active tour.

Another option would be available for training and service in the Individual Ready Reserve which would entail a still longer period of obligation. We have a legal shortfall affecting the individuals in the IRR and it may require legislative action to track the individuals involved through IRS or Social Security channels.

6. An educational benefit must be a basic part of any new selective service plan with benefits graduated to be most generous for those who spend the longest period in the active ranks. Those who start in the draft force would have their service applied to their eligibility for this benefit as they moved into the career force.

7. The entire volunteer/inductee portion of the force would be paid at an apprentice level during the statutory period of active service for inductees. Pay and other special emoluments for the career force would be maintained at a level of comparability with the civilian sector.

As an indication of the numbers involved, the following chart reflects the Army's initial full manpower requirement from the Selective Service System. When the noncareer portions of the Air Force, Navy and Marine manpower requirements are added, it can be postulated that a very large percentage of the physically able young men coming of age each year will be required to serve in their country's armed forces.

*A careerist is defined in the case of enlisted personnel as one who reenlists following an initial enlistment; and, in the case of officers, after completion of the initial obligatory service period.

ARMY REQUIREMENTS FOR AN ACTIVE DRAFT[1]

	Required strength	Career content	Non-career	Annual SS requirements
Active Army	850,000	[2] 425,000	425,000	[3] 170,000
Selected Reserve	700,000	[2] 350,000	350,000	[4] 93,000
Individual Ready Reserve	500,000	NA	500,000	[5] 83,000
Total				346,000

[1] Selective Service accessions for the Air Force, Navy and Marines would be in addition to this.

[2] Assumes a career content level of 50 percent.

[3] Assumes a 2-yr SS active duty obligation and a 20 percent level of volunteers.

[4] Assumes a 3-yr obligated assignment to a Selected Reserve unit before being transferred to the IRR.

[5] Assumes a 6-yr IRR obligation and a decision to build to strength gradually. After the 2d yr of an active force draft and the 3d yr of a selected reserve draft the need to draft directly for the IRR would be eliminated.

There are many advantages to this system:

READINESS

The active services could be rebuilt to a level of required personnel strength.

The reserve components could be maintained at a level supportive of their mobilization mission.

The large pool of trained manpower represented by the IRR and the Standby Reserve could be reestablished and kept at the desired level.

Several thousand highly qualified officer and NCO recruiters could be returned to normal military duties, retaining a recruiting structure just large enough to generate enlistments for the career force.

COST

Recruiting costs could be reduced to a minimal level, requiring enough funding to support recruiting for the career force only.

Attrition among selectees would be held to the lowest possible level.

Funds now appropriated to support the educational subsidies of the Department of Education should be redirected to support the educational benefit for those serving in the military. The yardstick for governmental educational support should be service to country or disability.

This paper has deliberately avoided the issue of a draft for women. It has long been the Association's position that a draft for women is entirely fair and equitable, but whether they are to be included is a matter for the Congress or the courts to decide. What is not at issue, however, is the numbers of women in the Armed Forces. They have reached, and in some cases passed, the prudent level. All of the services are reevaluating requirements for women in light of experience to date.

CONCLUSION

Eight years have elapsed since we began the experiment to find ways to have the essential and arduous duty of military service taken care of without involving or inconveniencing the bulk of those who reap the rewards from our form of government.

In this, as in other areas, we Americans find it difficult to believe that the problem cannot be resolved simply by throwing more money at it. This is not an economic equation.

The basic issue is disarmingly simple. Capable, credible military forces are essential to our national policy and interests. The responsibility for the funding and manning of such forces falls on all citizens—as do taxes and other governmental inconveniences that we accept willingly for a lawful and peaceful community.

History shows not one successful substitute for the citizen's direct involvement in his destiny. It is time for us to accept once more the duty, obligation and privilege of

our citizenship and respond to what our country's needs demand of us.●

HOLMES ALEXANDER HAS THE LAST WORD

● Mr. MATHIAS. Mr. President, when a wise and witty observer of the Washington scene puts down his pen after 34 years of service, it behooves us all to pause and to listen to his final thoughts on America, democracy, and Washington. I call to the attention of my colleagues a series of columns entitled "Down the Home Stretch," by Holmes Alexander. These articles represent the literary culmination of one journalist's view of Washington that is both gracious and demanding. He recalls that "in the aftermath of World War Two, this Capital City did have a holy glow about it, and to be any part of it was something of an honor." He is gracious toward the ideals that Washington represents in the way of democracy, but, at the same time, he is extremely demanding of the elected officials who are called upon to maintain those ideals.

His reflections at times border on despair but are never far removed from the embrace of hope. He writes:

You never hope to lose the flicker of that first fine careless rapture when you believed Washington was the New Jerusalem, every person with "Hon." before the name was a true statesman, and you yourself were like the fly on the emperor's chariot wheel—believing that you helped to turn the earth.

Never one to expatiate on the glorious goals of American democracy, Mr. Alexander used invective and raillery in his effort to make those goals a reality. We would all do well to remember his observation that "fatigue is a disposable waste. Enthusiasm is a renewable resource." I commend these three articles as the distillation of one man's experience with our shortcomings and because in the end, despite all of it, he believes that hope is, by no means, lost. I ask that they be printed in the RECORD at this time.

The articles follow:

DOWN THE HOME STRETCH

(By Holmes Alexander)

(Editor's note: After many years as a writer, Holmes Alexander is retiring from the Washington scene. These upcoming three columns are his last ones.)

WASHINGTON, D.C.—I value my life, and therefore abhor idleness and boredom. "When a man is tired of London," declared Samuel Johnson who among much else covered the House of Commons debates, "he's tired of life." I say with Johnson, "Same here."

After 34 years as a Washington-based journalist, I sometimes feel pooped, but never blase about this thrilling capital city. Lose that fascination and you're done for. When the glamour goes, curtains.

Tired of Washington? I ride a bike to my appointments. Quite apart from economy and exercise, my personal vehicle has sentimentally bound me to the city. Between my 25th street, N.W. home (near the Watergate) and the National Press Building at 14th street, there are sidewalk flower borders that would never be noticed from subway or cab. For three-fourths of the year these simple posies gladden the heart. All year long they flash upon that inner eye which the poet calls "the bliss of solitude."

In the past summer of 1980 the District government blocked off traffic and installed a landscaped plaza with pathways at the Foggy Bottom Metro station. I formerly had to wait for blooms, pedaling to work, until the little park at the Interior Department, 18th and Eye streets. But before she left, Lady Bird Johnson lined the rest of my route with flora at the approaches of Treasury and Commerce. I could choose to reach the Press Building by two routes. One led down Pennsylvania Avenue past the Albert Gallatin statue to the Treasury's north. But ideologically I preferred the southern side which sports the bronze Alexander Hamilton, arch conservative.

Since the crime wave of the 60's, Metropolitan cops don't whistle down bikers who use the sidewalks. This allows me, homeward bound on the eliptical pavement, a panoramic view of the sweeping White House lawn, its playing fountains. the graceful breastlike curve of the "Truman gallery" where it grows out of the gleaming Mansion.

In lustier days I have biked to Secretary McNamaras' Pentagon conferences, but somehow the 14th street bridge has lengthened with the years. When I rode to Capitol Hill, I would foil thieves (9 out of my 10 bikes have been stolen) by locking up in the press room of the Senate Dirksen Building. It's exceptional nowadays when I take the long journeys, but recently I had to be finger-printed to own a legal gun, so I pumped all the way to the D.C. police headquarters in the down town melee of 7th street.

Soon afterwards, westbound on mid-K street, I was unhorsed by an idiot-motorist who suddenly flung open his lefthand door. With a knapsack of books, I crashed into his car, bounced off, was sideswiped by an oncoming stationwagon, and flung to the concrete. My wounds were superficial, but the shakeup made me know I wasn't born yesterday.

Mr. Truman was a first-term President when I became charmed with the outdoor statuary of this shining town, and researched an article titled "How to Win a Monument." It sold to Colliers Magazine, which folded; sold to Bill Buckley's National Review, just beginning; sold in revised form with the collaboration of a Press Club chum, Lou Warren to the Evening Star. Monuments are privately financed, breeding many coming anecdotes about the donors and subjects. I think I could have traded indefinitely on the material, but JFK's Interior Secretary Stewart Udall began uprooting the personal monuments and shipping them to their home states.

Tired of Washington . . . tired of life? Not this ink-stained veteran! We do not live on flowers and statuary, which make the city beautiful, but on nostalgia, patriotic excitement and comradeship. As long ago as the Ford administration, I came away from a Presidential coffee hour in company with a columnist Roscoe Drummond, another oldtimer, and he kidded me about the inclines built into the sidewalk curbs for wheelchairs but which help us bike-riders too.

Probably arranged for you by some corrupt lobby," Roscoe joshed me.

You never tire of the friendship and easy joking that goes with the work. You can always put up your feet and rest after a tiring day. You can always summon memories that set the heart dancing with the daffodils. No doubt the physical and psychologic tensions can get you down, and wear you out on this demanding job—but this city not only takes your energy. it also restores it.

DOWN THE HOME STRETCH

(By Holmes Alexander)

(Editor's note: This is the second of three related columns.)

WASHINGTON, D.C.—As Hon. Barbara Jordan (D. Texas) remarked upon her voluntary departure from the House of Representatives, the longer you stay in Congress, the harder it is to quit.

It's the same with quitting a syndicated column. All columnists, great and small, cling to the byline like a liferaft. It takes an act of self-discipline to cast off and swim for it, even if you've been at it since 1946 and haven't set the lake afire or accumulated any delusions about being missed.

You don't quit because you're tired of life, or tired of Washington. You quit because you don't want to get that tired. You hope never to lose the flicker of that first fine careless rapture when you believed Washington was the New Jerusalem, every person with "Hon." before the name was a true statesman, and you yourself were like the fly on the emperor's chariot wheel—believing that you helped to turn the earth.

Rep. Jordan was leaving Congress without a nudge from behind, but this is less true in the case of an elderly freelance writer, certainly not in my own case. In the gloaming of a journalistic career, there are plenty of persons around with pitchforks to assist. I recall the kindly editor who didn't write to cancel the column, but only to observe that my next birthday was a good occasion "to retire on your laurels." And the old friend who congratulated me on "how hot you used to be." And the up-and-comer who dropped the word "has-been" at the clubhouse dining tables and then apologized the way President Carter did to Senator Kennedy ("Nothing personal, Ted.") after an oblique reference to Chappaquiddick. And there are public and personal "friends" whose calendars become too full for an appointment, or who no longer return your phone calls. All these persons carry a pitchfork to speed the parting scribe, and to make him think a little less of the human race.

But discouragement, even disparagement, won't face the committed writer who regards such things as no worse than a bad cold. It's true that all competitive animals—the race horse, the boxer, the politico, the journalist—feel a letdown when the novelty goes, and the task is all to do again next time. But fatigue is a disposable waste. Enthusiasm is a renewable resource. "If there's a typewriter in your house," said a byliner who recently retired "you'll always be writing."

I intend to do that. I intend also to go on believing that in the aftermath of World War II, this capital city did have a holy glow about it, and to be any part of it was something of an honor. Many who then carried the title of "Hon." were deserving of it. We who came aboard when America was in her golden hour, bathed in the worship and aspirations of the liberated world, were not wrong in believing that there were giants of integrity in those days—Vandenberg and Taft, Harry Byrd and Abe Ribicoff, Paul Douglas and George Marshall, and the Latter Day hero, Harry Truman.

Looking back, Mr. Truman is not memorable for anything gigantic about his leadership. But he was so genuine that he loomed large. Something has been missing in every President since. Eisenhower was too distant. Kennedy too immature. Johnson too unlucky at falling heir to JFK's martyrdom and failures in Cuba and Indochina. Nixon too unworthy of the office. Ford too lacking in inspiration. Carter too inept to be a leader. The nation's Decline can be traced by those names of men who were deficient in the Real Stuff to lead America.

It was an adventure in a losing battle, a heart-wringing and extended defeat, to have been no more than an observer through those years, and to have been on the watch for the Right Stuff to turn the country around. When it couldn't be Barry Goldwater, we had to wait for Ronald Reagan and the conserva-

tive domination of the U.S. Senate brought about by the 1980 elections.

When I came to Washington, it was downright uncouth to be an avowed conservative. In all honesty, I was like the Moliere character who had to be told he'd been speaking prose all his life—I didn't know I was a rightwinger until many persons said so. But I must have known from the instinct as I know now from experience, that the terms conservative and pro-American are synonymous. Not that the liberals are anti-American by nature, but they are non-American by putting other causes ahead of their country's well being.

As Rep. Jordan said, quitting comes harder as time goes by. I am glad to have had my say, and to have saved the last word for the Inaugural of Ronald Reagan.

DOWN THE HOME STRETCH

(By Holmes Alexander)

(Third and final.)

WASHINGTON, D.C.—Note the difference—it has deep significance. When Harry Truman victoriously ran in 1948, he flogged the 80th Congress for being "no-account and do-nothing." When Ronald Reagan won in 1980, the 96th Congress was not so much vulnerable to Trumanic bombast as to God's wrath.

Seven members were under criminal indictment for bribery and conspiracy, one had been expelled by the House Ethics committee, another resigned and several others were "censored" by their peers in various terms of disapproval.

The incoming Congress, the 97th, was elected with Republican majorities larger than Mr. Reagan's. While the country had been amused by President Truman's allies, it was outraged in 1980 by the performance of a chief executive and Congress alike. During that span (1948–80), which coincided with my own term as a Washington based writer, America had sunk so low in military and diplomatic defeats, in the immorality of its governing personnel, that it would not be unreasonable, or unfair to ask—"Is the United States capable of self-government?"

Washington journalism is a zoo with many species of the animal kingdom. The nobility of the majestic lion and the thoroughbred horse are there. The lesser breeds of harmless moo-cow and fawning lapdog can be seen. The lower forms of jackal, viper and buzz fly are on exhibition with the strutting peacock and the swollen toad.

No individual, expressly this one, is free from the faults of the herd. I have a theory that this variety exists within the press corps because it mirrors the social environment that supports, encourages and tolerates it. I refer to the American political community, from the White House to the backstairs lobby.

Our ever-increasing access to the ballotbox has progressively lowered the quality of our chosen leadership. We have beaten the bushes to bring out more voters, women suffrage, a lowered voting age, the outlawing of poll taxes, the liberation of residency requirements, the absentee ballot, the federal enforcement of voting rights and the federal subsidizing of candidates, all have coincided with lower participation on election day and lower standards of decency and mentality afterwards.

Again, we see the animal fair of purebreeds and mongrels, a menagerie where the democratic theory is debunked as quackery, for the people's choices are several cuts lower than the people themselves. Despite some splendid species that have paraded throuch the executive mansion, the congressional aisles, the persuasion parlors where legislators are massaged by Nobel prizemen as well as fleshpot merchants, national politics has become more and more a profession of, for and by the unclean. The bureaucracy, which is the servant class of our rulers, draws undeserved salaries from protected jobs. These lackeys extend the absurd pretension of self-government as a human or philosophic value.

I would feel cowardly to end my valedictory without suggesting remedy. Only yesterday I heard it seriously proposed that Richard Nixon be executed for his crimes against the American people, and that capital punishment be made the mandated punishment for all major offenses to the public good. Although not wholly won over to such extreme measures, I am convinced that a factor of authoritarianism must be introduced if the Republic is to survive. Not a dictator, but a take-charge ruler, like DeGaulle must be raised up by popular consent.

Looking back on three decades of writing from the Washington beat, I cannot believe that it improved any talents I may have brought here, or that the political environment has been good for the men and women with whom I have worked. Rarely is there an Adam Smith, a Maynard Keynes, a Karl Marx, a Ben Franklin who develops from the modern press corps. It feeds on the material of legislation and administration which has little relation to the eternal verities. Seldom does the byline correspondent meet with politicians whose sincerity is inviolate, whose purpose is undiluted patriotism, not mixed with trivial considerations and covert vanity. The wide world is not without hypocrisies in any society, but there is no worse offender than the society of politics.●

THE PHARMACISTS PROTECTION ACT

● Mr. DURENBERGER. Mr. President, it is a pleasure to join this morning in cosponsoring S. 20, which amends title 18 of the United States Code to make the robbery of a controlled substance from a pharmacy a Federal crime.

Present law in pharmaceutical robberies presents a disturbing paradox. Under provisions of the Controlled Substances Act of 1970, the Drug Enforcement Administration now controls who may prescribe drugs, and the illnesses for which those drugs may be prescribed. A tough accounting standard to prevent illegal sales and possession is included in the agency's regulations. Once a pharmaceutical robbery has occurred, and stolen drugs are placed in the stream of commerce, there are multiple grounds on which the Federal Government can assert jurisdiction over the use, movement or resale of the drugs. The only step in the chain of criminal activities where the Federal Government does not have jurisdiction is the robbery of the pharmacy itself.

This paradox appears to result from omission rather than design. But its consequences are significant. Drugstore robberies are reaching epidemic proportions, particularly in the Nation's urban centers. Over the last few years dozens of pharmacists have lost their lives in robberies. One of those, Robert Jorgensen, was from my own State of Minnesota. But these satistics actually understate the problem. They do not measure nonfatal injuries inflicted in the course of these robberies. Nor do they take account of the economic loss sustained in the robberies, or the costs sustained by pharmacists forced to install expensive crime control systems. Armed robbery is a chilling experience, but it is now a fact of life for most pharmacies.

Ironically, the success enjoyed by the Federal Government in closing traditional channels of illicit drug supply has magnified the pharmacists problem. Even where supplies are available, the uncertain purity and concentration of drugs sold on the street is an incentive for addicts to take criminal action to obtain prescription grade narcotics. There is no logical rationale for excluding the pharmaceutical robbery from a chain of events that is otherwise within the scope of Federal law enforcement authority. The Senate recognized this fact when it unanimously passed an amendment similar to S. 20 during consideration of the Criminal Code Reform Act during the 95th Congress. Similar language was included in the Criminal Code revision that passed the Judiciary Committee a year ago. But the controversy surrounding these omnibus Criminal Code reform bills doomed their chance of passage, and the provisions protecting pharmacists died with those bills in each of the last two Congresses.

With the incidence of pharmaceutical robberies increasing at geometric rates, we can no longer delay action on this simple but essential change in the Federal Criminal Code. The bill I cosponsor this morning would make the theft from a pharmacy of any substance listed in schedules I through IV of the Controlled Substances Act a Federal crime subject to a prison term of 10 years, a fine of $5,000 or both. S. 20 closes a serious loophole in the Criminal Code, and I urge every one of my colleagues to give it their full support.●

NATIONAL SEA GRANT COLLEGE PROGRAM

● Mr. PELL. Mr. President, the administration's proposal to eliminate entirely the national sea grant college program is a budgetary blunder.

The reason given by the administration is totally wrong and mistaken. The budget documents submitted to the Congress today state that the sea grant program should be terminated because it has "largely achieved [its] original purpose to develop State and local capability for addressing marine and coastal issues."

As the author of the original sea grant legislation and as one who has conducted every Senate reauthorization and oversight hearing on the program, I know the intent of the Congress was and is that the program be a continued partnership between the Federal Government and State and local interests with each paying a share of the costs. That intention has been made crystally clear by the Congress time and again. I regret that the administration has misstated the purpose of the program to justify its proposal to kill it.

The fact is that the sea grant college program is the most cost-effective marine resource program we have. A recent compilation by an ad hoc sea grant study group showed the program has produced annual direct economic benefits of more than $200 million. The program is a

public investment in technological innovation and increased productivity.

The administration's program would kill the sea grant program as of October 1 of this year. It is a decision that could only have been made almost blindly in some frenzied midnight search for budget cuts. I am confident that the Congress, after examining the program in the light of day, will decide that the sea grant program should be continued.

In fact, the Senate Committee on Labor and Human Resources, acting yesterday on its fiscal year 1982 budget submission, included $35 million for the sea grant program. That is a budget cut of less than 10 percent, and the funding for the program was supported by the Republican majority as well as the Democratic minority.

I support the President in his effort to curb Federal Government spending, and I expect that the sea grant program will bear its share of austerity, but I will vigorously oppose the proposal to kill this program.●

REGULATION OF SURFACE MINING

● Mr. BENTSEN. Mr. President, I am pleased to join Senator WALLOP, Senator BUMPERS and others in cosponsoring S. 351, a bill to relieve sand, gravel, stone, and clay operators from costly, excessive and unwarranted Federal regulation by transferring oversight of these industries from the Mine Safety and Health Administration (MSHA) to the Occupational Safety and Health Administration (OSHA). This bill is similar to S. 625, which passed the Senate twice during the 96th Congress but has not yet been enacted into law.

There is an emerging consensus in this country, Mr. President, behind the drive to curb the regulatory impulse and insist that any regulations promulgated from Washington at least be cost effective.

This is not to suggest that we should abandon the important progress we have made over the past decade toward cleaner air and water and a safe workplace. We must, however, be prepared to examine the costs, as well as the potential benefits, of past and future regulations.

One of the most dangerous and important jobs in this country is going down into a deep shaft to mine coal. Everyone would agree that the health and safety of brave people who do this work should be protected.

For that reason we passed the Mine Safety and Health Act of 1977; even a cursory review of the act's legislative history reveals that it was intended to address the very real dangers inherent in deep shaft coal mining.

But what has happened, Mr. President, is that the regulators in MSHA have taken the definitions, problems, hazards, and remedial measures that pertain to the coal mining industry and tried to apply them to the excavation of sand, gravel, stone, and clay, most of which takes place above ground.

That is the sort of regulatory absurdity that can no longer be tolerated in America. The risks are different, the industries are different—but we will take the worse-case, deep mining rules, and try to force-fit them to construction aggregates. The process, of course, is cumbersome, it is expensive, and it does not work.

Let me review briefly some of the inequities that have resulted from application of a single set of regulatory standards.

MSHA presently imposes extensive training requirements on mine operators. The training is intended to teach safety techniques applicable to underground sites and therefore has little if any relevance to surface operations. Furthermore, the financial strain of providing federally mandated instruction is especially burdensome considering that approximately 85 percent of all sand and gravel mines and 66 percent of all stone operations employ 10 or fewer workers and considering that conservative estimates put the cost of training a single employee at something in excess of $150 per day.

A second major difficulty in applying the MSHA standards to these surface mining operations relates to the penalty system imposed when noncompliance with the regulations is found. Under the 1977 act, a rigid penalty formula—in use for coal mines since 1974—has been extended to cover surface operations. In 1979, MSHA estimated that penalties assessed in any given year may cost the noncoal mining industry up to $25 million or an average of $1,200 to $1,500 per year for each noncoal surface mine. This constitutes an extraordinary cost to the operators, particularly in view of the fact that the median size noncoal mine has about five employees and that the federal mine safety inspectors regularly assign penalties for violations as innocuous as paper on the lunchroom floor.

In addition, there is ample evidence that these surface mines are far safer than the coal operations with which they have been grouped for regulatory purposes. During the first half of 1980, for instance, the accident rate for sand and gravel operations was 4.48 injuries per 200,000 man-hours, while the average number of injuries in coal mining during the same period exceeded twice that number.

Mr. President, it makes no sense to apply the same regulatory requirements to all mining operations when the differences among them warrant individualized treatment. It makes no sense because it imposes an unreasonable and unnecessary burden on the small businessman, his employees, and on the American taxpayer who is ultimately responsible for paying the costs of over regulation in the form of higher prices in the market place and more taxes to implement unwarranted Federal restrictions.

Accordingly, I urge each of my colleagues to support this effort to provide long overdue regulatory relief for the thousands of operators and employees working in sand, gravel, stone, and clay mines across the United States.●

THE OUTLOOK FOR EDUCATION

● Mr. EAGLETON. Mr. President, I call the attention of the Senate to a speech delivered last month by the Senator from Rhode Island (Mr. PELL) on the subject of the Federal role in education.

Senator PELL points out that although Federal support is minimal in terms of the overall costs of education, that support has been and continues to be vital to assuring equal educational opportunity for all children. Senator PELL also stresses the quality of education as the foremost concern of today. The call for prompt attention at all levels to this problem is long overdue.

Mr. President, I ask that Senator PELL's speech to the Association of American Publishers be printed in the RECORD.

The speech is as follows:

THE OUTLOOK FOR EDUCATION—A DEMOCRATIC PERSPECTIVE

It's a pleasure to be with you this evening.

When I received your invitation in September, I did not anticipate the events that took place on November 4th. In September, I expected to be still directing, at this time, the activities of the Senate Subcommittee on Education, which I had been doing since 1969. However, the election changed all that, and I am grateful that you still decided that you wanted to hear what I would have to say.

I should say at the outset that I probably have as many questions as you do about the future course of Federal educational policy. We all know the campaign stances that the President took, and we all are aware of many of the campaign promises made by members of the new Republican Senatorial majority. Only time will tell whether the rhetoric of the campaign can be translated to the day to day reality of running a government. It is important to stress, however, that change of control in the Senate does not in itself mean bad things for education.

Our Subcommittee and full committee have always operated on a bipartisan basis, and education legislation has always had bipartisan support. The new Chairman of the Subcommittee, has been a supporter of Federal education programs in the past. I think he'll continue the bipartisan approach that has characterized our efforts in the past, and I look forward to working with him as the ranking minority member. However, although Senator Stafford has supported these programs in the past, many questions have arisen throughout this country about the effectiveness of them, and our Subcommittee will have to address those questions seriously over the next few years.

In addressing these questions, it is important that we analyze the current state of affairs honestly, and in a manner that does not perpetuate many of the myths that exist today. For example, we should carefully try to figure out what the Federal Government can and cannot do in the area of education. Despite all of the rhetoric to the contrary the Federal Government does not play a dominant role in education throughout this country. That role is still played, and should be played, by state and local governments.

In reality, Federal education spending is a small part of the nation's total education budget; in actuality, it's about one tenth of that total budget. For higher education, the Federal portion is 13.7 percent; for elementary and secondary education, 8.5 percent. That small part, however, is extremely important. It helps schools meet unmet needs, and in many cases provide the cutting edge—the vital resources—for new efforts. There are areas of education that would go unaided if it were not for Federal funds.

So in analyzing these programs, we have to be flexible enough to recognize that some of our past solutions might not be appropriate for today's problems. Yet, the limited purpose of these programs—to help the disadvantaged, to assure equal educational opportunity for all—is still valid today. No amount of myth-making about the dominant role of the Federal Government in the area of education will dismiss the reality that without Federal assistance, albeit limited, poor children would not receive the kind of educational services they do today; that children with limited English speaking skills would learn English less quickly, that handicapped children would find their educational needs unmet; and that many children, desiring the chance to improve their lives by securing a college education, would find that they could not afford one. Federal educational programs help all of these children receive educational benefits that they might not otherwise receive. This, in my opinion, is a sound, reasonable national investment.

And despite the myths, dismantling the Department of Education would be merely a blow for symbolism. The Department of Education is not a problem for our country's schools. The actions of the government that upset these entities come for the most part not from the Department of Education, but from the Justice Department and the Internal Revenue Service. Dismantling the Department of Education won't change this. What it will do is downgrade the status of education within the Federal Government.

In my opinion, the education of its young is the most important domestic priority of any nation. And Federal efforts in doing that should be supported, not denigrated. Dismantling the Department of Education will not solve our nation's education problems, of which there are many. It will merely be a symbolic gesture, full of sound and fury, and signifying nothing. In my opinion, we could spend our time more profitably on other matters.

And these other matters are important, and they deserve our careful attention. Let me give you a brief glimpse into what I think will be the major issues confronting Federal educational policy makers over the next few years. They're crucial issues, and if we can get away from the myths and the nonproductive issues, we might be able to address these important matters in a way that will truly be beneficial to the nation.

The first issue is quality. If there is one point that keeps being made over and over again, it is the fact that people throughout this country believe that there is a lack of educational quality in our schools today. Parents believe this, school boards believe this, and policy makers believe this. It is an issue we at the Federal level should address. In the past the Federal Government has concentrated on providing equal access to educational services. The time may be ripe for us now to shift our emphasis to the quality of the services provided. We have to begin to look more and more at the outcome of educational programs. At the Federal level, we are spending billions of taxpayers dollars on education. These dollars must lead to quality education.

I realize that educational quality is an elusive issue, and one that will most effectively be dealt with at the state and local level, rather than at the Federal level. Yet there are some steps that the Federal Government can take, steps that can set an example for the rest of the nation. For some time now, I have advocated a national test, similar to the Regents test in the State of New York, be made available to every American high school senior.

I believe that every high school senior should master a certain basic body of knowledge that is not subject to regional or geographic distinctions. There must be certain universal realities which we must comprehend and master in order to receive a high school diploma. I believe a national test can be devised to determine whether a high school senior has mastered these, and how he or she compares with fellow high school seniors throughout the country. And the fact that this test is available will in itself act as a spur to get schools to adjust their curriculum so that a larger percentage of their students who take the test may pass it. Every time I have offered this proposal, it has been met with almost universal opposition from the educational community. Maybe now the time is ripe for its consideration. It's a small step, but in my mind it's a step in the right direction.

Another area where the Federal Government could make a blow for quality is in the area of progress in higher education. I think we should make sure that if a student is receiving Federal funds to go to college, that student should pass at least half of his or her college courses. I offered this proposal last Congress, but again was opposed by an almost universal educational community. I think the proposal made sense last year, and I think it makes sense today. For if we are ever to improve the quality of education in this country, we are going to have to require more from those who participate in Federal, state, or local programs. I think these two Federal steps would be positive indications that we mean business, that we are concerned with quality, and that we are doing something about it. If we continue to do business as we have been doing, I think we will be rightfully criticized as being part of the problem, and not part of the solution.

Another issue which we will be confronted with is aid to non-public schools. This issue has been slowly growing for some time now and may be at full peak. For the fact is that many parents are sending their children to non-public schools because they are dissatisfied with public schools. And these parents believe that they are entitled to assistance. In the past, we have actually sidestepped the issue. We cannot do that any longer. I hold to the belief that our first priority is to our nation's public schools. They are free institutions, open to all, and that system of free public education is one of the reasons that this nation of ours is so great. Yet, that does not mean that we cannot help non-public schools.

If free public education is one of the strong points of our nation, so is the fact that our system of education is diverse. Non-public schools allow this educational diversity, and they can use Federal help. I do not think the question any longer is whether we provide this help or not. The issue will be how we structure this assistance. There are several alternatives all of which have their supporters and opponents.

One proposal I had was to extend the existing Basic Grant program to secondary school students. I think this proposal makes sense, for it takes a program that is already working, and working well, and builds on its successes. The administrative mechanisms for this program are already in place, and no new forms, procedures, or bureaucracies would have to be developed to carry out the program. Arguments as to the constitutionality of this approach, or other approaches, will certainly be raised. Yet that is an issue for the courts to decide.

Over the years the Supreme Court has gradually extended its concept of what types of public aid could be made available to non-public schools. The issue for us is to decide whether such aid makes good public policy sense. In my opinion it does, and I think we should address the issue creatively, and leave to the courts those issues which only they can decide.

Block grants will once again be an issue. We tried some consolidation, or a block grant approach, in the 1974 Education Amendments. Some of it worked, and some of it did not. Some advocates of block grants would have the Federal Government give one single sum of money to states with little in the way of requirements attached. This concept is really a successor to the education revenue sharing proposal of the Nixon Administration. From all of the signals I hear, taxpayers are demanding more accountability for their Federal tax dollars, and I for one do not think that a no-requirement transfer of funds from the Federal Government to states will meet this demand for accountability. As a Federal official, I want to know what is being done with Federal dollars.

This is not to say that a block grant route will not be taken. I think block grants ought to be given careful consideration. We have an awful lot of programs, many of which are duplicative, and many of which place over and over again identical paperwork and reporting requirements that states and local school districts have to deal with. This has to be changed. Block grants may be a reality. It may be time for us to stop fighting them, and try to make them work. If we are going to have them, here are some features that I think they should contain. First, we should combine programs that have similar purposes. To pit aid to the handicapped and aid for economically disadvantaged students against each other in competition for federally consolidated or block grant dollars is cruel, and it is not the type of competition that is beneficial to the nation.

Thus, we should combine similar highly targeted Federal dollars in one block category, rather than lumping all Federal dollars in a single block grant. Once we have combined similar programs, we should give state and local governments greater flexibility in deciding how educational services should be provided. We should reduce reports and paperwork, closely monitoring what the states and districts are doing with Federal dollars, but clearly giving states and districts the authority and the responsibility to use Federal monies wisely.

What I am talking about is a reexamination of Federal categorical programs, with the hope of eliminating many of the unnecessary ones, combining similar one where possible, and giving states and local school districts more autonomy in deciding how they will use the Federal dollars they receive to meet the needs of special groups, which the Federal programs will continue to identify as deserving of special Federal attention. I think this is a reasonable approach to the block grant concept, and one that will probably go a long way toward improving Federal efforts in the area of education.

The final issue I see looming in the years ahead is one that confronts us in all walks of life—and that is money, or the lack of it. The Federal Government should not pay for frills. Educational budgets at the Federal level will be austere ones, with funds targeted at the most essential programs. If our schools are to work and effectively prepare our children for the future, we have to be willing to pay for them. The proper role for the Federal Government in this regard is to assist states and localities to best fulfill their responsibilities. Education is a state and local function.

The Federal Government should not assume the burden of financing that function, but should supplement the efforts of the states and localities. For example, the $3 billion Title I of the Elementary and Secondary Education Act program does not say to state and local education agencies that the Federal Government will educate disadvantaged children.

Rather, it says that the Federal Government will provide funds to state and local

governments so that disadvantage children, who might not otherwise receive special services, can be given the extra educational help, designed by local school districts and administered by local school districts, that they desperately need to succeed. This is the role that the Federal Government should pursue. It may mean a stricter accounting and a tighter analysis of what programs are needed and what are not, but it will guarrantee to the taxpayers that Federal funds are going for necessities, not frills.

Before closing, I would like to raise one issue that should be particularly disturbing to everyone in this room tonight. There are signs that censorship is beginning, once again, to rear its ugly head. Self-appointed moral vigilantees are cropping up making lists of books to which they object and which they would therefore deprive others of. Censorship of any kind is wrong, and threatens the liberty of all of us. It is particularly opprobrious in the area of academics and education.

I find it incredible that a group such as the Heritage Foundation, a conservative think tank which seems to have the ear of many of the closest advisers to President Reagan, on the one hand quite properly rails against Federal involvement in the area of curriculum and the control of education, while on the other hand urges the Department of Education to "establish procedures to ensure that the factual and scientific accuracy and public acceptance of any education activity, project, or program administered or supported by the Federal Government are determined before such activity, project, or program is proposed for use or implementation in school classrooms." In other words, the Federal Government acts as a censor. The censor role is not, in my opinion, the proper role of the Federal Government. All of us will have to be on guard to see that this does not happen.

There are other issues that will arise over the next few months. Some will be the result of programs expiring.

In this regard, we will have to consider what to do with the Federal public library support programs. Libraries throughout this nation are having trouble meeting expenses, and now that the White House Library Conference has been held and its results tabulated, some new approaches to libraries may be forthcoming. Also, we will have to reexamine the Federal Vocational Education program, to make sure that it is working as well as it can, and to see if there is a proper relationship between the world of work and the world of schooling. And this Congress may even see the enactment of a Youth Employment Initiative, tying job programs more closely to educational training.

I envy you as publishers, especially as publishers of textbooks. Your arena is the mind of the child, and what is contained in your works quite often leaves a lasting impression. The national leader who cites a lesson from history recalls it from one of your texts read as a student. The scientist who embarks upon a new discovery received the first spark of inspiration from a book in a school classroom. The underprivileged youngster who first discovered a world beyond the doors of his tenement home in the pages of a book as well as the youngster from a well-endowed home who never knew poverty until visiting it through a book—all these are your fruits.

You as publishers, and I as a public official share a common responsibility. We in government endeavor to make a better world, while you seek both to convey that visition to the young and bring its realization within the grasp of our people. It is an extraordinary responsibility, and one that deserves all of our attention and efforts. I pledge my cooperation. For we have a difficult job in store for us. Educating our citizens is not an easy task. Sir William James once said that "the world is only beginning to see that the wealth of a nation consists more than anything else in the number of superior men that it harbors." Our responsibility is to increase that number of men, and women, so that this nation of ours reaches its fullest potential. I hope we can all work together in that noble endeavor.

Thank you for inviting me to be with you this evening.●

REYE'S SYNDROME

● Mr. GLENN. Mr. President, I am pleased to join Senator MELCHER as a cosponsor of S. 290, the Reye's Syndrome Act of 1981. Reye's syndrome is a life-threatening illness which suddenly strikes young children and teenagers, usually as they are recovering from a viral illness such as the flu or chickenpox. The cause and cure are unknown.

The National Reye's Syndrome Foundation was founded in Bryan, Ohio, by Mr. and Mrs. John Freudenberger in 1974. The purposes of the foundation are to promote research into the cause, treatment, cure, and prevention of Reye's syndrome; and to promote awareness among the public and the medical community of this tragic disease. Thanks in large part to the efforts of John and Terri Freudenberger and other concerned citizens, more parents and medical personnel are aware of Reye's syndrome. Thus more cases are being detected and treated earlier, and the death rate is declining.

However, additional research is needed to combat Reye's syndrome. S. 290 establishes the Reye's Syndrome Coordinating Committee at the National Institutes of Health. The committee will oversee the awarding of $1.5 million in annual grants to researchers studying Reye's syndrome, and will establish mobile research teams to be sent to gather information in areas with a high incidence of Reye's syndrome cases.

While researchers are working to find the cause and cure of Reye's syndrome, it is also important to further increase public and professional awareness. Early detection and immediate hospital treatment are necessary in order to prevent death or severe brain and liver damage. We must be particularly alert during the flu season, January, February, and March, when the number of Reye's syndrome cases is highest. Parents are urged to seek immediate medical attention if their children have the following symptoms: Persistent vomiting, listlessness, personality change to combativeness and irritability, disorientation, and convulsions.

I commend Senator MELCHER on his efforts here in Congress to combat Reye's syndrome, and I will continue to work with him to insure early congressional action on S. 290, the Reye's Syndrome Act of 1981.●

THE PUBLIC LANDS

● Mr. EAGLETON. Mr. President, more and more we are hearing from angry Westerners over the Federal Government regulating them to death. The rebellion has been coined the Sagebrush Rebellion. It started a little over a year ago when Nevada passed a law to seize 49 million acres of Federal lands within its borders. Other Western States have signed up, and the rebellion has grown sizably.

Last year, Senator HATCH, joined by other Western Senators, sponsored a bill to allow States to reclaim their lands. The bill is soon to be reintroduced.

As a neighboring State to the Western lands, Missourians have been watching the rebellion with interest. I have received a number of concerned inquiries from Missouri hikers, campers, hunters, and fishermen over the proposed land grab. Last month, the Conservationists, a publication of the Missouri Department of Conservation, printed an excellent editorial on the issue of public lands. I ask that the text of James F. Keefe's, editor of the Conservationists, editorial be printed in the RECORD.

The editorial follows:

THE PUBLIC'S LANDS

Most of us take some comfort from the compromise Alaska lands bill that finally made its way through Congress in December. Even though most of us will never see them, it is somehow good to know that some of Alaska's wild lands will remain wild.

Many Alaskans opposed federal control of lands there, and the exploiters were hopeful they could get control for their own purposes. But public lands do not belong to Alaskans alone. Missourians have a stake in them, too, just as we have a stake in the national parks, the national forests and the large holdings of the Bureau of Land Management elsewhere in the United States.

The Alaska lands bill is sure to be attacked in future Congresses, and if we don't want to lose the gains we have made, we must keep a steady pressure on our representatives to stand fast for continued public ownership of the Alaskan lands set aside for national parks, refuges and wildernesses.

Even more threatening, but only because it is closer, is the so-called Sagebrush Rebellion, as the LASER movement is known. The League for the Advancement of States Equal Rights (LASER) and interests associated with it, have as their announced goal the redress of grievances against federal land-holding agencies, such as the U.S. Forest Service and BLM. It is true that there has been mismanagement of some federal lands, the result of what Harlan Cleveland called "tackling 20-year problems with five-year plans, staffed with two-year personnel, working on one-year appropriations." Given time, these things can be worked out, but not if public lands are turned over to private interests for exploitation. And that is the ultimate aim of the Sagebrush Rebellion—to divest the American people of their public lands and open them to private exploitation.

A number of special interests in the western states—grazing, mining, energy, state legislatures, county commissions, inholders and others—each have "grievances" against the federal agencies administering public lands. Through their campaign to get these corrected, many see the opportunity to get the federal government "off their backs" and off the lands they want for their exclusive use.

Although some want only lands of the Bureau of Land Management, others have their sights set on the national forests, wildlife refuges and all other federal holdings except national parks and monuments and active defense installations. The Sagebrushers scorn the environmental do-gooders and despise bureaucrats.

In our Bicentennial year, 1976, Congress enacted the Federal Land Policy and Management Act, declaring as national policy the retention and improved management of the

public domain. Passage of that Act is supposed to have sparked the Sagebrush Rebellion. Tighter management brought howls of complaint from special interests who were using—and profiting from—the public lands, creating the "grievances" we spoke of above. Withdrawals of wilderness and wilderness study areas from the national forests brought protests from the mining and lumbering interests. When you put the entire mix together, you get the League for the Advancement of States Equal Rights.

If you are tempted to shrug and say that's a matter for Arizona, or Utah or Montana, keep in mind that those are your lands that the LASER folks want to take away. They are lands future generations will need for hiking, backpacking, camping, hunting, fishing and as reserves of wild America. We must let our representatives know we want no part of this land grab.●

THE RETIREMENT OF ELMER B. STAATS, COMPTROLLER GENERAL OF THE U.S. GENERAL ACCOUNTING OFFICE

● Mr. GLENN. Mr. President, last Friday one of the most dedicated public servants in the U.S. Government retired after a 40-year distinguished career that most recently included discharging the obligations of the Office of Comptroller General of the United States. Elmer Staats' 15-year stewardship of the General Accounting Office was marked by significant expansion of the activities of the GAO, particularly in the area of program auditing.

When I was chairman of the Subcommittee on Energy, Nuclear Proliferation and Federal Services, which had oversight responsibilities over the GAO, I had many occasions to meet personally with Mr. Staats. No one will find a more fair-minded man or a more consummate professional.

A year ago we achieved the culmination of a long effort initiated by Elmer Staats when the General Accounting Office Act of 1978 was passed. This act expanded considerably the ability of the Comptroller General to audit the expenditure of taxpayers money by Federal agencies, and gave the GAO the authority to go to court, if necessary, to obtain access to the books and accounts of Federal contractors and consultants.

At a time when fiscal austerity has become the order of the day in Washington, it is especially important that this tool be applied by the GAO in insuring that fair value is received for expenditures of Federal money.

There could be no better monument to the outgoing Comptroller General than for the organization he headed for 15 years to use all the tools at its disposal to see that fraud and waste are eliminated.

In seeking to raise the level of achievement, competence, and integrity in Government, there is no better model we could look to than the career of Elmer B. Staats. I am certain I speak for all my colleagues in the Senate in wishing him well on the occasion of his retirement, and hoping that he will still allow us from time-to-time, to call upon him to provide us with the benefit of his expertise in Government.●

LECH WALESA

● Mr. BIDEN. Mr. President, as the political situation in Poland evolves, the name Lech Walesa, head of the trade union solidarity has become a international household word. He is both a leader of their revolution and a major force for reason and moderation. Many observers have felt that the survival of pluralism in Poland will profoundly affect all of Eastern Europe and consequently, East-West relations. And the survival of this pluralism may well depend on one man: Lech Walesa.

In Sunday's Washington Post, there appeared an interview of rare quality. The personality of Lech Walesa emerges with extraordinary force. And he describes the failure of communism in the most simple and profound terms. When the interviewer asks, "Do you mean that communism has failed?" Walesa responds:

If you choose the example of what we Polish have in our pockets and in our shops, then I answer that communism has done very little for us. If you choose the example of what is in our souls instead, I answer that communism has done very much for us. In fact, our souls contain exactly the contrary of what they wanted. They wanted us not to believe in God, and our churches are full. They wanted us to be materialistic and incapable of sacrifices; we are antimaterialistic, capable of sacrifice. They wanted us to be afraid of the tanks, of the guns, and instead we don't fear them at all.

I submit for the RECORD the interview in its entirety for the benefit of my colleagues.

The interview follows:

[From the Washington Post, Mar. 8, 1981]

LECH WALESA: THE MAN WHO DRIVES THE KREMLIN CRAZY

LECH WALESA. One moment. First of all we have to clear things up. I am not a diplomat. I am not a master of ceremonies and even less an intellectual. I am an uncouth man, a worker. I have never read a book in my life, and I am a man with a goal to reach, so I don't give a dam for certain things. Not for the books, not for the interviews, not for the Nobel Prize and even less for you. I have no complexes, I don't. Neither toward the generals nor toward the prime ministers, nor toward you. I can give a punch on the desk of a prime minister, I can leave a general in the lurch without saying goodbye, and as for you I can do the same. Anyway, I am the one who puts the first question: What do I lose, how much do I lose with this interview? Besides, why do you look at me that way?

ORIANA FALLACI. I look at you because you resemble Stalin. Has anybody ever told you that you resemble Stalin? I mean physically. Yes, same nose, same profile, same features, same mustache. And same height, I believe, same size.

A. Nie, nie, nie. No, no, no, nobody told me and I don't care. I didn't know it, I don't want to know it and you haven't answered my question yet. So I put another one: This interview, how do you write it? Question and answer, question and answer, or all together with the comments inside? Because the comments inside, I don't like them. It isn't fair, it is the reader who must make his comment and decide if the guy is right or wrong.

Q. Listen. Walesa. My interviews are written question and answer, question and answer, always. Whether you gain or you lose with this one, I don't know, because it depends on what you will tell me. And if you don't mind, I am the one who asks. Now let's start. Seven months ago, nobody knew your name outside Poland and very few, I guess, inside Poland. Today you are one of the most famous men in the world and you drive Brezhnev crazy with your Solidarity movement, you put [former Polish Communist Party Chief Edward] Gierek out of a job, you give [present Polish Communist Party chief Stanislaw] Kania a headache each time you call for a strike. When you go to Rome you are received by the Pope as a head of state or a star and . . .

A. Stop, stop, stop, stop.

Q. Why? What happened?

A. It happens that you have a very authoritarian style, a typically dictatorial one. And as I do too, we have a problem. The problem is to find a compromise. So let's make a deal. From now on I will be nice with you and you will be nice with me, OK?

Q. OK. Here is the question: When you measure this glory, this power which fell on your shoulders, don't you ever say, my God, this is too much for me, I cannot keep it?

A. Yeah, yeah, yeah. The Holy Virgin knows. I'm tired, bloody tired, and not only in my body because I never sleep, my heart doesn't work as it should, it throbs, it hurts. I'm tired inside, in the soul. This life is not for me. Meeting people for whom you must wear a tie, knowing good manners, listening to recommendations: Don't do this, don't do that, please smile. Ties strangle me, I cannot wear them, and why in hell should I smile when I don't feel like it? Nothing is permitted to me anymore, nothing. I cannot have a drink, I cannot pick up a girl, else the whole world falls apart and they say that the soda water went to my head. It isn't right. And you must say it, you must explain that men are men even if they make politics, men are sinners, so what?

Q. Yes, but I meant something else, Walesa. I meant the responsibility you took in front of your country and of history. Don't you ever feel scared by it, inadequate?

A. Nie, nie, nie. No, no, no, because I am a man of faith and because I know that this moment needs a guy like me. A guy who can make decisions with good sense and solve problems in a cautious, moderate way. I am not a fool. I do understand that too many injustices got accumulated during these 36 years, so things cannot change from morning to night. It takes patience, it takes wisdom. I mean, the rage that people would like to burst like a bomb must be controlled. And I know how to control it, because I know how to reason though I am not a learned man and I know how to say things with the proper words. Like I did with the peasants at the strike in Jelenia Gora, for instance, when I yelled at them: "You've started the wrong strike, you idiots, you champions of stupidity, I'm against you." And 300 people remained speechless. Well, speaking to the crowds, isn't always the art of going against the crowds and . . . Do I look pretentious?

Q. You don't. Why?

A. Because sometimes I give this impression. But I am not pretentious, believe me. I am a guy who wants to help people. For instance, if you ask me a favor, get me there, get me something, I immediately do my utmost. And I get you there even if I get myself into trouble, even if my friends say: "Mind your business. Is it your business?" I like to make myself useful. It was so even in December 1970 and in August 1980, when I did what I did because nobody wanted to do it. It was so when I worked in the opposition, and today it is the same. I mean, I know how far we can go with our demands. I know what country we live in and what our realities are. I know the path we must follow. And the danger is to abandon such a path, to stray from the line because of a

few blockheads or a few hotheaded idiots who don't understand.

So I have to keep repeating to them that things cannot be obtained too fast, that the demands must be put at the right time, without impatience. Look at the monument we erected for our dead, our workers killed by the police in 1970. Had we built it at once or two years later, now it would be simply the branch of a tree, easy to cut. Instead, today it's a tree and its roots are so deep that nobody can extirpate them, and if it will be cut it will blossom again.

Q. Lech, where did you learn to talk like that, from whom?

A. I don't know. I told you that I never read a book, anything. I never had teachers either, nor examples to imitate. I always solved my problems alone. Even the technical ones, like to fix a TV set or a sink. I think them over and I fix them in my way. Politics is the same. I think it over and I find the solution, or at least a solution. As for the moderate line I gave to Solidtarity, however, I can tell you that I set it after the defeats of 1968 and 1970. It was then that I realized the necessity of working without impatience; otherwise, we would break our heads. I said to myself; Lech, a wall cannot be demolished with butts, we must move slowly, step by step, otherwise the wall remains untouched and we break our heads. You know; I have been arrested a hundred times, more or less, usually 48-hour arrests, and one thinks very well in jail because in jail there aren't noises and one is alone. It was in jail that I also found the way of sowing doubt into the minds of my jailers, to make them release me and to make them understand how wrong they were toward the country and themselves. Finally, it was in jail that I discovered the system of informing people about my arrests. Because it is useless to be arrested if people don't know.

Q. What was this system, Lech?

A. Well, when they released me and I went home, I placed myself in front of a bus stop and even if I had money to buy my ticket I pretended to be penniless. So I asked the people to buy my ticket, explaining that I had been arrested and why. People got interested and bought my ticket. Then I took the bus and during the trip I continued to explain. I held sort of a rally for them to warm up feelings. I did so for years. Wherever I went, whatever I did, I made something happen.

Q. This is great politics, Lech.

A. Nie, nie, nie. I am no politician. I have never been. Maybe one day I'll be one. I have just started to look around and understand their tricks, their calculations, but today I am no politician. The proof is that if I were a politician I would like doing what I do now. I would never have enough of it. Instead I'm fed up and I tell you at once what I am: I am a man full of anger, an anger I have kept in my stomach since I was a boy, a youngster. And when a man accumulates the anger I have accumulated for so many years, he learns to manage it all right. Which explains why I control so well the crowds and the strikes. Ha! One has to be very angry in order to know how to control the anger of the people. One has to have learned to live with it. Listen, my rage has been stored up for so long that I could keep it in at least five more years. That is, until 1985. It burst in August 1980 because I became aware that the occasion was bigger than I could hope. And I jumped beyond the fences of the Lenin shipyards in Gdansk.

Q. Let's talk about that, Lech, about the day you jumped beyond the fences.

A. Well, long before it happened we had considered the possibility of some big strike in Gdansk. We had considered it in our meetings when we taught the workers the history of Poland and the union laws. In fact, I had made myself ready to avoid an extensive situation and I had told the workers if there is an uproar I want to be informed at once. And when I was informed I immediately realized that the uproar had burst early because the situation was ripe, thus I had to get into the shipyards. The trouble was that four gentlemen—I mean, four policemen—watched me day and night. I got them lost—I won't tell you how, because I might need that trick again in the future—and I got to the shipyards and I jumped inside. I got there at a crucial moment. In fact, there was a meeting of 2,000 workers and the big boss was asking them to leave, making his promises. And nobody cared to oppose him. As a matter of fact, they were already leaving. I felt my blood boil. I elbowed my way through the crowd. I set myself in front of him and—do you know boxing? I landed him a straight left and I put him down so quickly that he almost fell out of the ring. I mean, I shouted at him that the workers wouldn't go anywhere if they weren't sure they had obtained what they wanted. So they felt strong, and I became their leader, and I still am.

Q. Lech, what does it mean to be a leader?

A. It means to have determination, it means to be resolute inside and outside, with ourselves and with the others. Here is what it means: I have been always so, even as a boy, when I was a poor boy living in the country and I wanted to become an aviator. I have always been the ringleader, like the billygoat that leads the flock, like the ox that leads the herd. People need that ox, that billygoat, otherwise the herd goes on its own here and there, wherever there is some grass to eat, and nobody follows the right road. A flock without an animal that leads is a senseless thing without a future. However, I don't know if I really am a leader. I simply know that I smell things, I feel situations, and when the crowd is silent I understand what it silently says. And I say it with voice, with the proper words. But now I have something to ask you. Because you travel a lot, and you know a lot of people, and you can answer. What do people say about me in the West?

Q. Well, they ask themselves, "Who really is this Walesa?"

A. Ha! This is a question they put to themselves in the East, too. "Who is this guy who makes our soldiers sleep in their boots for six months?" "Is he a general?" And it goes without saying that, in the East, they gave themselves an answer already.

Q. Yes, they call you an anarchist, a counterrevolutionary, an enemy of socialism, according to Tass and Pravda.

A. Tell them that I only am a man who wants some justice, a man who wants to be useful to them too, beyond any frontier and color and ideology. The hungry hare has no frontiers and doesn't follow ideologies. The hungry hare goes where it finds the food, and the other hares don't block its passage with tanks. They should learn from the hares. But let's not talk about the East, let's talk about the West. What do they say about me in the West?

Q. Some say that you are a Christian Democrat, others say that you are a grandchild of Rosa Luxemburg [a Polish-born early associate of Lenin who broke with him over the issue of democracy within communism], others that you are a Social Democrat. And there are even some who call you a Eurocommunist. What shall we answer to them?

A. Nothing, because I refuse to express myself with their words, their labels, their slogans, left and right—socialism and communism, capitalism and Luxemburgism, Christian Democrat and Social Democrat. I express myself with my words: good, bad, better and worse. And I say: If it serves the people, it is good. If it doesn't serve the people, it is bad. Of course, one has to see how and in what sense it serves. One day I shared a little piece of bread with a nice girl, and I felt happy. Another day my wife served me a large portion of excellent sausages, but she did it so rudely that I felt unhappy and I couldn't eat them. I mean, having much food isn't enough and sometimes a little piece of bread is better than a large portion of excellent sausages. At the same time, one has to admit that if there isn't even that little piece of bread we cannot know happiness at all. Thus, we should build up a system which combines the two things: food and happiness. Then I say: Damn it, we live on this earth 50 or 60 years and on one side there are the rich who get richer and richer, on the other side there are the poor who get poorer and poorer. It doesn't work. Richness must be shared. But what do they store up, those rich who don't divide with the others? Anyhow they die, and when they die they leave all to heirs who are never satisfied and who curse them all the same.

Q. But, more or less, the socialists and the communists say these same things, Lech.

A. Nie, nie, nie. I told you that I don't want to use slogans invented by them.

Q. Do you mean that communism has failed?

A. Ha! It depends on the way you measure the concept of good, bad, better, worse. Because if you choose the example of what we Polish have in our pockets and in our shops, then I answer that communism has done very little for us. If you choose the example of what is in our souls instead, I answer that communism has done very much for us. In fact, our souls contain exactly the contrary of what they wanted. They wanted us not to believe in God, and our churches are full. They wanted us to be materialistic and incapable of sacrifices; we are antimaterialistic, capable of sacrifice. They wanted us to be afraid of the tanks, of the guns, and instead we don't fear them at all.

Q. Lech, let's go back to the sausages without freedom. How to obtain it?

A. Freedom must be gained step by step, slowly. Freedom is a food which must be carefully administered when people are too hungry for it. Suppose that Solidarity obtains some access to TV and through TV it starts yelling: "Away with the thieves, the rascals, the gangsters who robbed us for so many years." How would people react? Cutting off heads, I tell you, flooding the streets with blood. It would be chaos, anarchy. It already happened in the countryside, I saw it with my eyes. All at once the government got busy selling TV sets to the peasants, TV filled their houses with programs which attacked religion, and as a consequence many peasants lost their faith. They even became atheists. Nie, nie, nie. Things cannot change suddenly. It's dangerous. Don't you agree?

Q. Not really. I think that we should never be afraid of freedom, because there is only one thing which teaches freedom, and this is freedom itself. Freedom should never be administered by drops, like a spoonful of milk in the stomach of a starving person.

A. Well . . . On the other hand, one cannot exaggerate it as you do in the West, with all those political parties which don't know what they want, and one disturbs the other, doesn't let the other work, yet one supports the other—what kind of brothel is that? It seems a brothel to me and nothing else. Never mind that here in Poland it wouldn't be possible to have political parties, because things stay as they are. Here the control must be exercised by the unions. If we will be able to do it, we'll function better than your parties, which waste their time biting each other, insulting each other, accusing each other, collecting gossip on each other: He goes to sleep with her, she goes to sleep with someone else. It doesn't seem to me that your parties have done much, and in all that brothel I see only one indisputable fact: They say they want something and they do the reverse. Am I right?

Q. Yes, but if the unions substitute for

the political parties, there is no pluralism, there is only a sharing of power between the party and the unions. Don't you want the pluralism, Lech?

A. Yeah, yeah, yeah. Sure. Every person, every group in the whole society must have the right to express itself. But why imitate the parties and use the word party? One can say "association," "club." The club of those who raise canaries, for instance. Or the club of those who pray with the rosary. And as wheat doesn't grow on stones—I mean, as in Poland we cannot have political parties but the one which already exists, as men must adapt themselves, let the canaries' breeders get together. Let them have a statute which welcomes the formation of other clubs—the club of those who raise rabbits, or pheasants, or ducks—and let us all become breeders of canaries, rabbits, pheasants, ducks, chickens. The important thing is that such groups exist freely, so they can serve society, and that the master does not arrest them. Do I say stupid things?

Q. No, Lech, you don't say stupid things.

A. Well, maybe I do. I don't know much about concepts, I never have time to think, and there are so many problems that I must fix in my mind. With you I'm rather thinking out loud. Yet I like it. Gee, do I like it. Because it happens so rarely that you hear the right questions. And right questions make me think. I mean, sometimes it is in talking with others that one gets an idea and says: "Why didn't I think of it before?" Yes, that's how ideas blossom, and this canaries idea might turn out very well.

Q. Yet the idea of growing wheat on stones is good, too.

A. Yeah, yeah, yeah. The problem is that one should remove the stones first. And what if under the stones there isn't the soil to grow wheat? What if the wheat grows short and deformed?

Q. Better than nothing.

A. I don't know. Maybe you are right, maybe you are wrong. But I think that you are wrong, and I am going to demonstrate it. If you want a child, and you want it with all your heart, desperately do you prefer to have a deformed dwarf or not to have him at all? Oh I would like to be less tired and to express myself better. I would like . . . Let's go on. But don't put those difficult questions to me, because they give me a headache, and now I have a headache.

Q. All right an easy question, then. I know that your stepfather lives in America, so I guess that he has invited you many times to join him there. Have you ever planned to emigrate there?

A. Nie, nie, nie, never. I could never leave Poland, never. Besides, I've always thought that a man must live where he was born and grew up, in order to give back to his country what he got from it. Yes, my second father has invited me many times. I call him my second father because he married my mother after the death of my father. My real father died in 1945 from the privations he suffered in the extermination camp where the Germans put him. "Come here. What do you do there?" my second father wrote. But besides the fact that I couldn't live outside Poland, I felt that his invitation didn't come from his heart. It came from the dollars in his pockets.

And I was not wrong because, when I met him again in Rome last month, I did not recognize him. In Poland he was a poor man, yet always ready to make sacrifices and divide what he had with others. Now he thinks only about money, amusements, and he had lost humanity. The dollars went to his head, I guess, and the result is that I don't get along with him anymore. I see life in a different way. I don't like money as he does. Yes, it's good to have money, we need money to live and raise our children properly, but money isn't all and doesn't give dignity. On the contrary, it gives a lot of temptations and sometimes makes people nasty. Which is why I would never try to become a millionaire.

Q. Then tell me, Lech: Were you angry at your stepfather when he let himself be photographed with Reagan?

A. Nie, nie, nie, nie. I like Reagan, Yeah. I like him a lot. The way he moves, the way he talks: just like me. Well, maybe he talks a little better than me, but for sure he moves like me. Look how he walks, or how he waves his hands and his arms. I only hope that he doesn't change, that he doesn't forget where he comes from. It would be a pity. Has he already changed? I'll see when I go to America and I will meet him, I hope.

Q. When will you go to America, Lech?

A. On the one hand I would like to go at once, on the other hand, never. Because, I'm still black and blue from the hugs of the Roman crowds and I don't like it when people push me and touch me and kiss me like that. Anyhow, I'll go soon. As soon as I've put some order in the movement, let's say in six or seven months if nothing bad happens. Poland needs help. Not dollars help. I mean political help, economic help, and in order to obtain such help we must have contacts abroad. Nor should we forget that in the west there are people who make cold calculations, agreements, who would like to use the blood of Poland to solve their problems. Yes, I really must go to America. And with the help of our queen, the Holy Virgin, I shall go.

Q. Is that why you wear on your jacket this image of the Black Virgin (a statute of the Madonna that Poles credit with turning back a 17th-century Swedish invasion)? And isn't that image a label too?

A. Nie, nie, nie. It isn't a label, it is a habitat. Or, better, a blessing. The Black Virgin has always been a sort of blessing for us Polish, and this particular one . . . I don't even remember who gave it to me, or when. Someone must have put it on my jacket after a pilgrimage. With the rosary also, it happened like this. Someone put a rosary in my hands, and I kept it until it broke. This is not easy for you westerners to understand, I know. The church has never been for you what it has always been for us, a symbol of struggle, I mean, the only institution which never submitted to the oppressors. And when we examine the factors which led to what is happening today in Poland, it is not enough to mention the workers' uprisals in 1956, 1968, 1970, 1976. It isn't even enough to consider our contact with foreigners. I mean the fact that we have been traveling abroad very much in these years and that we have seen how you live in your countries. We also have to consider the election of Pope Wojtyla, his travel to Poland and the continuous obstinate smart work of the church. Without the church nothing could happen, my case itself would not exist, and I would not be what I am. I'll say more: If I hadn't been a believing soul, I wouldn't have resisted, because I had so many threats. So many.

Q. But have you always been so religious, Lech?

A. Yeah, yeah, yeah. Ask my bishop. Even at school, when they taught us communism and I didn't pay any attention. Only between 17 and 19 I got far from the faith. Ha! I got on the wrong path: drinking, idleness, girls. Then something happened. One day I felt very cold, very tired, and I started looking for a place where I could go inside and rest. But there was nothing except a church in the area, so I entered the church and I sat down on a bench. And immediately I got well. So well that I left the wrong path. Now don't misunderstand me, don't believe I am an angel. Angels do not exist and I am no angel, I'm rather a Satan. However, I go to church every morning, and every morning I receive communion, and if I have some major sin to confess, I also go to confession. I say so because I am not that bad, after all. Since I've lived in this world I only got drunk a couple of times, and as for the girls . . . Listen, my wife is not bad. I rather say that she is the ideal woman for me. Had I another wife, by now I would be divorced or killed with a kitchen knife. So I have no reason to betray her. Besides, we have six children. Doesn't that show that we make love well? Much and well. Well, of course, when I happen to be far from her for many weeks as I was recently, I get temptations. I told you that I am no saint.

Q. OK, Lech, it seems to me that your headache is over. So let's go back to the difficult questions. Don't you ever have fears about being manipulated? For example, yesterday in Warsaw a high prelate said to me: "Walesa never does what the cardinal doesn't want."

A. In this respect it is true. I would never do a thing against the faith, the church and even less against Cardinal Wyszynski. He is a great man, his wisdom is immense and his help has been enormous. All the time and in every way. People don't know that it was Cardinal Wyszynski who arranged our meetings with Gierek and Kania, and even during the strikes of the peasants of Rzeszow and Bielsko-Biala I had to ask him to give me a hand. Without his intervention I wouldn't have been able to call an end to these strikes. So it would be stupid of me if I did something against the cardinal. Nor would he permit anyone to do something against me. Not even somebody with a black skirt [a priest's cassock]. But if somebody with a black skirt tries to use me . . . Listen, I cannot swear that no one tries, on any side. But I can swear that I don't permit anybody to manipulate me, not even to influence me. And if someone tries, I break his nose.

Q. What about the intellectuals, in that sense?

A. From the intellectuals and the peasants, liberas nos Domine [free us, Lord]! I say so. You would never believe the hangover I got from those peasants during their strikes. I kept yelling: "You are mean. Selfish, mean. Stubborn, mean. Don't you understand the situation we are in?" The intellectuals are like them, in a sense. Because they are unable to adjust themselves to the reality of the moment. During the struggle they were perfect, in fact I respect them a lot, yet now they cannot adjust. They would like to go on with the methods we followed before August 1980. Which is the reason why I always shout: "Be realistic. Use your brain." And this proves that I am not manipulated by them. Neither by the church nor by them. Then why do you keep so many professors and teachers and university lecturers in your movement, you may ask. Ha! Because, should I refuse them, they would dig underground like moles and they would get in all the same, through the tunnel. Better say: Come in, sit down. Besides, they're intelligent, and intelligent people are always useful. Provided you don't get inferiority complexes toward them. I don't. Know why? Because intellectuals need a lot of time to understand things, and even more to make a decision. They stay there to discuss, examine, discuss, and in five hours they reach the same conclusion I reached in five minutes or five seconds.

Q. And what about the Communist Party, Lech? I always asked myself why they let you rise so high and so fast. To exploit you? To use you as an alibi or as a scapegoat? Or maybe to assimilate you?

A. Nie, nie, nie. Being assimilated by the powers is a possibility that I don't even consider. If I wanted such a thing, I would have done it when I was Mr. Nobody. You can't imagine the offers I had. Being assimilated by the powers? I'd rather shoot myself in the head. Dignity counts more than life. Listen, they let me emerge because they didn't have another choice. Literally. Of course, this

doesn't . . . I mean, when we speak about Poland we have to consider also the situation abroad. We are controlled. Thus, victims cannot be avoided. People always ask me: "Lech, aren't you afraid of being killed?" And as an answer I shrug my shoulders. I do so little to protect myself. Some of my friends try, they follow me wherever I go, but what is the use? One can be murdered in so many ways, not only with guns. They killed my best friend, they might kill me. I'm a fatalist. If it must happen, it will happen. And I will go to paradise.

Q. Lech, there is a three-month armistice between the government and Solidarity. But not all armistices end up with a peace treaty. What will happen then?

A. To begin with, Solidarity did not sign any armistice. We only said that we wouldn't be hostile toward the new government of [Premier Wojciech] Jaruzelski. Poland needs a strong government, a government capable of governing, and Jaruzelski can do it. Because he is a soldier, a general, therefore used to giving orders and to imposing discipline on others and on himself. As a soldier, he also should have the clean hands which are necessary to clear the country out of bastards with dirty hands. We must let him work. But if the hostilities will come from him and his government, we'll fight. We will, I promise. Whether someone likes it or not.

Q. Whether the Soviets like it or not, you mean. And what if Jaruzelski fails?

A. If he fails and our "brothers" don't "help" us, if he fails and our "allies" don't intervene, then it should be Solidarity that takes the responsibility of government. It is not very likely—as a matter of fact, it's so unlikely that such a possibility seems to me fantastic. Yet it is a possibility. Yet it is a possibility, it exists. Now let me make this clear; I don't want it, Solidarity doesn't want it, we only want to arrange it so the poor people eat a little more and are a little more satisfied. We want to arrange it, not to make politics, not to govern. But if other choices will not exist, Solidarity must be the choice. If the government says, "This is a mess, we resign," Solidarity should take the responsibility and I should take the situation into my hands. I say it in a firm way. And I add: Poland will never go back to being what it was before August 1980. Never.

Q. Lech, I want to make sure I have understood you. Did you really say that, should this government fail, Solidarity should govern and you should take the situation into your hands?

A. Yes, I said it.

Q. So you were not joking. And do you believe that you would be capable?

A. Yes, I believe it.

Q. Do you also believe that the Communist Party and the Kania government would accept such a capitulation? Yesterday in Warsaw a very important member of the government who also is a very important member of the [Communist Party] central committee said to me: "We shall never agree to share power, and even less to give up power."

A. Today they say so. Tomorrow, who knows? Great empires have fallen during the history of man.

Q. And what would the consequences be with your "brothers," your "allies"—I mean, with the Soviets? How can you hope that they would permit such a thing, that they wouldn't intervene to help?

A. This is the point, this is the problem, this is why I said that I regard such a possibility as a fantastic possibility.

Q. Less fantastic than a Soviet intervention if you even think to take over, Lech? So let us pronounce these two words that you Polish never pronounce, not even whisper, as if avoiding them could serve to exorcise them: Soviet intervention, Soviet intervention. Brezhnev says them, instead. And Kania, too. Publicly.

A. Oh, oh, oh, how often people raise their voices in order to scare. Don't we do the same in the opposition? I don't think that a violent confrontation would serve them, and they know it. So they will not do it. Or, better . . . Listen, somebody once said to me that everything would start in Poland and that we would obtain all or almost all, and that then we would suddenly lose all, to be resurrected one day and be men again. Well, I don't accept such prophecies, yet I admit that they might contain some truth. Just because of that possible truth I tell you that we don't want to pay such a price. Here is why we follow this tortuous path, and why I fight those who would like to change the moderate line of Solidarity, and why I keep talking of political patience, and why I yell at the intellectuals and at the peasants. And why I remain so vague in speaking with you.

Q. Come on, Lech. Do you really believe that Brezhnev cares about the way we talk? It is not the words that count, it is the facts. And when Kania has to deal with you, when Jaruzelski has to deal with you, when . . .

A. How many times have you seen the Soviet tanks in Poland? How many times have the Soviet tanks come here from August on?

Q. In Czechoslovakia they waited almost eight months.

A. But that solution has never been applied to Poland. Four times at least, Poland has found itself in a tragic situation during the last 25 years, yet we overcame it without the Soviet tanks. This time it will be the same. Besides, Czechoslovakia is not Poland.

Q. It isn't Hungary, either. Yet in Hungary too the Soviet tanks intervened. It is not Afghanistan either, yet Afghanistan is invaded by the Soviets.

A. Poland is different, Poland is different.

Q. Then let me say this: Isn't it true that the Polish students have asked and obtained, at least on paper, abolition of the obligatory teaching of Marxism and of the Russian language in their universities?

A. It's true.

Q. Isn't it true that, if the agreement is not respected and the students' strikes are not taken into consideration, the workers will strike for them?

A. Yes, it's true. Solidarity approves what the students are doing on that matter and it will fully support them in that struggle. We are with them, I am with them. The only reason why I did not go to the Lodz university during the students' strike is that I had to stay with the peasants in Rzeszow. The peasant strike's problem was more urgent. But I sent my advisers to Lodz, and they remained there all the time, and every two hours I called to tell them what should be done. Finally, I am the one who arranged the meeting of the students with the deputy premier, [Mieczyslaw] Rakowski.

Q. Well, do you expect the Soviets to accept such a national refusal of their ideology and of their language? Do you really believe that such heresy will go unpunished forever?

A. Nie, nie, nie, and what do you expect from us, then? That we give up? That we stop everything, that we go back to what we were and we say, sorry, it was a joke, we did not mean it, because we don't want to be punished? Should we give up the duty of being men and forget? What other solution do we have but to do what we are doing? I said it and I repeat it: We don't want to pay the price of a violent confrontation, we really don't. But if it will be necessary to pay that price, we will. Nobody will say that we are cowards. Personally I am more than ready to die. I am not as ready to kill: I am not able to kill, not even a chicken to make soup; my stomach gets upset when I see people killing a chicken. Yet if I were attacked, if I had to defend my country, my house, my children, my friends, my fellow workers, I wouldn't hesitate, Oh, why do you make me say these things? Why? You give me a headache again. Now I have a headache again.

Q. I do too, now. I have it too. Lech. So let's keep our headache, both of us, and let's face the last difficult question: But are the Soviet tanks indispensable? Aren't, wouldn't the Polish tanks be enough."

A. Nie, nie, nie, nie. I shall not consider that, no. Not even for a second. I refuse to believe that our bonzes [literally, Buddhist monks] are unable to find a bloodless solution. I refuse to believe that our soldiers will kill our workers. We will solve everything without pain, profitably for the two sides. Why do you ask such a thing?

Q. Because that very important member of the government also said to me: "The Polish army is devoted to the party one thousand percent." A lie?

A. Here is the only question which I cannot answer. This house is filled with microphones. Yes, microphones, and God knows how many there are listening now to this conversation. Yes, since 1972 they have tapped me with their bloody machines, and sometimes I ask myself: How long will it last, how long?

Q. And you, Lech, how long will you last?

A. If they don't kill me, you mean? If everything goes on smoothly? Well, coldly speaking, I would say that from now on I can only descend. Gradually or with a headlong fall. This is because I am not fitted for normal times and I cannot submit myself to the rules and the games. Because I am dead tired and my heart is in bad shape, my health goes to pieces. Because I cannot repeat myself—that is, I cannot repeat what I have done in August and until today. And finally because, if the worst happens, all the rage of the people will turn on me. And the same ones who applauded me, erected altars for me, will throw stones at me, will trample on me. They will even forget that I acted for good, in good faith. You know, if I were selfish and shrewd, I would cut my mustache and go back to some shipyard. But I shall not do it. I cannot do it. From now on, the situation will become more and more complicated, more and more difficult, and we are going to receive many blows. Yes, many blows. I must stay where I am: To struggle, to extinguish the unnecessary fires, like a fireman, to transform the movement into an organization, to . . .

Q. To raise canaries that sing much and well. Thank you, Lech. Good luck, Lech.

A. Good luck to you, and thanks to you, with all my heart. You have been nice to me and it isn't true that you throw the chador into the face of the people you interview [a reference to the Persian robe Fallaci removed during her interview with the Ayatollah Khomeini in 1979]. I have enjoyed these hours we spent together so much, though you gave me a headache twice. You offered me so many ideas which I'll think over. I shall never forget you. And, if the Polish censors will permit publication of your book, "A Man," I will read it. And it will be the first book I've read in my life. Anyhow, if I go to paradise, I'll save a seat for you. So we can talk about the wheat that grows on the stones.●

PETROLEUM POLICY AND IMPLICATIONS FOR U.S. AGRICULTURE

ISSUES AND CONCERNS OF THE NATIONAL COUNCIL OF FARMER COOPERATIVES

● Mr. ANDREWS. Mr. President, agriculture is the backbone of the U.S. economy. Not only does the agricultural community provide the food and fiber essential to the health and economic prosperity of the United States, but, in a very

real sense, feeds the rest of the world as well.

Perhaps no element of our economy fulfills such a crucial, global responsibility. If agriculture in this country were, for some reason, unable to meet that responsibility efficiently, the effects would be felt all too swiftly on a worldwide scale.

Less than 3 million farm families produce enough food and fiber to feed and clothe 225 million Americans.

These same farm families also export enough agricultural products to pay for half of our $80 billion annual bill for oil imports.

The high level of U.S. agricultural productivity, taken for granted by many, depends heavily on critical petroleum fuel inputs to convert energy from the Sun into food and natural fiber.

To achieve full food and fiber production, farmers must have fuel in sufficient quantities and at the appropriate time and place.

While farm energy use represents only 3 percent of U.S. consumption, interrupting the energy needed for full food and fiber production would adversely affect farmers, rural residents, and ultimately every American consumer.

Accordingly, the National Council of Farmer Cooperatives (NCFC) presents this paper to help insure that the U.S. agricultural community is able to efficiently execute its vital responsibilities to the Nation and to the world.

PURPOSE

The purposes of this statement are threefold:

First, to highlight the absolute dependence of U.S. agriculture on energy—and, more particularly, on petroleum products.

Second, to isolate certain energy policy issues and, in the process, to express concerns of the farmer cooperative community and its 2 million farmer owners.

Third, to suggest specific actions that must be taken to insure that we, as a nation can efficiently discharge our agricultural responsibilities.

FUNDAMENTAL GOAL—A SOUND NATIONAL PETROLEUM POLICY

The National Council of Farmer Cooperatives and its members are calling for immediate action to implement a sound national petroleum policy. Such a policy must contain assurances of fuel supplies at equitable prices for agriculture. This can be achieved by providing for timely access to crude oil at competitive prices for farmer-owned and other efficient refiners serving rural markets during disruptions.

IMPACT OF DISRUPTIONS

Petroleum supply disruptions, as history has demonstrated, can impact severely on agriculture both as to supply and as to price.

SUPPLY

Farm fuel shortages can place unacceptable burdens on the American consumer.

One USDA study estimated that a 10-percent fuel shortage at the farm could lead to as much as a 55-percent increase in farm commodity operations.

Given the vagaries of nature, timing is critical to farm operations.

Even a short disruption in fuel supplies at the wrong time can result in crop losses or reduced yields for that year.

Farmers must have fuel in sufficient quantities at the appropriate time and place to insure full food and fiber production.

PRICE

Sharp rises in energy costs, even in the absence of shortages, are also obviously cause for concern.

Such increases could impair the ability of many family farms to survive.

Costs that can be passed through the food system would have a heavy impact on wholesale and retail prices.

For example, each 10-percent increase in energy costs across the food system can raise food prices about 1.3 percent.

COOPERATIVE PETROLEUM ROLE

Farmers embarked upon their first cooperative petroleum venture in the 1920's. This was their initial attempt to assure themselves of more secure fuel supplies, better quality service, and fairer prices.

Today, 13 regional farmer cooperatives own and operate eight efficient refineries with a total production capacity of about 460,000 barrels per day.

Though this represents only 2.5 percent of U.S. refining capacity, cooperatives market petroleum products in more than 40 States and currently supply about 45 percent of all on-farm petroleum fuels.

About three-fourths of the petroleum products sold by farmer cooperatives go to farmers. The remainder is sold to other rural residents.

Cooperative refiners are unique because individual farmers have invested their hard-earned savings in these petroleum operations to enhance the security and viability of their farming operations.

Any cost savings from cooperative refineries are distributed back to farmer-owners on the basis of their fuel use.

Farmer cooperatives represent the only segment of the petroleum industry in which the consumers of its products are also its owners. This feature carries with it a unique accountability in terms of commitment of supply, service, and price.

FARMERS ARE VULNERABLE

The American farmer is dependent upon the world community for fossil fuel inputs.

Thus, world events which affect petroleum supply and price have a direct bearing upon this Nation's agricultural system.

The Arab oil embargo in 1973 and the Iranian disruption in early 1979 placed great stress on fuel supply lines to rural areas, with many farmers experiencing difficulty in getting sufficient fuel for spring planting. The threat of further disruptions still exists.

Such disruptions hit hard on farmer-owned refineries. For example, in early 1979 cooperatives lost a major portion of their crude oil supplies. Cooperative refinery runs were reduced to 50 percent of capacity, when the industry average was 85 percent. Further, crude oil acquired by farmer cooperatives was priced well above the national average.

The results were predictable. Rural areas had serious diesel fuel shortages. Farmers bore a disproportionate share of the OPEC-driven price increases.

Two painful lessons are clear:

Most importantly, unless cooperatives and other refiners serving rural markets are able to get adequate supplies of crude oil, the likelihood of serious fuel shortages on the farm remains extremely high.

Disproportionately higher crude costs mean disproportionately higher farm fuel costs.

DISRUPTIONS LIKELY

It is obvious that the United States will remain dependent upon significant amounts of imported crude oil for the foreseeable future. Equally obvious is the fact that world oil demand and supply will continue to be in tight balance over the long term.

In addition, political and economic conditions within various oil producing countries are likely to result in individual and collective actions that will periodically limit crude oil availability.

Even small disruptions will be quickly felt in the world marketplace. And the United States will be vulnerable to supply and price uncertainties tied to foreign suppliers.

DECONTROL NO GUARANTEE OF FREE MARKET

President Reagan's decontrol of crude oil and refined petroleum product prices and allocation controls on January 28 was designed to correct many of the problems affecting the petroleum market. The National Council has consistently supported certain decontrol measures to encourage domestic energy production under free enterprise. Government involvement is appropriate only when competitive forces are deficient or consumers' product needs are not met.

It must be understood, however, that there is a difference between a decontrolled market and a free market. Cooperative refiners and their farmer-owners are facing market circumstances that do not reflect the basic free-enterprise environment.

Early post-decontrol signals indicate several definite trends emerging:

First, although decontrol has only been in effect for a short time, major refiners have stepped up their planned withdrawals from rural markets.

Second, overall product prices have risen dramatically.

Finally, farmers and rural residents continue to bear a disproportionate share of rising energy costs.

LIMITED DOMESTIC ACCESS

Because of instabilities in the foreign crude oil market, farmer-owned refiners have tried to obtain more secure supplies in the domestic market. They have attempted to increase their self-sufficiency in crude oil. For example, exploration and production expenditures have expanded from about $15 million annually in 1973 to more than $115 million annually in 1980. In spite of these efforts, owned production represents only 7 percent of the requirements of farmer cooperatives.

These efforts have been limited for two reasons:

First, major refiners own the majority of domestic crude oil production. In 1979, the 16 largest integrated refiners got about 75 percent of their domestic crude oil supply from their own production. They also have access to additional domestic crude oil through their ownership of gathering lines and pipeline connections.

Second, cooperative domestic exploration and production activities have been restricted by capital availability.

Consequently, cooperative refiners have been forced to look to the international market for a much greater share of their total crude oil supplies.

LIMITED FOREIGN ACCESS

Attempts by farmer cooperatives to purchase foreign crude oil at competitive prices have also encountered major obstacles:

Foreign crude oil production has historically been dominated by a small group of international oil companies whose interests have often been the centerpiece of U.S. foreign policy in the major oil-producing countries.

During the first half of 1979, the ARAMCO—Arabian-American Oil Company—partners got 88 percent of their foreign crude oil from captive sources. This compares with 55 percent for the 16 integrated refiners, and less than 10 percent for farmer cooperatives.

Politically motivated and economically unjustified differences in foreign crude oil prices have jeopardized the long-term delivery capability of the rural petroleum system.

Saudi Arabian light, a medium-sulfur crude oil, is presently priced at $32 per barrel to the ARAMCO partners. Similar quality oil elsewhere is being priced from $4 to $5 per barrel higher for other buyers.

In certain countries, oil payments must be accompanied by additional considerations such as exploration premiums or investment considerations.

Price distortions resulting from the Iranian disruption have persisted. The Iran/Iraq war has permitted OPEC producers to maintain and amplify these distortions.

Low-sulfur crude oil from North Africa and the North Sea is priced at $39 to $41 per barrel, prior to payment of premiums.

Compounding these price disparities is the act that many of the long-term cooperative contracts were terminated during shortages caused by the Iranian revolution. Since then, it has been difficult for cooperative refiners to enter into long-term foreign crude oil contracts at competitive prices.

Most crude oil offered recently on contract to cooperative refiners has been African sweet crude oil. For political reasons, this oil continues to be priced at levels substantially above the going market rate.

The end result is disproportionately higher fuel costs for farmers and rural residents.

EROSION OF COMPETITION

The combined effect of domestic production control by the major oil companies and the foreign pricing structure could have very serious consequences for farmers and rural communities.

One of the realities of petroleum marketing is that product prices must ultimately reflect higher raw material costs. Because of this, major refiners with lower crude oil costs can choose to match the highest product prices of cooperative refiners and thereby enjoy handsome profits. Or, they can price their product below a farmer's own cooperative and eventually reduce that cooperative's ability to serve its owners.

Complicating the problem further is the fact that, according to the USDA, cooperatives are now the sole petroleum supplier to over 900 rural communities. And the total continues to grow each year.

The bottom line is that total absence of Government involvement in the crude oil market is likely to have an effect exactly opposite that envisioned by "free market" proponents. Rather than establishing a competitive market, opportunities for noncompetitive activity will increase; and rural communities will become even more vulnerable to supply disruptions and price disparities.

PETROLEUM POLICY RECOMMENDATIONS

In view of the precarious outlook for the world petroleum market, the National Council of Farmer Cooperatives urges adoption of the following program:

First. Establishment of a standby crude oil access program.—This program would address both supply and price irregularities by assuring access to crude oil at competitive prices. It would assure crude oil availability for cooperatives and other efficient refiners. It would thus assure petroleum supplies for farmers and other high priority users adversely affected by disruptions.

Second. Establishment of a standby petroleum product allocation program.—This program would assure that petroleum products would be made available to priority users during a petroleum supply disruption. Agriculture would be assured fuel for planting, growing, and harvesting operations. Other high priority users would also be assured of product to meet critical needs.

The National Council also asks U.S. policymakers to urgently consider the following actions to address these critical energy issues:

A clear reaffirmation of policy by the administration and Congress that a healthy agricultural community, with reasonable access to petroleum, is in the Nation's best interest. Public policymakers must continue to recognize the linkage between the agricultural community's well-being and the availability of sufficient petroleum supplies at equitable terms for agriculture.

Maintenance of the emergency buy/sell program in a state of operational readiness to deal with any crude oil disruptions through September 1981. Even now the program is being dismantled, with staff being transferred elsewhere. Elimination of this program is a dangerous and unnecessary gamble. Agricultural petroleum supply disruptions are a certainty without timely action that can only come from an operational program.

Joint development of petroleum policy by the administration and Congress in the few months remaining before expiration of authorities under the Emergency Petroleum Allocation Act on September 30, 1981. Congress should initiate legislative hearings as soon as possible so the policymaking process can proceed in a logical fashion toward sound post-EPAA legislation.

Mr. President, farmer-owned cooperatives are not asking for a subsidy or "free ride." The cooperative petroleum system is efficient and performs its role under truly free market conditions. To the extent the market functions normally, Government programs would have no role. However, the realities of the marketplace dictate that all too often access to crude oil at competitive prices is denied due to disruptions and market anomalies. The essential role of cooperatives in supplying fuel at reasonable prices to agriculture and rural America must be maintained during such periods.

This Nation cannot afford to wait and use agriculture as a "testing ground" for petroleum supply disruptions. The chaos that would occur could have a serious impact on food production. And it could lead to bad legislation drafted in the midst of crisis.

The National Council of Farmer Cooperatives and its members are ready to work with Congress, the administration, and all interested groups in an effort to develop a sound and equitable agricultural component of national petroleum policy.●

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints to the Organization for Economic Cooperation and Development/International Energy Agency (OECD–IEA) Parliamentary Symposium on Energy and the Economy, April 10-11, 1981, Paris, France, the following Senator as a delegate: the Senator from New Jersey (Mr. BRADLEY).

ORDER FOR RECOGNITION OF SENATOR HEFLIN ON THURSDAY, MARCH 12, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that on Thursday, after the recognition of the two leaders and after the recognition of any Senator previously provided for by special order, that the Senator from Alabama (Mr. HEFLIN) be recognized for not to exceed 15 minutes.

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

THE CALENDAR

Mr. BAKER. Mr. President, in looking over my calendar of general orders, I find a few items that are marked here on this side as available for passage by unanimous consent. I wonder if the distinguished minority leader would be in

a position to advise me on Calendar Order No. 30, Senate Joint Resolution 28, and perhaps Calendar Order No. 31, Senate Joint Resolution 22, in respect to a clearance on his side of the aisle.

Mr. ROBERT C. BYRD. Mr. President, those two items are cleared for unanimous-consent adoption on this side of the aisle.

Mr. BAKER. Mr. President, I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the Chair lay those items before the Senate.

The PRESIDING OFFICER. Without objection it is so ordered.

WOMEN'S HISTORY WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 28) designating the week beginning March 8, 1981, as "Women's History Week."

Mr. HATCH. Mr. President, on November 13, 1980, with great pleasure, I joined Representative BARBARA MIKULSKI, of Maryland, in sponsoring a joint resolution designating the week of March 8, 1981, as "Women's History Week." I have offered an identical resolution this year in which I am joined by 34 of my colleagues from both parties as cosponsors. I think it is appropriate that the Congress endorse and encourage the study and celebration of our national heritage and I am very pleased that this resolution has received such prompt and enthusiastic consideration in the Senate. I want to single out the distinguished chairman of the Judiciary Committee for his generous assistance in moving this legislation forward.

Mr. President, young citizens need an understanding of our country's founding and growth in order to both understand the present and plan for the future. Women have played such a vital role in shaping our American society that it is only fitting that we pause to recognize and rediscover their achievements. Women have provided the impetus for many important social reforms and have made individual contributions in the fields of science, education, medicine, religion, and government. They have helped build America as homemakers and pioneers and they have clearly led the way in establishing the charitable and philanthropic organizations which have greatly improved the quality of American life.

Utah is proud of those women who courageously crossed half a continent to settle in the Salt Lake Valley. Utah is unique in that half of the pioneers who arrived in 1847 were women. The hardships they endured along with their male counterparts to settle and civilize the American West often go unrecognized by those of us fortunate enough to live in an era of easy communications, rapid transit, and frozen foods.

Another element of history often forgotten is Utah's leadership in the area of women's political rights. Utah considered the suffrage question far ahead of its time. Women in Utah were granted the right to vote in 1870, though the Nation did not adopt the 19th amendment to the Constitution until 1920. Ironically, when Utah became a State in 1896, the Federal Government forced Utah to abrogate its women's suffrage law in order to conform to U.S. policy in that era.

Dr. Leonard J. Arrington, professor of economics at Utah State University, contributed some significant information and insights in his article, "Women as a Force in the History of Utah," which appeared as a forward to a special issue of the Utah Historical Quarterly. I commend it to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

WOMEN AS A FORCE IN THE HISTORY OF UTAH

(By Leonard J. Arrington)

Three women came with the advance company of Mormon pioneers to the Salt Lake Valley in July 1847. An additional sixty women marched with the Mormon Battalion from Fort Leavenworth, Kansas to Santa Fe, New Mexico, and spent the winter of 1846–47 at Pueblo, Colorado, before entering the Salt Lake Valley just a few days behind the advance company. They were accompanied by twenty women who had migrated from Mississippi and Illinois and wintered with the Battalion women at Pueblo. Before the end of July 1847, there were almost as many women in Utah as there were men—a fact which set Utah apart from most western territories. In the companies which subsequently migrated from the midwestern and eastern United States and from Europe, there were approximately as many women as there were men. The "different world of Utah" began with a partnership of men and women, and that pattern has continued to characterize the "family state" of Utah.

One is tempted to suggest that the process of settlement placed a heavier burden on the women than on the men. Often away on "missions" for their church and other assignments, the men left the women home to milk the cows, plant the crops, and care for the children. A reading of the diaries kept by Utah's pioneer women suggests that, in many instances, women provided most of the support of their growing families by producing food and clothing, and, in some instances, even built the family dwelling places. If it is true, as many writers have asserted, that Utah farmers were among the best in American history, the credit is often due to the women who did much of the farming. If it is also true that "Utah's best crop" was its children, then the credit, again, belongs largely to the women who supported, nourished, and educated them.

Herodous included women in his history, as did Tacitus and other ancient writers of history. Not really a subjected sex in the conventional sense, women in every culture have played important roles in their struggles for liberty, their endeavors to improve the human lot, and their strivings for perfection in the fields of religion and art.

The same can be said of the women of Utah. Utah's women were the first in the nation to exercise the right of suffrage in voting for city, county, and territorial officers. Utah women were among the first to serve as jurors, mayors, and state legislators. Utah women played a prominent role in the livestock industry, in communications, and in the creation of literary symbols. In the last half of the nineteenth century, Utah probably possessed the largest number of midwives and women doctors in the United States. Utah women founded the first "permanent" magazine for women west of the Mississippi River, pioneered the operation of telegraph offices, and led out in the efforts to improve the social and economic status of the Indians.

It is fitting that the Utah State Historical Society should celebrate the contributions of women in this special issue of the Quarterly, timed for distribution during the month which marks the centennial of women suffrage in Utah. It is also fitting that three of the essays are by skilled Utah women writers. While the coming of woman suffrage is told by T. A. Larson, president-elect of the Western History Association, and Thomas G. Alexander, a member of the Board of Editors of the Utah State Historical Society, the remaining essays are by Jean Bickmore White, Raye Price, and Helen Zeeze Papanikolas, all of whom, in addition to rearing families, have played an active role in the cultural, educational, and political life of modern Utah.

Every student of Utah history has his own favorite candidate for the most forceful woman in Utah's history. Some will choose the refined and sensitive Eliza R. Snow—poetess, Relief Society president, and leader in many women's causes. Others may prefer the brilliant and stately Emmilene B. Wells—editor of the Women's Exponent for forty years and a founder of Utah's Republican party. Still others may select the loving and lovable Susanna Bransford Emery Holmes Delitch Engalitcheff—Utah's silver queen, famous hostess, patron of the arts, and philanthropist. Some may favor a woman of today—a political leader, a teacher, a business woman, an artist, or a dispenser of charity. This writer's favorite is Susa Young Gates. Author of a dozen books of merit, both fiction and non-fiction; founder of many regional and national women's organizations, including the Daughters of Utah Pioneers; a leader in the National and International Councils of Women; an editor, poet, temple worker, musician, and woman suffragist, Susa Young Gates was also the mother of thirteen children! Let her "Notes for the Day's Work" for a single day in 1895 illustrate the many concerns and contributions, both large and small, of Utah's women: [1]

NOTES FOR THE DAY'S WORK: PROVO, UTAH, AUGUST 19, 1895

Go down cellar with Emma Lucy (later, world famous coloratura soprano) and show her how to clean it.

Go to Aunt Corneel's and take her to Eikens and get hers and my fruit. Darn Dan's stockings. Boil over the bottle of spoiled fruit.

Practice on my bicycle. Write down plan of altering the house which came to me in the night.

Clean my office. Answer Leah's, Sterling's, Sis, Taylor's, and Mrs. Grey's letters, and Carlos's. Prepare talk on "Women and Literature" and go to the (Brigham Young) Academy's opening exercises at 10 o'clock.

Talk to Aretta Young about her story. Write to Pres. Joseph F. Smith, Pres. George Q. Cannon, Apostle Franklin D. Richards, and Elder B. H. Roberts about writing for Young Woman's Journal. Also write Mrs. M. E. Potter and Marie D.

Write and thank Carol for her lovely gift. Get the cloth for Dan's pants and boys' clothes and send them to the tailor. Finish the last chapter of "John Stevens' Courtship" for The Contributor. Sketch out editorials for Young Woman's Journal.

Wash my head. Get the kitchen carpet and have the girl and Dan put it down. Get cot and crib from store. Also washstand and glass and wardrobe. Get vegetables and fruit for dinner. Take my bicycle dress over to

[1] The note is in the "Susa Young Gates" folder in the Manuscript Archives of the Brigham Young University Library, Provo, Utah. I have taken a few liberties with the wording and order of the original.

Polly and have it fixed. Take clothes to the Relief Society. Get consecrated oil. Bless Cecil (B. Cecil Gates, later director of the Mormon Tabernacle Choir) to do his chores well. Administer to baby Franklin (later an outstanding figure in the early days of radio).

EQUAL RIGHTS

Now the voice of womankind is startling all the world;
Woman must have equal rights with man.
Everywhere beneath the sun her banner is unfurled,
Woman must have equal rights with man.
We but ask for freedom and the right to live and be,
What we are designed in God's great plan;
And we're sure all thinking men will very shortly see,
Woman must have equal rights with man.
We but ask for freedom and the right to live and be
What we are designed in God's great plan;
And we're sure all thinking men will very shortly see
Women must have equal rights with man.
Should it be that in the land o'er which our standard waves
And our eagle soars so proud and free,
Mothers, sisters, daughters should all be held as slaves,
Should they have to beg for liberty?
We must pay our taxes, and the laws we must obey.
And it's time an era now began
When in the elections we can also have a say—
Woman should have equal rights with man.
Come my sisters, let us rise and educate our minds,
Put aside our follies great and small;
Work with heart and soul to help all womankind,
Gather 'round our standard one and all.
Do not pause nor falter, but be valiant in the fight,
And the flame of liberty we'll fan.
Till it spreads o'er all the land, then hail the time of right,
When woman shall have equal rights with man.

● Mr. MATHIAS. Mr. President, with few exceptions the contributions of our Nation's women have been eclipsed in our oral histories, our textbooks, our celebrations of national heritage. To bring women back into view is to set a one-sided record straight and to realine our vision for the future. The resolution to designate the week of March 8, 1981, as National Women's History Week seeks to do just that, by celebrating the wealth of women's accomplishments with special school and citizen events.

Women have long contributed and will continue to add to the strength and breadth of our country's economic, political, cultural, and scientific attainments. My own State of Maryland has been the home of a number of little-known women achievers, of whom we are enormously proud. Many people can recount the story of Harriet Tubman, the former slave who led the underground railroad to bring hundreds of other runaways to freedom. But few recall the legacy of the many other women who have served their country and its people so well.

There is Margaret Brent, the first woman landowner in Maryland and the first female "attorney" in the colonies, who in 1648 was the first woman to petition for voting rights. Anna Ella Carroll of Dorchester County was a brilliant military strategist and one of President Lincoln's political confidantes. Edith Hamilton, a giant among America's classical scholars, was the first to serve as headmistress of Baltimore's Bryn Mawr School, among the first college preparatory schools for girls in the country. And Helen Taussig, who developed the "blue baby" heart operation, had her home in Maryland.

We pledge ourselves to rediscover and credit the accomplishments of these and other unsung women and to acclaim the countless others who have worked in the home, in the labor force, and in volunteer capacities to make America strong.

In proclaiming Women's History Week we will be looking back with deep pride and looking forward with high expectations to the contributions of women throughout our land. Mr. President, it is my pleasure to cosponsor Senate Joint Resolution 28.●

● Mr. JEPSEN. Mr. President, Sunday, March 8, marked the beginning of Women's History Week. The week is dedicated to focusing the attention of all Americans on the all-encompassing place of women in American society—a place that has involved activity in business, education, government, and other diverse fields, as well as the home and church. No one can argue with the contributions women have made in shaping American society. But we have not done enough to recognize the fact.

More specifically, I have a particular interest in the contributions many Iowa women have made. These stalwart women who pioneered the uncharted and undeveloped land of Iowa withstood the rigors and discouragement of a dismal and lonely existence to help establish the land we know today as Iowa.

During the Civil War, for instance, over 78,000 Iowa men declared their allegiance to the Union. Annie Wittenmeyer, of Keokuk, worked to improve the sanitation conditions for the wounded soldiers and eventually won the title, "Iowa's Wartime Heroine."

Iowa also claims Amelia Jenks Bloomer, of Council Bluffs, who, although she did not popularize the "bloomer" style, wrote about it and thus promoted the "reform dress" style during the 19th century.

In 1935, 2 years before her death, Ola Miller, of Washington County, founded the Iowa State Highway Patrol after convincing the State legislature that a statewide law enforcement agency was needed.

Cora Hillis, of Bloomfield, is credited with organizing the first PTA branch in Iowa, and served as president for 6 years over a century ago.

In the area of education, Agnes Samuelson, of Shenandoah, received national recognition in the 1920's as an authority on providing services to rural schools.

Additionally, during the early 1900's two women, Ida Smith and Jessie Benford, worked actively for the social welfare of children.

From the early years of Iowa's statehood, many women have made significant contributions to the political structure of the State. Perhaps none, however, as significantly as my good friend Mary Louise Smith, who over the past decade has given the Republican Party in Iowa definitive leadership by promoting confidence in politics at a time when the Nation's faith in our political system is waning.

Mr. President, at this time I would like to ask my colleagues to join me in supporting Women's History Week.

We have taken for granted the primary role women have always played, and will continue to play, in American society. Because their contributions have been in fact, so fundamental, their contributions have gone largely unrecognized.

This week, although symbolic, sets the stage for a continued awareness and appreciation for the American woman.●

The joint resolution (S.J. Res. 28) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 28

Whereas American women of every race, class, and ethnic background helped found the Nation in countless recorded and unrecorded ways as servants, slaves, nurses, nuns, homemakers, industrial workers, teachers, reformers, soldiers, and pioneers;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in the country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor union movement, and the modern civil rights movement;

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 8, 1981, is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

FREEDOM OF INFORMATION DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 22) authorizing the President to proclaim March 16 of each year as "Freedom of Information Day," which had been reported from the Committee on the Judiciary with an amendment: On page 2, line 4, strike "of each year" and insert "1981".

The amendment was agreed to.

The joint resolution was ordered to be

engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, was passed, as follows:

S.J. RES. 22

Whereas a free press exists to serve the American people whose daily decisions rest on their having information;

Whereas a fundamental principle of our Nation is that given information, the people can make the decisions that determine their present and their future;

Whereas if these decisions are to be wise, they must be reached after weighing the facts and considering the alternatives and consequences;

Whereas the freedom we cherish in this land is rooted in information;

Whereas this freedom of information deserves to be emphasized and celebrated annually;

Whereas many Americans, because they have never known any other way of life, take the freedom of information provided under the First Amendment of the Constitution for granted;

Whereas many Americans do not recognize fully how this provision of the Bill of Rights affects their daily lives; and

Whereas March 16 is the birthday of James Madison, who was the Founding Father who recognized and supported the need to guarantee individual rights through the first ten amendments to the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate March 16, 1981, as "Freedom of Information Day", and to call upon Federal, State, and local government agencies, and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Amend the title so as to read "Joint resolution authorizing the President to proclaim March 16, 1981, as 'Freedom of Information Day' ".

ORDER TO HOLD S. 681 AT THE DESK

Mr. BAKER. Mr. President, the distinguished Senator from Vermont (Mr. STAFFORD), the chairman of the Environment and Public Works Committee, has just recently introduced the Oil Spill Liability Compensation Act of 1981, S. 681.

In connection with that measure, Mr. President, I ask unanimous consent that the bill be held at the desk pending further disposition by the Senate.

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

RECORD OPEN UNTIL 6 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that Senators may have until 6 o'clock this evening in which to introduce bills, resolutions, statements, petitions, and memorials.

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

RECESS UNTIL THURSDAY, MARCH 12, 1981, AT 11 A.M.

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. on Thursday next.

The motion was agreed to; and at 5:23 p.m., the Senate recessed until Thursday, March 12, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate on March 6, 1981, by the Secretary of the Senate pursuant to the order of the Senate of March 5, 1981:

COMMODITY CREDIT CORPORATION

C. W. McMillan, of Virginia, to be a member of the Board of Directors of the Commodity Credit Corporation, vice P. R. Smith.

DEPARTMENT OF AGRICULTURE

C. W. McMillan, of Virginia, to be an assistant Secretary of Agriculture, vice P. R. Smith.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

David B. Swoap, of Virginia, to be Under Secretary of Health and Human Services, vice Nathan J. Stark, resigned.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10, of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. John W. Baxter, xxx-xx-xxxx.
Maj. John D. Broman, xxx-xx-xxxx.
Maj. Mario H. Buenrostro, xxx-xx-xxxx.
Maj. Kenneth J. Clark, xxx-xx-xxxx.
Maj. Peter L. Drahn, xxx-xx-xxxx.
Maj. Charles W. Duke, Jr., xxx-xx-xxxx.
Maj. Robert S. Dutko, Sr., xxx-xx-xxxx.
Maj. Donald L. Eby, xxx-xx-xxxx.
Maj. Robert D. Franke, xxx-xx-xxxx.
Maj. Paul H. Henretty, xxx-xx-xxxx.
Maj. Robert A. Heyart, xxx-xx-xxxx.
Maj. Thomas Hollinger, Jr., xxx-xx-xxxx.
Maj. Raymond J. Inman, xxx-xx-xxxx.
Maj. Madison R. Jones III, xxx-xx-xxxx.
Maj. Charles H. King, xxx-xx-xxxx.
Maj. Philip E. Laflin, xxx-xx-xxxx.
Maj. Jon L. Larson, xxx-xx-xxxx.
Maj. Gerald D. Main, xxx-xx-xxxx.
Maj. Stanley P. May, xxx-xx-xxxx.
Maj. Emmett L. McCutchin, xxx-xx-xxxx.
Maj. William L. Nichols, Jr., xxx-xx-xxxx.
Maj. Edward A. Payne, xxx-xx-xxxx.
Maj. David H. Rand, xxx-xx-xxxx.
Maj. Thomas E. Salaman, xxx-xx-xxxx.
Maj. Michael D. Soule, xxx-xx-xxxx.
Maj. Donald L. Stevlingson, xxx-xx-xxxx.
Maj. Guy S. Tallent, xxx-xx-xxxx.
Maj. Howard G. Tart, xxx-xx-xxxx.
Maj. Richard M. Wessbard, xxx-xx-xxxx.
Maj. Horace G. Williams, xxx-xx-xxxx.

JUDGE ADVOCATE

Maj. Kenneth C. Robbins, xxx-xx-xxxx.

MEDICAL CORPS

Maj. James D. Fearl, xxx-xx-xxxx.
Maj. David D. Newton, xxx-xx-xxxx.

DENTAL CORPS

Maj. Douglas B. Neumann, xxx-xx-xxxx.

IN THE NAVY

The following-named lieutenant of the U.S. Navy for temporary promotion to the grade of lieutenant commander in the line, pursuant to title 10, United States Code, sections 5769 and 5791, subject to qualifications therefor as provided by law:

Halwachs, James E.

The following-named lieutenants (junior grade) of the U.S. Navy for temporary promotion to the grade of lieutenant in the line and various staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line officers), 5773 (staff corps officers), and 5791, subject to qualifications therefor as provided by law:

LINE

Currie, George H., III
Mitchell, Curtis E.
Mosely, Charles L.
Sellers, Patrick M.
Witt, Stuart O.
Zumbrunnen, David A.

CIVIL ENGINEER CORPS

Jacques, David E.

NURSE CORPS

Fillingame, Mary S.
Richards, Catherine R.

The following-named officer of the line of the United States Navy, for appointment in the Civil Engineer Corps, as permanent lieutenant (junior grade) and temporary lieutenant, pursuant to title 10, United States Code, sections 5582(b) and 5572, subject to qualifications therefor as provided by law:

Vaughan, Charles F.

The following-named officers of the line of the United States Navy, for appointment in the Supply Corps, as permanent ensign, pursuant to title 10, United States Code, sections 5582(b) and 5572, subject to qualifications therefor as provided by law:

Bethel, John S.
Brown, William A.
Reidy, Donald J.

The following-named officer of the Supply Corps of the United States Navy, for appointment in the line, as permanent ensign and temporary lieutenant (junior grade), pursuant to title 10, United States Code, sections 5582(a) and 5572, subject to qualifications therefor as provided by law:

Meisman, David C.

The following-named officer of the Supply Corps of the United States Navy, for appointment in the line, as permanent ensign, pursuant to title 10, United States Code, sections 5582(a) and 5572, subject to qualifications therefor as provided by law:

Aasheim, Larry D.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 10, 1981:

DEPARTMENT OF THE TREASURY

Roscoe, L. Egger, Jr., of the District of Columbia, to be Commissioner of Internal Revenue.

John E. Chapoton, of Texas, to be an Assistant Secretary of the Treasury.

Paul Craig Roberts, of Virginia, to be an Assistant Secretary of the Treasury.

FEDERAL RAILROAD ADMINISTRATION

Robert W. Blanchette, of Maryland, to be Administrator of the Federal Railroad Administration.

DEPARTMENT OF TRANSPORTATION

John M. Fowler, of Pennsylvania, to be General Counsel of the Department of Transportation.

Judith T. Connor, of New York, to be an Assistant Secretary of Transportation.

Lee L. Verstandig, of the District of Columbia, to be an Assistant Secretary of Transportation.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. James W. Stansberry, xxx-xx-xxxx xxx... FR, U.S. Air Force.

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. Robert Milton Erffmeyer, xxx-...
xxx-xx-xxxx

Brig Gen. Louis Holmes Ginn III, xxx-xx-xxxx
xxx-x...

Brig. Gen. Angelo David Juarez, xxx-xx-xxxx
xxx-x...

Brig. Gen. Harley Lester Pickens, xxx-xx-xxxx
xxx-x...

Brig. Gen. Berlyn Keasler Sutton, xxx-xx-xxxx
xxx-x...

To be brigadier general

Col. James Eugene Beal, xxx-xx-xxxx.
Col. Elmus Snider Ussery, xxx-xx-xxxx.
Col. William Peter Sylvester, Jr., xxx-xx-xxxx
xxx-x...
Col. Richard Hubbard Bailey, xxx-xx-xxxx.
Col. Donald Michael Merz, xxx-xx-xxxx.
Col. Augusto Rafael Gautier, xxx-xx-xxxx.
Col. Peter Dewitt Hyman, xxx-xx-xxxx.
Col. Carl Lester Newhouse, xxx-xx-xxxx.
Col. Robert Leroy Duewerth, xxx-xx-xxxx.
Col. Gregorio Clemente Brevetti, xxx-xx-xxxx
xxx...

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, section 593(a) and 3385:

To be brigadier general

Col. Vernon Junior Andrews, xxx-xx-xxxx.
Col. Paul Nicholas Cotra-Manes, xxx-xx-xxxx
xxx-...
Col. Bruce Gordon Grover, xxx-xx-xxxx.
Col. Patrick Wallace Harrison, xxx-xx-xxxx.
Col. Robert Lee Howell, xxx-xx-xxxx.
Col. Dale Owen Laubach, xxx-xx-xxxx.
Col. James Augustus Lynch, Jr., xxx-xx-x...
xxx-x...
Col. Roland Lavern Parkhill, xxx-xx-xxxx.
Col. Jack Strukel, Jr., xxx-xx-xxxx.
Col. James Jomac Wasson, xxx-xx-xxxx.

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:

To be major general

Brig. Gen. William Fremont Engel, xxx-xx-x...
xxx-x...

Brig. Gen. Ansel Martin Stroud, Jr., xxx-x...
xxx-xx-xxxx

Brig. Gen. Ralph Taylor Tice, xxx-xx-xxxx.

To be brigadier general

Col. Norman Eugene Duckworth, xxx-xx-xxxx
xxx-x...

Col. Hubert Gerald Lane, xxx-xx-xxxx.
Col. Lincoln James Lett, xxx-xx-xxxx.
Col. Alexis Theodore Lum, xxx-xx-xxxx.
Col. Dean Douglas Mann, xxx-xx-xxxx.
Col. Jerry Lee Whelchel, xxx-xx-xxxx.

IN THE NAVY

The following-named captains of the line of the Navy for temporary promotion to the grade of rear admiral, pursuant to title 10, United States Code, sections 5769 and 5791, subject to qualification therefor as provided by law:

To be rear admiral

Virgil W. Moore, Jr.	Roger E. Box
John F. Addams	Harold L. Young
Robert B. Rogers	Richard J. Grich
Albert J. Herberger	Ronald J. Kurth
Don H. McDowell	William A. Walsh
Richard L. Thompson	Kendall E. Moranville
Allan G. Paulson	James S. Storms III
Ted C. Steele, Jr.	Joseph S. Donnell III
George M. Furlong, Jr.	William J. Holland, Jr.
Edwin R. Kohn, Jr.	Ronald E. Narmi
James H. Flatley III	Robert W. Schmitt
Warren E. Aut	Morton E. Toole
John R. Batzler	John H. Fetterman, Jr.
Ronald F. Marryott	John W. Nyquist
Theodore A. Almstedt, Jr.	Walter L. Chatham
James D. Williams	Bruce Demars
Laverne S. Severance, Jr.	Stanley R. Arthur
Richard M. Dunleavy	Peter M. Hekman, Jr.
	Ming E. Chang

The following-named woman captain of the line of the Navy for temporary promotion to the grade of rear admiral under the provisions of title 10, United States Code, section 5767(c):

Pauline M. Hartington

The following-named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps, as indicated, pursuant to title 10, United States Code, sections 5772 and 5791, subject to qualification therefor as provided by law:

MEDICAL CORPS

To be rear admiral

Norman V. Cooley, Jr.	Robert C. Elliott
Quintous E. Crews, Jr.	James A. Zimble

SUPPLY CORPS

Joseph S. Sansone, Jr.	Donald E. Wilson
Edward K. Walker, Jr.	

CIVIL ENGINEER CORPS

Donald L. Conner

DENTAL CORPS

Carlton J. McLeod

MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general under the provisions of title 10, United States Code, section 5769:

Thomas R. Morgan	John Phillips
Ernest C. Cheatham, Jr.	Wesley H. Rice
	Gregory A. Corliss
John V. Cox	Harold G. Glasgow

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general under the provisions of title 10, United States Code, section 5769:

James R. Vandenelzen	William A. Bloomer
William G. Carson, Jr.	Paul D. Slack
Lloyd W. Smith, Jr.	George H. Leach
Edwin J. Godfrey	Hugh T. Kerr
William R. Etnyre	Joseph B. Knotts
Eugene B. Russell	John H. Gary III
Donald L. Humphrey	

IN THE AIR FORCE

Air Force nominations beginning George G. Abbott; to be colonel, and ending Michael P. Mills, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1981.

Air Force nominations beginning Michael R. Ackley, to be first lieutenant, and ending Anthony E. Zompetti, to be first lieutenant, which nominations were received by the Senate on February 10, 1981, and appeared in the CONGRESSIONAL RECORD of February 16, 1981.

IN THE NAVY

Navy nominations beginning Robert S. Chan, to be captain, and ending Julian D. McCarthy, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1981.

Navy nominations beginning Alexander V. Abary, to be commander, and ending Margaret J. Hamman, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 5, 1981.

Navy nominations beginning Clinton E. Adams, to be lieutenant commander, and ending Christine E. Miller, to be lieutenant commander, which nominations were received by the Senate on February 10, 1981, and appeared in the CONGRESSIONAL RECORD of February 16, 1981.