

(Legislative day of Monday, February 16, 1981)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TED STEVENS, a Senator from the State of Alaska.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 10, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TED STEVENS, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

ADJOURNMENT UNTIL 12 NOON ON MONDAY, APRIL 27, 1981

The ACTING PRESIDENT pro tempore. Under the provisions of Senate Concurrent Resolution 17, the Senate stands in adjournment until 12 noon on Monday, April 27, 1981.

Thereupon, at 9:31 a.m., the Senate adjourned, in accordance with the provisions of Senate Concurrent Resolution 17, until Monday, April 27, 1981, at 12 o'clock noon.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 195. A bill to incorporate the United States Submarine Veterans of World War II (Rept. No. 97-37).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 60. Joint resolution to authorize and request the President to designate the week of May 3 through 9, 1981, as "National Physical Fitness and Sports for All Week."

H.J. Res. 155. Joint resolution to authorize and request the President to issue a proclamation designating May 3 through May 10, 1981, as "Jewish Heritage Week".

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute, and an amendment to the title:

S. 730. A bill to provide for the emergency use of the funds of the Commodity Credit

Corporation in implementing the Federal Crop Insurance Act of 1980 (Rept. No. 97-38).

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. DOLE (by request):

S. 983. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the national trigger for extended compensation, change the State trigger, provide for a qualifying requirement, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 984. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 985. A bill to authorize the issuance of variable-rate debentures by the FDIC and FSLIC; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOREN (for himself and Mr. MOYNIHAN):

S. 986. A bill to amend title IV of the Social Security Act to provide for a demonstration program to test the States' ability to develop functional alternatives to the current work requirements of the aid to families with dependent children program; to the Committee on Finance.

By Mr. NUNN (for himself, Mr. HUDDLESTON, Mr. BUMPERS, Mr. BAUCUS, Mr. LEVIN, Mr. DIXON, and Mr. PRYOR):

S. 987. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. LEVIN:

S. 988. A bill to make certain amendments to title 18, United States Code, relating to rights of witnesses appearing before grand juries; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. CRANSTON, Mr. RANDOLPH, and Mr. MOYNIHAN):

S. 989. A bill to amend the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 to provide for a national computerized adoption identification center, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MATHIAS:

S. 990. A bill to amend section 1979 of the Revised Statutes to provide that States, municipalities, and agencies or units of government thereof, may be sued under the provisions of such section, to establish rules of liability with respect to such States, municipalities, and agencies of units of government thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. PERCY (by request):

S. 991. A bill to authorize appropriations under the Arms Control and Disarmament Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. SASSER:

S. 992. A bill to amend title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. PERCY (by request):

S. 993. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

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

S. 994. A bill to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself, Mr. BAUCUS, Mr. DECONCINI, Mr. HEFLIN, and Mr. LAXALT):

S. 995. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4a, or 4c of Clayton Act; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 996. A bill to remove artificial impediments on the use of natural gas and to facilitate the transportation of natural gas to end users; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S. 997. A bill to provide a new program for producers of wheat, feed grains, and soybeans for the crop years 1982 through 1985, to amend the Food Stamp Act of 1977, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLURE (for himself and Mr. WARNER):

S. 998. A bill to amend the Energy Policy and Conservation Act and the Energy Security Act to improve the administration of the Strategic Petroleum Reserve, to provide for transition in fiscal year 1982 to an alternative off-budget funding mechanism for financing the purchase of petroleum for the Strategic Petroleum Reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAKER (for himself and Mr. DIXON):

S.J. Res. 69. Joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 70. Joint resolution proposing an amendment to the Constitution of the United States with respect to the length of the term of office of the President and Vice President and the number of terms a President may serve; to the Committee on the Judiciary.

By Mr. McCLURE (by request):

S.J. Res. 71. A bill to approve the Constitution of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (by request):

S. 983. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the national trigger for extended compensation, change the State trigger, provide for a qualifying requirement, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION AMENDMENTS
OF 1981

● Mr. DOLE. Mr. President, at the request of the President, I am today introducing the Unemployment Compensation Amendments of 1981, which are intended to implement President Reagan's unemployment compensation recommendations contained in his program for economic recovery. In view of the pressing need to control Government spending and foster economic growth, I urge careful and prompt consideration of these proposals. The unemployment rate across the Nation stands at 7.4 percent; in some regions, the rate is double this. By the end of fiscal year 1981, more than \$20 billion will have been spent at the State and Federal level on unemployment compensation benefits for some 10.5 million people. Steps to improve the system should have high priority.

The administration's bill includes a number of significant revisions in the unemployment compensation system. Title I of the bill contains four sections which change the Federal-State extended benefit program to improve the targeting of compensation to the truly long-term unemployed in the most severely impacted States. To accomplish this, the bill would—

Eliminate the national trigger for extended benefits and thus target benefits to claimants in those States with high unemployment rates;

Change the State trigger for extended compensation to achieve greater targeting of benefits in those States with higher unemployment rates;

Establish a new qualifying requirement for claimants of extended benefits in order to require a greater labor force attachment by workers; and

Change the equation for determining the rate of insured unemployment to eliminate claimants for extended benefits.

Title II would establish a tighter work test requirement for regular unemployment compensation after a claimant had received 13 weeks of compensation under the applicable State law. The requirement would remove a disincentive from seeking employment in different occupational sectors while challenging workers to adjust to new economic and industrial realities.

Title III would establish requirements for service members that are more comparable to those which apply to civilian workers.

This bill would produce savings of \$565

million in fiscal year 1981, \$1.4 billion in fiscal year 1982, and \$1 billion in fiscal year 1983.

I expect the Finance Committee to carefully scrutinize each of these proposals. The committee may decide against some of these ideas and find other ways to achieve equivalent savings. For example, I anticipate that a number of members, including this one, may have some reservations about imposing a Federal suitability of work standard on the State regular benefit program.

Nevertheless, I strongly endorse the principles underlying the President's recommendations. We must improve the incentives of unemployed workers to re-enter the work force, while protecting the basic income support function of the system. This can be achieved by targeting Government funds on those regions of the country experiencing more acute unemployment and on those individuals with some significant attachment to the labor force who find themselves temporarily and involuntarily out of work. This was the intention of the Senate Finance Committee during the 96th Congress when we recommended a number of provisions similar to those proposed by the administration. The committee has held hearings on these and other proposals in the administration's economic program and it is my expectation that we will move quickly to act on this measure.

Mr. President, I ask unanimous consent that a more detailed description of the bill be printed in the RECORD.

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

EXPLANATION OF THE UNEMPLOYMENT
COMPENSATION AMENDMENTS OF 1981

Title I would change various provisions of the Federal-State Extended Unemployment Compensation Act of 1970. Section 101 would eliminate the national trigger for extended compensation. Under present law, when the national rate of insured unemployment reaches 4.5 percent, the extended benefit program, consisting of up to 13 additional weeks of unemployment benefits after the regular 26 weeks of benefits, triggers on in all States.

The purpose of the extended benefit program is to prevent hardship in areas where high levels of unemployment make it unusually difficult for unemployed workers to find jobs. Structural shifts in the national economy, however, produce large unemployment rate differentials. The elimination of the national trigger will target extended benefit funds only to those States whose workers genuinely need such extra help. In addition, this change will remove the work disincentive which is created in low unemployment States when the national trigger is on.

This change would be made effective on the date of enactment if the national trigger is "off". The changes would be effective on July 1, 1981, if for the week in which such date of enactment occurs there is in effect an extended benefit period on the basis of a national "on" indicator. Alternatively, if the national indicator is "on", the changes would be effective prior to July 1, 1981, in the week following the week in which an extended benefit period ends on the basis of a national "off" indicator. This section also

requires the States to conform their State laws to the enacted changes as soon as possible in 1981, or early in 1982 in the case of any State whose legislature does not meet in a session which begins before September 1, 1981.

Section 102 would increase the level of insured unemployment necessary to trigger extended benefits in a State. Under present law, the extended benefit program triggers in a State when (a) the insured unemployment rate is 4 percent or above for 13 weeks, provided the rate is at least 120 percent of the average of the rates for the corresponding periods in each of the two prior years, or at the option of the State, (b) 5 percent without regard to the rate in the prior two years.

This section would increase the State trigger rates of insured unemployment to 5 percent and 6 percent, respectively.

The purpose of the extended benefit program is to prevent hardship in areas where high levels of unemployment make it difficult for unemployed workers to find jobs. At the same time, where workers can more easily find work, the receipt of extended benefits operates as a disincentive to job search. The proposed increases in State trigger levels reflect a better balance between these objectives.

This change would be made effective on October 1, 1982. This section would also require the States to amend their State laws in order to conform with the enacted changes by September 25, 1982, or as soon thereafter as possible in the case of a State whose legislature does not meet in a session that begins before September 1, 1982.

Section 103 would add a qualifying requirement as a condition for an individual's eligibility for extended compensation. The new requirement would be 20 weeks of work in the base period or the equivalent in wages.

Extended unemployment benefits are paid generally from the 27th up to the 39th week of unemployment. Such long-term benefits should not be paid to workers who were employed for less than 20 weeks in the base period used to establish their eligibility for regular benefits, or who, under State law, have previously earned wages which amount to less than the equivalent of 20 weeks of work.

The bill sets forth two methods for determining when a worker has earned the equivalent in insured wages to 20 weeks of work. One method is earnings covered by State law which exceed 40 times the individual's most recent weekly benefit amount. Since an individual's weekly benefit amount usually approximates half of that individual's average weekly earnings, 40 times that amount should nearly approximate the earnings for 20 weeks of work. The second method is one and one-half times an individual's insured wages in that quarter of the individual's base period when the worker's insured wages were the highest. A base period quarter has 13 weeks. Therefore, the total of one and one-half times the earnings in the high earnings quarter should approximate the earnings of 20 weeks of work. Each State may choose between the 20 weeks of work test or one of the two wage equivalency tests. Since States already use one of these methods for their regular unemployment compensation program, the additional qualifying requirement should not be administratively burdensome.

The changes required by this section would be made effective on October 1, 1982. This section would require the States to amend their State laws in order to conform with

the enacted changes by September 25, 1982, or as soon thereafter as possible in the case of a State whose legislature does not meet in a session that begins before September 1, 1982.

Section 104 would change the method of calculating the insured unemployment rate (IUR). The present law includes individuals filing claims for extended benefits in the insured unemployment count. The amendment would take extended benefit claimants out of the count.

The present method of calculating insured unemployment rates, by including those claiming extended benefits, is technically flawed and produces several anomalies. The payment of extended benefits may be delayed when unemployment rises; extended benefits may be paid in one State for several months while they are not paid in another State with an identical overall unemployment rate; and extended benefits may continue to be paid when overall unemployment is less than it is when the extra benefits began. Removing those claiming extended benefits from the count of insured unemployed will correct these anomalies. This change would be effective for weeks beginning after the date of enactment.

This change in the method of IUR calculation will require the States to recalculate their IUR's for the past 117 weeks prior to the date of enactment. The IUR is used to trigger the State extended benefit period within that State. Under present law, the extended benefit program triggers on in a State when (a) the insured unemployment rate is 4 percent or above for 13 weeks, provided the rate is at least 120 percent of the average of the rates for the corresponding periods in each of the two prior years, or at the option of the State, (b) 5 percent without regard to the rate in the prior two years. Under method (a), a State would calculate the average rates for corresponding periods in each of the past two years. A change in the method of calculating the IUR would therefore require a State to adjust its prior IUR rates in order that the percentage would reflect a true average for the corresponding periods. If different IUR's were used, inaccurate results would be reached. Section 104 of the bill contains a provision requiring this recalculation.

The changes required by this section would require States to amend their State laws in order to conform with the enacted changes as soon as possible in 1981, or early in 1982 in the case of any State whose legislature does not meet in a session which begins before September 1, 1981.

Title II of the bill would change the work test under the regular Federal-State unemployment compensation program. Section 201 would amend the Federal Unemployment Tax Act to strengthen the work test for recipients of regular unemployment compensation. Under current State law, those who refuse to accept "suitable work" are denied unemployment benefits. "Suitable work" is usually defined as a job similar to the person's prior employment, and thus generally requires those drawing unemployment benefits to search for work in their customary occupations at prevailing wages.

This section would adopt the work test of the Federal-State Extended Unemployment Compensation Act of 1970, as amended. It would require that, after the 13th week in which the individual was entitled to a partial or total payment, was disqualified, or was unavailable for work, claimants whose prospects of returning to their line of work were not good—would be disqualified for regular UI if they failed or refused to accept offers of "suitable work", as redefined, or to seek and apply for such work. With respect to such work, there would have to be an

offer in writing or the job would have to be listed with the State employment service. Changes in current procedures would not be required for workers during the first 13 weeks of their benefit years.

"Suitable work" after the first 13 weeks would be defined under this new work test as work, (a) which is within the person's capabilities; and (b) for which the wage rate is not less than the higher of the Federal minimum wage rate set forth in section 6 of the Fair Labor Standards Act or the applicable State or local minimum wage rate; and (c) for which the gross average weekly pay exceeds the person's most recent weekly benefit amount plus, if applicable, the amount of supplemental unemployment compensation benefits.

These changes in the unemployment compensation work test seek to challenge workers to adjust to new economic and industrial realities. Economic events of the past decade have produced significant structural shifts in the American economy, with employment in a number of major industries declining while newer industries grow. By allowing unemployed workers to draw up to 6 months of compensation unless jobs in their occupations are available, the present unemployment compensation system discourages workers from seeking employment in new industries which, while they may initially pay lower wages, hold the prospect of growing employment and increasingly higher pay.

The changes required by this section would be made effective on October 1, 1982. This section would require the States to amend their State laws in order to conform with the enacted changes by October 1, 1982, or as soon thereafter as is possible in the case of a State whose legislature does not meet in a session that begins before September 1, 1982.

Title III of the bill would change the provisions of title 5, United States Code, which provide for unemployment compensation for ex-service members (UCX).

The unemployment compensation program for ex-military personnel would be amended to make ineligible for benefits (under UCX) those military personnel who are not discharged under honorable conditions, or who voluntarily leave the military service, or are discharged for cause.

The military service is now entirely voluntary, and most separations from the service are voluntary. Unemployment compensation would be denied if the ex-servicemember resigns or voluntarily leaves the service, or is discharged for cause. In addition, only a discharge or release under honorable conditions would qualify an individual for benefits under the program. Every State provides for the disqualification of civilians who voluntarily leave their jobs, are discharged for misconduct, or refuse an offer of suitable work. The proposed amendment, therefore, would bring treatment of civilians and military personnel more in line, by establishing national rules for military separations that are voluntary or are not under honorable conditions.

The changes made by this title would be effective on July 1, 1981.

UNEMPLOYMENT COMPENSATION ACT AMENDMENTS OF 1981—BUDGET ESTIMATES

TITLE I—EXTENDED UNEMPLOYMENT COMPENSATION

The proposal is expected to result in the following changes in funding from current law:

[In millions of dollars]	
Outlays:	
1981	----- -505
1982	----- -1,218
1983	----- -483
1984	----- -202
1985	----- -284
1986	----- -286

TITLE II—REGULAR UNEMPLOYMENT COMPENSATION

The proposal is expected to result in the following changes in funding:

[In millions of dollars]	
Outlays:	
1981	-----
1982	-----
1983	----- -285
1984	----- -285
1985	----- -272
1986	----- -264

TITLE III—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

The proposal is expected to result in the following changes in funding:

[In millions of dollars]	
	1981 1982 1983 1984 1985 1986
Budget authority.....	-60 -225 -237 -245 -247 -248
Outlays.....	-60 -225 -237 -245 -247 -248

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 984. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 985. A bill to authorize the issuance of variable-rate debentures by the FDIC and FSLIC; to the Committee on Banking, Housing, and Urban Affairs.

GREATER FLEXIBILITY FOR FDIC AND FSLIC

● Mr. MOYNIHAN. Mr. President, I am introducing two bills today.

First, would amend the charter of the Federal Deposit Insurance Corporation and would make it easier for the FDIC to lend money to a bank that is in danger of failing.

The second would authorize the FDIC and its sister agency, the FSLIC, to issue variable-rate debentures. These debentures would be exchanged for low-yielding mortgages for banks that have lost money in two or more consecutive quarters.

The aim of the first bill is to give the FDIC greater flexibility.

Today, the agency has four options when a bank is in trouble. It may shut down the bank and pay off the bank's depositors. It may find another bank that wants to merge with the failing bank, and use its insurance money to make the merger more attractive. It may take over the bank and run it for up to 2 years as an FDIC bank. Or it may shore up the bank by giving it monetary assistance to keep it open.

The last option is rarely used. The reason is a bank must be essential to a community before the FDIC may lend it money; few banks, if any, are essential. Another problem is that the bank must be in danger of closing. By then, it is usually too late. A loan will not materially improve the bank's condition.

My bill would amend the FDIC charter. If it is enacted, the FDIC would be able to lend money to a bank that is in danger of closing, or one that is merely unstable, but not yet about to fail.

The bank would not have to be "essential," as under present law. But

the FDIC must feel that lending money to the bank is "desirable in order to preserve public confidence" in all banks, or that lending money is "desirable * * * in order to provide adequate banking service" in a community served by the bank.

The point is the FDIC should be free to lend money to a bank, if a well-timed loan would be less costly to the agency in the long run than other options.

The FDIC wants that freedom. It may propose slightly different language. Senator HEINZ is joining me today as a cosponsor.

The other bill is the "Mortgage Warehousing Facility Act." It is a contingency plan to help banks and savings associations adjust to changed economic and regulatory conditions. Interest rates have been extraordinarily volatile since late 1979. In addition, the Government began in March 1980 to deregulate banking. Thrift institutions have found it difficult to adjust, in part because they still have on their books mortgages made years ago when interest rates were 5, 6, and 7 percent.

We may yet have to help these institutions through a transition.

My bill would authorize the FDIC and FSLIC to issue variable-rate debentures. The debentures would be used to purchase low-yielding mortgages, at par, from financially troubled banks and savings associations. Any bank holding a debenture would be entitled to interest at the rate on 30-month Treasury notes.

The exchange would be a temporary one. Three years later, banks would begin to buy back their mortgages, again at par, and to retire the debentures, a process that would be completed by the end of the 10th year.

To qualify for the program, a bank or savings association would have to have lost money for two consecutive quarters and have at least 10 percent of its assets tied up in residential mortgages. A bank would not qualify, however, if its losses result from bad management, rather than from unforeseeable changes in interest rates and Government regulations.

The bill sets a limit of \$700 million a year on Federal outlays under the program. The cost to the Government is the interest differential, the gap between the interest rate on the mortgages and the rate on 30-month Treasury notes. The money would be drawn from the FDIC and FSLIC insurance funds.

Because there are more old mortgages than the FDIC and FSLIC would be able to purchase, a way must be found to allocate the debentures. The bill suggests that no single institution be allowed to trade in more than 75 percent of its old mortgages. But it leaves other standards up to the regulators themselves. The bill requires the FDIC and FSLIC "jointly [to] prescribe a formula to be used in allocating the debentures."

In essence, this is a program that would give financially troubled banks and savings associations 3 years to adjust.

It would be used only in an emergency.

There must be the prospect of an industry failure, not just the failure of isolated banks and savings associations. An industry failure is more than the FDIC and FSLIC can handle by conventional means.

Again, my aim is to give the Federal bank regulatory agencies greater flexibility.

Mr. President, I ask unanimous consent the text of both bills along with a fact sheet on the "Mortgage Warehousing Facility Act" be printed in the RECORD.

There being no objection, the bills and the fact sheet were ordered to be printed in the RECORD, as follows:

S. 984

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

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by striking out the first sentence and inserting in lieu thereof the following—

"In order to reopen a closed bank or, when the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, or, upon the application of an insured bank, to strengthen the stability of such insured bank, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, or purchase the assets or stock of, or make deposits in, such insured bank, upon such terms and conditions as the Board of Directors may prescribe, when in the opinion of the Board of Directors the continued operation of such bank is desirable in order to preserve public confidence in the stability and soundness of the nation's banking system or to provide adequate banking service in one or more communities served by the bank."

S. 985

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

SHORT TITLE

This Act may be cited as the "Mortgage Warehousing Facility Act of 1981".

SEC. 101. DEFINITIONS.—As used in this Act—

(1) the term "appropriate Federal agency" means the Federal Deposit Insurance Corporation with respect to any commercial bank and with respect to any savings bank the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation with respect to any savings and loan, building and loan, or homestead association or Federal savings bank; and

(2) the term "eligible institution" means any bank savings and loan, building and loan or homestead association, or any mutual savings bank, which has net operating losses after interest and dividends (exclusive of asset transactions and before taxes) for at least two consecutive calendar quarters subsequent to December 31, 1980, and at least 10 percent of the assets of which are residential mortgages.

SEC. 102. AUTHORIZATION FOR PURCHASES.—The Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation are authorized to issue variable-rate debentures, as described in section 104, to eligible institutions in exchange at par for residential mortgages which were made or acquired prior to December 1, 1979, and which provide a return not in excess of 7½ percent per annum, provided that prior

to issuance the FDIC or FSLIC, as the case may be, finds that the eligible institution has submitted a realistic and satisfactory operating plan in such form as it shall prescribe, demonstrating the ability of the eligible institution to continue as a safe and sound financial institution after the issuance of debentures. The Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation are authorized to limit the aggregate amount of mortgages which may be acquired from any one eligible institution, and in no case may any eligible institution exchange more than 75 percent of the mortgages held by it for such debentures. The Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation shall jointly prescribe a formula to be used in allocating the debentures authorized by this Act in order that the proportion of mortgages which an eligible institution may exchange will reflect the magnitude of its net operating losses after interest and dividends, subject to the limitation contained in the preceding sentence.

SEC. 103. RETIREMENT OF DEBENTURES.—Beginning in the third year following the issuance of any debentures under this Act, each eligible institution holding any such debenture shall allocate each year an amount equal to 50 percent of any increase in its net operating income after interest and dividends over the net operating income after interest and dividends during the next preceding year to the repurchase of mortgages at par from the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, and the pro rata retirement of any debentures still outstanding. Not later than 10 years after the issuance of any such debenture, the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, shall recall such debenture and return to the eligible institution any mortgage acquired from it.

SEC. 104. VARIABLE-RATE DEBENTURES.—The Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation are authorized to issue nonmarketable debentures to eligible institutions. Such debentures shall have maturities not in excess of 10 years, and bear interest at rates prescribed by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. The rates shall be established and adjusted monthly to equal the average yield on obligations of the United States having a maturity 30 months from the date of issuance, which were issued during the month preceding the month of issuance or in which the adjustment is to be made. No debenture may be issued under this Act after the expiration of one year following the date on which a debenture under this Act is first issued.

SEC. 105. ADMINISTRATIVE PROVISIONS.—

(1) An eligible institution which exchanges a mortgage pursuant to this Act shall continue to service such mortgage. All amortization and other payments of principal on any such mortgage shall be applied to reduce the principal balance on the mortgage while held by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be. The amount of such payment shall also reduce pro rata the principal balance of the debenture held by the eligible institution. All payments of interest on any such mortgage shall be paid or credited to the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be.

(2) The difference between the interest so

paid on all mortgages received by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation and the interest paid on all debentures issued by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation pursuant to this Act shall not exceed \$700 million per annum.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

THE MORTGAGE WAREHOUSING FACILITY ACT

The legislation would permit the FDIC and FSLIC to swap variable-rate debentures, backed by them, for a share of the low-yielding mortgages held by eligible financial institutions.

1. The debentures would be nonmarketable.

2. Eligible institutions would be mutual savings banks, savings and loan associations and commercial banks.

With two or more consecutive quarters of net operating losses (income less interest, operating expenses and state franchise taxes, but before federal income tax and losses or gains on asset transactions), and

Whose total assets are at least one-tenth residential mortgages.

The FDIC and FSLIC would have discretion, however, to deny eligibility to institutions whose problems are of their own making, rather than the result of changing economic and regulatory conditions.

3. Loans eligible for the exchange would be residential loans made prior to December 1, 1979 with interest rates of 7½ percent or less.

4. The proportion of such loans that an eligible institution may exchange would depend on the magnitude of its net operating losses, but in no case would it exceed 75 percent. A formula would be worked out jointly by the FDIC and FSLIC.

5. The mortgages would be exchanged at par. The participating institutions would continue to service the loans.

6. The variable-rate debentures would bear an interest rate geared to the yield on 30-month U.S. government securities.

7. Amortization and other principal payments on the mortgages would be applied to reducing the debenture obligations of the FDIC and FSLIC.

8. Beginning in the third year after the exchange, the institutions would in each year allocate 50 percent of the increase in net operating income above the previous year for the purpose of repurchasing exchanged mortgages and debenture retirement beyond the amounts provided in No. 7 above. By the end of the tenth year following the exchange, all debentures would have to be retired.

9. Mortgage/debenture exchanges would be authorized for only one year from the date when the program is first activated.

10. Federal outlays under the program would be limited to \$700 million a year. ●

By Mr. BOREN (for himself and Mr. MOYNIHAN):

S. 986. A bill to amend title IV of the Social Security Act to provide for a demonstration program to test the States ability to develop functional alternatives to the current work requirements of the aid to families with dependent children program; to the Committee on Finance.

WORK INCENTIVE DEMONSTRATION PROGRAM ACT

● Mr. BOREN. Mr. President, today I am introducing the Work Incentive Demonstration Program Act. This bill will amend the Social Security Act to allow States to demonstrate single agency administration of title IV-C (work incentive program—WIN) and other work-related objectives of the act. Such demonstrations shall be designed to synthesize the various work-related objectives of titles IV-A and IV-C into a cohesive welfare employment program with emphasis on placement in unsubsidized private sector employment.

I, along with several of my colleagues, have made attempts to streamline and improve the administration of the aid to families with dependent children (AFDC) program in the past. The Congress will consider the nature of welfare reform which is needed in the months ahead. In the meantime, the new administration and Congress have shown a great deal of interest in the need for employment. However, in many States the administration's budget proposes changes in work expense and child care deductions and recommends the creation of a workfare program effective October 1, 1981. I would urge Congress to build upon the administration's proposal by allowing States to design integrated programs which best meet the needs of their clients and effectively accomplish the goal of helping AFDC recipients become self-supporting, contributing members of our great country.

The WIN program was designed to provide recipients with training, work experience, employment and supportive services to assist in the transition to employment. However, in many States the per person cost of the program has been exorbitant and the impact minimal.

There are two serious flaws in the operation of the WIN program—dual agency administration (HHS and DOL) and inflexibility within the system—which result in a lack of agency accountability, cumbersome administrative rules and regulations, high cost, and poor performance. Many States have indicated they could run more efficient programs than currently exist. 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 and administer programs to meet the needs of families with children.

This proposed program does not provide massive, permanent reformation of the welfare system of this country, nor does it pump more Federal dollars into the existing system.

It does, however, 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 bill allows any State to submit a plan to the Secretary of Health and Human Services to conduct a 3-year single agency administration demonstration of welfare work programs by utilizing the same funding proposed by President Reagan for fiscal year 1982 and beyond. The plan must describe the objectives and techniques used. The Sec-

retary may disapprove the plan if determined to be less effective than current requirements.

The same eligibility requirements for participation in existing programs will be in effect for the demonstration programs. The HHS Secretary is required to conduct evaluations of the program to determine effectiveness.

Beyond these requirements, the State is allowed to design a program which best addresses the State's needs and makes best use of its resources. I am convinced that States will show overwhelmingly that they can deliver better benefits in a more effective manner than can the Federal Government.

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. MOYNIHAN. Mr. President, the myth of the lazy welfare recipient continues to plague discussions of how best to provide for those unable to provide for themselves and their children. I have long maintained that this popular bit of conventional rhetoric is both irrelevant to the core issues of welfare reform and, equally important, wrong. Irrelevant because the program we know as Aid to Families with Dependent Children (AFDC) is first and foremost a program to aid dependent children. Of the 10.3 million individuals receiving AFDC benefits in 1979, only 3.1 million were adults, 7.2 million were children, 4.2 million of them under the age of 10.

And wrong because for the past 14 years, the AFDC program has included both work incentives and a work requirement. The Social Security Amendments of 1967 established a system of earned income disregards, which allow welfare recipients to realize an economic gain from working. The amendments also established the work incentive program (WIN), which requires able-bodied adult welfare recipients to register for employment and training as a condition of receiving AFDC benefits. In 1979, over 1.5 million welfare recipients were registered for jobs and job training in the WIN program.

But WIN has failed to realize its promise of an end to welfare dependency through development of job skills. More than anything else, this is the result of byzantine and burdensome administrative features that split authority for the program among several State agencies. Were we to improve program administration, the work requirement for welfare recipients would at last augur an end to dependence. It is with this in mind that I join today with my distinguished colleague, Senator DAVID BOREN, in introducing a bill that would allow States to substitute work incentive demonstration programs for the WIN program.

These demonstration programs would synthesize the various work-incentive objectives of the Social Security Act into one comprehensive employment program geared toward placing welfare recipients in unsubsidized private sector jobs. Fed-

eral responsibility for monitoring the demonstration projects would lie within the Department of Health and Human Services. Funds for this purpose would be provided to the States as a block grant, and the States would be free to design programs so that they are commensurate with State needs and resources. The major restriction on the States is that the demonstration programs must be administered by the single State agency charged with administration of the AFDC program.

Quite simply, this bill makes good sense. It markedly improves the work-related component of AFDC, increasing a welfare recipient's chance to gain skills and a job with which to supplement—eventually, to replace—the welfare grant. It is a far better proposal than the so-called “workfare” program proposed by the Reagan administration. It makes a modest but important change that will significantly improve a program of 14 years' standing. We do not need to devote the time and effort of Congress to debate about creating a new work requirement when we can, with this bill, easily transform the current work requirement into a better work requirement. And unlike “workfare,” this bill provides jobs, not make-work. It is a bill that Congress should pass quickly.

But we must remain fully aware that this bill does not address the real issue of welfare reform. AFDC exists in order to keep roofs over the heads, food in the mouths, and clothes on the backs of dependent children. It embodies the response of society to the elemental needs of dependent youngsters. And, despite the importance of encouraging certain types of behavior among adult recipients, changes in AFDC must be evaluated in terms of their impact on the children. It is not a program for adults. That some adults are also supported by it—96 percent of them husbandless women with children—is a consequence of the fact that most dependent children live with one parent.

And the number of these children is growing. According to data that I published in the spring issue of the *Journal of the Institute for Socioeconomic Studies*, approximately one-third of the children being born this year will live in a female-headed household that receives welfare benefits at some time before their 18th birthday. Only 7 percent of the children born in 1940 could expect to spend a portion of their minority in a female-headed household receiving AFDC benefits. Today, it is one child in three. That makes AFDC second only to public education as the Government program with the widest impact on American children.

My article argues for a comprehensive effort at ending the dependency that an alarmingly large percentage of American children will face. I ask unanimous consent that it be printed in the *RECORD*. And I ask that its plea for true welfare reform not go unheeded.

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

CHILDREN AND WELFARE REFORM

(By DANIEL PATRICK MOYNIHAN)

“The first time as tragedy, the second as farce.”¹ Karl Marx's celebrated epigram concerning the two Napoleons could as well apply to the two major efforts at welfare reform which took up sizable portions of presidential energy during the 1970s, but so far as support for dependent children is concerned, came to nothing.

The Family Assistance Plan (FAP), proposed by Richard Nixon in 1969, the first year of his presidency, undertook to substitute a guaranteed annual income for the four welfare programs already established under the Social Security Act: Aid to the Blind, Aid to the Permanently and Totally Disabled, Old Age Assistance, and Aid to Families with Dependent Children. This bill twice passed the House of Representatives by heavy margins.²

In 1973, with the enactment of the Supplemental Security Income (SSI) program, it could be said that three of the four objectives of the proposal were achieved. But this would miss the fact that the driving force behind “welfare reform” as it was universally known, was the idea of establishing a more generous, more uniform, more extensive system of support for children in poor or dependent families.³ The Family Assistance Plan was devised above all to provide a guaranteed income for children and for families with children. In the end, children and families were the only groups excluded.

In 1977, President Jimmy Carter in the first year of his presidency took up the issue once more, proposing the Program for Better Jobs and Income (PBJI). By this point, the Federal bureaucracies and associated academic centers had acquired considerable sophistication with respect to guaranteed income plans. In what for example would appear to be the first such development in social policy, a variety of guaranteed income plans were actually “field tested”. This was inaugurated with the New Jersey Graduated Work Incentive Experiment begun in 1967 under President Johnson. As a result, vast amounts of data were available in 1977.⁴ Thus it came about that in contrast to the small group which was able rather rapidly to put together the Family Assistance Plan for President Nixon in 1969, in 1977 President Carter was able—or was forced?—to turn to a much swollen bureaucratic and academic apparatus. The result was, on the edge, farcical. Committees became so large they met in auditoriums. Starting with presidential instructions that no additional funds should be committed, a program ended up that would have cost the Federal government an additional \$174.4 billion.⁵

“WELL-MEANING BUT WITHOUT UNDERSTANDING”

The PBJI was sent to Congress in September 1977. In my study of FAP, the Politics of a Guaranteed Income, I made the point that a crucial feature of the negative income tax, of which both the Nixon and Carter proposals were variants, is that it is hard to understand. It was not likely that more than a sixth of the Members of Congress could follow just how the proposal before them in 1969–72 actually worked. But by contrast with the Carter proposal, FAP was Euclidean in its clarity. For by mid-decade, the economists had quite taken over the subject with the consequence that Carter's experts produced a proposal that it is not likely 25 persons in Washington actually understood.

Carter's welfare economists are said to have done reputable work in other fields, but when it came to social policy they were bumpkins. They used up almost a year of their president's time on a proposal that the full House Committee on Ways and Means

Footnotes at end of article.

never even considered. In the Senate, I introduced the legislation, but there was little interest and not the least disposition to act until the House had acted. (This is, after all, the constitutionally prescribed sequence of the two tax-writing committees which have jurisdiction over Social Security matters.)

President Carter had devoted extraordinary effort to devising the PBJI. Word was passed that this was a priority matter for his party and his administration and that the Congress would be receptive and the nation supportive, if not indeed impatient for action. In the end, however, a grotesquely swollen and self-deluded policy process failed utterly. Moreover, in the process, it destroyed the prospects of any significant advances. Apart from the relatively modest Adoption Assistance and Child Welfare Act of 1980, the Carter Administration, having expended such efforts on welfare reform—to the scorn of a Democratic Congress and the evident indifference of the public at large—never again mustered its resources or its nerve in the cause of other social policy innovations. It left office after four years, perhaps the first administration since that of Calvin Coolidge that could boast of no significant social legislation. The farcical element, however, was that nothing was going to happen anyway.

THE FAP DEFEAT

By contrast, there had been a tragic element in the loss of FAP, and it was this. The proposal was made at a time of still rising expectations about social reform. While it received acclamation and support, it was also opposed by groups which were of the view that such were the ever-improving prospects for such measures, a still better measure could be enacted. Thus, for example, the National Urban League opposed FAP.⁶

This was an illusion, widely shared, but susceptible of analysis. Only as evidence that a closer look argued otherwise, I observe that on July 1, 1970, I addressed a meeting of the National Urban Coalition in Washington to press for enactment of the Family Assistance Plan that year. The House had voted; the Senate was ready. I stated: “If we don't get it in this Congress, I don't see us getting it in this decade.”⁷

The tragedy then was hubristic. FAP might not have passed in any event, given the opposition of those who thought it was “too much.” But for certain it was opposed by those who thought it was “too little,” and who were overwhelmingly confident that yet more resources could be made available. By the end of the decade, however, the resources available for social programs were already committed elsewhere, and far from having been improved, the levels of support for mothers and dependent children in the land had actually begun to diminish. In the meantime institutional crises such as the near-bankruptcy of New York City in 1975 cast the failed opportunity of FAP in yet another light. Had it been adopted in 1970, welfare costs, strictly defined, would have disappeared from the City's budget. This might have put off the fiscal crisis, and in any event would significantly have hastened recovery from it. Mayor John V. Lindsay sensed this in 1970 and strongly supported the “federalization” of welfare, which was an incidental but not casual aspect of FAP. A decade later, Mayor Edward I. Koch must accept that this is an ever receding prospect. As will be related, serious questions have arisen as to whether a guaranteed income would be desirable social policy. But few would contest that it would have been brilliant urban policy.

This record of failure in the 1970s would not seem to argue well for the 1980s. There has been a sharp retreat from party com-

mitment to welfare reform as it was understood a decade ago. As recently as 1972, the Republican Party urged "uniform Federal payment standards for all welfare recipients" and lauded the Republican administration that had produced the Family Assistance Plan.

The platform adopted at the Republican convention in 1980, however, wanted no part of any such thing. "We categorically reject the notion of a guaranteed annual income, no matter how it may be disguised," said the welfare plank. "We oppose federalizing the welfare system . . ." Senator Robert F. Dole of Kansas, assuming the chairmanship of the Senate Committee on Finance, told the Socioeconomic Newsletter for January 1981 that he "flatly rejects . . . the institution of a guaranteed annual income."

The Democratic platform was at least as ardent as the Republican in 1972, proposing to "end the present welfare system and replace it with an income security program . . ." But by 1980 there was no such reference. In a discursive and largely evasive plank, there was no mention whatever of President Carter's Program for Better Jobs and Income. Instead, the party pledged itself to "continue to work" to extend to all states the "unemployed parent" portion of AFDC, under which two-parent families can in certain circumstances become eligible for welfare benefits, and to raise AFDC minimum payments in some southern and southwestern states. In a word, the routine elaboration of an established program. Not unimportant, but most emphatically not new.

The 1980 election seemed anything but a mandate for new social programs, more likely otherwise. Before taking office, a memorandum from then Representative David A. Stockman, who became President Reagan's Director of the Office of Management and Budget, suggested that the routine political rhetoric of getting rid of government "waste" or "fraud" would "hardly make a dent in the true problem"; that if the budget were to be reduced, more drastic steps, including cuts in entitlements and other programs, would have to be undertaken.⁹ An editorial in *The Washington Post* noted that while only 1.3 percent of the Federal budget goes to programs that "most people mean by 'welfare,'" they had become the subject of such public indignation "that it would almost be worth cutting them out entirely in order to be rid of this convenient scapegoat . . ."¹⁰

What prospects for change do exist are implied in the *Post's* caveat to its own modest proposal:

"It would be well to eliminate welfare altogether were it not for the likely disastrous effect on the lives of some seven million children, effects we somehow doubt anyone would really relish."¹⁰

That is the essential point: the lives of children are involved. Few seem to grasp how many.

Some 20 years ago, as head of the newly formed policy planning staff of the U.S. Department of Labor, I began a series of statistical investigations seeking to establish the social costs of unemployment. This had been the subject of some enquiry during the 1930s, but had receded before the conceptual power of the Gross National Product and its measurement of costs and benefits in direct economic terms.

BIRTH OF THE "WELFARE CLASS"

Early on, I felt I was on to something. A considerable range of social indicators, especially among Black Americans, a group with

a high rate of unemployment, could be shown to relate to unemployment. Especially when the indicators were lagged—for example, dropping "Married Woman, Husband Absent" back nine months or a year, and comparing this with Male Unemployment—quite astonishing correlations could be shown. Going back in time, a singularly powerful correlation could be shown between male unemployment rates and new AFDC cases. But this persisted only into the late 1950s, when of a sudden the correlation began to weaken. Then in the early 1960s, it disappeared altogether, becoming sharply negative. This is to say that for most of the postwar period (when unemployment data became available) until the close of the 1950s, whenever male unemployment rose, the number of new AFDC cases rose also. When unemployment dropped, the number of new cases dropped. (In this "model," I assumed that unemployment was the moon and AFDC the tide; in logic it could be the reverse, but to govern, as President Kennedy said, is to choose.)

Then this relation disappeared. Unemployment went down, and AFDC up. When I finally sent this data to President Lyndon B. Johnson, the negative relationship had existed for only two years, 1962-64. But this had been preceded by four years in which the positive relationship had steadily weakened. My hypothesis that employment and unemployment in the very near term controlled social dispositions was seemingly disproved. Something else was going on. And so I put it to the president that the society was entering a welfare crisis.

My data, subsequently published in *Daedalus*, the journal of the American Academy of Arts and Sciences, and in *The Annals of the American Academy of Political and Social Science* have not to my knowledge been disputed by social scientists.¹¹ The findings, of course, gave rise to intense controversy, but this turned on the presumed implications of the data. The data themselves have never been challenged.

As it happens, a number of scholars have in recent years returned to this subject and have confirmed my projections. Writing in the Summer 1980 edition of *The Wilson Quarterly*, Graham B. Spanier sums up: "That general prediction has proven correct. . ."¹² What some statisticians have called "Moynihan's Scissors"—the sudden crossing of the curves—accurately forecast a major social development of the subsequent 15 years.

Data make a difference. Ours is scarcely a purely rational society, and anything but conflict-free. But we are, in the main, a well-intentioned society, capable of learning. The great welfare initiatives of the 1960s and 1970s arose as much as anything from data demonstrating the need for change.¹³

IMPACT ON CHILDREN

I make this point by way of introducing a new body of data which argues that however much the impulse may have faltered, the need for change is as great as ever. The data may be summarized as follows:

1. It appears that one-half of the children now being born are likely to live in female-headed households at some point prior to their 18th birthday. This includes 40 percent of majority children and 75 percent of minority children.
2. Two-thirds of female-headed households with children now receive AFDC payments.
3. Before their 18th birthday, one-third of all children now being born are likely to live in a female-headed household receiving AFDC payments.¹⁴

Year	Percentage of children born that year likely to reside in female-headed households prior to age 18	Average annual percentage of female-headed households with children receiving AFDC	Percentage of all children born that year likely to live in female-headed households receiving AFDC, prior to the 18th birthday
1940	31	23	7
1950	33	52	17
1960	35	64	22
1965	37	70	26
1970	40	78	31
1975	45	74	33
1978	48	67	32
1979	50	NA	NA

I wish to be explicit that these data do not in any way bear on the subject of whether the existing welfare system leads to family breakup. To my knowledge there is no evidence one way or another for this proposition and never has been. If the absence of research on a subject about which every other president and every secretary of Health, Education and Welfare in the modern age has confidently expounded uniform convictions is surprising, it should be understood as a characteristic of the present system. Some years ago, Lee Rainwater pointed to a tendency of professionals in social welfare to "protect the good name of the poor and disadvantaged by discouraging, even obstructing certain kinds of research."¹⁵ At minimum it might have been supposed that of the hundreds of millions of dollars spent on research by HEW (now Health and Human Services) some effort would have been made to calculate the rates set forth in the table seen on page 8. None has.

CHANGING WELFARE POPULATION

On the other hand, it may be said that these data are consistent with current observations and projections concerning the nature and extent of poverty in the United States. Although the two are not the same, poverty is increasingly a problem of dependency; they commence now to intersect. In 1976, for the first time, the number of poor living in female-headed families surpassed the number of poor in male-headed families.¹⁶ In its 1980 report to the president, an annual feature of the Economic Opportunity Act of 1964, the National Advisory Council on Economic Opportunity stated:

"All other things being equal, if the proportion of the poor who are in female-headed families were to increase at the same rate as it did from 1967 to 1977, the poverty population would be composed solely of women and their children by about the year 2000."¹⁷

This is a bold forecast, beyond the range of the present data. It assumes that a rate of increase that existed in one decade will persist for 23 more years. While it seems implausible that the entire "poverty population" would ever consist of persons living in female-headed families—the proportion of female-headed family persons within the total poverty population rose to 53 percent in 1978, but slipped back to 52 percent in 1979—certainly the same kinds of developments that raised the proportion from 38.1 percent to 51.0 percent in ten years could raise it considerably further by the end of the century.

Again, this must be allowed to be a condition especially pronounced among minority groups. Dr. Robert B. Hill of the National Urban League writes in his chapter on

Footnotes at end of article.

"Black Families in the 1970" in "The State of Black America 1980":

While the number of poor white families declined by two percent . . . between 1969 and 1978, the number of poor Black families rose by 19 percent . . . Because of the sharp rise in the number of Black families headed by women, they accounted for all of the increase in the number of poor Black families over the decade. While the number of poor Black families headed by men fell by 34 percent . . . between 1969 and 1978, the number of poor Black families headed by women soared by 64 percent.¹⁸

PERILOUS PROSPECT

In sum, more and more children will spend some or all of their early years in female-headed households. Most of these youngsters will be on welfare at some point. But not all will receive public assistance. Some will not need it. Others will need it, but will not satisfy the complex and uneven requirements of the various states and hence will not get it.

The social consequences of a childhood spent with only one parent extend beyond issues of welfare policy. Consider the report on "One-Parent Children in the Schools," related by the National Association of Elementary School Principals on July 28, 1980.¹⁹

One-parent children, on the whole, show lower achievement in school than their two-parent peers . . . Among all two-parent children, 30 percent were ranked as high achievers, compared to only 17 percent of one-parent children. At the other end of the scale, the situation is reversed. Only 24 percent of two-parent children were low achievers—while fully 40 percent of the one-parent children fell in that category.

There are more clinic visits among one-parent students. And their absence rate runs far higher than for students with two parents, with one-parent students losing about eight days more over the course of the year.

One-parent students are consistently more likely to be late, truant, and subject to disciplinary action by every criterion we examined, and at both the elementary and secondary levels . . . one-parent children are more than twice as likely as two-parent children to give up on school altogether.

In terms of group relations, such research findings augur continuing anguish. For there can be, there is, no equality among groups without some equivalence of social structure, for good or ill. This is a judgment, to be sure, but I hold to it.

What are the prospects for changes that might lead to improvements? Let it be said at the outset that there is less prospect in the 1980s for a guaranteed income, in the sense of a universal program available to dependent and non-dependent alike, than there was in the 1970s. The Democratic party, when in control of both the presidency and the Congress, could not enact one. The Republican party, now in control of the presidency and one house of the Congress, is adamantly opposed. Just as importantly, the results of the negative income tax experiments begun in the 1960s have been anything but reassuring with respect to the effect on social structure. Simply stated, there appears to have been more breakup among those families receiving a guaranteed income than among those that did not.²⁰

George Gilder, in his stimulating book, "Wealth and Poverty," ascribes to me a measure of blame for having set us off in this policy direction, which I accept. He notes that my "preferred policy was always child allowances," but I urged the guaranteed income scheme on the new administration in 1969 because I thought it would be more politically appealing. He writes, "The result was a lost decade of initiatives of little political appeal or objective validity."²¹

Footnotes at end of article.

This is a view that might reasonably be shared by Dr. Martin Anderson, who took part in the deliberations concerning the Family Assistance Plan of 1969 and returned to Washington in 1981 as Senior Advisor to President Ronald W. Reagan. In his own book, "Welfare," Anderson argues that one lesson to be drawn from our recent experience is that "Radical welfare reform or any variety of a guaranteed income is politically impossible" for no such "plan can be devised that will simultaneously yield minimum levels of welfare benefits, financial incentives to work, and an overall cost to the taxpayers that are politically acceptable."²²

HAS THE WAR ON POVERTY BEEN WON?

It is also Dr. Anderson's view, however, that "radical" welfare reform is unnecessary. He contends that 'the war on poverty' that began in 1964 has been largely successful. "The growth of jobs and income in the private economy, combined with an explosive increase in government spending for welfare and income transfer programs, has virtually eliminated poverty in the United States."²³ He urges that future reform efforts be directed to increasing efficiency, decreasing "fraud," enforcing a "fair, clear work requirement" and shifting more responsibility for policy and administration from Washington to state and local governments.

Dr. Anderson's proposals are based on the stated assumption that "There is no way that the Congress, at least in the near future, is going to pass any kind of welfare reform that actually reduces payments for millions of welfare recipients" and that even if Congress were to pass such a bill "no president could resist vetoing" it.²⁴

But surely there is an elemental case for maintaining the existing level of benefits. Whether they be "high" or "low," there is no case for making them lower. Yet this is what the decade did. Not by act of Congress, to be sure, nor with explicit presidential sanction, but by inaction, by failure at both the national and state levels to maintain the purchasing power of welfare benefits.

INFLATIONARY EROSION

In February 1980, the Subcommittee on Public Assistance of the Senate Finance Committee held hearings on this matter. Data compiled by the Department of Health and Human Services were presented and analyzed by government officials and expert outside witnesses. It was shown that the average monthly AFDC benefit paid to families rose from \$171 in 1969 to \$272 in 1980. In constant dollars, however, the average benefit declined by 56 percent during those years.

Taking the 20 states then represented on the Finance Committee as a sample, Professor Leonard Hausman of Brandeis University pointed out that 12 had experienced benefit declines between 1973 and 1978. In Georgia, the decline was one-third. In Texas, there has been no change since 1969 (save for a temporary \$5 increase in 1979) in the maximum benefit payable to a family of four with no other income. That payment of \$140 a month—an annual income of \$1,680—today buys less than half what it bought 11 years ago.²⁵

In New York State, always so self-congratulatory in these matters, the basic allowance (exclusive of shelter) for a family of four was set at \$258 in 1974. At the outset of 1981 it remained \$258 although consumer prices increased 64 percent in that period.²⁶ To buy the same amount of food and clothing that could be purchased with \$258 seven years ago would require \$428 in 1981.²⁷

The result is that in New York City today we find the paradox of the nation's largest welfare caseload, daily erosion of the real benefits paid to those hundreds of thousands of children, and a city in fiscal difficulty that, under the present arrangements, would nevertheless have to come up with a

full quarter of the additional monies needed to provide any increase at all.

This suggests the fundamental difference in the context of welfare reform efforts today, as against a decade ago. In 1970, it was reasonable to point to states such as New York, that had striven for an adequate standard of common provision for their dependent populations, as the standard toward which other states and regions should be moved by the Federal government.

Today the so-called "high benefit states" can seemingly no longer afford to maintain those benefits. It is, therefore, no longer satisfactory to speak of welfare reform only in terms of increasing payments in a dozen southern and southwestern states (though they are low, and raising them remains an essential element). Nor is it any longer acceptable to design proposals that would transfer more resources out of weakening economies such as those of the northeastern industrial states and into the economies of ever more prosperous regions.

The AFDC program is caught in a fiscal trap. Because it is not "indexed," whilst every other Federal income maintenance program of any consequence is indexed, whatever additional Federal revenues are allotted to what we now call "Budget Function 600, Income Maintenance," are needed to pay for automatic increases in the indexed programs.

SHRINKING AFDC

The Federal budget grew from \$400 billion in fiscal 1976 to \$637 billion in fiscal 1981. One would suppose a few social initiatives could be squeezed out of an additional \$237 billion. Or at least that needy children could be spared the full burden of inflation. But they have not been. "Uncontrollables" account for more than 70 percent of the entire increase in Federal outlays since 1977, and for almost 90 cents of every dollar of increased social spending. As a percent of the Federal budget, outlays for AFDC have shrunk from 1.6 percent in fiscal 1973 to 1.4 percent in fiscal 1977 to 1.1 percent in fiscal 1980.

It may be observed that the "new" Congressional budget process, something much favored in the early 1970s by reform groups, has had consequences not anticipated at the time. Frank C. Ballance of the Carnegie Endowment for International Peace observed in 1980 that "The Budget Act, a well-intentioned reform for Congressional reconciliation of revenues and expenditures, has spawned a time-consuming and complex budget process and forces accommodation in a way that has the greatest impact on the weakest programs."²⁸

BLOCK GRANTS TO STATES

The Republican Administration came to office in 1981 pledged to cut the budget, to reduce taxes, and to transfer responsibility for welfare back to the states in the form of "block grants."

The latter phrase implies two quite ideas. The first is fiscal: Washington will replace its system of open-ended "matching payments" (under which it now reimburses states from 50 to 83 cents, according to a formula, of each dollar they expend on AFDC) with a specified sum provided to each state every year in the form of a "Federal contribution" to the costs of welfare. If the state spends more, it must use its own money. If it spends less, it can keep the remainder.

The second idea concerns program policy: in place of a federally designed and essentially national program (albeit with certain state variations, such as maximum benefit levels) that embodies a long list of "protections" for recipients with earnings, that prescribes the rate at which benefits are to be reduced for recipients with earnings, that bars requiring recipients to work in return for their benefits, and that makes other benefits (such as Medicaid) automatic, a

block grant program would empower the states to make these and other such policy decisions.

The first of these propositions—to replace open-ended "matching payments" from the Federal government—has considerable appeal. Senators Alan Cranston, Russell B. Long and I proposed a variation of it in 1978, after the Carter proposal had died and when it looked as if nothing at all were going to happen. (In the end, of course, nothing did.) That bill, however, would not have removed the recipient protections contained in the Social Security Act. It would merely have altered the fiscal arrangements from a reimbursement scheme to an annual Federal "contribution" that would increase as the cost of living (and the unemployment level) rose. The point was both to provide some immediate fiscal relief to state and local governments and to make it possible for them to insulate welfare recipients from the deprivations of inflation.

Erasure of the national standards for AFDC as put forward in the second proposition raises the most profound questions about the relationship between the Federal government and the millions of dependent American children in one-parent households.

Either the nation does have a responsibility for the welfare of these children, or it does not. I hold to the belief that it does, and that it cannot renounce that responsibility in the name of "reform."

AIM: TO AID CHILDREN

AFDC is a program for aiding dependent children. That it incidentally aids their mothers—and a handful of fathers—is beside the point. I have little patience with welfare reform "debates" that hinge on the question of whether a given proposal will or will not increase the "incentive" for adults to "work." A woman with two or three or four young children and no husband ordinarily cannot work, at least not without elaborate (and expensive) day care arrangements. AFDC is not a program to subsidize leisure; it is a program to enable a hard-pressed woman to keep a room over the heads, clothes on the backs, and food in the mouths of her children.

Providing such aid has been a responsibility of the Federal government since 1935. It is a basic component of our national arrangements for common provision, as embodied in the Social Security Act. It is as basic as benefits for the elderly, for the unemployed and for the disabled. It is the proper task of the national government.

Any number of specific administrative arrangements can be devised for fulfilling that responsibility. Myriad fiscal mechanisms can be imagined. Some could take the form of "block grants" to states. Others, in the manner of Supplemental Security Income, would be entirely national. These are details, and while they are often intricate and always important, they matter less than the criterion by which their desirability will be measured. And the essential criterion is simplicity itself: will a given arrangement provide a better life for the children affected by it?

There is this central fact. An astonishingly large and evidently still increasing proportion of American children grow up in circumstances that significantly impair their prospects in life. This increase was foreseen. Nothing was done to prevent it. Or in any case, nothing did. To accept it as normal would be indifference to pain. Worse, the problem is now so extensive that to allow it to persist without a sustained effort to reverse it would constitute an indifference to the well being, even the security of the nation itself. In 1969 a new Republican administration showed far greater boldness in this matter than had its Democratic predecessor. Is it possible that history will repeat itself?

TECHNICAL NOTE

The data in the Table were calculated by:
(1) Estimating the percentage of babies born in a given year who are likely to reside in a female-headed household before turning 18.

(2) By calculating the average percentage of female-headed households with children under 18 who receive AFDC during a 15-year period including and following the child's year of birth; and

(3) By multiplying the results of the above computations in order to estimate the percentage of all children born in that given year likely to receive AFDC at some point in their minority.

Data were calculated for 1940, 1950, 1960, 1965, 1970, 1975 and 1978. For the more recent years, when the 15-year average used in step (2) is unobtainable (i.e., 1965, 1970, 1975, 1978), we instead averaged over the longest period of time for which data are available the annual percentage of female-headed households with children under 18 receiving AFDC.

(A) The methodology for estimating the percentage of babies born in a given year likely to reside in a single-parent household before reaching their majority was developed by Arthur J. Norton, Assistant Chief of the Population Division, Bureau of Census, Department of Commerce. His methodology, which is based on a consideration of trends in premarital births, divorce, long-term separation and death, was adapted to apply only to female parents. The following is a step-by-step description of the computations.

(1) Premarital births.—To find the percentage of babies born out of wedlock that will live in a female-headed household for at least one year following birth, the illegitimacy ratio for a given year was multiplied by the percentage of illegitimate babies retained by their mothers, then by the percentage of mothers who remained unmarried for at least one year following childbirth. Norton estimated that 90 percent of premaritally born children are retained by their mothers, and that this has held true over the past 40 years.

(2) Divorce.—We reduced the original cohort of babies by the result of Calculation (1), and multiplied the reduced cohort by the estimated percentage of first marriages of young adults likely to end in divorce. As this estimate is upwardly influenced by persons who had borne a child before marriage and by childless couples, we reduced the figure by four percent. James McCarthy of Princeton University's Office of Population Research developed a methodology for estimating and supplied estimates of the percentage of first marriages of young adults likely to end in divorce (McCarthy, "A Comparison of the Probability of the Dissolution of First and Second Marriages," *Demography*, Vol. 15, No. 3, August 1978, 345-359). Note that this figure will not account for children born to young women with husbands or for babies born to older women (over 45).

(3) Separation.—We obtained estimated percentages of long-term separations which either end in reconciliation or last indefinitely.

(4) Death of male parent.—We subtracted the results of Calculations (2) and (3) from the reduced cohort of babies to find the number of babies expected to live in a two-parent home except in case of death of a parent. For each year, we obtained estimates of the percentage of male parents who died while their children were under 18, then multiplied this figure by the remaining pool of babies. Charles Westoff of Princeton's Office of Population Research calculated our estimates of parental deaths according to Norton's methodology. He used a life table to estimate the survival rate of men at 28

years (the average age of childbearing women is 26, and the average husband is two years older than his wife). As life tables are not stratified by marital status, he reduced the percentage of non-survivors by 20 percent on the assumption that married persons have a somewhat greater longevity than non-married persons.

(5) Final Results.—We added the results of Calculations (1) through (4) to obtain an estimate of the percentage of babies born in that year likely to reside in a female-headed household before their 18th birthday.

(B) To find the average percentage of female-headed households with children receiving AFDC over a 15-year (or other period) of time, we divided the average number of female-headed households receiving AFDC in each year of that time period by the average of female-headed households with children in each year of that same period. To estimate the percentage of all children born in a given year likely to receive AFDC before their 18th birthday, we multiplied the results of Calculation (A) by the results of Calculation (B).

FOOTNOTES

¹ Karl Marx, "The Eighteenth Brumaire of Louis Bonaparte" (New York: International Publishers), 1963, p. 15.

² FAP passed the House of Representatives as H.R. 16311 on April 16, 1970, and again as part of H.R. 1, the Social Security Amendments of 1971, on June 22, 1971.

³ For a general history of this legislation, see M. Kenneth Bowler, "The Nixon Guaranteed Income Proposal: Substance and Process in Policy Change" (Cambridge, Mass.: Ballinger), 1974; Vincent J. and Vee Burke, "Nixon's Good Deed: Welfare Reform" (New York: Columbia University Press), 1974; Moynihan, "The Politics of a Guaranteed Income: The Nixon Administration and the Family Assistance Plan" (New York: Random House), 1973.

⁴ For example, see John F. Cogan, "Negative Income Taxation and Labor Supply: New Evidence from the New Jersey-Pennsylvania Experiment" (Santa Monica, Calif.: Rand Corporation, February 1978); and U.S. Department of Health, Education and Welfare, "Summary Report: New Jersey Graduated Work Incentive Experiment," December 1973.

⁵ Congress Budget Office, "The Administration's Welfare Reform Proposal: An Analysis of the Program for Better Jobs and Incomes," April 1978, p. 40.

⁶ See statement of Vernon E. Jordan, Jr., Executive Director, National Urban League, in United States Senate, Committee on Finance, Social Security Amendments of 1971, Hearing on H.R. 1 (FAP), 92nd Congress, First and Second Sessions, vol. 4, pp. 2210-2220.

⁷ Statement before the National Urban Coalition Action Council, July 1, 1970, cited in *The Washington Post*, July 2, 1970.

⁸ *The Washington Post*, December 14, 1980.

⁹ *The Washington Post*, December 22, 1980.

¹⁰ *The Washington Post*, December 22, 1980.

¹¹ Daniel Patrick Moynihan, "Employment, Income and the Ordeal of the American Negro," *Daedalus*, Fall 1965, pp. 745-770; "Urban Conditions: General," *The Annals of the American Academy of Political and Social Science*, May 1967, pp. 159-177.

¹² Graham B. Spanier, "Outsiders Looking In" *The Wilson Quarterly*, Summer 1980, p. 130.

¹³ See President Johnson's March 16, 1964 message to Congress, declaring the "War on Poverty," and submitting the Economic Opportunity Act of 1964, 88th Congress, Second Session, Document No. 243. In his message, President Johnson speaks to the needs of the "... millions of Americans—one-fifth of our people—who have not shared in the abundance which has been granted to most of us,

and on whom the gates of opportunity have been closed" (p. 1).

¹⁴ For an explanation of the methodology used in these calculations, see technical footnote following text.

¹⁵ Lee Rainwater and William L. Yancey, *The Moynihan Report and the Politics of Controversy* (Cambridge, Mass.: The MIT Press, 1967), p. 176.

¹⁶ Bureau of the Census, *Current Population Reports*, Series p-60, No. 120, Table 18.

¹⁷ National Advisory Council on Economic Opportunity, "Twelfth Report to the President: Critical Choices for the 80s," August 1980, p. 19.

¹⁸ Robert B. Hill, "Black Families in the 70s," *The State of Black America 1980*, National Urban League, Jan. 22, 1980, p. 43.

¹⁹ *The Most Significant Minority: One-Parent Children in the Schools: First Year Report of a Longitudinal Study of School Needs of Children from One-Parent Families*, Co-sponsored by the National Association of Elementary School Principals and The Institute for Development of Educational Activities, a division of the Charles F. Kettering Foundation (Arlington, Va., July 28, 1980).

²⁰ Evidence from the Seattle/Denver Income Maintenance Experiment indicates that—

"For whites . . . 13.6 percent of the control group and 18.5 percent of the experimental group's marriages had dissolved within 2½ years—an increase of 36 percent. Among black families, 19.1 percent of the control group and 27 percent of the experimental group's marriages had dissolved within 2½ years, a 42 percent increase." (John Bishop, "Jobs, Cash Transfers, and Marital Instability: A Review and Synthesis of the Evidence," *Journal of Human Resources*, Summer 1980, p. 312.)

For further information on the effects of a guaranteed income on marriage dissolution see *Welfare Reform and Experimentation*, U.S. Senate Committee on Finance, Subcommittee on Public Assistance, Nov. 15, 16, 17, 1978; see also Nancy Brandon Tuma, Michael T. Hannan and Lyle P. Groeneveld, "Dynamic Analysis of Marital Stability," Center for the Study of Welfare Policy, Research Memorandum 58, Revised September 1978; and "Income and Independence Effects of Marital Dissolution: Results from the First Three Years of SIME/DIME," Center for the Study of Welfare Policy, Research Memorandum 63, July 1979.

²¹ George Gilder, *Wealth and Poverty* (New York: Basic Books, 1981), p. 126.

²² Martin Anderson, *Welfare: The Political Economy of Welfare Reform in the United States* (Palo Alto, Calif.: Hoover Institution Press, Stanford University, 1978), p. 133.

²³ *Ibid.*, p. 15.

²⁴ *Ibid.*, p. 136.

²⁵ Statement by Leonard Hausman, "How to Think About Welfare Reform in the 1980s," testimony delivered February 6, 1980, before the United States Senate, Committee on Finance, Subcommittee on Public Assistance, pp. 183-184.

²⁶ The prognosis for a rise in New York's welfare benefits seems to be improving. In his State of the State message on January 7, 1981, Governor Hugh L. Carey proposed a ten-percent increase per year for the next two years in AFDC benefit payments. The New York State Assembly passed a ten-percent increase in their 1980 session, but this measure was not approved by the State Senate. However, a *New York Times* article of December 31, 1980 details State Senate Majority Leader Warren Anderson's support for a 15-percent increase in AFDC payments. I am hopeful the state will finally enact a rise in welfare benefit levels this legislative session.

²⁷ Food Stamp benefits have increased, to be sure, and there are wholly paid for by the

Federal government. Medicaid payments have increased as well. And New York's AFDC shelter allowance has risen somewhat, also. But Food Stamps cannot be used to pay the heating bill or to buy winter shoes. Thirty-six percent of New York City's welfare recipients must pay more for housing than the "shelter allowance" provides. And, as *The New York Times* pointed out on December 6, 1980, those who receive more in Medicaid benefits are sicker, not richer, than those who do not. See Dr. Blanche Bernstein, letter to the editor, *The New York Times*, November 29, 1980, and editorial rejoinder, December 6, 1980.

²⁸ Frank C. Ballance, "A Built-In Weakness," *The New York Times*, July 23, 1980.

By Mr. NUNN (for himself, Mr. HUDDLESTON, Mr. BUMPERS, Mr. BAUCUS, Mr. LEVIN, Mr. DIXON, and Mr. PRYOR):

S. 987. A bill to amend the Small Business Act; to the Committee on Small Business.

SBA DISASTER REGULATIONS

● Mr. NUNN. Mr. President, for myself and six other Members, I am introducing legislation which would prohibit the Small Business Administration from retroactively implementing their emergency disaster regulations for disasters which have already commenced. The change is necessary to permit Congress to review the entire range of disaster assistance options which we have available to us, and to insure that all disaster victims are equitably treated.

Unfortunately, the Administration is trying to address short-term problems in the SBA disaster program through sweeping revisions to their regulations. Currently, the disaster loan fund has a potential shortfall, in part because of the Administration's decision to withdraw an almost routine supplemental funding request, and in part because of the large number of farm-related disaster applicants that—for a short time longer—have residual eligibility for assistance from the Small Business Administration rather than having to seek that assistance from the Farmers Home Administration.

On March 19, 1981, SBA issued emergency and final regulations making significant changes in both the eligibility and benefits for disaster assistance. The changes are immediately applicable to approximately \$1.1 billion in disaster loan applications which have already been received by SBA, but which SBA has not yet "approved." The changes will also apply to new applications which will be submitted for previously declared disasters, and to any future declared disasters.

Under these regulations, at least with respect to certain business borrowers, SBA has administratively imposed a creditworthiness test as a condition of eligibility for assistance—in contravention of clearly existing statutory provisions in Public Law 96-302 which utilize the credit test solely as a determination of interest rates to be charged borrowers.

Furthermore, business applicants who have not yet received approval for their loans will be limited to a maximum of 60 percent of their actual, uninsured loss. Under existing law, eligible applicants

are able to receive 100 percent of their actual, uninsured loss.

Finally, SBA has administratively changed the threshold criterion for determinations of when a disaster is to be "declared."

During two hearings of the Small Business Committee, one on the SBA budget revisions on March 13 and the other the confirmation hearings of the SBA Administrator on March 23, many of us raised questions about the legality of some of the agency's regulatory actions, the impact of the changes on current disaster applicants, and the future design of the Small Business Administration's disaster assistance program.

One of the key issues Congress must address is equality for borrowers—equality between the Small Business Administration and the Farmers Home Administration in the access to, and benefits for, farm and nonfarm businesses; and equality between borrowers affected by the same disaster, but for which the benefits now available may differ because of the processing time by Small Business Administration personnel.

The purpose of this legislation is twofold: First, to insure that disaster victims are treated equally; and second, to reschedule prospectively the application of the changed regulations so that Congress has an opportunity to fully review the legislative proposals that have been submitted by the Department of Agriculture and the Small Business Administration and to determine the appropriate scope, if any, of Federal disaster relief.

As the ranking Democratic member of the Small Business Committee, I am well aware of some of the problems and complaints that have been raised about the Federal Government's disaster relief role. Last year, in response to some of those justified complaints, Congress adopted legislation to require that farm businesses seek disaster assistance from the Farmers Home Administration. A credit test for businesses to be used as a determinant of interest rates to be charged was added. A ceiling of \$500,000 on the total benefits that could be received by a single borrower from any one disaster was included. Finally, the formula for determining the interest charges was changed to bring the rate in line with the Government's cost of borrowing.

I will also be proposing additional specific program recommendations within the context of the Small Business Committee's comprehensive review of the Small Business Administration's disaster program.

In light of the Senate's adoption of Senate Concurrent Resolution 9, the budget reconciliation resolution, and the direction that committees immediately begin work on meeting those instructions, all Democratic members of the Small Business Committee wrote Chairman WEICKER requesting that hearings be held at the earliest possible time, focusing on the March 19 regulations and the legislative proposals submitted by the administration on March 25. I am confident that the committee, and the Congress, can quickly agree on a comprehensive disaster plan which takes

into consideration the needs of all disaster victims, the basic requirements of equality, and concerns for fiscal and budgetary restraint.

Mr. President, I ask unanimous consent that the letter from the Democratic members of the Small Business Committee to Chairman WEICKER requesting hearings, and the text of the bill, be printed in the RECORD.

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

S. 987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7 (c) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(4) With respect to a disaster which commenced on or before March 19, 1981, any application for assistance under paragraph (1), (2), or (4) of subsection (b) shall be acted upon by the Administration under the rules and regulations in effect on the date the disaster commenced."

COMMITTEE ON SMALL BUSINESS,

Washington, D.C., April 3, 1981.

Hon. LOWELL WEICKER, Jr.,
Chairman, Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On March 19, 1981, SBA issued emergency and final regulations making significant changes in both the eligibility and benefits for disaster assistance. During two of our Committee hearings, one on March 13, with SBA Acting Administrator Roger Jones, and the other on March 23 at the confirmation of Michael Cardenas, many of us raised serious questions about the legality of some of the actions, the impact of the regulatory changes on current applicants, and the implications for future disaster aid.

During the Senate's consideration of S. Con. Res. 9, the Budget Reconciliation resolution, Senator Levin requested, and you agreed, to schedule full Committee hearings on this, and other, disaster matters. In light of the Senate's adoption of S. Con. Res. 9, and the direction that committees immediately begin work on meeting those instructions, we jointly request that hearings be held on this important issue at the earliest possible time. In addition to focusing on the March 19, 1981 SBA regulations, we believe it prudent to begin reviewing the policies and specifics of the SBA and the Department of Agriculture proposed legislation transmitted to the Congress on March 25, 1981.

Your immediate attention to this request is greatly appreciated. If you or your staff have any questions, please do not hesitate to contact us, or Alan Chvotkin, chief counsel to the minority.

Sincerely,

Sam Nunn, Ranking Minority Member;
Dale Bumpers, Max Baucus, Paul Tsongas, Walter D. Huddleston, James Sasser, Carl Levin, Alan Dixon. ●

● Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor the legislation of the ranking Democratic member of the Small Business Committee, Mr. NUNN. I believe it is important that Congress again carefully, but quickly, address the appropriate Federal role for aiding disaster victims.

Yesterday, the legislative proposals requested by the Department of Agriculture and the Small Business Administration were introduced in the Senate and jointly referred to the Committees on Agriculture and Small Business. As the ranking

Democratic member of the Agriculture Committee, and a member of the Small Business Committee, I am well aware of the Federal Government's history of aiding business disaster victims at both the Farmers Home Administration and the Small Business Administration.

Last year, in Public Laws 96-302 and 96-438, Congress and the administration agreed on, and adopted, a comprehensive disaster assistance package. I am confident that we can reach agreement on these new proposals, as well. However, until we have an opportunity to complete the congressional review of the full range of options available to us, the legislation which I am cosponsoring today will put a hold on SBA's narrowly based, administrative efforts. ●

● Mr. BUMBERS. Mr. President, I am pleased to cosponsor the bill introduced by the Senator from Georgia, Mr. NUNN, concerning the disaster loan program of the Small Business Administration. This bill will correct an injustice that has occurred as a result of actions recently taken by the SBA to restrict disaster loans. The actions of the SBA have placed many farmers in my State of Arkansas in a severe financial situation and, unless this or comparable legislation is passed, many of them will go out of business.

Mr. President, last summer the State of Arkansas was devastated by the worst drought I can remember. Total agricultural losses approached \$1 billion and, since agriculture is such a vital industry in my State, the result has been devastating. From June 2, 1980, to July 20, 1980, we received only 0.7 inch of rain in Arkansas. This was only 12 percent of normal. At the same time, Mr. President, Arkansas was experiencing temperatures in excess of 100 degrees on virtually every day.

The need for adequate disaster assistance was evident last summer and fall and, after the harvest, the losses mounted as the farmers of my State found their yields at historically low levels. The demand on existing disaster lending programs has been incredible and long delays have resulted. Many farmers sought assistance from the Farmers Home Administration and about 3,500 Arkansas farmers applied for disaster relief from the Small Business Administration.

I know, Mr. President, that there has been a long debate in this body over whether or not the SBA should be making farm disaster loans. That issue was settled last summer when we passed Public Law 96-302 which effectively removes SBA from farm disaster lending by requiring that farmers go to the Farmers Home Administration for disaster assistance first. However, the changes made in Public Law 96-302 do not apply to disasters which commenced on or before July 3, 1980, and the drought which plagued much of the Nation started prior to that time. Therefore, SBA is involved in making disaster loans to farmers as a result of last summer's drought.

When the 3,500 farmers of my State applied for disaster loans from SBA after the harvest last fall they were

relying upon the law, regulation, and statements made by SBA personnel that they were eligible for SBA assistance. However, on March 10, 1981, further disaster lending by the SBA was stopped and, on March 19, 1981, new regulations were issued covering disaster lending by SBA. The new regulations impose a "credit elsewhere" test on applicants and, also, place a limitation on the amount an applicant can receive of 60 percent of his actual loss. Both of these requirements were not in the regulations when the farmers of Arkansas and other drought-stricken States submitted their applications.

Due to the freeze imposed on March 10, 1981, and the new regulations which were issued, several hundred farmers in Arkansas will be denied any disaster assistance from the Federal Government while others who suffered from the same drought have gotten disaster loans simply because their applications were processed prior to the March 10 changes.

The changes made by the SBA are unfair to those who had applications pending when the changes were made and this bill will correct this result. It provides that those applications pending on March 19, 1981, are to be processed using the regulations in effect when the application was submitted. It will result in all those who had applications pending before the changes were made to be treated in an equitable manner.

I thank my distinguished colleague from Georgia (Mr. NUNN) for introducing this bill and I am pleased to be a cosponsor. ●

● Mr. LEVIN. Mr. President, I am pleased to join Senator NUNN in cosponsoring a bill which will prohibit SBA from retroactively implementing regulations which they issued March 19, 1981, relative to the disaster loan program. These regulations made significant changes in both the eligibility and benefits for disaster assistance. Senator NUNN's bill provides that loan applications received by SBA for disasters which happened on or before March 19 will be acted upon under the rules and regulations which were in effect on the date the disaster commenced.

This is a matter of equity. Under the SBA's new regulations, victims of a disaster may be treated differently depending on how quickly SBA processed a loan application or how long it took an individual to submit the application. Congress did not intend for two persons of similar circumstances to be provided with different benefits under the same program. SBA has administratively imposed a credit elsewhere test for businesses that is different than the one which Congress adopted in the 96th Congress and one which will deny certain businesses loans for which Congress intended them to be eligible; Congress intended the credit test to be utilized solely as a determination of interest to be charged borrowers.

Currently, businesses are able to receive 100 percent of the uninsured loss; the new SBA regulation limits the loan to 60 percent of the uninsured loss. The final major change in the regulations is a change in the definition of the "thresh-

old criterion for determinations of when a disaster is to be "declared."

The adoption of this bill will insure that disaster victims are treated equally. It will commit the Federal Government to fulfill its obligations under the law and assure the 15,000 businesses that have loans in process that fair treatment will be forthcoming from SBA.

Finally, I should mention that the Small Business Committee has recently heard on several occasions what SBA proposes for the disaster program, both in terms of regulations and changes in the law. I expect the committee to consider all changes and we expect to hold hearings on this subject. It is my hope that SBA will refrain from making any substantial changes in the disaster program until the Small Business Committee has had the opportunity to review the program and its budgetary implications. ●

By Mr. LEVIN:

S. 988. A bill to make certain amendments to title 18, United States Code, relating to rights of witnesses appearing before grand juries; to the Committee on the Judiciary.

WITNESS RIGHTS IN GRAND JURY PROCEEDINGS

● Mr. LEVIN. Mr. President, today I am introducing a long-overdue bill to reform the Federal grand jury. I am hopeful that the bill will serve as a stimulus to Members of Congress to carefully examine our grand jury system and I am confident that those who do will recognize the inequities which exist and join me in a revision of some of the laws which govern it.

Grand juries originated through the Assize of Clarendon and had a twofold purpose—to protect citizens from overzealous and malicious prosecution, and to provide the Government with an investigatory mechanism. Hearings held in 1978 on Senator Abourezk's broader grand jury reform bill revealed abuses of power on the part of prosecutors which have transformed the grand jury into what many consider to be a "rubber stamp" of the prosecutor. Those who are called to testify before the grand jury are denied constitutional protections granted to citizens at every other stage of the criminal process.

Since I was attracted to the legal profession because I saw it as a way of dealing with injustice in a rational and effective manner, I am offended when the judicial system contains within it gross injustices, as it does with the grand jury system today. Legal scholars, civil libertarians, representatives of the business community, and others, have all sounded the alarm on the departure of the grand jury from its original design. It is time that the Congress responded to that alarm.

Mr. President, my bill is designed to address the areas which are in the greatest need of immediate reform. First and foremost, the bill would allow witnesses called to testify before the grand jury to be accompanied by an attorney in the grand jury chamber for the purpose of receiving advice and counsel. The right to counsel is now granted under the most

strained and prejudicial of rules. Those persons who do have an attorney may consult with counsel only outside of the physical presence of the grand jury.

A person called to testify before the grand jury is permitted to rise, after each question, and walk outside to consult with his or her attorney and then return to the grand jury room to respond to the question. Needless to say, this process is cumbersome—one witness in my hometown of Detroit left the grand jury room over 1,000 times to consult with counsel. This absurd "luxury" is only available to those who know how to use it and those wealthy enough to pay for attorneys who have had past experience with the grand jury to sit outside of the grand jury room.

In order not to hinder the grand jury procedure or allow it to become a "mini-trial" as some critics of my proposal suggest, the bill limits counsel's role to advisement of the witness—the attorney could not address the prosecutor, the grand jurors, or otherwise take part in the proceedings.

A number of States have adopted rules which allow an attorney to be present and prosecutors in many of these States have indicated to me that no dire consequences flow from having counsel present. The American Bar Association considers reform of the grand jury to permit counsel to accompany witnesses into the chamber to be one of its highest priorities. The plain truth is that the legal risk posed by an appearance before the grand jury, by a subject of the grand jury investigation is as real as the risk present during interrogation or presentation or trial. That risk needs to be recognized in the same way it has been at these other stages of legal proceedings.

My bill would provide for the removal of disruptive counsel, although I suspect this will happen infrequently. Similarly, the problem of "multiple representation" or clients would be overcome by providing that no attorney or firm of attorneys would be permitted to represent more than one witness called before the grand jury.

The bill also includes a section requiring that proper notice of rights be given to witnesses called to testify before a grand jury. Many of these notice requirements have already been included in the Justice Department's guidelines, but there is no real way of knowing whether or not prosecutors have been complying with the guidelines.

The notice of rights section requires that subpoenas to appear before the grand jury be served at least 3 days prior to the date of testimony. Upon service of the subpoena, witnesses must be advised of their right to counsel, their privilege against self-incrimination, the general subject matter of the investigation—the violation which is under consideration by the grand jury—the witnesses rights regarding immunity, and any other rights which the court deems necessary or appropriate. These requirements will not interfere with the legitimate purpose of the grand jury investigation—they are only designed to let witnesses know what their rights are

and what the investigation is generally about before having to appear to testify.

Mr. President, I want to briefly mention some other reform provisions included in the bill which perhaps will help to restore the integrity of the grand jury process. My bill requires that complete records be kept of all grand jury proceedings, other than the grand jury's secret deliberations. Under the supervision of the court, a defendant would be entitled to examine the grand jury transcripts prior to trial. This reform measure is important for two reasons. First, it provides defendants with the information needed to properly prepare for trial and second, it helps to control potential abuse on the part of the prosecutor.

Another serious problem with the existing system is the inability to prevent leaks which can cause drastic and irreparable harm to the person about whom the information is leaked. Without impinging upon first amendment rights, my bill would impose sanctions against the source of the leak in order to preserve the secrecy which is so vital to the integrity of the institution.

I urge a thorough examination of the Federal grand jury system and I am hopeful that hearings will be held in the Judiciary Committee so that we can work together to make needed reforms without further delay. ●

By Mr. LEVIN (for himself, Mr. CRANSTON, Mr. RANDOLPH, and Mr. MOYNIHAN):

S. 989. A bill to amend the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 to provide for a national computerized adoption identification center, and for other purposes; to the Committee on Labor and Human Resources.

ADOPTION IDENTIFICATION ACT OF 1981

● Mr. LEVIN. Mr. President, the issue of a reunion between an adoptee and his or her birth parent(s) is sensitive and touches the hearts of all parties involved. This action must be dealt with care, thoughtfulness, and compassion. Under present conditions, a unilateral search by either the adopted offspring or the birth parent can lead to sudden meetings for which the other parties involved are unprepared.

For some time now I have been touched by the problems of adopted persons who seek, for a number of valid reasons, to learn more about their own history and, in some cases, attempt to make contact with their birth parents or other relatives. The need of these citizens to have access to information which may affect their own health and influence their own family decisions, is clear. But at the same time, I also recognize the feeling of birth parents who choose not to communicate with offspring they relinquished in past life. This delicate balance is one that needs to be maintained. I believe that the proposal I am introducing today along with Senators CRANSTON, RANDOLPH, and MOYNIHAN deals with these emotions in a careful and sensitive way.

My proposal would allow adoptees and

birth parent(s) to communicate if there exists mutual interest in communicating. The bill does not provide for the unsealing of records. I repeat the bill has nothing to do with the unsealing of records. The legislation is designed to avoid "intrusion" into the life or privacy of either party since participation is strictly voluntary.

Additionally, there would be no infringement of State's rights—State participation is not necessary, due to the voluntary nature of the program. No access to State information would be required. The mutual-interest-reunion would be coordinated from a National Clearinghouse location. The anticipated cost of this program is minimal—expected not to exceed \$1 million during first year implementation—and future costs are expected to be far less.

Under my proposal, no action could be taken by the Clearinghouse unless and until both the adoptee and his or her birthparent(s) siblings or other relatives have independently made contact with the Clearinghouse. In other words, communication between the adoptee and his or her birth parent(c), siblings or other natural relatives take place only when both have independently made contact with the Clearinghouse.

Under the provisions of my bill:

First, the program will be a 3-year demonstration/pilot program.

Second, the Secretary of Health and Human Services is authorized to establish by grant to or contract with a public or private nonprofit agency or organization for the voluntary adoption clearinghouse system.

Third, applicants would be assessed a "reasonable" fee for services.

Mr. President, according to the American Law Division of the Library of Congress, there are over 2 million adoptees actively involved in a search for the identity of their birthparents, and a significant number of birthparents are attempting to locate the children they relinquished. There are numerous other individuals who want to make contact with their offspring or biological parent(s) but feel that present laws are such that any effort would be rendered useless. The total number of adoptees in the United States is estimated to be around 5 million. The shortage of infants offered for adoption in recent years has led to the widespread practice of "baby selling," for which there is no official count.

Last year, over a period of 9 months, my staff conducted extensive research, surveying search groups, interviewing individuals of the medical and legal professions, reviewing case studies, and personally screening dozens of adoptive parents and individuals who are searching for, or have located, relatives.

The various studies reviewed during this research revealed some startling and significant facts. A preliminary Los Angeles study determined that 82 percent of the birthparents they surveyed wanted reunion with their adopted children when grown, if the offspring so desired. Fifty percent of the birthparents continued to experience feelings of loss, pain, and mourning over the child they

had relinquished. A Queens College study revealed that adult adoptees searching for their birthparents are not motivated by "dissatisfaction and disaffection with his or her adoptive family relationship"—the reasons they gave for seeking their parents ranged from the need for more medical information to a desire to establish one's identity.

Mr. President, I would like to share with my colleagues the remarks of a young woman who wrote to me and whom my staff interviewed relative to the adoptee-birthparent search issue. The woman is 32 years of age and has been searching for her birthparents for 7 years. My proposal would have alleviated the pain and suffering experienced by a young man and his birthmother, referred to by this young woman. I quote:

I worked for two years with a young man searching for his biological parents and when he finally found them, learned that his birthmother and he had both gone to the same adoption agency for information within months of each other and were denied help. Each was assured that the other would not want to know and would suffer from knowledge or contact! We cannot but question why this myth is being perpetuated in the face of direct refutation, personally in this case or more broadly in the face of sociological studies of hundreds of involved parties.

She went on to say:

Had I surrendered a child for adoption, I know I would always secretly wonder what had happened to her, if she were alive, if she were well, if she had found a good home. I would wonder what she looked like, what sort of a person she had become. I would wonder if she wondered about me. Sociological research done over the last ten years indicates that my projections were not unfounded. The overwhelming majority of women who give up children for adoption are disturbed by these questions all their lives. Many are even haunted by guilt. This is a chapter in their lives that never has an ending. They can never put their thoughts to rest. If only I could speak to the woman who gave me life I could tell her how happy I am; I could tell her about the wonderful people who adopted me and the joy she brought into their lives. And for my part, I could see her, discover the secret of my origin, know the country from which my ancestors came, the story that is my history. I could re-enter the bond of life that links all other people. I would see a blood relative—until my daughter was born, I could never discern my features in the face of another, and again and again since my son's birth people have asked me, 'who does he look like?' I want to know the answer. For seven years I have been searching. Under our present laws, the search is difficult, frustrating and time consuming. It is often expensive, as well.

Mr. President, the legislation which I am introducing today does not contain a sweeping new idea. It is similar to the reunion and matching files that presently exist within various adoptee and birthparent groups. But, a national clearinghouse as provided for in my bill would, on a national and far more comprehensive basis inform, coordinate, and expedite the reunion of adoptee, biological parent, or other natural relatives of the adoptee, which wish to be reunited.

Jean Patton, the mother of the adoptee movement and founder of Or-

phan Voyage, the first adoptee organization, says:

The various reunion or matching files of adoptee groups at ALMA, Orphan Voyage, and International Soundex and the numerous small files are little match for the problem presented to a population within adoption which is close to 2.5 million people. What we need to assist people who have a mutual desire to meet after the separation by adoption, is a computerized identification center, of a national scope, supported and carried on in such a way that it can be a permanent starting point for people who would otherwise have to flounder and fail.

Mr. President, if either the birthparent or adoptee does not seek to know the identity of the other—so be it. But if both want reunion, why not facilitate it. In an age of rootlessness, the search for knowledge of one's own identity, if it harms nobody, certainly should not be squelched now by the simple absence of a clearinghouse.

Again, I am very pleased that Senators CRANSTON, RANDOLPH, and MONIHAN are cosponsors of this legislation. ● Mr. MOYNIHAN. Mr. President, I am pleased to join with Senator LEVIN as a cosponsor of the Adoption Identification Act of 1981. Many in this Chamber remember my earlier work on behalf of adopted children. In the last Congress, I was active in passing the Child Welfare and Adoption Assistance Act (H.R. 3434), which can fairly be termed the only piece of major social legislation enacted during the Carter Presidency. It provided and provides incentives to adopt—rather than place in a series of foster homes—children receiving AFDC who could not remain with their natural parents. It also provides additional services aimed at helping more such children remain with their natural parents.

The bill we introduce today will make it easier for adult adoptees and their biological parents to locate each other if they both desire that. I should like to emphasize that participation in this program is completely voluntary, and that both parties must be actively searching before any information can become available to them. This bill simply creates a national network of information provided by adult adoptees and natural parents searching for each other that will help "match" them. The system will protect the confidentiality and privacy of all parties, and will end the long and costly search many adoptees and parents now make. I hope that the Senate will give this compassionate measure the prompt consideration it warrants. ●

By Mr. MATHIAS:

S. 990. A bill to amend section 1979 of the Revised Statutes to provide that States, municipalities, and agencies or units of government thereof, may be sued under the provisions of such section, to establish rules of liability with respect to such States, municipalities, and agencies or units of government thereof, and for other purposes; to the Committee on the Judiciary.

CIVIL RIGHTS IMPROVEMENTS ACT OF 1981

● Mr. MATHIAS. Mr. President, I now send to the desk the Civil Rights Improvements Act of 1981. The bill is identical to S. 1983 which I introduced in the

last Congress and is similar to S. 35 which was the subject of 4 days of hearings in the 95th Congress. The Civil Rights Improvements Act would make a series of amendments to the Civil Rights Act of 1871 (commonly referred to as section 1983), which has been a principal tool in our Nation's effort to fulfill its historic commitment to the civil rights and civil liberties of the American people.

Specifically, my bill would:

Provide that States, as well as the District of Columbia, municipalities, counties, and other forms of local governments are "persons" for purposes of section 1983;

Define the circumstances under which States, the District of Columbia, municipalities, counties, and other forms of local governments will be liable for the actions of their employees and agents in violation of section 1983;

Allow individual section 1983 defendants to claim the personal defenses and immunities they have traditionally been accorded, but preclude government entities from invoking such individual defenses and immunities;

Recognize the delay and expense caused by the strict application of the abstention doctrine to section 1983 cases and thus set forth circumstances when a Federal court may certify a question of State law to the highest court of the State;

Provide that the doctrine of exhaustion of State judicial and administrative remedies is inapplicable in section 1983 suits;

Embody within section 1983 the limited circumstances when a Federal court can intervene in a pending criminal proceeding and restrict the equitable doctrine of *Younger v. Harris*, 401 U.S. 31 (1971) to criminal cases;

Prescribe the circumstances when the doctrine of *res judicata* is applicable to section 1983 suits; and

Establish a national statute of limitations to govern all section 1983 suits.

The primary purpose of the Civil Rights Improvements Act is to insure the continued vitality of section 1983. Basically, my bill would achieve this important goal in two ways.

First, the Civil Rights Improvements Act would clarify and elaborate upon a 1978 U.S. Supreme Court decision, *Monell v. Board of Social Services*, 436 U.S. 658, which eliminated the absolute immunity from section 1983 suits previously accorded local governments. In particular, my bill is an effort to provide a comprehensive and workable framework for individual and governmental entity liability under section 1983—a framework that insures broad and effective protections for victims of official misconduct without impinging upon the legitimate interests of individual and institutional section 1983 defendants.

Second, my proposal would respond to certain other Supreme Court decisions which have seriously curtailed access to Federal courts for civil rights litigants.

I. MONELL AND GOVERNMENTAL LIABILITY UNDER SECTION 1983

At the time I introduced S. 35, January 10, 1977, I noted that one of the major impediments facing plaintiffs under the

Civil Rights Act of 1871 was a 1961 Supreme Court decision, *Monroe v. Pape*, 364 U.S. 167, in which the Court held that cities were not "persons" within the meaning of section 1983 for purposes of monetary relief. Later decisions extended this immunity to counties (*Moor v. City of Alameda*, 411 U.S. 693 (1972)) and to suits for injunctive relief (*City of Kenosha v. Bruno*, 412 U.S. 507 (1973)). These decisions were based on the Supreme Court's interpretation of section 1983 and thus subject to congressional alteration. When I introduced S. 35, I stated the Court's narrow interpretation of the scope of section 1983 had crippled the statute as both a source of deterrence and compensation: it limited the incentive for public entities to take preventive measures against possible misconduct by their officers and employees, and it had the practical effect of precluding recovery against "judgment-proof" public employees, leaving many litigants with a right but not a remedy.

S. 35 was designed to increase the effectiveness of section 1983 as a source of compensation and deterrence by removing the absolute immunity conferred on governmental entities and defining the limited circumstances when they should be held liable for the torts of their employees. Significantly, S. 35 would not have imposed financial liability on governments for all such violations, although the adoption of such a "respondent superior" approach is well within Congress constitutional authority. Rather, under the bill, governmental liability would have been restricted to situations where there is a reasonable expectation that the fear of monetary damages would lead the entity to adopt preventive measures aimed at deterring future section 1983 violations:

First, where the conduct was authorized by statute, ordinance, policy, or practice of the entity or was undertaken by those making such policies;

Second, where a supervisor encouraged or directed his subordinate to engage in the offending conduct;

Third, where a government employee has a history of misconduct and his supervisor has failed to take the necessary remedial action to prevent its recurrence; and

Fourth, where a section 1983 violation is documented but the identity of the offending officer cannot be determined, such as where a police officer conceals his or her badge.

Shortly after the Senate Judiciary Subcommittee completed its hearings on S. 35 in 1978, the Supreme Court handed down its decision in *Monell*. The cases involved a claim that the New York City Board of Education and Department of Social Services compelled pregnant employees to take unpaid maternity leaves before such leaves were required for medical reasons. This policy was in clear violation of existing Supreme Court precedent. In ruling in favor of the plaintiffs' claim for injunctive relief and back pay for unlawful forced leave, the Court concluded that its prior reading of the legislative history of the Civil Rights Act of 1871 was in error; the Court overruled *Monroe* against *Pape*, "insofar as it holds that local govern-

ments are wholly immune from suits under section 1983," and held under certain circumstances local governments would be liable for the torts of their employees.

After *Monell* was decided, I reviewed the Court's opinion, with special attention to its impact on the governmental liability provisions of S. 35. I concluded that the need for the provisions continued after *Monell*, and, further that Congress must complement the Court's pronouncement by enacting governmental liability provisions along the lines suggested in S. 35. As a result of my review, on November 6, 1979, I introduced a revised version of the Civil Rights Improvements Act which contained governmental entity provisions identical to those in S. 35.

The reasons I reintroduced my bill in the 96th Congress are as valid and compelling today as they were in 1979. Above all, neither in its language in *Monell* nor in its subsequent decisions has the Supreme Court provided the type of guidance necessary for local governments to predict areas of potential liability and take steps to prevent violations in the future. It is in the best interests of all involved, section 1983 plaintiffs and defendants alike, that such guidance be forthcoming. And, I believe the Congress is best equipped to play that role.

In *Monell*, while the Court did away with the absolute immunity conferred on local governments from section 1983 suits, it refused to adopt a "respondent superior" approach which would have made such governmental units liable for all of the violations of section 1983 by its employees. By not doing so, the Court necessarily thrust upon itself and the lower Federal courts the task of defining the circumstances when such liability would exist. But the majority opinion in *Monell* gives us little guidance in this regard. It merely states that such liability must depend on a "policy statement, ordinance, regulation or decision officially adopted or a governmental custom even though such custom has not received formal approval through the body's official decisionmaking channels." Since *Monell* involved an official policy of the New York City school and social services authorities, it was an easy case to decide under this test. Not all cases, however, are as clear cut as *Monell*.

It might require years of litigation for the Federal courts to delineate the contours of governmental liability under section 1983. By enacting the Civil Rights Improvements Act with its clear specifications of governmental liability, Congress could shorten this process. Significantly, the standards of liability contained in the bill are not foreign to section 1983 litigation. By and large, they reflect the case law that has developed in the lower courts in suits against supervisory officials, where plaintiffs have sought to hold them liable for the torts of their subordinates. Thus Federal judges will have a wealth of related precedent to rely upon when confronted with suits brought under the governmental liability provisions of the Civil Rights Improvements Act. In addition, Congress—unlike a court of law—can supplement its own standards govern-

ing entity liability under section 1983 with a detailed legislative history replete with examples of actions that would and would not result in the imposition of such liability.

Since local governments now have little guidance after *Monell* as to when they will face section 1983 liability, they are hampered in their efforts to develop effective risk management programs aimed at deterring future section 1983 violations. Enactment of my bill would have the salutary effect of giving governmental units much greater notice of potential liability than they now have. This would enable the units to develop and modify their preventive programs accordingly.

Another key factor prompting the re-introduction of the entity liability provisions of my bill is the need to put an end to the immunity of States from section 1983 liability and thus insure that State and local governments are treated equally under the statute.

Until recently, the 11th amendment's grant of sovereign immunity was thought to be a bar against the awarding of money damages against States and State officials acting in their official capacity. But, in *Fitzpatrick v. Bitzer*, 427 U.S. 445 (1976) the Supreme Court paved the way for such suits. In *Fitzpatrick*, the Court held that the 11th amendment and the doctrine of State sovereign immunity were limited by the enforcement provision of section 5 of the 14th amendment and thus recognized that Congress could authorize retroactive monetary damage awards against States.

Prior to *Fitzpatrick* and *Monell*, State liability under section 1983 was denied routinely. In fact, in *Edelman v. Jordan*, 415 U.S. 651 (1974), the Court seemed to indicate that the 11th amendment was a bar to monetary damage awards under section 1983. But, after *Monell* was decided, the argument was made that *Monell's* reinterpretation of the legislative history of section 1983 undermined *Edelman* and that section 1983 money damage suits were permissible against States. Regrettably, in *Quern v. Jordan*, 440 U.S. 332 (1979), the Court rejected this argument and reaffirmed its holding in *Edelman* that Congress, in enacting section 1983, did not intend to abrogate the 11th amendment immunity of the States. Thus after *Quern*, we are left with the anomalous situation in which States are fully immune from section 1983 suits, but local governments are not. There is no public policy justifying this dichotomy. It is a result of the Court's reading of the legislative history of section 1983. Thus it can be offset by Congress and it should be. The Civil Rights Improvements Act would do just that.

Another argument in favor of my bill is the need for Congress to codify the Supreme Court's recent decision, *Owen v. City of Independence*, 445 U.S. 622 (1980). In *Owen*, the Court ruled that municipalities have no immunity from section 1983 suits and thus precluded the city of Independence, Mo., from invoking the good faith defense of its representatives.

Section 2(D)(1) of the Civil Rights Improvements Act addresses this issue.

The proposal would not alter the ability of an individual defendant to utilize any of the existing immunities and defenses, but it would provide that governmental bodies would not be entitled to claim such individual defenses and immunities. Thus section 1983 plaintiffs who are met with a successful claim of immunity by an individual will nonetheless be able to proceed directly against the governmental entity.

For example, where a police officer enforces an unconstitutional statute in the good faith belief that it is constitutional, it is both fair and sound public policy to relieve him of liability under section 1983; but it would be inappropriate to shield the governmental entity from liability. The entity itself has abused its powers in an unconstitutional way; it is more equitable that the costs associated with the entity's unconstitutional actions be borne by society as a whole, rather than absorbed entirely by the victim of the official misconduct. As Justice Brennan wrote in *Owen*:

A damages remedy against the offending party is a vital component of any scheme for vindicating cherished constitutional guarantees, and the importance of assuring its efficacy is only accentuated when the wrongdoer is the institution that has been established to protect the very rights it has transgressed. Yet owing to the qualified immunity enjoyed by most government officials, many victims of municipal malfeasance would be left remediless if the city were allowed to assert a good faith defense.

II. LIMITING ACCESS TO FEDERAL COURTS

Since *Monell* was handed down in May 1978, much of the discussion about section 1983 has focused on the scope of governmental liability under the statute. This is certainly understandable. For the first time local governments face the possibility of money damage liability. For the first time local governments have a financial incentive to take precautionary measures to prevent future section 1983 violations.

But the escalating debate over entity liability under section 1983 must not obscure the fact that over the past decade the Supreme Court has rendered a number of decisions significantly curtailing access to the Federal courts for those seeking relief under section 1983. Typical of this trend is the Court's expansion of the judicially created doctrine of *Younger v. Harris*, 401 U.S. 37 (1971), regarding Federal intervention in State court proceedings.

In *Younger*, the Court set out the limited circumstances under which a Federal court enjoin a pending State criminal proceeding—in effect, only where the State or local officials are prosecuting a defendant in bad faith. Although *Younger* dealt solely with a pending State criminal proceeding, the Court has applied *Younger* to certain civil matters (see for example, *Huffman v. Pursue Ltd.*, 420 U.S. 593 (1975); *Trainor v. Hernandez*, 431 U.S. 434 (1977); *Judice v. Vail*, 430 U.S. 327 (1977); and *Moore v. Sims*, 442 U.S. 415 (1979)) and Justice Brennan at least believes the majority has already decided to bring all civil proceedings within *Younger* and “merely the formal announcement is being postponed.” More-

over, in *Rizzo v. Goode*, 423 U.S. 362 (1976), there is an indication that not only may *Younger* be extended to civil proceedings, but that injunctions against State and local administrative proceedings may also fall within the doctrine.

Finally, the Court has applied the *Younger* rationale even to instances where a Federal court proceeding has actually commenced prior to the filing of a State action. *Hicks v. Miranda*, 422 U.S. 332 (1975). This is a particularly troublesome ruling—one which State prosecutors could use to file a local suit to oust the Federal courts of jurisdiction.

The full impact of the *Younger* doctrine on section 1983 cannot be appreciated unless it is viewed in tandem with the Court's recent decision in *Allen v. McCurry*, 101 S.Ct. 411 (1980). In *Allen*, the Court ruled that the doctrines of res judicata and collateral estoppel were generally applicable to section 1983 cases. *Allen* thus bars relitigation of matters raised in an earlier State proceeding, even where the section 1983 plaintiff was a criminal defendant and thus an unwilling participant in the earlier proceeding. For example, assume a student participating in a peaceful demonstration is arrested and prosecuted under a very vague local ordinance of dubious constitutionality. At his trial, the student argues that the ordinance is unconstitutional. He is subsequently convicted. He then brings section 1983 suit seeking money damages and to have his criminal record expunged. Under *Allen*, it appears that his suit would be barred.

Under the *Younger* doctrine, section 1983 plaintiffs are often compelled to defer Federal court consideration of their constitutional and statutory claims until after related State proceedings are concluded. But, in view of *Allen*, it appears that such deferrals might well deprive many section 1983 plaintiffs of a Federal trial forum, thus largely negating the original intent of the authors of section 1983 who meant the Civil Rights Act of 1871 to establish the Federal Government and the Federal courts as the primary protectors of our Federal rights.

The Civil Rights Improvements Act would preclude the extension of the *Younger* rationale to civil proceedings, limit it to criminal cases and set forth clear guidelines governing the application of the traditional principles of preclusion to section 1983 cases. In effect, the bill would establish statutory standards designed to strike an appropriate balance between the traditional and legitimate State interest in conducting its own court proceedings without fear of undue Federal intervention and the longstanding congressional policy that an individual be provided a Federal forum to litigate his section 1983 claim.

CONCLUSION

Mr. President, a number of significant court decisions affecting section 1983 have been handed down since the original version of the Civil Rights Improvements Act was introduced in January 1977. Some concern the liability of governmental units for section 1983 violations of their employees, others deal with the proper balance between Federal and State court jurisdiction with respect to

the litigation of federally protected rights. Obviously, the entire area of law governing section 1983 is in flux. The time has come for Congress to turn its attention to the Civil Rights Improvements Act and give much-needed stability and clarity to this changing area of law.

I ask unanimous consent that the text of the Civil Rights Improvements Act be printed in the RECORD.

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

S. 990

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 Rights Improvements Act of 1981."

SEC. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended to read as follows:

(1) by inserting "(a)" immediately before "Every"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section 'person' means any natural person, any association or combination of natural persons, any partnership, corporation, or other legal entity, any State or territory, any municipality, county, parish or other State, territorial, or local governmental subdivision, unit, or agency, the District of Columbia, or any agency of the District of Columbia; and 'State or territory' shall include the District of Columbia.

"(c) A State, municipality, or any unit of government or agency thereof shall be liable for the conduct actionable under paragraph (a) of this section of any officer, employee, or agent of, or other person clothed with the authority of, such State, municipality, or unit of government or agency thereof, when—

"(1) for purposes of damages or other monetary relief—

"(A) the conduct was authorized or required by a statute, ordinance, policy, or practice of the entity, unit, or agency, or was undertaken by a person or persons appointed or elected to make such policy;

"(B) the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engaged in such conduct at the direction or with the encouragement of a supervisory officer;

"(C) a supervisory officer, with the authority to act, knew or should have known that an inferior officer, employee, agent, or other person clothed with the authority of the entity had previously engaged in such conduct or similar conduct and failed either to halt such conduct or to take reasonable steps to prevent the recurrence of such conduct;

"(D) one or more officers, employees, agents, or other persons clothed with the authority of the entity, unit, or agency, engaged in such conduct and the person seeking relief under this Act cannot by reasonable effort identify such officer, employee, agent, or other person or prove causation with respect to a particular officer, employee, agent, or other person clothed with such authority;

"(2) for purposes of injunctive or declaratory relief the officer, employee, agent, or other person clothed with the authority of the entity, unit, or agency engages in such conduct. The court shall direct the State, the State municipality, or any unit or agency thereof, to adopt whatever disciplinary or other remedial measures are necessary to prevent the recurrence of such conduct, or, when otherwise appropriate.

"(d) (1) In suits against an entity, unit, or agency pursuant to subsection (c), it shall not be a defense for such entity, unit, or agency that the officer, employee, agent, or person clothed with the authority of the entity, unit, or agency, is personally im-

mune from liability under this Act because of the existence of a common law or statutory immunity attaching to such officer.

"(2) Supervisory officers having command responsibility superior to any person engaging in conduct actionable under this Act, shall be jointly and severally liable with such persons whenever under subsection (c) of this Act the State, municipality, or unit or agency thereof, would be liable.

"(3) A plaintiff may join to a claim under this Act any other claim or claims arising under the laws of any State, territory, the District of Columbia, or of the United States, against the same defendant, additional defendants, or both, if the latter claim or claims and any one claim under this Act derive from a common nucleus of operative fact; and a court of the United States shall proceed to hear all such claims, as well as any additional claims under this Act that may be joined in the action.

"(e) (1) In any action brought under this Act, a court of the United States may certify to the highest court of a State a question of State law if—

"(A) the State has established a procedure by which its highest court may answer questions certified from such court of the United States;

"(B) the question of State law may be controlling in the action and cannot be satisfactorily determined in the light of the State authorities; and

"(C) the court expressly finds that certification will not cause undue delay or be prejudicial to the parties. Except as provided in this subsection, no court of the United States shall stay or dismiss any action under this Act for the purpose of obtaining a decision as to the law of the State from a State court.

"(2) No court of the United States shall stay or dismiss any civil action brought under this Act on the ground that the party bringing such action failed to exhaust the remedies available in the courts or the administrative agencies of any State, territory, or the District of Columbia, or subdivisions, units, or agencies thereof.

"(3) In the absence of extraordinary circumstances, no court of the United States shall enjoin a pending criminal prosecution under the law of any State, territory, subdivision of any State or territory, or the District of Columbia, if such prosecution—

"(A) was commenced prior to the time of filing of the action in the court of the United States;

"(B) is maintained against the party who brings the action in the court of the United States or against a person who is in privity with such party; and

"(C) provides a full and fair opportunity for the presentation and resolution in the courts of such State, territory, subdivision thereof, or the District of Columbia, of every claim of deprivation presented in the action in the court of the United States.

For purposes of this subsection, "extraordinary circumstances" include but are not limited to the existence of a criminal prosecution commenced or maintained in bad faith or to enforce a statute, ordinance, or regulation, that is, in whole or in part, facially unconstitutional.

"(4) In an action brought under this Act, a court of the United States may enjoin a pending criminal prosecution under the law of any State, territory, subdivision of any State or territory, or the District of Columbia, that was commenced subsequent to the time of filing of the action in the court of the United States, and shall enjoin such prosecution if it finds that the prosecution was initiated in response to a suit under this Act.

"(5) In an action brought under this Act, a court of the United States may enjoin a proceeding in the courts of any State, territory, subdivision of any State or territory, or the District of Columbia, which is non-

criminal in nature, even if such proceeding is in aid of and closely related to the enforcement of a criminal statute, ordinance, or regulation, irrespective of whether the proceeding was commenced prior to or subsequent to the action.

"(f) In an action brought under this Act, the prior judgment of a court of any State, territory, subdivision of a State or territory, or the District of Columbia, shall be given merger and bar effect, and no other effect, as against any claim presented by a plaintiff in an action in a court of the United States, but such effect shall be given to that prior judgment only if it—

"(1) was rendered on the merits of the same claim,

"(2) following a full and fair hearing,

"(3) in an action commenced by the present plaintiff:

Provided, however, That when a court of the United States hears a claim not so barred it shall not grant as relief the modification or setting aside of any judicial order with respect to damages, irrespective of whether the order has been executed.

"(g) (1) Every civil action commenced under this Act shall be barred unless the complaint is filed within four years after the right of action first accrues. The action of any person under legal disability or outside the United States at the time the claim accrues may be commenced within three years after the disability ceases. Any time utilized seeking relief through State remedies shall not be counted in determining the time within which the complaint must be filed.

"(2) If any person having a cause of action under this Act dies after the accrual of his claim, the legal representatives of the deceased shall have such action therefor and may recover damages (to be distributed in accordance with the law of the State in which the deceased resided) for the benefit of the next of kin of the deceased or if there be no next of kin for the benefit of the estate to be disposed of in accordance with the law of the State in which the deceased resided."

SEC. 3. Nothing contained in this Act shall be construed to constrict the availability of relief under any other provision of Federal law or impair the availability of any other remedy for denials of any rights, privileges, or immunities secured by the Constitution or laws of the United States in the courts of the United States or of any State, territory, subdivision thereof, or the District of Columbia.

SEC. 4. In evaluating the need for relief under this Act, no court of the United States shall consider the availability of a remedy under the laws, ordinances, or regulations of any State, territory, subdivision thereof, or the District of Columbia.

SEC. 5. This Act shall apply in any action arising as a result of any deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States—

(a) with respect to the amendments made by section 2(b) through (f) of this Act, to any deprivation occurring after the date of enactment, and

(b) with respect to the remaining amendments herein made, to any action pending on the date of enactment of this Act and to any action subsequently brought. ●

By Mr. PERCY (by request):

S. 991. A bill to authorize appropriations under the Arms Control and Disarmament Act, and for other purposes; to the Committee on Foreign Relations.

ARMS CONTROL AND DISARMAMENT ACT
AUTHORIZATION

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations under the Arms Control and Disarmament Act.

This legislation has been requested by the U.S. Arms Control and Disarmament Agency, and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill, together with a section-by-section analysis, and the letter from the Acting Director of ACDA to the President of the Senate dated April 1, 1981, be printed in the RECORD.

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

S. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"Sec. 49(a). To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1982, \$16,768,000 and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates, and

"(2) for the fiscal year 1983, such sums as may be necessary to carry out the purposes of this act.

Amounts appropriated under this subsection are authorized to remain available until expended."

Sec. 2. Section 45(a) of the Arms Control and Disarmament Act (22 U.S.C. 2585(a)) is amended by inserting the following new sentence after the second sentence thereof: "In the case of persons detailed from other Government agencies, the Director may accept the results of full-field background security and loyalty investigations conducted by the Defense Investigative Service or the Department of State as the basis for the determination required under this subsection that the person is not a security risk or of doubtful loyalty, except that when the investigation is more than twelve months old the Office of Personnel Management will conduct an update full-field background investigation, which may be completed after the person's detail has begun at the discretion of the Director."

SECTION-BY-SECTION ANALYSIS

Arms Control and Disarmament Act amendment to extend authorization for appropriations:

The first section of the proposed legislation would amend section 49(a) of the ACDA Act (22 U.S.C. 2589(a)) to authorize appropriations for the U.S. Arms Control and Disarmament Agency for fiscal years 1982 and 1983. The sum of \$16,768,000 is requested for fiscal year 1982 and "such sums as may be necessary" for fiscal year 1983. The Agency's current two year authorization is \$18,876,000 for fiscal year 1980 and \$20,645,000 for fiscal year 1981. In all instances these amounts are plus such additional amounts "as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates."

The Agency's current two year authoriza-

tion expires on September 30, 1981. Because the Agency does not have a permanent authorization, the proposed legislation is required to continue its activities in support of the Administration's arms control and disarmament objectives.

Arms Control and Disarmament Act amendment to facilitate security clearances of personnel detailed from other Government agencies:

The second section of the proposed legislation would amend section 45(a) of the ACDA Act (22 U.S.C. 2585(a)) to permit the Agency, in the case of persons detailed to the Agency from other Government agencies, to use the results of security investigations conducted by the Departments of Defense and State.

The Agency has fifty-two reimbursable positions which are filled by individuals detailed to the Agency, primarily active duty military officers from the Department of Defense and career Foreign Service officers from the Department of State. Each year there is approximately a one-third turnover among these detailees and each year the Agency must wait many months for officers being detailed from the Departments of Defense and State to report for duty, even though these officers generally are middle to senior grade career officers with many years of service, who hold high-level clearances and often come to the Agency after working on highly sensitive issues.

The reason for this delay is that, as presently written, section 45(a) of the Arms Control and Disarmament Act requires the Director of the Agency to arrange full-field background investigations through the Civil Service Commission (now the Office of Personnel Management (OPM)), for all new employees, including "persons detailed from other Government agencies". Based on the results of that investigation, the Director must determine prior to the detailee's entry on duty that the detailee is not a security risk or of doubtful loyalty. While all career Foreign Service Officers and most military officers hold Top Secret clearances, these clearances are based on full-field background investigations conducted by their own agencies. However, at present the Director is precluded from using the results of a full-field background security and loyalty investigation conducted by the Department of Defense or the Department of State for a security clearance determination, because the wording of section 45(a) requires the investigation to be conducted by OPM.

As a result, the Agency must request a new OPM investigation, which takes an average of four months to complete for every military and Foreign Service officer detailed to the Agency, regardless of whether the individual has been previously investigated by the Department of Defense or the Department of State. Since the service of such detailee is often required on short notice, to staff or backstop delegations to international negotiations or to provide special technical expertise to the Agency, the lengthy delays required for the duplicate investigation required by the Act hamper the Agency in the efficient conduct of its business. The proposed legislation will permit the Agency to accept detailees on the basis of investigations conducted by their own agencies until an update investigation can be completed, if necessary. This is comparable to the practice of most other national security agencies, including the Departments of Defense and State.

Should the amendment regarding detailees be enacted, the Director will have the option of determining that a proposed military or Foreign Service detailee is not a security risk or of doubtful loyalty and allowing him to enter on duty if an evaluation of the results of the full-field background

investigation conducted by the Department of Defense or the Department of State justifies such action.

In all cases in which the State or DOD investigation is more than twelve months old, OPM will be asked to conduct an update full-field background security and loyalty investigation. Should the updated investigation disclose derogatory information which cannot be resolved in the detailee's favor, the detail will be terminated immediately and the detailee's employing agency will be informed of the results of the investigation.

This amendment to section 45(a) of the Arms Control Act will not alter in any way the requirements of section 45(c) as to the circumstances and procedures under which access to Restricted Data may be permitted.

No additional appropriations or outlays or personnel would be required by this amendment. Although it is possible that enactment of this legislation may save a few thousand dollars each year thereafter, its primary purpose is to increase the efficient conduct of business by expediting security clearances of persons detailed from other Government agencies.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, D.C., April 1, 1981.

HON. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I transmit herewith for consideration of the Congress proposed legislation to extend the appropriation authorization for the U.S. Arms Control and Disarmament Agency, along with a section-by-section analysis of this proposal.

The Agency's current authorization expires on September 30, 1981. The proposed legislation would authorize appropriations for fiscal year 1982 of \$16,768,000 (plus such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law and other nondiscretionary costs). The proposed legislation would also authorize appropriations for fiscal year 1983 of such sums as may be necessary. In addition, the proposed legislation would amend the law to permit the Agency to make use of the results of recent full-field background security and loyalty investigations conducted by the Departments of State or Defense in the case of persons detailed to ACDA from other U.S. Government agencies.

The Office of Management and Budget advises that this legislation is in accord with the program of the President, and the Administration urges the early enactment of this legislation.

Sincerely,

JAMES L. MALONE,
Acting.

By Mr. SASSER:

S. 992. A bill to amend title 11 of the United States Code; to the Committee on the Judiciary.

BANKRUPTCY REFORM AMENDMENTS ACT OF 1981

● Mr. SASSER. Mr. President, I rise today to offer legislation which would amend the revised bankruptcy act which took effect in October of 1979.

The revisions made in the 95th Congress by and large have meant positive reform. However, anytime Congress makes changes in the law that are as substantial as the changes we made in the bankruptcy law in 1978, it is important that those changes be reviewed.

I believe there are strong indications that the current law needs some fine tuning. Last year there were over 380,000

personal bankruptcies filed in the United States. This is by far the largest number filed in the United States in any one year. Certainly, the Nation's economic difficulties are a major factor in the sharp increase. Still, few experts in the area of bankruptcy would deny that there are certain provisions in the new law that encourages individuals to file for bankruptcy rather than making a strong effort to retire their debts.

The bill I offer today would make changes in several areas of the current law. It would reduce the amount of personal assets that could be retained by the bankrupt; encourage a larger percentage of an individual's debt to be repaid under chapter 13 repayment plans; specify what interest rate will be paid under chapter 13 repayment plans; and require that chapter 13 bankruptcy payments shall be made at the time of filing a chapter 13 plan.

Section 1 would affect the present exemption for household goods, family property, et cetera, which is now \$200 per item for each debtor. Since most household items are worth substantially less than \$200 this provision may permit large aggregate amounts of property to be retained by the debtor.

The proposal I offer would limit the aggregate exemption to \$3,000 for the individual debtor and \$6,000 for joint debtors. What this proposed amendment does is prevent cases where individual debtors have several items of substantial value, such as stereos and televisions and are able to exempt those items.

The purpose of the exemption law is to allow a bankrupt to retain enough property that a fresh financial start can be made. We allow people to retain clothing, books, musical instruments, tools of their trade, and a generous amount of personal affects. We should continue to do that. No one is well served by forcing a person into a position where a financial rebound is hopeless.

However, we are also not well served by allowing a person to declare bankruptcy and retain large amounts of non-essential personal goods of great value. Certainly this defect in the present law serves to encourage consumers to invoke bankruptcy when they do not need to do so. Such a situation hurts not only those who extend credit but everyone who seeks credit as well.

In addition, section 1 would eliminate the so-called wild card exemption. Present law allows a person to maintain a \$7,500 exemption in equity he may have in a home. If a person does not use all or part of that exemption for real estate he may apply the unused portion to any other personal property.

The purpose of the homestead exemption should be to recognize the unique importance of the home in terms of family life and the stability of the family. By nature, property exempted by the wild-card provision is not within the realm of what Congress recognized as essential to a fresh start.

Section 2 of this bill serves to encourage those who repay their debts under chapter 13 plans to pay a larger share while allowing them more time to do so.

Present law requires that a chapter 13 plan last no longer than 3 years. If one should have a relatively small debt to repay or is able to do so in a shorter period of time, he would be allowed to do so as long as he paid 70 percent of the debt.

Section 2 of this bill also recognizes that a person's first financial priority after providing for his support and the support of his family is the repayment of his debts.

Section 3 addresses a discrepancy courts have had in interpreting current law as it applies to interest rates that will be paid by those who file chapter 13 plans. In some cases persons have been charged as little as \$1 in interest on goods they pay for on chapter 13 plans. In other cases the rate is as high as the prime interest rate. This section of the bill simply requires that the debtor pay interest at the rate for which he contracted. Any other rule would encourage debtors with substantial interest-bearing obligations to use chapter 13 to lower their interest rates.

Section 4 provides that when a chapter 13 plan is filed by a debtor that payments under the plan shall commence to his creditors even before final confirmation of the plan. This provision will provide an incentive for the debtor to confirm his chapter 13 bankruptcy plan. This is desirable for creditors who desire steady and stable chapter 13 repayments, but it also offers the debtor the incentive to confirm his plan and thereby discharge his debts in an honorable and equitable fashion.

Mr. President, like many of my colleagues, I am disturbed by the rising number of personal bankruptcies that we are experiencing. Declaring bankruptcy is a traumatic experience for all too many American individuals and families. But with this legislation, I hope that we can begin to close some of the unintended loopholes in chapter 13 that came about as a result of the 1978 Bankruptcy Act, and thereby help weed out those debtors who have used chapter 13 proceedings in a cavalier, and some might say, ruthless fashion.

We must insure that American businessmen and consumers continue to keep faith with one another and that the bonds of free commerce are not disrupted by a wave of unnecessary and careless bankruptcies.

If we do not move on this front, the terms of consumer credit for all consumers may become even harder to come by for the millions of American consumers who will never file for bankruptcy. We cannot let the actions of a selfish or careless few hurt the many American consumers and small businessmen that seek to have stable and sensible consumer credit policies.

Mr. President, I understand Senator THURMOND and the Senate Judiciary Committee may soon be undertaking detailed investigations of this problem. Let me say that I am sure that the committee will undoubtedly provide us with a comprehensive, detailed bill on necessary revisions to the Bankruptcy Act. I am sure that it will be a well-crafted bill that may subsume many of the elements

in S. 992 which I offer today. If that is the case, I will join with Senator THURMOND in supporting such a comprehensive measure.

Mr. President, several articles concerning the effects of recent changes in the bankruptcy law have been written recently. I ask unanimous consent that they be printed in the RECORD along with the text of S. 992.

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

S. 992

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 Bankruptcy Reform Amendments Act of 1981."

SECTION 1. Section 522(b) of title 11, United States Code, is amended by substituting the following new paragraph:

"(b) Notwithstanding section 541 of this title, an individual debtor may elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). In joint cases filed under section 302, and individual cases of married debtors whose estates are consolidated, both of the debtors must elect to exempt the property in either subparagraph (1), or in the alternative, subparagraph (2). If the parties cannot agree on the alternative to be elected, they shall be deemed to have elected subparagraph (1)."

(b) Section 522(m) is amended to read as follows:

(m) Subject to the limitation in subsection (b), this section shall apply separately with respect to each debtor in a joint case.

(c) Section 522(d)(3) of title 11, United States Code, is amended by inserting after the word "item" the following:

"or \$3,000 in aggregate value".

(d) Section 522(d)(5) of title 11, United States Code, is amended by striking the following:

"plus any unused amount of the exemption provided under paragraph (1) of this subsection".

SEC. 2. Section 1322(c) of title 11, United States Code, is amended by substituting the following new paragraph:

"(c) The plan may not provide for payments over a period of more than five years."

SEC. 3. (a) Section 1325(a) of title 11, United States Code, is amended by inserting at the end of the paragraph, and before the semicolon, the following:

"and such plan represents a bona fide effort which is consistent with the debtor's ability to repay his debts, after providing support for himself and his dependents".

(b) Section 1325(a) of title 11, United States Code, is amended by—

(1) renumbering the existing subparagraph (6) as subparagraph (7); and

(2) inserting the following new paragraph:

"(6) the plan extends for a period of five years, or the plan provides for payments of at least 70 percent of all allowed unsecured claims;"

(c) Section 1325(a)(5)(B)(ii) of title 11, United States Code, is amended by substituting the following new paragraph:

"(B)(ii) the value as of the date of filing the plan of property to be distributed under the plan is not less than the value determined under section 506(a), and if said value is to be paid in installments, interest shall be paid at the rate specified in the consumer's contract; or"

SEC. 4. Section 1321 of title 11, United States Code, is amended by renumbering Section 1321 as Section 1321(a), and adding a new subsection (b) as follows:

"(b) Payments under the plan shall be

commenced at the time of the filing of a plan. The payments shall be made to the trustee, and shall be retained by the trustee until a plan is confirmed or not confirmed. If any plan is confirmed, the trustee shall then distribute the funds in accordance with the plan. If no plan is confirmed, the funds shall be returned to the debtor after deducting the costs of administration.

Sec. 5. This Act shall take effect 180 days after enactment.

[From the Wall Street Journal, June 30, 1980]
DEBTORS FILE FOR BANKRUPTCY AT A RECORD RATE, SPURRED BY NEW CODE, RECESSION, TIGHT CREDIT

(By William G. Flanagan)

Have you ever heard an advertisement for going bankrupt? Well, in New York City just dial (212) 697-4004. You'll hear, in a smooth, radio-quality voice, the wisdom of going into Chapter 13 as a means of getting all those nasty creditors off your back.

A lot of debt-ridden consumers are getting the message about going under, whether they dial the office of bankruptcy lawyer A. Gerald Kagan or not. This is the biggest year ever for personal bankruptcies. In April alone, the latest month for which national figures are available, 39,494 people filed for bankruptcy, compared with 25,897 a year earlier. The 12 months ending today will see a record total of 355,000 filings, according to a projection by the Bankruptcy Division, Administrative Office of U.S. Courts. The highest number previously recorded was during the last recession in 1975, when there were 254,484 filings.

The reasons so many people are going under are threefold, say the experts:

—A new federal bankruptcy code that took effect in October 1979 makes the terms and conditions for going bust a lot more palatable. The net effect of the new code is that many people facing bankruptcy can keep most, if not all, of what they own and leave most creditors holding the bag.

—The recession and high unemployment in some parts of the country have taken their toll. For families where the principal breadwinner—or even the working spouse whose income was once largely a luxury—is laid off, bankruptcy is sometimes a tempting way out of debt. In April, for example, aside from California, the states reporting the highest numbers of filings were Ohio (2,156), Illinois (2,204), and Michigan (1,260). These are the industrial states hit hardest by layoffs.

California is, as in many other things, a special case; it had 3,677 filings. Its terms for going bust are the most attractive in the nation. In most states, an individual filing for bankruptcy can choose to accept the ground rules set up by the state or those in the new federal code. (Those rules in California are so liberal that some people move into the state before going bust.)

—The Federal Reserve's tightening of consumer credit has also had an effect. Consumers with no cash reserves who are suddenly hit with an unexpected financial crisis or elimination of anticipated income for a period can't borrow to get back out of the hole as easily as they once could. So-called consolidation loans now are more difficult to obtain from finance companies. Lines of credit from banks have evaporated. Personal loans have been cut back, and other traditional sources of easy credit have been shut off.

The jump in the number of bankruptcies has naturally alarmed the nation's largest creditors. "Under the new code, there are more benefits to the debtor, at the creditor's expense," notes William R. Moroney, a spokesman for the National Consumer Finance Association.

Already the dollar losses are showing up. One large bank reports that its bankruptcy losses doubled in the first four months of this year from a year earlier. And the con-

sumer-financial group recently surveyed a number of large finance companies that reported dollar losses from bankruptcies up an average of 50% from the first quarter of 1979. ("Skip-outs"—people who simply move without any notice—still account for greater losses than bankruptcies, however, says Mr. Moroney.)

Not surprisingly, the lending industry thinks many consumers are ill-advised in seeking bankruptcy as a means of getting out of debt. "The fact that there is legal advertising now, and bankruptcy being one of the things advertised, has had some effect," says Mr. Moroney. "Formerly, the person who now responds to a bankruptcy ad might have sought credit counseling. And some of the advice the consumer is getting—declare bankruptcy now and there will be no trouble getting credit later—is simply false. That stays on your credit record for 10 years."

Lawyer Kagan pooh-poohs such thinking. "Legal advertising has made it possible for much of the public to learn of its rights," he says. "The credit-counseling services often arrange loan-repayment programs that are simply too stiff for the debtor to handle. And debtors have no legal recourse to fend off the collection agencies. If anything, the collection agencies scare more people into bankruptcy than anyone else."

A PRICKLY DECISION

In any case, it is clear bankruptcy should be approached very carefully. But should you be considering it, here are some pertinent facts to keep in mind.

There are two kinds of personal bankruptcy—Chapter 7 and Chapter 13, under the federal code. The latter is not really formal bankruptcy, but a wage-earner plan. The essential difference is that in the first instance, you throw up your hands and surrender your assets for your creditors to squabble over. In the second, you work out a repayment schedule—usually partial—over a period of three years or so. In most cases the second alternative is preferable if you have substantial assets such as a home.

They can't take everything away from you if you go under. In fact, there is quite a bit of property that is exempt.

Under the new federal code, creditors cannot touch \$7,500 equity in your home (\$15,000 if you file jointly for bankruptcy with your spouse); \$1,200 value of your car; all household furnishings, goods, clothes, books, etc., not to exceed \$200 per item; \$500 of personal jewelry; \$400 in any property; \$750 of tools; and all health aids for debtor and dependents.

Other federal exemptions include unmaturing life insurance; Social Security, welfare, unemployment or veterans' disability payments; alimony, support and maintenance; and pension or profit-sharing benefits.

Some states have more liberal exemptions that you can choose. In California, for example, the head of household can keep up to \$30,000 of equity in his home.

It isn't necessary to hire a lawyer to go into Chapter 7 or Chapter 13, although a \$50 filing fee must be paid to the federal court where you file. But if you have any assets at all, it makes sense to hire a lawyer, who may charge \$300 to \$1,500 or more, depending upon services rendered. Beware: There are plenty of pitfalls for the unwary. If you transfer assets to your children or family, for example, you may be acting illegally if such actions are deemed to have been made in anticipation of bankruptcy. On the other hand, other transfers of assets—such as buying insurance with your savings—are perfectly aboveboard.

Not only the destitute go bust, of course. One New York doctor with an \$80,000 annual income went into Chapter 13 to avoid the hounding of creditors, then arranged repayment of his debts over a three-year period.

But even with high-income debtors, total repayment of debts under Chapter 13 is rare. "Ten cents on the dollar is typical," says one creditor.

The act of filing and declaring bankruptcy is quite simple. You file your petition, schedules of assets and earnings, and statement of affairs in the federal court district in which you have resided for six months. (A lawyer can help you with this, but many debtors can manage it themselves. The forms themselves are available from legal stations.)

As soon as you submit your petition for bankruptcy, you are off the hook with your creditors. The court will notify them that you have filed, and they can no longer harass you. Within 10 to 30 days of filing, they will have an opportunity to question you at what is known as a meeting of creditors. But, as a matter of practice, few creditors ever appear.

FREE AT LAST

If the filing is complex, a judge may appoint a trustee to conserve the assets, check for other assets, and make equitable distribution to creditors. The creditors then have some time to react to a debtor's receiving a discharge of debts. But, after the final discharge, the creditors cannot do a thing.

If you choose Chapter 13 and find the repayment burden too harsh, you can still file for Chapter 7 bankruptcy. In fact, many debtors in Chapter 13 eventually declare formal bankruptcy later.

Two sources for further information: "How to Get Out of Debt," by Ted Nicholas (Enterprise Publishing, 725 Market St., Wilmington, Del., 1980) \$4.95, and "The Consumer Guide to Bankruptcy & Chapter 13," (American Bankruptcy Council, 2525 Van Ness Ave., San Francisco 94109) \$5.

BANKRUPTCY FILINGS GO THROUGH THE ROOF

(By Steve Cocheo)

Bankruptcy filings are headed towards a record level in 1980. The rise is particularly sharp in personal bankruptcies.

Lenders and their attorneys that we sampled in various parts of the country blame both the new bankruptcy law, which took effect last October, and the economic recession.

Some attribute the increase about 50/50 to the two causes, while some others say it's 80 percent recession and 20 percent new law. But nearly everyone is unhappy with the situation. The thing that hurts most is the increased difficulty of lenders in recouping from bankrupt debtors under the new law.

The Division of Bankruptcy of the Administrative Office of the United States Courts projected in late June that total filings would reach 300,000 for the 1980 calendar year. (The projection is 418,700 if the figure is adjusted to reflect the fact that couples now file jointly for personal bankruptcy, rather than each spouse separately before Oct. 1, 1979). In calendar 1975, there were 265,596 total filings—up to now the all-time record.

The American Bankers Association is organizing a task force to deal with the effects of the new law. Walter Vaughn, senior vice president in charge of retail banking at American Security Bank, N.A., Washington, D.C., is chairman.

BACKGROUND

The new law, the Bankruptcy Reform Act of 1978 (officially, Public Law 95-598), has been the subject of innumerable industry briefings (ABA BJ, October 1979, p. 48). Here is a capsule review of differences from the old bankruptcy act:

In personal bankruptcies, there is now a list of liberal federal exemptions of equity in personal property (interest in excess of liens against it). Beforehand, only states set these rules on what a debtor could keep out of the hands of a trustee liquidating his

property to satisfy unsecured creditors' claims.

Also, reaffirmations of consumer debt not secured by real estate must now be approved by the bankruptcy judge and cannot be made at all once the debt is discharged.

Chapter 13 of the new law, evolved from an older version called the "wage-earner plan," has been liberalized and broadened to cover even small businesses wishing to avoid more technical bankruptcy chapters.

On the commercial side, a new Chapter 11 includes aspects of four sections of the old law: Chapter X, which was used for corporate capital structure reorganization; Chapter XI, which was for arrangements with unsecured creditors; Chapter XII, which was for non-corporate real estate cases; and Section 77 on railroad reorganizations.

There is considerably more flexibility, in principle, under this new Chapter 11 than under its predecessors.

Additionally, measures to upgrade the status of bankruptcy courts for both personal and commercial cases were set in motion. These included a five-year pilot program in 18 federal court districts setting up court officers called United States trustees to take over certain administrative duties formerly given to bankruptcy judges and private trustees.

THE CONSUMER LENDING SIDE

Of 17 consumer-lending bankers and bank lawyers we talked with in various areas of the country, all but three have seen increases of varying degrees in bankruptcy filings.

One of these three, James Struve, vice president and director of retail banking at The Merchants National Bank of Cedar Rapids, Iowa, reports no noticeable increase and adds: "I knock on wood when I say that. . . We're kind of waiting for the other shoe to drop." Struve suggests that one reason is that his area's unemployment rate is lower than the national average.

CAUSES

But most questioned were not so fortunate as Merchants National. The new law was considered a factor in the increase in bankruptcies, but not all bankers laid the greatest stress on it. Economic conditions were pointed to often.

"It's a domino theory here," says Tom McClain, vice president and consumer loan administrator, The National Bank of Greenwood, Ind. He explains that many businesses in his area are related to the auto industry. This, added to the general business slowdown, has brought on unemployment, he adds. The bank had 16 consumer bankruptcies in the first quarter of 1980, versus 2 in the first quarter of last year.

However, at The First National Bank of Boston, Mass., the consumer finance department vice president, Leonard O'Connor, has seen bankruptcies double in number, while dollars involved are up two-and-a-half times. Most of the problem is Chapter 7 liquidations, O'Connor elaborates. Because his market's economy is in fairly reasonable shape, he thinks the bulk of the increase is caused by the attractiveness of the new law to the debtor.

EXEMPTIONS

"They can exempt a heck of a lot of assets," says banker Joe Gill, talking about consumers filing for Chapter 7 straight bankruptcy under the new law. Gill is vice president and manager of special credits for United California Bank, Los Angeles.

The federal exemptions permitted under the new law include, among others: \$7,500 in a home or burial plot(s), up to \$1,200 in a motor vehicle, up to \$500 in jewelry, all household goods worth up to a maximum of \$200 per item, and up to \$750 in tools of trade.

Additionally, there is a \$400 exemption of any property, to which is added any unused

portion of the home exemption. (Thus an apartment dweller could have a "wild card" exemption of \$7,900, attorney Peter Schellie of the Washington, D.C., law firm of Baker and Daniels told listeners at the American Bankers Association's National Installment Credit Conference in April.) Only the unsecured portion of eligible items can be exempted, generally speaking, though certain personal goods secured by nonpurchase-money mortgages can also be exempted outright. (The latter are liens on an item not bought with the loan; an example would be a finance company lien on all household goods.)

OVERRIDES

Under the new bankruptcy act, states are permitted to pass laws overriding the federal exemptions. As of late June, states confirmed to have done this include Alabama, Arizona, Florida, Indiana, Kansas, Louisiana, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, and Virginia. The matter was pending in Illinois.

Some of those we questioned complained about the new exemptions.

Robert Murphy, vice president-installment lending for the central region of Marine Midland Bank in New York State, says every first meeting of creditors his bank is involved in is attended now.

"That's a must," he says, because: "If you're not there, you could be in all sorts of trouble, even if you're secured." The bank could possibly lose the collateral involved through an exemption by not being at the meeting, Murphy explains, recalling cases in which the court decided it wasn't interested since it wasn't there.

REAFFIRMATIONS

Under the new law, reaffirmations of consumer debt (promises to pay debt that would otherwise be wiped out by a discharge) are more severely governed than under the old statute.

The reaffirmation can be made only before a debt is discharged by the court. If the debtor does agree to pay back a debt after bankruptcy, he has 30 days from the day the agreement goes into effect to change his mind; and the court still has the final say on whether he'll be permitted to reaffirm a debt not secured by real estate.

Some of those questioned report that this has made reaffirmations somewhat more difficult than before.

"Reaffirmations are twice as hard to come by," says Gerard Pender, senior vice president for consumer lending of United Virginia Bank, Alexandria.

CHAPTER 13

In some areas, there has been a partial shift from personal liquidations to Chapter 13 plans. These are court-approved payback plans supervised by private trustees or U.S. trustees.

For instance, Irving Picard, U.S. trustee for the Southern District of New York, says there were 29 Chapter XIII's filed under the old law in calendar 1978 in that district. Since the new law came into effect last October, there were 240 Chapter 13's filed through the end of May, he says, and 71 of these were joint filings.

Richard Parks, vice president in the consumer lending division of The Fidelity Bank, Philadelphia, says 70% of the filings he deals with are now 13's; the majority previously were straight liquidations.

Why the shift? In some areas, unsecured creditors are seeing payment plans that are quite lax. United California's Gill complains of plans that start off with no payments, and "further on, who knows what will actually be delivered on what is promised?" (According to the law, unsecured creditors have no veto power on a Chapter 13 repayment plan so long as the court deems they are getting a better deal than under a liquidation.)

Adding to problems with Chapter 13: Con-

tradictory decisions come down from different bankruptcy judges, according to Herbert Minkel, Jr., attorney with the New York City law firm of Fried, Frank, Harris, Shriver & Jacobson.

Another comment comes from Phil Conover, an attorney with American Fletcher National Bank, Indianapolis. He has not seen the shift to 13 that he expected. He speculates that older bankruptcy practitioners are in a "liquidation rut."

THE COMMERCIAL LENDING SIDE

Though business filings are certainly up, the feeling of commercial lending and legal experts is that the new law's commercial aspects have had no major impact so far, though they have not really had a full tryout.

"I expected more waves or ripples," says Robert Grimmig, senior vice president for loan quality control of Chemical Bank, New York: "The commercial side of the new code has slipped in and been accepted without a tremendous hue and cry or shake and shiver."

Harvey Ziegler, senior vice president-commercial lending of Atlantic Bancorporation, Jacksonville, Fla., says there must be more experience with the new law "to see if it is really as onerous as some lenders seem to have expected."

Karen Fischer, vice president for commercial and real estate lending of American State Bank, Yankton, S.D., hasn't had any problems with the commercial side of the new law; she hasn't had any businesses file since it went into effect.

[From the Washington Post, Feb. 6, 1981]
PERSONAL BANKRUPTCIES HAVE INCREASED 82 PERCENT IN PAST YEAR, INFLATION IS BLAMED
(By Nancy L. Ross)

Personal bankruptcies have increased by 82 percent within the past year.

Growing concern among creditors about this alarming rise has prompted them to ask how much of the blame should be placed on persistent double-digit inflation and how much on an October 1979 change in the law that made bankruptcy easier.

Gerard A. Lareau, president of Consumer Credit Counseling Service in New York, dwelt on the former reason yesterday at a bankruptcy seminar sponsored by the National Retail Merchants Associations and the National Consumer Finance Association.

Two years of high inflation (13.3 percent in 1979; 12.4 percent in 1980) effectively have reduced the real spendable income of the average family by 10 percent. Yet, in Lareau's opinion, Americans were slow to reconcile themselves to a lower standard of living. As a result, some continued to spend beyond their means, living on savings and credit, until their debts overwhelmed them, he said.

During the 1974-75 recession, the most severe since the Depression, personal bankruptcies hit a peak of 229,000 and then fell back to their prerecession annual average of below 200,000, as inflation receded to 4.8 percent in 1976 and then rose to 6.8 percent in 1977.

Bankruptcies began rising again with the onslaught of the 1979-80 recession. During the 12-month period from the effective date of the Bankruptcy Reform Act of 1978 until Oct. 1, 1980, bankruptcies shot up from 290,543 to 380,615, according to the Bankruptcy Division of the Administrative Office of the U.S. Courts.

Whereas formerly 10 percent to 15 percent of the more than 5,000 families that visit Lareau's service annually had no rational alternative except to file for straight bankruptcy, he said, for the past two years 45 percent of them have found themselves in that position. A survey of the reasons cited for their financial troubles—such as divorce or serious illness—revealed that more than half admitted they had just overspent.

"The new law came along at the same time as recession and double-digit inflation," said Lareau. "It was an explosive combination. I can't say how many bankruptcies there would have been if the law had not been changed."

Citibank Vice President Peter J. Gray said there appears to be no relationship between the increased volume of consumer bankruptcies and the level of consumer installment credit outstanding. Both shot up in tandem during late 1978 and 1979, but then credit dipped while bankruptcies continued to soar.

There is no sign of a peak yet. Gray said no precise information exists on the dollar amount lost through bankruptcy, but he estimated it in the "high hundreds of millions of dollars."

H. R. Lively, a credit manager for Sears, Roebuck & Co., said the giant retailer's losses due to bankruptcy rose 124 percent in 1980 to \$40.5 million from \$18.1 million the previous year. He fixed the blame squarely on the new law, which he termed a "bailout for the indiscreet. Today there is a philosophy that bankruptcy is a new consumer 'right.' The notion that bankruptcy is an acknowledgment of failure has vanished."

Lively's singling out of the new law is echoed by most creditors, although they also cite advertising by bankruptcy attorneys as another culprit. The major problem with the law is its lack of a requirement of financial disability, the National Consumer Finance Association says.

The group reports that there are people filing for straight bankruptcy whose assets or stable income would enable them to pay off their debts eventually were it not for the generous exemptions provided by the 1978 law. In some well-publicized cases, for example, families earning \$50,000 a year or owning a \$100,000 home were relieved of all debt by declaring bankruptcy.

The NCFA, which represents finance companies, favors a change in the law to oblige all debtors filing voluntarily for straight bankruptcy to enter a Chapter 13 five-year repayment plan that requires a "best effort" on their part. At the moment, some courts accept repayment plans offering as little as 1 cent on the dollar to unsecured creditors.

Sen. Robert Dole, (R-Kan.), chairman of the Senate Judiciary subcommittee on the courts, told the creditors that the "benefit-without-stigma" attitude of some bankrupts is one that President Reagan hopes to change. ●

By Mr. PERCY (by request):

S. 993. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1981

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 with respect to the Overseas Private Investment Corporation.

This legislation has been requested by OPIIC, and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with a section-by-section analysis and the letter from Acting President of the Over-

seas Private Investment Corporation to the President of the Senate dated April 3, 1981.

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

S. 993

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 "Overseas Private Investment Corporation Amendments Act of 1981."

CREATION, PURPOSE AND POLICY

SEC. 2. Section 231 of the Foreign Assistance Act of 1961 is amended—

(1) in the second undesignated paragraph, by striking out "and" at the end of subparagraph (1);

(2) in the second undesignated paragraph, by inserting the following new subparagraph (2):

"(2) seek to support those developmental projects having positive trade benefits for the United States; and"; and

(3) in the second undesignated paragraph as follows: by redesignating subparagraph (2) as subparagraph (3); by striking out "\$520 or less in 1975 United States dollars" and inserting "\$625 or less in 1978 United States dollars"; and by striking out all thereafter in such subparagraph and inserting a period.

ORGANIZATION AND MANAGEMENT

SEC. 3. Section 233 of the Foreign Assistance Act of 1961 is amended in the first paragraph of subsection (b) as follows: by striking out "eleven" and "six" in the first sentence thereof and inserting "thirteen" and "seven", respectively; by inserting after the second sentence the following new sentence: "The United States Trade Representative shall be the Vice Chairman of the Board, ex-officio: Provided, however, That the United States Trade Representative may designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative."; by striking out "Six", "six", and "two" in the third, fourth, and sixth sentences thereof and inserting "Seven", "seven", and "three", respectively; and by striking out "also" in the parenthetical and inserting ", ex-officio" at the end thereof.

INVESTMENT INSURANCE AND OTHER PROGRAMS

SEC. 4. Section 234 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a) (1) (C), by striking out "or insurrection" and inserting in lieu thereof ", insurrection or civil strife";

(2) in subsection (a) (2), by striking out "total" and "financing" appearing at the end thereof;

(3) in subsection (a) (3), by striking out "authorized to issue under this subsection" and inserting "permitted to have outstanding under section 235(a) (1)";

(4) in subsection (b), by striking out in the final proviso "authorized to issue under this subsection" and inserting "permitted to have outstanding under section 235(a) (2)";

(5) in subsection (f) (1), by striking out "(A)" and all after "equitable terms" and inserting a period; and

(6) in the final undesignated paragraph of subsection (f), by striking out in the second sentence thereof "exceed \$600,000,000 in any one year, and the amount of such reinsurance shall not" and by striking out in the last sentence all after "whether first loss or otherwise" and inserting a period.

ISSUING AUTHORITY, DIRECT INVESTMENT FUND AND RESERVES

SEC. 5. Section 235 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a) (2), by striking out all after "\$750,000,000" and inserting ", Commitments to guarantee loans are authorized for any fiscal year only to the extent or in such amounts as provided in appropriation acts.";

(2) by adding the following subsection (a) (3):

"The Corporation shall not make any commitment to issue any guaranty which would result in a reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 234 (b) or similar predecessor guaranty authority.";

(3) by redesignating subsections (a) (3) and (a) (4) as subsections (a) (4) and (a) (5), respectively;

(4) in redesignated subsection (a) (5), by striking out "September 30, 1981" and inserting "September 30, 1985"; and

(5) in subsection (b), by adding the following sentence at the end thereof: "Loans from the Direct Investment Fund are authorized for any fiscal year only to the extent or in such amounts as provided in appropriation acts."

GENERAL PROVISIONS RELATING TO INSURANCE AND GUARANTY PROGRAM

SEC. 6. Section 237 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (f), by striking out the first sentence and inserting the following:

"Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide (1) that appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) that compensation for a claim of loss under insurance of equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss."; and

(2) by striking out the third sentence of subsection (f).

DEFINITIONS

SEC. 7. Section 238 of the Foreign Assistance Act of 1961 is amended in subsection (a), by inserting after "includes any contribution" the phrase "or commitment".

GENERAL PROVISIONS AND POWERS

SEC. 8. Section 239 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (d), by inserting after the last semicolon the following: "to collect or compromise any obligations assigned to or held by the Corporation including any legal or equitable rights accruing to the Corporation";

(2) in subsection (e), by striking out in the first sentence thereof "shall have the responsibility for planning and directing the execution of audits" and inserting "may conduct"; and

(3) by striking out subsections (f), (j), and (k) and redesignating subsections (g), (h), (i), and (l) as subsections (f), (g), (h), and (l), respectively.

REPORTS

SEC. 9. Section 240A of the Foreign Assistance Act of 1961 as amended—

(1) by striking out the designation "(a)" applied to subsection (a);

(2) in subparagraph (1), by striking out "section 239(1)" and inserting "section 239 (h)"; in subparagraph 2(A), by striking out "section 239(1)" and inserting "section 239 (1)"; and

(3) by striking out subsection (b).

SECTION-BY-SECTION ANALYSIS

I. INTRODUCTION

The proposed Overseas Private Investment Corporation Act of 1981 (hereafter referred to as the Bill) amends the Foreign Assistance Act of 1961, as amended (hereafter referred to as the Act) in order to extend the authority of the Corporation to issue investment insurance and guaranties and to make certain changes in existing programs and policies.

II. PROVISIONS OF THE BILL

Section 1. Short title: This paragraph provides that the Bill may be cited as the "Overseas Private Investment Corporation Amendments Act of 1981."

Section 2. Creation, purpose and policy: This paragraph amends section 231 of the Act, which creates the Corporation and sets forth the purpose and policy of the Corporation, as follows:

(A) Subparagraph (2) encourages the Corporation to support projects which have positive trade benefits for the United States. By encouraging the Corporation to seek out and support such projects, the amendment emphasizes the role the Corporation has to play in the trade and export expansion efforts of the Government. However, this amendment will in no way denigrate the primary development purpose of the Corporation, since all projects supported by the Corporation will continue to meet the Corporation's development criteria and the Corporation's activities will be restricted to less developed countries.

(B) Subparagraph (3) provides that the Corporation will give preferential consideration to projects in countries with per capita incomes of \$625 or less in 1978 dollars. This reflects the current eligibility limit for access to the World Bank's concessional assistance provided through the International Development Association. The amendment would also remove the restrictions on the operation of the activities of the Corporation in less developed countries with per capita incomes of \$1,000 or more in 1975 United States dollars.

Section 3. Organization and management: This paragraph amends section 233 of the act, which sets forth the organization and management of the Corporation. It modifies section 233(b) of the act to reflect the increase in Board membership effected by the President's Reorganization Plan No. 3 of 1979. It also makes certain other organizational changes. Whereas the Reorganization Plan provided for the United States Trade Representative to be Vice Chairman of the Board, ex officio, this amendment would allow the United States Trade Representative to designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative. Because of the increase in number of private sector directors from six to seven, the terms of no more than three such directors, rather than two directors under existing legislation, shall expire in any one year.

Section 4. Investment insurance and other programs: This paragraph amends section 234 of the act, which describes the programs the Corporation is authorized to operate, as follows:

(A) Subparagraph (1) extends the Corporation's authority to insure investments against loss from war, revolution, or insurrection to permit it to insure against loss from civil strife. This would permit coverage of losses resulting from strife which might not clearly amount to insurrection or revolution. This could serve to encourage investment in countries in which there are various manifestations of civil unrest such as terrorist activities, riots and other types of civil disruptions. In general, OPIC's intention would be to try to cover the gap that

exists between OPIC's present coverage and traditional property insurance. Protection against loss due to civil strife has long been available to exporters from the Export-Import Bank. The amendment would make comparable coverage available to investors.

(B) Subparagraph (2) makes a technical change to subsection (a) (2) to provide that the Corporation, in issuing insurance on a multilateral basis, shall not assume liabilities disproportionate to the participation of U.S. eligible investors in the project. This amendment clears up ambiguity under the present legislation which appears to link the amount of liabilities which can be assumed by the Corporation to the total debt and equity financing without recognizing the various contractual participations eligible investors may have in a project.

(C) Subparagraphs (3) and (4) are technical changes clarifying that the amounts of maximum contingent liability of investment insurance and investment guaranties are set forth in section 235 of the act and not in section 234.

(D) Subparagraph (5) deletes the provision limiting the Corporation from entering into various direct underwriting insurance arrangements with private insurance companies and other entities. With this amendment, the Corporation would have broader authority to encourage the private insurance companies to underwrite political risks, so long as consistent with the purpose of the Corporation and on equitable terms.

(E) Subparagraph (6) deletes the \$600 million annual reinsurance limit in section 234(f). This limit appears to have been enacted in 1974 so that the Corporation could not accomplish by reinsurance what Congress sought to be accomplished through direct underwriting participation with private insurers. With the repeal of the general privatization mandate of 1974, such a limit is no longer necessary. All reinsurance issued by the Corporation will continue to require that the reinsured party retain for its own account specified portions of liability, whether first loss or otherwise.

Section 5. Issuing authority, direct investment fund and reserves: This paragraph amends section 235 of the Act, which sets forth the issuing authority of the Corporation, as follows:

(A) Subparagraph (1) removes the proviso in subsection (a) (2) since it is restated as a separate subsection (a) (3). It also adds a provision conforming to current practice applicable to federal credit programs.

(B) Subparagraph (2) is a restatement of the proviso now found in section 235(a) (2) of the Act.

(C) Subparagraph (3) redesignates subsections (a) (3) and (a) (4) as subsections (a) (4) and (a) (5), respectively, as a result of restating the proviso in subsection (a) (2) as subsection (a) (3).

(D) Subparagraph (4) extends the authority of the Corporation to issue investment insurance and guaranties until September 30, 1985.

(E) Subparagraph (5) adds a provision conforming to current practice applicable to federal credit programs.

Section 6. General provisions relating to insurance and guaranty program: This paragraph amends section 237 of the Act, which describes general provisions relating to the insurance and guaranty programs, as follows:

(A) Subparagraph (1) restates the first sentence in subsection (f) in order to clarify that the Corporation may compute compensation on a claim related to an equity investment based upon net book value attributable to such equity investment. The existing provision could be interpreted to require a cumbersome and difficult procedure of tracing investment earnings with respect to an equity investment through a series of often complex stock transactions to the original shares of

stock to which earnings on the original equity investment are attributable.

(B) Subparagraph (2) deletes the final sentence of subsection (f), which now makes an exception for the 10 percent co-insurance requirement when State law prohibits it. This is done since there is no applicable State law making such a prohibition.

Section 7. Definitions: This paragraph amends Section 238 of the Act, which defines certain phrases. It modifies section 238(a) of the Act to clarify that the definition of investment includes a commitment for which the investor can be held responsible, as well as actual contributions of the kinds enumerated.

Section 8. General provisions and powers: This paragraph amends section 239 of the Act, which describes the general provisions and powers of the Corporation, as follows:

(A) Subparagraph (1) adds a new provision in order to clarify that the Corporation is authorized to collect or compromise obligations. This authority was previously exercised under the general powers granted to the Corporation.

(B) Subparagraph (2) modifies that part of subsection (e) giving the Auditor-General of the Agency for International Development the responsibility to conduct audits of the Corporation. Since the Government Corporation Control Act requires the General Accounting Office to conduct an annual audit of the Corporation and transmit its findings to Congress, it is uneconomical to continue this duplicative function with the Auditor-General. However, the Auditor-General could continue to conduct reviews, investigations and inspections and have security oversight responsibility.

(C) Subparagraph (3) removes three subsections and redesignates the remaining subsections. Subsection (f) provided for an Advisory Committee for the Corporation. This subsection has been deleted as it has been rendered inoperative by the provisions of the Federal Advisory Committee Act, Public Law 92-463. Subsections (j) and (k), respectively, provided certain prohibitions against the Corporation's support of projects involving the exploration, mining, or other extraction of copper, and against the establishment or expansion of production or processing of palm oil, sugar or citrus crops. The provisions of these two subsections have been deleted as they are encompassed by the provisions of section 231(1) of the Act.

Section 9. Reports: This paragraph amends section 240A of the Act, providing for certain reports by the Corporation to Congress, as follows:

(A) Subparagraphs (1) and (2) are conforming changes necessitated by the redesignation of the subsections in section 239 and the deletion of subsection (b).

(B) Subparagraph (3) removes the requirement that the Corporation submit a report to the Congress, no later than September 30, 1980, on the development of private and multilateral programs for investment insurance since such requirement has been satisfied.

OVERSEAS PRIVATE
INVESTMENT CORPORATION,
April 3, 1981.

HON. GEORGE H. BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting today a bill to authorize a four-year extension of the investment insurance and guaranty programs operated by the Overseas Private Investment Corporation ("OPIC") and to make certain changes in its existing programs and policies. The Administration believes that OPIC has played an important role in advancing U.S. foreign economic development policies and that its programs can be of greater value in the future.

The major change proposed by the Administration is to remove the restriction on OPIC's activities with respect to investment projects in developing countries that have per capita incomes of \$1,000 or more in 1975 U.S. dollars. The removal of this restriction reflects the fact that there are still significant development needs in such countries. This change would not diminish OPIC's development role or its commitment to promote projects in the poorer developing countries, since all projects supported by OPIC would continue to be measured by OPIC's development criteria and OPIC would continue to give preferential consideration to projects in the poorer countries.

The Administration also seeks amendments which would (1) encourage OPIC to support those developmental projects which also have positive trade benefits for the United States, and (2) permit OPIC to insure against losses resulting from civil strife. The bill also proposes certain other changes of lesser significance which will improve OPIC programs.

I urge the early passage of the enclosed legislation.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

GERALD T. WEST,
Acting President. ●

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

S. 994. A bill to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD AND AGRICULTURE ACT OF 1981

● Mr. HUDDLESTON. Mr. President, I am today introducing legislation to extend and revise the Food and Agriculture Act of 1977.

My bill would—

First, extend for 4 years, through the 1985 crop year, the basic price-support programs for wheat, feed grains, upland cotton, and rice, with adjustments in the loan and target price levels to reflect increased costs of production. The bill would also adjust the support rates for peanuts and soybeans to reflect adequately the increases in the costs of producing those commodities;

Second, extend for 4 years, through fiscal year 1985, the Food Stamp Act of 1977 with changes that would result in significant savings. I intend to offer amendments during the committee markup to achieve further savings in the food stamp program, while assuring that needy recipients continue to receive the food assistance this program affords. I am committed to establishing a program that adequately provides for the food needs of our poorest citizens at the minimum cost to the taxpayer. But I am convinced that we need to examine ways of meeting those needs and curbing costs other than the ones outlined by the President;

Third, extend for 4 years, through fiscal year 1985, the Agricultural Trade Development and Assistance Act (Public Law 480); and

Fourth, extend the authorities in the 1977 act for the conduct of agricultural research by the Federal Government

with changes designed to improve and further this important endeavor.

My bill would continue programs in the 1977 act that have provided protection to American producers and consumers from the risks of inadequate returns and inadequate supplies. The risks to the producer and to the consumer are related. The consumer will not enjoy the benefits of a bountiful supply of food and fiber products if the producer faces financially deadly risks without some insurance against those risks.

The farm bill hearings conducted by the Committee on Agriculture, Nutrition, and Forestry this year have made it clear that our farmers are facing virtually unprecedented demands and problems. The farmer faces—among other adversities—record high interest rates, the ravages of drought, falling farm income, and dramatically higher fuel costs. We have seen the loss of farmland through soil erosion and encroaching urban development. We have seen that the producer is threatened by financial and natural forces every year. It is increasingly apparent that consumers must recognize that each of us in America—and throughout the world—has a stake in the farmer's survival.

Clearly, we cannot provide total protection to the farmer. Nor should we in a free market system. But, over the years, Federal price support programs have provided a degree of stability in uncertain markets and protection from prices far below the cost of production. These programs have assisted our farmers in providing a plentiful supply of food and fiber at reasonable prices to the consumers of the Nation and of the world.

The 1977 act encompasses the basic price support legislation for almost all of our major farm commodities; contains provisions for agricultural research, extension, rural development, and conservation; and contains the authorization for funding of the food stamp program.

In approving the Food and Agriculture Act of 1977, President Carter remarked that—

In the last 40 years there has never been such a far-reaching and important piece of legislation passed relating to American agriculture.

The programs contained in the 1977 act and prior acts have given farmers the encouragement to make investments and improve their farming operations. These investments and improvements have led to the most efficient farming operations in the history of the world. Food costs in the United States take a smaller proportion of disposable income than in any other country of the world. And farm exports, nearing \$50 billion annually, pay for a major part of oil imports.

The legislative proposals submitted by the President run counter to the provisions of the 1977 act. The nearly unlimited discretionary authority requested by the President and OMB are an assault on farm program expenditures masked as economy measures. If enacted, the proposals could result in false and dangerous economies.

Several principles underlie the basic framework of the Food and Agriculture Act of 1977, which my bill would continue. These principles are:

First, sufficient return to the farmer to compensate for the risks inherent in production;

Second, ability to take advantage of the expanding market opportunities with a minimum of Government interference;

Third, protection of the interests of taxpayers and consumers;

Fourth, contribution to the overall strength of the Nation's economy;

Fifth, encouragement of family farm operations; and

Sixth, preservation of the soil and water production base of American agriculture consistent with sustained and high production.

I am not prepared to abandon these principles. I believe that the authority vested in Congress to oversee the interests of farmers and consumers should not be handed over to the Office of Management and Budget.

FARM PROGRAMS

The Food and Agriculture Act of 1977 laid the basis for a sound agricultural policy. The act authorizes programs of freedom and flexibility for farmers to produce the high quality product the consumer wants. Payments are made to farmers only when market prices fall below a target level based on costs of producing their crops, excluding land. When market prices are such that deficiency payments must be made, the payments result, of course, in the expenditure of tax dollars. The price and income protection of our Nation's farm programs are, in the strictest sense, an investment in the continuing ability of the farmers of this Nation to meet the food and fiber needs of consumers—at home and abroad. This investment in agriculture is one of the best investments we can make. A productive agriculture is essential in our fight against inflation and essential to the continued welfare of the Nation.

Under the bill I am introducing today, the 1982 target price for wheat would be \$4.40 per bushel, for corn \$2.75 per bushel, and for cotton 80 cents per pound. Minimum loan levels would be established at \$3.70 per bushel for wheat, \$2.50 per bushel for corn, and 55 cents per pound for cotton.

The Secretary of Agriculture would retain the authority to adjust the loan levels, within ranges established by the bill. The flexibility given to the Secretary of Agriculture to adjust these levels and to administratively adjust many aspects of these programs is essential if this Nation's farmers are to compete effectively in world markets. But that discretionary authority must be exercised only after careful consideration of all consequences of proposed action for this Nation's agricultural system and the consumer. And Congress retains the authority and responsibility for providing reasonable bounds to that discretion.

FOOD STAMPS

The Food and Agriculture Act of 1977 revised the Food Stamp Act of 1964 to improve the level of nutrition of all low-

income householders. The administration is proposing major changes in the food stamp program, with the intention of achieving substantial savings of tax dollars. I am convinced of the need for meaningful reform of the program. But I am not convinced that the administration's proposals would result in significant savings without reducing benefits for the truly needy. I believe that a great deal of taxpayer dollars can be saved through more effective administration of the food stamp program by the Department of Agriculture within the present framework of law.

The Department's announcement that it will shortly begin to prorate food stamp benefits for the month of application—that is, tie the benefit level during the month of application to the time of the month the household applies—is a step in the right direction. The change could result in fiscal year 1982 savings of \$210 million.

My bill revises the procedure for calculating the cost of the thrifty food plan, revises the provisions under which household income is calculated for the purposes of food stamp program eligibility, requires a tough work registration system, and provides incentives for error reductions as well as food coupon accountability on the part of State agencies. These changes will result in significant savings in program outlays.

I emphasize that during our committee's markup of the legislation, I will carefully consider all proposals for curbing expenditures and likely offer amendments of my own.

SOIL AND WATER CONSERVATION

Conservation of the food, fiber, and forestry production base of this Nation is an integral part of our efforts to increase agricultural and forestry productivity. Natural resources are potentially the most limiting factors for future production capacity.

Through the Soil and Water Resources Conservation Act of 1977 (RCA), Congress directed the Department of Agriculture to develop a series of reports on conservation needs, and propose a comprehensive soil and water conservation program. Most of those reports and the conservation program are long overdue.

The reports and program proposals, required by the RCA, will form a sound basis for future congressional action on conservation matters. For this reason, I urge the administration to conclude the RCA process as soon as possible.

I believe the development of a comprehensive soil and water conservation program for the Nation is imperative. Legislation dealing with many conservation issues has been introduced in the Senate. However, before setting the Nation's conservation policy, it would be desirable if the RCA reports and recommendations are completed by the Department of Agriculture.

In the meantime, as the Committee on Agriculture, Nutrition, and Forestry considers specific conservation measures, I will actively participate in developing sound legislation based on the available information.

CONCLUSION

Mr. President, the bill that I am introducing today establishes an agricultural policy framework for the Nation for the next 4 years that is responsive to the needs of both farmers and consumers. It builds on the programs that have in the past worked to preserve and stabilize our agricultural production capacity and provide price and income protection for U.S. farmers.

My bill also makes necessary improvements in two very important programs of the Department of Agriculture, the food stamp program, and the agricultural research, extension, and teaching program.

Therefore, as we begin work in the Senate to shape the 1981 food and farm legislation, I urge my colleagues to give serious consideration to my proposals.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the major provisions of the Food and Agriculture Act of 1981, and the full text of the bill.

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

S. 994

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Food and Agriculture Act of 1981".

TABLE OF CONTENTS

TITLE I—PAYMENT LIMITATIONS FOR WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Sec. 101. Payment limitations for wheat, feed grains, upland cotton, and rice.

TITLE II—DAIRY PROGRAM

Sec. 201. Dairy base plans.
Sec. 202. Milk price support.
Sec. 203. Transfer of dairy products to the military and veterans hospitals.
Sec. 204. Dairy indemnity program.

TITLE III—WOOL AND MOHAIR

Sec. 301. Extension of price support under the National Wool Act of 1954.
Sec. 302. Support price for shorn wool.

TITLE IV—WHEAT

Sec. 401. Loan rates and target prices for the 1982 through 1985 crops.
Sec. 402. Program acreages and payment yields; set-aside program.
Sec. 403. Nonapplicability of certificate requirements.
Sec. 404. Suspension of marketing quotas and producer certificate provisions.

Sec. 405. Finality of determinations.
Sec. 406. Suspension of quota provisions.
Sec. 407. Application of terms in the Agricultural Act of 1949.

Sec. 408. Commodity Credit Corporation sales price restrictions for wheat and feed grains.
Sec. 409. Nonapplicability of section 107 of the Agricultural Act of 1949 to the 1982 through 1985 crops of wheat.

TITLE V—FEED GRAINS

Sec. 501. Loan rates and target prices for the 1982 through 1985 crops.
Sec. 502. Program acreages and payment yields; set-aside program.
Sec. 503. Nonapplicability of section 105 of the Agricultural Act of 1949 to the 1982 through 1985 crops of feed grains.

TITLE VI—UPLAND COTTON

Sec. 601. Base acreage allotments; suspension of marketing quotas; related provisions.
Sec. 602. Cotton production incentives; loan rates and target price; set-aside program.
Sec. 603. Commodity Credit Corporation sales price restrictions.
Sec. 604. Miscellaneous cotton provisions.
Sec. 605. Skiprow practices.
Sec. 606. Preliminary allotments for the 1986 crop of upland cotton.

TITLE VII—RICE

Sec. 701. Loan rates and target prices for the 1982 through 1985 crops.
Sec. 702. Program acreages and payment yields; set-aside program.
Sec. 703. Suspension of acreage allotments, marketing quotas, and other provisions.
Sec. 704. Conforming amendment.

TITLE VIII—PEANUTS

Sec. 801. Annual marketing quota and State acreage allotment.
Sec. 802. National acreage allotment; national poundage quota; farm poundage quota; and definitions.
Sec. 803. Sale, lease, and transfer of acreage allotments.
Sec. 804. Marketing penalties; disposition of additional peanuts.
Sec. 805. Reports and records.
Sec. 806. Preservation of unused allotments.
Sec. 807. Price support program for the 1982 through 1985 crops.

TITLE IX—SOYBEANS

Sec. 901. Soybeans.

TITLE X—SUGAR

Sec. 1001. Sugar.

TITLE XI—MISCELLANEOUS

Sec. 1101. Standby authority for disaster payments.
Sec. 1102. Set-aside of normally planted acreage.
Sec. 1103. Farm storage facility loans.
Sec. 1104. Farmer-held reserve.

TITLE XII—PUBLIC LAW 480

Sec. 1201. Market development under Public Law 480.
Sec. 1202. Extension of Public Law 480 programs.

TITLE XIII—FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

Sec. 1301. Amendments to the definition of "thrifty food plan".
Sec. 1302. Deductions allowed in the computation of household income.
Sec. 1303. Eligibility for participation—work registration.
Sec. 1304. Liability of States for certain losses relating to food stamp coupons.
Sec. 1305. Use of civil money penalties to increase enforcement actions.
Sec. 1306. Incentives for error reduction efforts; plans for corrective action to reduce errors.
Sec. 1307. Funding for the food stamp program.
Sec. 1308. Extension of the commodity distribution programs; penalties for conversion.
Sec. 1309. Amendments to the authority for the commodity supplemental food program.

TITLE XIV—MULTIYEAR SET-ASIDES

Sec. 1401. Multiyear set-asides.

TITLE XV—FOOD AND AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Sec. 1501. Amendments to subtitle A of the National Agricultural Research, Extension and Teaching Policy Act of 1977.

- Sec. 1502. Responsibilities of the Secretary of Agriculture.
- Sec. 1503. Joint Council on Food and Agricultural Sciences.
- Sec. 1504. National Agricultural Research and Extension Users Advisory Board.
- Sec. 1505. Amendments to subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.
- Sec. 1506. Joint coordination and planning activities.
- Sec. 1507. Higher education in the food and agricultural sciences.
- Sec. 1508. National agricultural science award.
- Sec. 1509. Biomass energy research projects.
- Sec. 1510. Expanded food and nutrition education program.
- Sec. 1511. Animal health and disease research.
- Sec. 1512. Research, extension, and teaching at 1890 land-grant colleges, including Tuskegee Institute.
- Sec. 1513. International agricultural research and extension.
- Sec. 1514. Federal-State cooperation in the food and agricultural sciences.
- Sec. 1515. Indirect costs.
- Sec. 1516. Federal Subcommittee on Food and Renewable Resources.
- Sec. 1517. Competitive and facility improvement grants.
- Sec. 1518. Cooperative research at forestry schools.
- Sec. 1519. Rural development and small farm research and extension.
- Sec. 1520. Authorizations for appropriations for agricultural research, extension, and teaching.

TITLE XVI—EFFECTIVE DATE

Sec. 1601. Effective date.

TITLE I—PAYMENT LIMITATIONS FOR WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Sec. 101. Notwithstanding any other provision of law—

(1) The total amount of payments (excluding disaster payments) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 for wheat, feed grains, upland cotton, and rice shall not exceed \$50,000 for each of the 1982 through 1985 crops.

(2) Whenever disaster payments are made to persons for any of the 1982 through 1985 crops of wheat, feed grains, upland cotton, or rice under section 114 of the Agricultural Act of 1949, the total amount of disaster payments that a person shall be entitled to receive for crops harvested in any one of such years shall not exceed \$100,000.

(3) The term "payments" as used in this section shall not include loans or purchases, or any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation.

(4) If the Secretary determines that the total amount of payments that will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

(5) The Secretary shall issue regulations defining the term "person" and prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of such limitation. The rules for determining whether corporations and their

stockholders may be considered as separate persons shall be in accordance with the regulations issued by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970.

(6) The provisions of this section that limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary.

TITLE II—DAIRY PROGRAM

DAIRY BASE PLANS

Sec. 201. (a) Section 210(e) of the Agricultural Act of 1970 (7 U.S.C. 608c note) is amended to read as follows:

"(e) The provisions of this section shall not be effective after December 31, 1985, except with respect to orders providing for class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1988."

(b) The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendment made by subsection (a) of this section as it was prior thereto.

MILK PRICE SUPPORT

Sec. 202. Section 201(c) of the Agricultural Act of 1949 (7 U.S.C. 1446(c)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding the foregoing, effective for the period beginning October 1, 1981, and ending September 30, 1985, the price of milk for the marketing year beginning on October 1 of each year shall be supported at a level determined according to the following procedure: The Secretary shall estimate Government price support purchases (net of sales for unrestricted use) for each such marketing year using the amount of such purchases made during the most recent six-month period adjusted to an annual level on the basis of the most recent ten year experience. The Secretary shall adjust this estimate of net Government purchases to reflect the effect of current and expected availability of feed, feed prices, milk-feed price ratio, utility cow prices, dairy cow numbers, and dairy heifer replacement stocks on milk production during each such marketing year. After making this final estimate, the Secretary shall support the price of milk during each such marketing year at not less than the level indicated by the following schedule:

Price as percent of parity	The higher of anticipated annual rate of net Government purchases	
	Nonfat dry milk (million pounds)	Milk equivalent (butterfat basis) of butter and cheese (billion pounds)
75.....	more than 500.....	5.5 or more.
76.....	450-499.9.....	5.0-5.499.
77.....	400-449.9.....	4.5-4.999.
78.....	350-399.9.....	4.0-4.499.
79.....	300-349.9.....	3.5-3.999.
80.....	250-299.9.....	3.0-3.499.
81.....	200-249.9.....	2.5-2.999.
82.....	150-199.9.....	2.0-2.499.
83.....	100-149.9.....	1.5-1.999.
84.....	50-99.9.....	1.0-1.499.
85-90.....	less than 50.....	less than 1.0.

In no event shall the support price for each such marketing year be less than the dollar amount of the support price then currently in effect for milk. The Secretary shall notify, in writing, the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and the chairman of the House

Committee on Agriculture of each new annual support level and the basis therefor, thirty days prior to the effective date of the new support level. Notwithstanding the foregoing, if during any such marketing year dairy product imports into the United States are increased as the result of a reduction or termination of import restraints established under section 22 of the Agricultural Adjustment Act of 1933, the support price for milk shall be redetermined by reducing the final estimate of net Government purchases by the milk equivalent of butterfat of dairy products or nonfat dry milk or its equivalent of other products derived from milk involved in the expansion of dairy product imports. The increased support price so determined shall become effective simultaneously with the announcement of the expansion of dairy product imports. A similar reduction in the net Government purchases for the marketing year in which the imports are entered into the United States shall be made when determining the support price level for subsequent years."

TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS

Sec. 203. Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended by striking out "December 31, 1981" in subsections (a) and (b) and inserting in lieu thereof "December 31, 1985".

DAIRY INDEMNITY PROGRAM

Sec. 204. Section 3 of the Act of August 13, 1968 (82 Stat. 750, as amended; 7 U.S.C. 4501), is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1985".

TITLE III—WOOL AND MOHAIR

EXTENSION OF PRICE SUPPORT UNDER THE NATIONAL WOOL ACT OF 1954

Sec. 301. Section 703(a) of the National Wool Act of 1954 (7 U.S.C. 1782(a)) is amended by striking out "December 31, 1981" and inserting in lieu thereof "December 31, 1985".

SUPPORT PRICE FOR SHORN WOOL

Sec. 302. Section 103(b) of the National Wool Act of 1954 (7 U.S.C. 1782(b)) is amended by striking out "Provided" and all that follows down through the end of the sentence and inserting in lieu thereof the following: "Provided, That for the marketing years beginning January 1, 1982, and ending December 31, 1985, the support price for shorn wool shall be 85 per centum (rounded to the nearest full cent) of the amount calculated according to the foregoing formula".

TITLE IV—WHEAT

LOAN RATES AND TARGET PRICES FOR THE 1982 THROUGH 1985 CROPS

Sec. 401. Effective only for the 1982 through 1985 crops of wheat, the Agricultural Act of 1949 is amended to add subsections (a) through (c) to a new section 107B as follows: "Sec. 107B. Notwithstanding any other provision of law—

"(a) The Secretary shall make available to producers loans and purchases for each of the 1982 through 1985 crops of wheat at such level, not less than \$3.70 per bushel nor in excess of 100 per centum of parity, as the Secretary determines will maintain wheat's competitive relationship to other grains in domestic and export markets: *Provided*, That if the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for wheat for the next marketing year by the amount that the Secretary determines is necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below \$3.00 per bushel.

"(b) (1) In addition, the Secretary shall make available to producers payments for each of the 1982 through 1985 crops of wheat in an amount determined by multiplying (A) the payment rate by (B) the farm program acreage for the crop by (C) the farm program payment yield for the crop.

"(2) The payment rate for a crop of wheat shall be the amount by which the higher of—

"(A) the national weighted average market price received by producers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(B) the loan level determined under subsection (a) of this section for such crop is less than the established price per bushel. The established price for wheat shall be \$4.40 per bushel for the 1982 crop. For each of the 1983 through 1985 crops, the established price for wheat shall be the established price for the previous year's crop adjusted to reflect any change in (A) the average adjusted cost of producing wheat for the two crop years immediately preceding the year for which the determination is made from (B) the average adjusted cost of producing wheat for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of producing wheat for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (A) variable costs, (B) machinery ownership costs, and (C) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(3) Notwithstanding the foregoing provisions of this subsection, if the Secretary adjusts the level of loans and purchases for wheat in accordance with the proviso in subsection (a) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made. Any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 101 of the Food and Agriculture Act of 1981.

"(4) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which a reduced yield disaster payment is made to the producer under section 114 of the Agricultural Act of 1949.

"(c) The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis."

PROGRAM ACREAGES AND PAYMENT YIELDS;
SET-ASIDE PROGRAM

SEC. 402. Effective only for the 1982 through 1985 crops of wheat, the Agricultural Act of 1949 is amended by adding subsections (d) through (1) to section 107B as follows:

"(d) (1) The Secretary shall proclaim a national program acreage for each of the 1982 through 1985 crops of wheat. The proclamation shall be made not later than August 1 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines that it is necessary based on the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for wheat shall be the

number of harvested acres that the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be used domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of wheat are excessive or that an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount that the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of wheat. The allocation factor for wheat shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of wheat be more than 100 per centum nor less than 80 per centum.

"(3) The individual farm program acreage for each crop of wheat shall be determined by multiplying the allocation factor by the acreage of wheat planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the wheat acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of wheat planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than August 1 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of wheat planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for wheat, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(e) The farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for wheat was established for the farm for the previous crop year, the Secretary may determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(f) (1) The Secretary shall provide for a set aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary

shall announce any such set aside not later than August 1 prior to the year in which the crop is harvested. If a set aside of cropland is in effect under this subsection, then as a condition of eligibility for loans, purchases, and payments authorized under this section and disaster payments authorized under section 114 of this Act, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop for which the set aside is in effect. The Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, that will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price-support program, and will not adversely affect farm income.

"(2) The Secretary may make land diversion payments to producers of wheat, whether or not a set aside for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation

measures, and topography, and such other factors as the Secretary deems necessary.

"(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so not later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section and disaster payments under section 114 of this Act shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres that the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into under this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments under this section or disaster payments under section 114 of this Act, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(h) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(i) The Secretary shall carry out the program authorized under this section through the Commodity Credit Corporation."

NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

SEC. 403. Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) shall not be applicable to wheat processed or exported during the period July 1, 1973, through May 31, 1986.

SUSPENSION OF MARKETING QUOTAS AND PRODUCER CERTIFICATE PROVISIONS

SEC. 404. Sections 331, 332, 333, 334, 335, 336, 338, 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331-1334, 1335, 1336, 1338, 1339, 1379b, and 1379c) shall not be applicable to the 1982 through 1985 crops of wheat.

FINALITY OF DETERMINATIONS

SEC. 405. Effective only for the 1982 through 1985 crops, section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1385) is amended by amending the first sentence to read as follows: "The facts constituting the basis for any Soil Conservation Act payment, any payment under the wheat, feed grain, upland cotton, and rice programs authorized by the Agricultural Act of 1949 and this Act, any disaster payment under section 114 of the Agricultural Act of 1949, any loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government."

SUSPENSION OF QUOTA PROVISIONS

SEC. 406. Public Law 74, Seventy-seventh Congress (55 Stat. 203, as amended, 7 U.S.C. 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1982 through 1985.

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 407. Section 408(k) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)), as added by the Agricultural Act of 1970 and effective for the 1971 through 1981 crops, shall be effective for the 1971 through 1981 crops, shall be effective for the 1982 through 1985 crops of wheat and feed grains.

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS FOR WHEAT AND FEED GRAINS

SEC. 408. Section 408 of the Food and Agriculture Act of 1977 (91 Stat. 927) is amended by striking out "1981" and inserting in lieu thereof "1985".

NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1982 THROUGH 1985 CROPS OF WHEAT

SEC. 409. Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1982 through 1985 crops of wheat.

TITLE V—FEED GRAINS

LOAN RATES AND TARGET PRICES FOR THE 1982 THROUGH 1985 CROPS

SEC. 501. Effective only for the 1982 through 1985 crops of feed grains, the Agricultural Act of 1949 is amended by adding subsections (a) through (c) to a new section 105B as follows:

"Sec. 105B. Notwithstanding any other provision of law—

"(a) (1) The Secretary shall make available to producers loans and purchases for each of the 1982 through 1985 crops of corn at such level, not less than \$2.50 per bushel, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States: *Provided*, That if the Secretary determines that the average price of corn received by producers in any marketing year is not more than 105 per centum of the level of loans and purchases for corn for such marketing year, the Secretary may reduce the level of loans and purchases for corn for the next marketing year by the amount that the Secretary determines is necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 per centum in any year nor below \$2.25 per bushel.

"(2) The Secretary shall make available to producers loans and purchases on each of the 1982 through 1985 crops of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 401(b) of this Act, and on each of the 1982 through 1985 crops of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.

"(b) (1) In addition, the Secretary shall make available to producers payments for each of the 1982 through 1985 crops of corn, grain sorghums and, if designated by the Secretary, oats and barley, in an amount determined by multiplying (A) the payment rate by (B) the farm program acreage for the crop by (C) the farm program payment yield for the crop.

"(2) The payment rate for a crop of corn shall be the amount by which the higher of—

"(A) the national weighted average market price received by producers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(B) the loan level determined under subsection (a) of this section for such crop is less than the established price per bushel. The established price for corn shall be \$2.75 per bushel for the 1982 crop. For each of the 1983 through 1985 crops, the established price for corn shall be the established price for the previous year's crop adjusted to reflect

any change in (A) the average adjusted cost of producing corn for the two crop years immediately preceding the year for which the determination is made from (B) the average adjusted cost of producing corn for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of producing corn for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (A) variable costs, (B) machinery ownership costs, and (C) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(3) Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for corn in accordance with the proviso in subsection (a) (1) of this section, the Secretary shall provide emergency compensation by increasing the established price payments for corn by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made. Any such increase in established price payments shall not be included in the payments subject to limitation under the provisions of section 101 of the Food and Agriculture Act of 1981.

"(4) The payment rate for grain sorghums and, if designated by the Secretary, oats and barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.

"(5) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this subsection shall be reduced by the quantity on which a reduced yield disaster payment is made to the producer for the crop under section 114 of the Agricultural Act of 1949.

"(c) The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis."

PROGRAM ACREAGES AND PAYMENT YIELDS; SET-ASIDE PROGRAM

SEC. 502. Effective only for the 1982 through 1985 crops of feed grains, the Agricultural Act of 1949 is amended by adding subsections (d) through (i) to section 105B as follows:

"(d) (1) The Secretary shall proclaim a national program acreage for each of the 1982 through 1985 crops of feed grains. The proclamation shall be made not later than November 1 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop for the purpose of determining the allocation factor under paragraph (2) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for feed grains shall be the number of harvested acres that the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be used domestically and for export during the marketing year for such crop. If the Secretary determines that the carryover stocks of feed grains are excessive or that an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount that the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(2) The Secretary shall determine a program allocation factor for each crop of feed grains. The allocation factor for feed grains

shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of feed grains be more than 100 per centum nor less than 80 per centum.

"(3) The individual farm program acreage for each crop of feed grains shall be determined by multiplying the allocation factor by the acreage of feed grains planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the feed grain acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of feed grains planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than November 1 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of feed grains planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for feed grains, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(e) The farm program payment yield for each crop of feed grains shall be the yield established for the farm for the previous crop year, adjusted by the Secretary to provide a fair and equitable yield. If no payment yield for feed grains was established for the farm for the previous crop year, the Secretary may determine such yield as the Secretary finds fair and reasonable. Notwithstanding the foregoing provisions of this subsection, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this subsection. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(f) (1) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of feed grains will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such set-aside not later than November 1 prior to the year in which the crop is harvested. If a set-aside of cropland is in effect under this subsection, then as a condition of eligibility for loans and purchases for feed grains, payments on corn, grain sorghums, and, if designated by the Secretary, barley and oats authorized under this section and disaster payments authorized under section 114 of this Act, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the feed grain acreage planted for harvest for the crop for which the set-aside is in effect. The Secretary may limit the acreage planted to feed

grains. Such limitation shall be applied on a uniform basis to all feed grain-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, that will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crabwe, plantago ovata, flaxseed, triticale, oats, rye, or other commodity if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(2) The Secretary may make land diversion payments to producers of feed grains, whether or not a set-aside for feed grains is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses in acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be under taken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(3) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(4) The Secretary may make such adjustments in individual set-aside acreages under this section as the Secretary determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, soil and water conservation measures, and topography, and such other factors as the Secretary deems necessary.

"(5) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so not later than such date as the Secretary may prescribe. Loans, purchases, and payments under this section and disaster payments under section 114 of this Act shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number

of acres that the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into under this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(g) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments under this section or disaster payments under section 114 of this Act, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(h) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(i) The Secretary shall carry out the program authorized under this section through the Commodity Credit Corporation."

NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1982 CROPS OF FEED GRAINS

SEC. 503. Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1982 through 1985 crops of feed grains.

TITLE VI—UPLAND COTTON BASE ACREAGE ALLOTMENTS; SUSPENS ON OF MARKETING QUOTAS; RELATED PROVISIONS

SEC. 601. Section 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342, 1343, 1344, 1345, 1346, and 1377) shall not be applicable to upland cotton of the 1982 through 1985 crops.

COTTON PRODUCTION INCENTIVES; LOAN RATE AND TARGET PRICE; SET-ASIDE PROGRAM

SEC. 602. Effective only for the 1982 through 1985 crops of upland cotton except as otherwise provided herein, section 103 of the Agricultural Act of 1949 (7 U.S.C. 1444) is amended by adding at the end thereof a new subsection (g) as follows:

"(g) (1) The Secretary shall, upon presentation of warehouse receipts reflecting accrued storage charges of not more than sixty days, make available for the 1982 through 1985 crops of upland cotton to cooperators nonrecourse loans for a term of ten months from the first day of the month in which the loan is made at such level as will reflect for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (i) 85 per centum of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, or (ii) 90 per centum of the average, for the fifteen-week period beginning July 1 of the year in which the loan level is announced, of the five lowest priced growths of the growths quoted for Strict Middling one and one-sixteenth inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between such average Northern Europe price quotation of such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9): *Provided*, That in no event shall such loan

level be less than 55 cents per pound. If for any crop the average Northern Europe price determined under clause (ii) of the first sentence of this paragraph is less than the average United States spot market price determined under clause (i) of the first sentence of this paragraph, the Secretary may, notwithstanding the foregoing provisions of this paragraph, increase the loan level to such level as the Secretary may deem appropriate, not in excess of the average United States spot market price determined under clause (i) of the first sentence of this paragraph. The loan level for any crop of cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which such loan is to be effective, and such level shall not thereafter be changed. Nonrecourse loans provided for in this subsection shall, upon request of the cooperator during the tenth month of the loan period for the cotton, be made available for an additional term of eight months: *Provided*, That such request to extend the loan period shall not be approved in a month when the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for the preceding month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six month period: *Provided further*, That whenever the Secretary determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9) in the designated spot markets for a month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six months, notwithstanding any other provision of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton subject to the following conditions:

"(A) The amount of the special quota shall be equal to twenty-one days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent three months for which data are available;

"(B) If a special quota has been established under this subsection during the preceding twelve months, the amount of the quota next established hereunder shall be the smaller of twenty-one days of domestic mill consumption calculated as set forth in clause (A) of this sentence or the amount required to increase the supply to 130 per centum of the demand;

"(C) As used in clause (B) of this sentence, the term 'supply' means, using the latest official data of the Bureau of the Census, the United States Department of Agriculture, and the United States Department of the Treasury, the carryover of upland cotton at the beginning of the marketing year (adjusted to four hundred and eighty-pound bales) in which the special quota is established, plus production of the current crop, plus imports to the latest date available during the marketing year, and the term 'demand' means the average seasonally adjusted annual rate of domestic mill consumption in the most recent three months for which data are available, plus the larger of average exports of upland cotton during the preceding six marketing years or cumulative exports of upland cotton, plus outstanding export sales for the marketing year in which the quota is established;

"(D) When a special quota is established under the provisions of this subsection, a ninety-day period from the effective date of the proclamation shall be allowed for entering cotton under such quota;

"(E) Notwithstanding any other provision of law, upland cotton imported under a special quota established under the provisions

of this subsection shall not be subject to import duties.

"(2) Notwithstanding the foregoing provisions of this subsection, a special quota period shall not be established that overlaps an existing special quota period.

"(3) Notwithstanding any other provision of law, the foregoing provisions of this subsection with respect to extension of the loan period and the proclamation of the special quota shall become effective upon the effective date of the Food and Agriculture Act of 1981 even though the cotton may be of a crop prior to the 1982 crop.

"(4) (A) In addition, the Secretary shall make available to producers on each farm payments for each of the 1932 through 1935 crops of upland cotton in an amount determined by multiplying the (i) payment rate by (ii) the farm program acreage for the crop, determined under paragraph (8) of this subsection, by (iii) the farm program payments yield for the crop, as determined under paragraph (9) of this subsection.

"(B) The payment rate for a crop of upland cotton shall be the amount by which the higher of—

"(i) the average market price received by farmers for upland cotton during the calendar year that includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(ii) the loan level determined under paragraph (1) of this subsection for such crop

is less than the established price per pound. The established price for upland cotton shall be \$.80 per pound for the 1932 crop. For each of the 1932 through 1935 crops, the established price for upland cotton shall be the established price for the previous year's crop adjusted to reflect any change in (i) the average adjusted cost of producing upland cotton for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of producing upland cotton for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of producing upland cotton for each of such years shall be determined by the Secretary on the basis of the normal historical yield nationally, as determined by the Secretary, and on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (1) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(C) The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any reduced yield disaster payment is made to the producer for the crop under section 114 of the Agricultural Act of 1949.

"(5) The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis.

"(6) The Secretary shall establish for each of the 1932 through 1935 crops of upland cotton a national program acreage. Such national program acreage shall be announced by the Secretary not later than November 1 of the calendar year preceding the year for which such acreage is established. The Secretary may revise the national program acreage first announced for any crop for the purpose of determining the allocation factor under paragraph (7) of this subsection if the Secretary determines it necessary based upon the latest information, and the Secretary shall announce such revised national program acreage as soon as it is made. The national program acreage for upland cotton

shall be the number of harvested acres that the Secretary determines (on the basis of the estimated weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be used domestically and for export during the marketing year for such crop. The national program acreage shall be subject to such adjustment as the Secretary determines necessary, taking into consideration the estimated carryover supply, so as to provide for an adequate but not excessive total supply of cotton for the marketing year for the crop for which such national program acreage is established. In no event shall the national program acreage be less than 10 million acres.

"(7) The Secretary shall determine a program allocation factor for each crop of upland cotton. The allocation factor (not to exceed 100 per centum) shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop.

"(8) The individual farm program acreage for each crop of upland cotton shall be determined by multiplying the allocation factor by the acreage of upland cotton planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the upland cotton acreage eligible for payment on a farm shall not be further reduced by application of the allocation factor if the producers reduce the acreage of upland cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the announcement of the national program acreage made not later than November 1 of the calendar year preceding the year for which such acreage is established. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of upland cotton planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this paragraph.

"(9) The farm program payment yield for each crop of upland cotton shall be determined on the basis of the actual yields per harvested acre on the farm for the preceding three years: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producers. If farm yield data for one or more years are unavailable or there was no production, the Secretary shall provide for appraisals to be made on the basis of actual yields and program payment yields for similar farms in the area for which data are available. Notwithstanding the foregoing provisions of this paragraph, in the determination of yields, the Secretary shall take into account the actual yields proved by the producer, and neither such yields nor the farm program payment yield established on the basis of such yields shall be reduced under other provisions of this paragraph. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop involved. If national, State, or county program payment yields are established, the farm program payment

yields shall balance to the national, State, or county program payment yields.

"(10) (A). The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments on upland cotton authorized under this subsection and disaster payments authorized under section 114 of this Act, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary (but not to exceed 28 per centum), of the acreage of upland cotton planted for harvest for the crop for which a set-aside is in effect. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, that will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovata, flaxseed, triticale, oats, rye, or other commodity if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not adversely affect farm income. The Secretary may limit the acreage planted to upland cotton. Such limitation shall be applied on a uniform basis to all upland cotton-producing farms. Producers on a farm who knowingly plant upland cotton in excess of the permitted upland cotton acreage for the farm shall be ineligible for upland cotton loans or payments with respect to that farm or disaster payments under section 114 of this Act.

"(B) The Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

"(C) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be

appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(11) If the operator of the farm desires to participate in the program formulated under this subsection, the operator shall file an agreement to do so not later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection and disaster payments under section 114 of this Act shall be made available to the producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres that the operator agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers, terminate or modify any such agreement entered into under this subsection if the Secretary determines such action necessary because of an emergency created by drought or other disaster, or in order to prevent or alleviate a shortage in the supply of agricultural commodities.

"(12) The Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(13) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments under this section or disaster payments under section 114 of this Act, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(14) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of the subsection.

"(15) The Secretary shall carry out the program authorized under this subsection through the Commodity Credit Corporation.

"(16) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignment of payments) shall apply to payments under this subsection."

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS

SEC. 603. Section 603 of the Food and Agriculture Act of 1977 (91 Stat. 939) is amended by striking out "July 31, 1982" and inserting in lieu thereof "July 31, 1986".

MISCELLANEOUS COTTON PROVISIONS

SEC. 604. (a) Section 408(b) of the Agricultural Act of 1949 (7 U.S.C. 1428(b)) is amended by inserting immediately before the period at the end of the first sentence a colon and the following: "Provided further, That for the 1982 through 1985 crops of upland cotton, a cooperater shall be a producer on a farm who has set aside the acreage required under section 103(g)".

(b) Section 408(1) of the Agricultural Act of 1949 (7 U.S.C. 1428(1)), as added by the Agricultural Act of 1970 and effective in the 1971 through 1981 crops, shall be effective for the 1982 through 1985 crops of upland cotton.

(c) Section 103(a) (7 U.S.C. 1444(a)) and 203 (7 U.S.C. 1446d) of the Agricultural Act of 1949 shall not be applicable to the 1982 through 1985 crops.

SKIPROW PRACTICES

SEC. 605. Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking out "1981" in the last sentence and inserting in lieu thereof "1985".

PRELIMINARY ALLOTMENTS FOR 1986 CROP OF UPLAND COTTON

SEC. 606. Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall again become effective as preliminary allotments for the 1983 crop.

TITLE VII—RICE

LOAN RATES AND TARGET PRICES FOR THE 1982 THROUGH 1985 CROPS

SEC. 701. Effective only for the 1982 through 1985 crops of rice, section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended to add paragraphs (1) through (4) to new subsection (1) as follows:

"(1) Notwithstanding any other provision of law—"(1) For the 1982 crop of rice, the established price for the purpose of making payments under this subsection shall be \$11.01 per hundredweight of rice. For each of the 1983 through 1985 crops of rice, the established price shall be the established price for the previous year's crop adjusted to reflect any change in (A) the average adjusted cost of producing rice for the two crop years immediately preceding the year for which the determination is made from (B) the average adjusted cost of producing rice for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of producing rice for each of such years shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (A) variable costs, (B) machinery ownership costs, and (C) farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

"(2) The Secretary shall make available to producers loans and purchases for each of the 1982 through 1985 crops of rice at such level as bears the same ratio to the loan level for the preceding year's crop as the established price for each such crop bears to the established price for the preceding year's crop. If the Secretary determines that loans and purchases at the foregoing level for any of the 1982 through 1985 crops would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may, notwithstanding the foregoing provisions of this paragraph, establish loans and purchases for such crop or crops at such level, not less than \$8.26 per hundredweight nor more than the parity price thereof, as the Secretary determines necessary to avoid such consequences.

"(3) (A) In addition, the Secretary shall make available to producers payments for each of the 1982 through 1985 crops of rice in an amount determined by multiplying (i) the payment rate by (ii) the farm program acreage for the crop by (iii) the farm program payment yield for the crop. The payment rate for a crop of rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

"(1) the national average market price received by producers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(ii) the loan level determined under paragraph (2) of this subsection for such crop.

"(B) the total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any reduced yield disaster payment is made to the producer under section 114 of this Act.

"(4) The Secretary shall provide for the sharing of payments made under this sub-

section for any farm among the producers on the farm on a fair and equitable basis."

PROGRAM ACREAGES AND PAYMENT YIELDS:
SET-ASIDE PROGRAM

SEC. 702. Effective only for the 1982 through 1985 crops of rice, section 101 of the Agricultural Act of 1949 (7 U.S.C. 1411) is amended by adding paragraphs (5) through (12) to subsection (1) as follows:

"(5) (A) The Secretary shall proclaim a national program acreage for each of the 1982 through 1985 crops of rice. The proclamation shall be made not later than December 31 of each calendar year for the crop harvested in the next succeeding calendar year. The Secretary may revise the national program acreage first proclaimed for any crop for the purpose of determining the allocation factor under subparagraph (B) of this paragraph if the Secretary determines that it is necessary based on the latest information, and the Secretary shall proclaim such revised national program acreage as soon as it is made. The national program acreage for rice shall be the number of harvested acres that the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the crop for which the determination is made) will produce the quantity (less imports) that the Secretary estimates will be used domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks of rice are excessive or that an increase in stocks is needed to assure desirable carryover, the Secretary may adjust the national program acreage by the amount that the Secretary determines will accomplish the desired increase or decrease in carryover stocks.

"(B) The Secretary shall determine a program allocation factor for each crop of rice. The allocation factor for rice shall be determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop: *Provided*, That in no event shall the allocation factor for any crop of rice be more than 100 per centum nor less than 80 per centum.

"(C) The individual farm program acreage for each crop of rice shall be determined by multiplying the allocation factor by the acreage of rice planted for harvest on the farms for which individual farm program acreages are required to be determined: *Provided*, That the rice acreage eligible for payments shall not be further reduced by application of the allocation factor if the producers reduce the acreage of rice planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in the proclamation of the national program acreage made not later than December 31 prior to the year in which the crop is harvested. The Secretary shall provide fair and equitable treatment for producers on farms on which the acreage of rice planted for harvest is less than for the preceding year, but the reduction is insufficient to exempt the farm from the application of the allocation factor. In establishing the allocation factor for rice, the Secretary may make such adjustment as the Secretary deems necessary to take into account the extent of exemption of farms under the foregoing provisions of this subparagraph.

"(6) The farm program payment yield for each crop of rice shall be determined on the basis of the actual yields per harvested acre for the three preceding crops: *Provided*, That the actual yields shall be adjusted by the Secretary for abnormal yields in any year caused by drought, flood, or other natural disaster, or other condition beyond the control of the producer. If the Secretary determines it necessary, the Secretary may establish national, State, or county program payment yields on the basis of historical yields, as adjusted by the Secretary to correct for abnormal factors affecting such yields in the

historical period, or, if such data are not available, on the Secretary's estimate of actual yields for the crop involved. If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(7) (A) The Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of rice will, in the absence of such set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect under this paragraph, then as a condition of eligibility for loans, purchases, and payments authorized under this subsection and disaster payments authorized under section 114 of this Act, the producers on a farm must set-aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of rice planted for harvest for the crop for which the set-aside is in effect. The Secretary may limit the acreage planted to rice. Such limitation shall be applied on a uniform basis to all rice-producing farms. The set-aside acreage shall be devoted to conservation uses, in accordance with regulations issued by the Secretary, that will assure protection of such acreage from weeds and wind and water erosion; however, the Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the set-aside acreage to be devoted to sweet sorghum, hay, and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovate, flaxseed, triticale, oats, rye, or other commodity if the Secretary determines that such production is needed to provide an adequate supply of such commodities. is not likely to increase the cost of the price support program, and will not adversely affect farm income.

"(B) The Secretary may make land diversion payments to producers, whether or not a set-aside for rice is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(C) The set-aside acreage and the additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe by the general public for hunting, trap-

ping, fishing, and hiking, subject to applicable State and Federal regulations.

"(D) If the operator of the farm desires to participate in the program formulated under this paragraph, the operator shall file an agreement to do so not later than such date as the Secretary may prescribe. Loans, purchases, and payments under this subsection and disaster payments under section 114 of this Act shall be made available to producers on such farm only if the producers set aside and devote to approved soil conserving uses an acreage on the farm equal to the number of acres that the operator of the farm agrees to set aside and devote to approved soil conserving uses, and the agreement shall so provide. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement entered into under this paragraph if the Secretary determines such action necessary because of any emergency created by drought or other disaster, or in order to alleviate a shortage in the supply of rice.

"(8) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(9) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this subsection precludes the making of loans, purchases, and payments under this subsection or disaster payments under section 114 of this Act, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the default.

"(10) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this subsection.

"(11) The Secretary shall carry out the program authorized under this subsection through the Commodity Credit Corporation.

"(12) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignment of payments) shall apply to payments under this subsection."

SUSPENSION OF ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND OTHER PROVISIONS

SEC. 703. Sections 351, 352, 353, 354, 355, 356, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1351-1356, 1377) shall not be applicable to the 1982 through 1985 crops of rice.

CONFORMING AMENDMENT

SEC. 704. Section 408(m) of the Agricultural Act of 1949 (7 U.S.C. 1428(m)), as added by section 304 of the Rice Production Act of 1975 and amended and made effective for the 1976 through 1981 crops of rice by section 705 of the Food and Agriculture Act of 1977, shall be effective for the 1982 through 1985 crops of rice.

TITLE VIII—PEANUTS

ANNUAL MARKETING QUOTA AND STATE ACREAGE ALLOTMENT

SEC. 801. (a) Sections 358(a) and 358(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358(a) and 1358(e)) shall not be applicable to the 1982 through 1985 crops of peanuts.

(b) Section 801(b) of the Food and Agriculture Act of 1977 (91 Stat. 944) is amended by striking out "1981" and inserting in lieu thereof "1985".

NATIONAL ACREAGE ALLOTMENT; NATIONAL POUNDAGE QUOTA; FARM POUNDAGE QUOTA; AND DEFINITIONS

SEC. 802. Sections 358(k) through 358(p) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358(k)-1358(p)), as added by section 802 of the Food and Agriculture Act of 1977 to be effective for the 1978 through 1981 crops of peanuts, shall be effective for the 1982 through 1985 crops with the following amendments:

(1) Section 358(l) is amended by striking out "and 1981, 1,440,000 tons" in the first sentence and inserting in lieu thereof the following: "and for each of the marketing years 1981 through 1985, 1,440,000 tons"; and

(2) Section 358(m) is amended by striking out "1973 through 1977" and inserting in lieu thereof "1977 through 1981".

SALE, LEASE, AND TRANSFER OF ACREAGE ALLOTMENTS

SEC. 803. Section 803 of the Food and Agriculture Act of 1977 (91 Stat. 946) is amended by striking out "1981" and inserting in lieu thereof "1985".

MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS

SEC. 804. Section 804 of the Food and Agriculture Act of 1977 (91 Stat. 946) is amended by striking out "1981" and inserting in lieu thereof "1985".

REPORTS AND RECORDS

SEC. 805. Section 805 of the Food and Agriculture Act of 1977 (91 Stat. 947) is amended by striking out "1981" and inserting in lieu thereof "1985".

PRESERVATION OF UNUSED ALLOTMENTS

SEC. 806. Section 806 of the Food and Agriculture Act of 1977 (91 Stat. 947) is amended by striking out "1981" and inserting in lieu thereof "1985".

PRICE SUPPORT PROGRAM FOR THE 1982 THROUGH 1985 CROPS

SEC. 807. Effective only for the 1982 through 1985 crops of peanuts, the Agricultural Act of 1949 is amended by inserting immediately after section 108 a new section 108A as follows:

"Sec. 108A. Notwithstanding any other provision of law—

"(a) The Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts for each of the 1982 through 1985 crops at such levels as the Secretary finds appropriate, taking into consideration the eight factors specified in section 401(b) of this Act and any change in the index of prices paid by farmers for production items, interest, taxes and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the marketing year for which the level of support is being determined, but not less than \$650 per ton. The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage; *Provided*, That the Secretary may make adjustments for location of peanuts and such other adjustments as are authorized under section 403 of this Act.

"(b) The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1982 through 1985 crops. In determining support levels, the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets. The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for which the level of support is being determined.

"(c) (1) In carrying out subsections (a) and (b) of this section, the Secretary may make warehouse storage loans available in each of the three producing areas (described in 7 CFR sec. 1446.4 (1977)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities

under this section and section 359 of the Agricultural Adjustment Act of 1938. Such loans shall include, in addition to the price support value of the peanuts, such costs as such association reasonably may incur in carrying out such responsibilities in its operations and activities under this section and section 359 of the Agricultural Adjustment Act of 1938.

"(2) The Secretary may require that each such association establish pools and maintain complete and accurate records by type for quota peanuts handled under loans and for additional peanuts produced without a contract between handler and producer described in section 359(1) of the Agricultural Adjustment Act of 1938. Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed in proportion to the value of the peanuts placed in the pool by each grower. Net gains for peanuts in each pool shall consist of (A) for quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool plus an amount from the pool for additional peanuts to the extent of the net gains from the sale for domestic food and related uses of additional peanuts in the pool for additional peanuts equal to any loss on disposition of all peanuts in the pool for quota peanuts and (B) for additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (A) of this sentence. Notwithstanding any other provision of this subsection, any distribution of net gains on additional peanuts of any type to any producer shall be reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts of a different type placed under loan by such grower."

TITLE IX—SOYBEANS

SEC. 901. Effective only with respect to the 1982 through 1985 crops of soybeans, section 201 of the Agricultural Act of 1949 (U.S.C. 1446) is amended by—

(1) in the first sentence, inserting "soybeans," after "tung nuts,"; and

(2) adding at the end thereof a new subsection (g) to read as follows:

"(g) The price of each of the 1982 through 1985 crops of soybeans shall be supported through loans and purchases at such level as the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors; *Provided*, That the minimum level of price support for any such crop of soybeans shall be \$5.44 per bushel; *Provided further*, That, notwithstanding the provisions of section 1102 of the Food and Agriculture Act of 1981, the Secretary shall not require a set-aside of soybean acreage as a condition of eligibility for price support for any commodity supported under the provisions of this Act."

TITLE X—SUGAR

SEC. 1001. Effective only with respect to the 1982 through 1985 crops of sugar beets and sugarcane, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) in the first sentence, striking out "honey, and milk" and inserting in lieu thereof "honey, milk, sugar beets, and sugarcane"; and

(2) adding at the end thereof a new subsection (h) as follows:

"(h) The price of each of the 1982 through 1985 crops of sugar beets and sugarcane, respectively, shall be supported through loans and purchases with respect to the processed products thereof at such levels as the Secretary determines adequate to assure the maintenance of the sugar production capacity of the United States."

TITLE XI—MISCELLANEOUS

STANDBY AUTHORITY FOR DISASTER PAYMENTS

SEC. 1101. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, title I of the Agricultural Act of 1949 is amended by adding at the end thereof a new section 114 as follows:

"Sec. 114. Notwithstanding any other provision of law—

"(a) Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Secretary may make disaster payments for any such crop to producers participating in the program for any such commodity under this Act and the Agricultural Act of 1938 whenever the Secretary determines that—

"(1) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, producers on farms have suffered substantial losses of production either from being prevented from planting a nonconserving crop on the farm program acreage or from reduced yields on such acreage, and that such losses have created an economic emergency for the producers; and

"(2) Federal crop insurance indemnity payments and other forms of assistance made available by the Federal Government to such producers for such losses together are insufficient to alleviate such economic emergency; and

"(3) additional assistance must be made available to such producers to alleviate the economic emergency.

"(b) Subject to the provisions of subsection (a) of this section, the Secretary shall make available under this section on any of the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, prevented planting disaster payments, reduced yield disaster payments, or both, as follows:

"(1) If the Secretary determines that producers of wheat, feed grains, upland cotton, or rice on a farm are prevented from planting any portion of the acreage intended for the commodity to the commodity or to other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make prevented planting disaster payments to the producers on the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including acreage that the producers were prevented from planting to the commodity because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year, multiplied by 75 per centum of the farm program payment yield established by the Secretary times a payment rate equal to 33½ per centum of the established price for the commodity.

"(2) If the Secretary determines that, because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat, feed grains, upland cotton, or rice that the producers of any such commodity are able to harvest on any farm is less than the result of multiplying 60 per centum of the farm program payment yield established by the Secretary for such crop (75 per centum in the case of upland cotton and rice) by the acreage planted for harvest for such crop, the Secretary shall make reduced yield disaster payments to producers of wheat and feed grains at a rate equal to 50 per centum of the established price for the crop for the deficiency in production below 60 per centum for the crop, and to producers of upland cotton and rice at a rate equal to 33½ per centum of the established price for the crop for the deficiency in production below 75 per centum for the crop.

"(c) The Secretary may make such adjustments in the amount of payments made available under subsection (b) of this section

with respect to individual farms so as to assure the equitable allotment of such payments among producers taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(e) The Secretary shall carry out the program authorized under this section through the Commodity Credit Corporation."

SET-ASIDE OF NORMALLY-PLANTED ACREAGE

SEC. 1102. Notwithstanding any other provision of law—

(a) Whenever a set-aside is in effect for one or more of the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, that the acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion. The Secretary shall determine the normal crop acreage for a farm on the basis of the acreage planted for harvest during the most recent three-year period, adjusted by the Secretary so as to be fair and equitable among producers.

(b) Whenever a set-aside is in effect for one or more of the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for participation in such set-aside. In determining the amount of any such increase, the Secretary shall take into account changes in the cost of production resulting from participation in the set-aside involved. If the established price is increased for any commodity for which a set-aside is in effect, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for the effective operation of the program. The Secretary shall adjust any increase in the established price to reflect, in whole or in part, any land diversion payments for the crop for which an increase is determined.

FARM STORAGE FACILITY LOANS

SEC. 1103. Section 1104 of the Food and Agriculture Act of 1977 (91 Stat. 954, as amended) is amended by striking out "September 30, 1981," both places that date appears therein and inserting in lieu thereof "September 30, 1985".

FARMER-HELD RESERVE

SEC. 1104. Effective beginning with the 1982 crops of wheat and feed grains, the first sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended by striking out "Provided, That" and all that follows down through the end of the sentence and inserting in lieu thereof the following: "Provided, That the Secretary may make available price-support loans under the producer storage program at levels above such level of support, but not in excess of 120 percent of such level of support, to producers of each of the 1982 through 1985 crops of wheat and feed grains whenever the Secretary determines that such increased level of support is necessary to encourage sufficient participation in the producer storage program to adequately promote the orderly marketing of such commodities when such commodities are in abundant supply."

TITLE XXI—PUBLIC LAW 480

MARKET DEVELOPMENT UNDER PUBLIC LAW 480

SEC. 1201. The second sentence of section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking out "domestic wine or beer industry" and inserting in lieu thereof

"domestic wine, beer, or distilled spirits industry".

EXTENSION OF PUBLIC LAW 480 PROGRAMS

SEC. 1202. Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is amended by striking out "1981" and inserting in lieu thereof "1985".

TITLE XIII—FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

AMENDMENTS TO THE DEFINITION OF "THRIFTY FOOD PLAN"

SEC. 1301. The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) amending clause (2) to read as follows: "(2) make cost adjustments in the thrifty food plan for Hawaii, the urban areas of Alaska, and the rural areas of Alaska to reflect the cost of food in Hawaii and such areas of Alaska,";

(2) in clause (4)—

(A) striking out "through January 1, 1980," "and July 1", and "and March 31, respectively"; and

(B) striking out "six" and inserting in lieu thereof "twelve"; and

(3) striking out clauses (5) and (6) and inserting a period at the end of clause (4).

DEDUCTIONS ALLOWED IN THE COMPUTATION OF HOUSEHOLD INCOME

SEC. 1302. (a) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence—

(A) inserting "and every January 1 thereafter," after "January 1, 1981,"; and

(B) striking out the semicolon immediately after "September 30" the second time that date appears, and all that follows down through the end of the sentence;

(2) in clause (2) of the fourth sentence, striking out all that follows "on January 1, 1982," down through the end of the clause and inserting in lieu thereof the following: "and every January 1 thereafter, adjusted to the nearest \$5 to reflect such changes for the twelve months ending the preceding September 30,"; and

(3) adding at the end thereof a new sentence as follows: "Households shall not be entitled to dependent care, excess shelter expense, or medical deductions for expenses that are paid on behalf of a household by a third party."

(b) Sections 104 and 105(2) of Public Law 96-249 (94 Stat. 358) are hereby repealed.

ELIGIBILITY FOR PARTICIPATION—WORK REGISTRATION

SEC. 1303. Section 6(d)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)) is amended by striking out "six" in clause (1) and inserting in lieu thereof "twelve".

LIABILITY OF STATES FOR CERTAIN LOSSES RELATING TO FOOD STAMP COUPONS

SEC. 1304. Section 7(f) of the Food Stamp Act of 1977 (7 U.S.C. 2016(f)) is amended to read as follows:

"(f) Notwithstanding any other provision of this Act, the State agency shall be strictly liable to the Secretary for any financial losses involved in the acceptance, storage, or issuance of coupons, except that, in the case of loss resulting from the issuance or replacement of authorizations for coupons or replacement of allotments, the State agency shall be liable to the Secretary for losses that sound management can prevent, as prescribed in regulations promulgated by the Secretary."

USE OF CIVIL MONEY PENALTIES TO INCREASE ENFORCEMENT ACTIONS

SEC. 1305. Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end thereof the following new sentence: "Sums collected as civil money

penalties under this section shall be deposited in a special revolving fund, which shall be available without fiscal year limitations for use by the Secretary to finance actions to secure compliance with the provisions of this Act through efforts to reduce improper food stamp use and fraud."

INCENTIVES FOR ERROR REDUCTION EFFORTS; PLANS FOR CORRECTIVE ACTION TO REDUCE ERRORS

SEC. 1306. Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) in clause (4) of the first sentence of subsection (c), inserting immediately after "25 per centum" a comma and the following: "and, effective October 1, 1981, that also meets the standard contained in paragraph (1)(B) of this subsection"; and

(2) in subsection (d)—

(A) striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1981"; and

(B) striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(2)".

FUNDING FOR THE FOOD STAMP PROGRAM

SEC. 1307. Section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended by—

(1) in subsection (a)(1), striking out "and not in excess of \$9,739,276,000 for the fiscal year ending September 30, 1981" in the first sentence and inserting in lieu thereof the following: "and such sums as may be necessary for the fiscal year ending September 30, 1981, and following fiscal years up to and including the fiscal year ending September 30, 1985"; and

(2) adding at the end thereof a new subsection (e) as follows:

"(e) Funds collected from claims against households or State agencies, including claims collected under the provisions of sections 7(f), 11(h), and 16(g) of this Act, claims resulting from resolution of audit findings, and claims collected from households receive overissuances, shall be credited to the food stamp program appropriation account for the fiscal year in which the collection occurs. Funds provided to State agencies under section 16(c) of this Act shall be paid from the appropriation account for the fiscal year in which the funds are provided."

EXTENSION OF THE COMMODITY DISTRIBUTION PROGRAMS; PENALTIES FOR CONVERSION

SEC. 1308. Section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended by—

(1) in subsection (a), striking out "1978, 1979, 1980, and 1981" and inserting in lieu thereof "1978 through 1985"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any agricultural commodities or their products (or any funds, assets, or property deriving from donation of such commodities) provided under this section or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property to the person's own use or gain knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or shall, if such commodities, products, funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year, or both."

AMENDMENTS TO THE AUTHORITY FOR THE
COMMODITY SUPPLEMENTAL FOOD PROGRAM

Sec. 1309. Section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended to read as follows:

"Sec. 5. (a) In carrying out the supplemental feeding program (hereinafter referred to as the 'commodity supplemental food program') to which reference is made in section 4 of this Act, the Secretary of Agriculture shall provide to State agencies administering through 1985, funds appropriated from the program, for each of the fiscal years 1982 general fund of the Treasury in amounts equal to the administrative costs of State and local agencies in operating the program, except that the funds provided to State agencies each fiscal year may not exceed 15 per centum of the amount appropriated for the provision of commodities to State agencies under the program for that fiscal year."

TITLE XIV—MULTIYEAR SET-ASIDE

Sec. 1401. Section 1005 of the Agricultural Act of 1970 (16 U.S.C. 1505) is amended by—

- (1) striking out "1981" in the first sentence and inserting in lieu thereof "1985"; and
- (2) striking out "1982" in the second sentence and inserting in lieu thereof "1986".

TITLE XV—FOOD AND AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

AMENDMENTS TO SUBTITLE A OF THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

Sec. 1501. (a) Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 1301) is amended to read as follows:

"FINDINGS

"Sec. 1402. Congress finds that—

"(1) the Federal Government of the United States has provided funding support for agricultural research, extension, and teaching for many years to promote and protect the general health and welfare of the people of the United States, and this support has contributed significantly to the development of the Nation's agricultural system;

"(2) a unique partnership arrangement exists in agricultural research, extension, and teaching between the Federal government and the governments of the several States whereby the States have accepted and supported, through legislation and appropriations, programs of agricultural research, extension, and teaching under Federal legislation;

"(3) the existing agricultural research, extension, and teaching system, consisting of the Federal Government, the land-grant colleges and universities, other colleges and universities engaged in agricultural research, extension services, agricultural experiment stations, and the private sector constitute an essential national resource that must serve as the foundation for any further strengthening of agricultural research, extension, and teaching in the United States;

"(4) the partnership in publicly supported agricultural research, extension, and teaching involving the programs of the Federal Government and the programs of the States has played a major role in the outstanding successes achieved in meeting the varied needs of United States agriculture, and must be preserved and enhanced;

"(5) Federal funding levels for agricultural research, extension, and teaching have not been commensurate with the need for technological progress stemming from changes in the United States agriculture and the world food and agricultural situation.

"(6) expanded agricultural research, extension, and teaching are needed to meet the rising demand for food, fiber, and energy caused by increases in worldwide population, increases in the cost of energy, and

food shortages due to short-term or localized adverse climatic conditions;

"(7) declining rates of increase in productivity, rapidly escalating costs of petroleum, natural gas, and petrochemicals, declining water tables, natural resource depletion deterioration of environmental quality, and the increasing inability of world agriculture to provide and maintain adequate food for an ever increasing population threaten the security of future food supplies;

"(8) advances in the food and agricultural sciences and technology have become increasingly limited by the concentration on thorough development and exploitation of currently known scientific principles and technological approaches at the expense of more fundamental research, and a strong research effort in the basic sciences is necessary to achieve breakthroughs in knowledge that can support new and innovative food and agricultural technologies;

"(9) increased research and extension are necessary to alleviate inadequacies of the marketing system (including storage, transportation, and distribution of agricultural and forest products) that have impaired agricultural and forest production and the distribution of agricultural and forest products;

"(10) professional expertise in the food and agricultural sciences is in short supply and is not sufficient to meet current and projected occupational employment demand;

"(11) more reliable data and better research-based economic information are needed for the increasingly complex public and private decisions required by the rapidly changing events in domestic and world agriculture;

"(12) increased agricultural research, extension, and teaching attention must be given to a wide variety of subject areas, including, but not limited to:

"(A) productivity, including the development of more sophisticated crop and animal management systems, new crops and food sources, increased yields per acre and production per breeding unit, reduced energy inputs, lower overall costs, protection of the environment, and the preservation and enhancement of plant and animal germplasm;

"(B) energy, including the development of alternative sources of energy, new crops to produce biomass for conversion into energy, and new methods of conserving energy that will permit the increased production of food and fiber with the use of less petroleum, natural gas, and petrochemicals;

"(C) management of renewable natural resources, including multiple use management of forest and range resources, reduction of soil erosion, preservation of prime farmlands rapidly being converted to urban uses, improved water supply and use, and aquaculture;

"(D) human nutrition, including determining nutrition requirements especially as they relate to groups in greatest need, such as the elderly, the young, and the malnourished, better understanding of the components of various foods and of human dietary requirements, and conveying nutrition information to people so that they can understand and use it;

"(E) family and community development, including assistance to local governments and rural communities in developing and maintaining the services and structures necessary to support the agricultural system of the Nation, including its vital small farm component, and to consumers and rural residents;

"(F) international food and agriculture, including the development of resources needed to produce adequate food for the expanding world population and improved cooperation by the United States agricultural research and educational system with international research and education centers,

counterpart agencies, and colleges and universities in other countries; and

"(13) long-range planning for agricultural research, extension, and teaching is a key element in meeting the objectives of this title, and all elements in the agricultural research and educational system should expand their successful planning and coordination efforts."

(b) Section 1403 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3102) is amended by—

(1) striking out "undertake the special measures set forth in this title to improve the coordination and planning of agricultural research, identify needs and establish priorities for such research, assure that high priority research is" in clause (2) and inserting in lieu thereof the following: "undertake the special measures set forth in this title to improve the coordination and planning of agricultural research, extension, and teaching, identify needs and establish priorities for such research, extension, and teaching, assure that the high priorities are";

(2) striking out "section 1402(8)" in clause (4) and inserting in lieu thereof "section 1402(12)";

(3) adding "and teaching" after "research" in clause (6); and

(4) striking out "training and research" in clause (7) and inserting in lieu thereof "research, extension, and teaching".

(c) Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended by—

(1) in clause (8), inserting "energy production, use, and conservation," immediately after "soil and water conservation and use," and immediately after "range management";

(2) in clause (12), inserting "American Samoa, the Commonwealth of the Northern Mariana Islands," immediately after "Guam,"; and

(3) amending clause (14) to read as follows:

"(14) the term 'teaching' means formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and matters relating thereto (such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies) conducted by colleges and universities offering baccalaureate or higher degrees."

RESPONSIBILITIES OF THE SECRETARY OF AGRICULTURE

Sec. 1502. Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended by—

(1) striking out "Secretary of Health, Education, and Welfare" in clause (1) and inserting in lieu thereof "Secretary of Health and Human Services";

(2) striking out "and" immediately after clause (8), and striking out the period immediately after clause (9) and inserting in lieu thereof a semicolon and "and"; and

(3) adding at the end thereof a new clause (10) as follows:

"(10) coordinate agricultural research, extension, and teaching activities conducted or financed by the Department of Agriculture with the renewable resource assessments and programs prepared under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the appraisals and national soil and water conservation programs prepared under the Soil and Water Resources Conservation Act of 1977."

JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

Sec. 1503. Section 1407 of the National Agricultural Research, Extension, and Teach-

ing Policy Act of 1977 (7 U.S.C. 3122) is amended by—

(1) in subsection (a), striking out "of five years" and inserting in lieu thereof "that expires December 31, 1986";

(2) in subsection (b), striking out "research and extension" in the first sentence and inserting in lieu thereof "research, extension, and teaching";

(3) inserting at the end of subsection (c) the following: "The meetings of the Joint Council shall be publicly announced at least one month prior to each meeting and shall be open to the public. Appropriate records of the meetings shall be kept and made available to the public on request.";

(4) amending subsection (d) to read as follows:

"(d)(1) The primary responsibility of the Joint Council shall be to bring about more effective agricultural research, extension, and teaching by improving the planning and coordination of such research, extension, and teaching, whether publicly or privately funded.

"(2) The Joint Council's responsibilities shall also be to—

"(A) assist the Secretary in carrying out the responsibilities assigned to the Secretary under this title for the planning and coordination of agricultural research, extension, and teaching, by operating a system of regional and national planning and coordination, taking into account the programs and responsibilities of, and using the resources of, all participants in the United States agricultural research, extension, and teaching system, for the purposes of—

"(i) improving planning and coordination of agricultural research, extension, and teaching;

"(ii) developing recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences;

"(iii) developing mechanisms and timetables for achieving priorities and goals in the food and agricultural sciences;

"(iv) preparing recommendations for short-term and longer-term national and regional plans for agricultural research, extension, and teaching, delineating suggested areas of responsibility for Federal agencies, State institutions, and other organizations in carrying out such activities, and the financial and other support necessary for such activities;

"(v) maintaining an inventory of ongoing agricultural research, extension, and teaching programs conducted by the organizations represented by the members of the Joint Council, and periodically obtaining information on the achievements of these programs; and

"(vi) identifying impediments and obstacles to progress in the food and agricultural sciences and developing strategies to alleviate or overcome them;

"(B) assist agencies, institutions, and persons engaged in agricultural research, extension, and teaching, to the extent practicable, in translating plans to action through budget development processes and program development, coordination, and management within available resources;

"(C) provide forums for the interchange of information among the organizations represented by the members of the Joint Council that will assure improved awareness among these organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization;

"(D) encourage and assist organizations represented by the members of the Joint Council in analyzing and evaluating the economic, environmental, and social effects of their agricultural research, extension, and teaching programs;

"(E) develop and review the effectiveness of a system of compiling, maintaining, and disseminating information about publicly supported agricultural research, extension, and teaching, and to the maximum extent possible, do the same for such programs conducted by private colleges and universities, foundations, contract research groups, private industry, and others;

"(F) disseminate information produced by the Joint Council, especially information derived from its regional and national planning and coordination efforts, among those engaged in agricultural research, extension, and teaching in the public and private sectors for their use in planning programs, setting priorities, developing budget requests, and conducting and adjusting programs; and

"(G) prepare, for submission to the President, Congress, the Secretary of Agriculture, and the organizations represented by the members of the Joint Council for use in setting national, regional, and State priorities for agricultural research, extension, and teaching and in identifying levels of support needed for such activities—

"(i) annual reports, to be submitted by not later than June 30 of each year, of (a) the Joint Council's recommendations as to priorities and Federal funding levels for agricultural research, extension, and teaching programs during the two fiscal years beginning in the next succeeding calendar year (which recommendations should include the views of the Joint Council as to suggested areas of responsibilities among governmental, educational, and other organizations for such programs), and (b) the accomplishments and future plans of agricultural research, extension, and teaching programs conducted by the organizations represented by the members of the Joint Council during the fiscal year ending in such year; and

"(ii) a report, to be submitted by not later than June 30, 1983 (and updated every two years thereafter), of the Joint Council's proposals for the advancement of the food and agricultural sciences over the five years beginning October 1, 1983, that reflects the coordinated views of the agricultural research, extension, and teaching community and that includes an estimate of the resources necessary to carry out the proposals. Minority views, if timely submitted, shall be included in each such report. The reports shall also be submitted to the Committee on Food and Renewable Resources of the Federal Coordinating Council on Science, Engineering, and Technology and the Advisory Board.";

(5) adding at the end thereof a new subsection (e) as follows:

"(e) This title shall constitute the charter under which the Joint Council will operate and no further charter shall be necessary. The Joint Council may develop a set of bylaws or operating procedures for its own use if such are determined to be essential for effective operation. Notwithstanding any other provision of law, the Joint Council shall be exempt from the provisions of the Federal Advisory Committee Act."

NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD

SEC. 1504. Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended by—

(1) in subsection (a), striking out "of five years" and inserting in lieu thereof "that expires December 31, 1986"; and

(2) amending subsection (b) by—

(A) striking out "twenty-one" and inserting in lieu thereof "twenty-five";

(B) amending clause (1) to read as follows: "(1) eight producer members repre-

senting various geographic regions of the United States and agricultural production interests, including forestry and aquaculture,"; and

(C) adding at the end thereof a new sentence as follows: "The Secretary shall establish a procedure for rotating membership on the Advisory Board."

AMENDMENTS TO SUBTITLE B OF THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977

SEC. 1505. (a) Section 1409 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124) is hereby repealed.

(b) Section 1410 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125) is amended by—

(1) striking out "February 1" and inserting in lieu thereof "January 1"; and

(2) striking out "section 1407(d)(2)(G)" and inserting in lieu thereof "section 1407(d)(2)(H)".

(c) Section 1411 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3126) is amended by—

(1) in subsection (a), (A) striking out "and" immediately after clause (4), (B) striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and "and", and (C) adding at the end thereof a new clause (6) as follows:

"(6) the Department of Agriculture establish mutually valuable working relationships with international and foreign information and data program agencies."; and

(2) in subsection (b), amending clause (3) to read as follows:

"(3) providing for notification, on a regular basis, to State cooperative extension services, States educational agencies, and other interested persons, with respect to the information and material that is available from the Center."

(d) Section 1412(a) of the National Agricultural Research Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127(a)) amended to read as follows:

"Sec. 1412. (a) To assist the Joint Council and Advisory Board in the performance of their duties, the Secretary may appoint, after consultation with the chairmen of the Joint Council and the chairman of the Advisory Board—

"(1) a full-time executive director who shall perform such duties as the chairmen of the Joint Council and the chairman of the Advisory Board may direct, and who shall receive compensation at a rate not in excess of the rate for GS-18 in the General Schedule set out in section 5332 of title 5 of the United States Code; and

"(2) a professional staff of not more than five full-time employees qualified in the food and agricultural sciences of which one shall serve as the executive secretary for the Joint Council and one shall serve as the executive secretary for the Advisory Board."

JOINT COORDINATION AND PLANNING ACTIVITIES

SEC. 1506. Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended by adding at the end thereof a new subsection (c) as follows:

"(c) In the performance of the duties assigned to them under this title, the Federal Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology, the Joint Council, and the Advisory Board shall, to the extent practicable, (1) conduct joint meetings and exchange reports, (2) coordinate such meetings with, and distribute such reports to, others in the national agricultural research, extension, and teaching system, and (3) appoint persons to serve as

liaisons with each other and other members of such system."

HIGHER EDUCATION IN THE FOOD AND AGRICULTURAL SCIENCES

SEC. 1507. (a) Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended to read as follows:

"HIGHER EDUCATION IN THE FOOD AND AGRICULTURAL SCIENCES

"SEC. 1417. In order to promote higher education in the food and agricultural sciences—

"(a) The Secretary may establish, within the Department of Agriculture, an Office of Higher Education. The Office of Higher Education shall be responsible for developing and improving higher education in the food and agricultural sciences, including programs in agriculture, natural resources, forestry, veterinary medicine, and home economics. The Office of Higher Education shall have the specific responsibilities to—

"(1) collect, analyze, and distribute information relating to the needs and productivity of higher education in the food and agricultural sciences; and

"(2) advise the Secretary with respect to the best allocation of funds available for distribution to sustain and strengthen the basic structure of the land-grant educational system in the food and agricultural sciences.

"(b) The Secretary shall conduct a program of grants to further higher education in the food and agricultural sciences and to assure the recruitment and education of professionals needed by the food and agricultural system, as follows:

"(1) Grants to land-grant colleges and universities, and to other colleges and universities that demonstrate a commitment to education in the food and agricultural sciences in the specific area of education covered by the grant, to—

"(A) strengthen the capacities of such institutions to respond to the needs of the food and agricultural sciences at the State, national, or international level;

"(B) attract to such institutions, and educate promising students needed in the food and agricultural sciences;

"(C) attract to such institutions educators needed in the food and agricultural sciences, and provide for the advancement of such educators in their professions;

"(D) support the design and implementation of innovative educational programs in the food and agricultural sciences; and

"(E) facilitate cooperation among such institutions that maximizes the efficient use of faculty and facilities for educational programs in the food and agricultural sciences. No such grant shall be for a period in excess of five years. Such grants shall be made without regard to the provision of matching funds by the grantee.

"(2) Grants to colleges and universities to support—

"(A) the development or administration of programs to meet unique problems in education in the food and agricultural sciences; and

"(B) the administration and conduct of specialized programs to attract persons to undergraduate or graduate education in the food and agricultural sciences.

No such grant shall be for a period in excess of five years. Such grants shall be made without regard to the provision of matching funds by the grantee. Fellowships awarded under this program may only be made to students who are enrolled in a course of study leading to a postbaccalaureate degree, or postdoctoral study at a college or university, in the food and agricultural sciences.

There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this subsection. Four per centum of any funds so

appropriated shall be available to the Secretary for the administration of the grants programs.

"(c) Notwithstanding any other provision of law, in order to sustain and strengthen the basic structure of the educational systems for the food and agricultural sciences provided by land-grant colleges and universities—

"(1) there are hereby transferred to and vested in the Secretary all functions, programs, and offices conducted under section 22 of the Act of June 29, 1935 (7 U.S.C. 329), and the Act of August 30, 1890 (7 U.S.C. 321-326 and 328); and

"(2) funds appropriated under such Acts shall be used by the Secretary to support instruction in the food and agricultural sciences at the land-grant colleges and universities."

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913, as amended) is amended by striking out the following:

"Sec. 1417. Grants and fellowships for food and agricultural sciences education."

and inserting in lieu thereof the following:

"Sec. 1417. Higher education in the food and agricultural sciences."

NATIONAL AGRICULTURAL SCIENCE AWARD

SEC. 1508. (a) Section 1418 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3153) is amended by—

(1) amending the section heading to read as follows:

"NATIONAL AGRICULTURAL SCIENCE AWARD";

(2) amending subsection (a) to read as follows:

"(a) The Secretary shall establish the National Agricultural Science Award for research or advanced studies in the food and agricultural sciences, including the social sciences. Two such awards, one for each of the categories described in subsection (d) of this section, shall be made in each fiscal year."

(3) redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) inserting immediately after subsection (b) a new subsection (c) as follows:

"(c) The awards will be open to persons in agricultural research, extension, teaching, or any combination thereof."

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913, as amended) is amended by striking out the following:

"Sec. 1418. National agricultural research award." and inserting in lieu thereof the following:

"Sec. 1418. National agricultural science award."

BIOMASS ENERGY RESEARCH PROJECTS

SEC. 1509. Section 1419(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(a)) is amended by—

(1) striking out "colleges, universities, and Government corporations" both places that phrase appears and inserting in lieu thereof the following: "colleges, universities, Government corporations, and Federal laboratories"; and

(2) inserting immediately before the last sentence of the subsection a new sentence as follows: "Six per centum of the amount appropriated in any fiscal year for research under this subsection shall be made available to the Secretary for coordination of research funded under this subsection with other research on biomass energy conducted under programs of the Department of Agriculture, for peer review of research funded under this subsection, and for monitoring of research projects funded under this subsection."

EXPANDED FOOD AND NUTRITION EDUCATION PROGRAM

SEC. 1510. The second sentence of section 1425(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(b)) is amended to read as follows: "Funds for carrying out the provisions of this subsection shall be distributed as follows:

"(1) One per centum shall be available to the Secretary for the administration of this subsection; and

"(2) The remainder shall be allocated to the States as follows:

"(A) Ten per centum of the available funds shall be distributed equally among all States; and

"(B) The remainder shall be allocated to each State in an amount that bears the same ratio to the total amount to be allocated as the population of the State living at or below 125 per centum of the income poverty guidelines prescribed by the Office of Management and Budget (adjusted under section 625 of the Economic Opportunity Act of 1964 (86 Stat. 697, as amended; 42 U.S.C. 2971d)), bears to the total population of all the States living at or below 125 per centum of the income poverty guidelines, as determined by the last preceding decennial census at the time each such sum is first appropriated: *Provided*, That, notwithstanding the foregoing, out of funds made available annually to carry out the provisions of this subsection up to the amount of funds last appropriated annually for such purpose prior to the enactment of the Food and Agriculture Act of 1981, each State shall be entitled to an allocation equal in proportion to the amount it received under such appropriations in relation to the amounts received by the other States."

ANIMAL HEALTH AND DISEASE RESEARCH

SEC. 1511. (a) Section 1430 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3192) is amended by inserting immediately before the semicolon at the end of clause (1) the following: "that has annual expenditures for animal health and disease research in excess of \$150,000".

(b) Section 1434 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196) is amended to read as follows:

"APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS

"SEC. 1434. (a) There are hereby authorized to be appropriated such funds, not to exceed \$15,000,000 annually, as Congress may determine necessary to support research on specific national or regional animal health or disease problems.

"(b) Funds appropriated under this section shall be awarded to eligible institutions in the form of grants for periods not to exceed five years.

"(c) In order to establish a regional allocation of such funds, the Secretary shall annually establish priority lists of animal health and disease problems of national or regional significance. Such lists shall be prepared after consultation with the Joint Council, the Users Advisory Board, and, as appropriate, the Board, but the recommendations of such advisory bodies shall not be controlling on the Secretary's determination of priorities. In establishing such priorities, the Secretary, and any advisory bodies, shall consider the following factors:

"(1) A health or disease problem shall be one that causes or has potential to cause significant economic losses for the particular element of the livestock production industry affected by it;

"(2) The scientific knowledge necessary to prevent, cure, or abate the health or disease problem is not currently adequate; and

"(3) The status of scientific research is

such that accomplishments may be anticipated through the application of scientific effort to such health or disease problem.

"(d) In the case of multiyear grants, the Secretary may award funds on any basis reasonably related to the timetable required for the orderly conduct of the particular research project."

RESEARCH, EXTENSION, AND TEACHING AT 1890
LAND-GRANT COLLEGES, INCLUDING TUSKEGEE
INSTITUTE

SEC. 1512. (a) Section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221) is amended by—

(1) in subsection (a)

(A) inserting "and ending with the fiscal year ending September 30, 1981," immediately after "Beginning with the fiscal year ending September 30, 1979," in the second sentence; and (B) inserting immediately after the second sentence a new sentence as follows: "Beginning with the fiscal year ending September 30, 1982, there shall be appropriated under this section for each fiscal year an amount not less than 7 per centum of the total appropriations for such year under the Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349).";

(2) in subsection (c)—

(A) striking out "administrative head for extension" and inserting in lieu thereof "extension administrator"; and

(B) inserting "and every five years thereafter" immediately before the period at the end thereof; and

(3) in the second sentence of subsection (d), striking out "submitted by the proper officials of each institution" and inserting in lieu thereof "coordinated with and become part of the overall State plan for extension work and shall be submitted, as part of such overall plan, by the State director of the cooperative extension service".

(b) Section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (U.S.C. 3222) is amended by—

(1) in subsection (c), striking out "chief administrative officer" and inserting in lieu thereof "research director"; and

(2) in subsection (d), striking out "chief administrative officer" in both places that phrase appears therein and inserting in lieu thereof "research director".

INTERNATIONAL AGRICULTURAL RESEARCH AND
EXTENSION

SEC. 1513. Subtitle I of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended to read as follows:

"Subtitle I—INTERNATIONAL AGRICULTURAL
RESEARCH AND EXTENSION

"SEC. 1458. The Secretary, subject to such coordination with other Federal officials, departments, and agencies as the President may direct, may—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by exchanging research materials and results with such institutions or persons and by conducting with such institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2) assist the Agency for International Development with agricultural research and extension programs in developing countries;

"(3) work with developed and transitional countries on agricultural and related research and extension, including the stationing of scientists at national and international institutions in such countries;

"(4) assist United States colleges and universities in strengthening their capabilities for agricultural and related research and

extension relevant to agricultural development activities in other countries;

"(5) provide specialized or technical services, on an advance of funds or reimbursement basis, to United States colleges and universities carrying out international agricultural and related research and development projects and activities, and funds received in payment for providing such services shall be deposited to the credit of the appropriation from which the cost of providing such services has been paid or is to be charged; and

"(6) further develop within the Department of Agriculture highly qualified and experienced scientists who specialize in international programs, to be available for the activities described in this section."

FEDERAL-STATE COOPERATION IN THE FOOD AND
AGRICULTURAL SCIENCES

SEC. 1514. (a) The National Agricultural Research, Extension and Teaching Policy Act of 1977 (91 Stat. 981, as amended) is amended by redesignating subtitle K as subtitle L and sections 1463 through 1470 as sections 1464 through 1471, respectively, and inserting immediately after subtitle J new subtitle K as follows:

"Subtitle K—FEDERAL-STATE COOPERATION IN
THE FOOD AND AGRICULTURAL SCIENCES

"SEC. 1463. In order to insure the further development of cooperation between the States and the Federal Government in agricultural research, extension, and teaching—

"(a) Except as otherwise provided in this title, the Secretary may enter into cooperative agreements or contracts with, and make grants to, land-grant colleges and universities, State agricultural experiment stations, cooperative extension services, and eligible institutions (as defined in section 1430(1) of this title) for the performance of agricultural research, extension, or teaching without regard to any provision of Federal law or regulation requiring competitive selection of the cooperator, non-Federal contractor, or grantee, or to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or section 3648 of the Revised Statutes (31 U.S.C. 529), whenever the Secretary determines it appropriate in order to insure the furtherance of cooperation between the States and the Federal Government in the performance of such research, extension, or teaching. In addition, notwithstanding any other provision of law, the Secretary of Agriculture may transfer ownership of expendable and nonexpendable equipment, supplies, and other tangible personal property purchased by a cooperator, non-Federal contractor, or grantee with cooperative agreement, contract, or grant funds whenever the Secretary determines that such transfer of ownership will further the programs of the Department of Agriculture.

"(b) The Secretary may establish, at land-grant colleges and universities, State agricultural experiment stations, cooperative extension services, and eligible institutions (as defined in section 1430(1) of this title) that have demonstrable capacity to carry out human nutrition research, extension, or teaching, cooperative human nutrition centers to conduct research, extension, or teaching with respect to high priority nutrition problems, as identified by the Secretary.

"(c) Notwithstanding any other provision of law, State officials carrying out activities provided for under subsection (a) of this section shall have the same opportunity to acquire Federal excess property as Federal officials, and such State officials in outlying locations including, but not limited to, Alaska, Hawaii, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands of the United States shall have preferred opportunities to acquire Federal property declared excess within the boundaries of such State.

"(d) Notwithstanding any other provision

of law, officials of State institutions described in subsection (a) of this section shall be eligible to serve on advisory and other committees established by the Secretary or operated by the Department of Agriculture without formal clearance otherwise required for nonfederal members of such committees."

(b) The Table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913, as amended) is amended by—

(1) redesignating sections 1463 through 1470 as sections 1464 through 1471 respectively; and

(2) inserting immediately after "Sec. 1462. Agricultural research facilities study" the following:

"Subtitle K—FEDERAL-STATE COOPERATION IN
THE FOOD AND AGRICULTURAL SCIENCES

"SEC. 1463. Federal-State cooperation in the food and agricultural sciences."

INDIRECT COSTS

SEC. 1515. (a) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (91 Stat. 981, as amended) is amended by adding at the end thereof a new section 1472 as follows:

"INDIRECT COSTS

"SEC. 1472. (a) Funds appropriated under authorizations provided under this title that establish formula allocations shall not be used for payment of indirect costs or tuition remission.

"(b) Negotiated indirect cost rates may not be imposed with respect to funds appropriated under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), the Act of May 8, 1914 (38 Stat. 372-374, as amended; 7 U.S.C. 341-349), and the Act of October 10, 1962 (76 Stat. 806-897, as amended; 16 U.S.C. 582a, 582-1-582-7), or funds received by persons under cooperative agreements with the Department of Agriculture for agricultural research, extension, or teaching."

(b) The Table of Contents of the Food and Agriculture Act of 1977 (91 Stat. 913, as amended) is amended by inserting immediately before

"TITLE XV—RURAL DEVELOPMENT AND
CONSERVATION"

the following:

"Sec. 1472. Indirect Costs."

FEDERAL SUBCOMMITTEE ON FOOD AND RENEWABLE
RESOURCES

SEC. 1516. Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(h)) is amended by—

(1) striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services"; and

(2) striking out "Energy Research and Development Administration" and inserting in lieu thereof "Department of Energy".

COMPETITIVE AND FACILITY IMPROVEMENT
GRANTS

SEC. 1517. Section 2 of Public Law 89-106, as amended (7 U.S.C. 4501), is amended by—

(1) in subsection (a), inserting a comma and "including the social sciences" immediately after "related areas";

(2) in the second sentence of subsection (b), inserting "and the National Agricultural Research and Extension Users Advisory Board" immediately after "the Joint Council on Food and Agricultural Sciences";

(3) amending subsection (c) to read as follows:

"(c) The Secretary of Agriculture may make grants, for periods not to exceed five years in duration—

"(1) to land-grant colleges and universities, State agricultural experiment stations, research foundations established by land-grant colleges and universities, and to all

colleges and universities having a demonstrable capacity in food and agricultural research (including social sciences research), as determined by the Secretary, to carry out research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences (including the social sciences) of importance to the Nation; and

"(2) to land-grant colleges and universities, State agricultural experimental stations, research foundations established by land-grant colleges and universities, forestry schools eligible to receive funds under the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), and accredited colleges of veterinary medicine to facilitate or expand on-going State-Federal food and agricultural research programs that (A) promote excellence in research, (B) promote the development of regional research centers, (C) promote the research partnership between the Department of Agriculture and such colleges and universities or State agricultural experiment stations, or (D) facilitate coordination and cooperation in research among States.

These grants shall be made without regard to matching funds."; and

(4) striking out the first sentence in subsection (d) and inserting in lieu thereof the following: The Secretary of Agriculture shall make annual grants to support the renovation or refurbishment (including energy retrofitting) of agricultural research facilities in buildings or facilities to be used for food and agricultural research, and to support the purchase and installation of fixed equipment in such spaces necessary for the conduct of food and agricultural research. The grants may be used for the construction of new facilities only to the extent that such construction is for auxiliary facilities or fixed equipment used in research, such as greenhouses, insectaries, or research farm structures or installations. Such grants shall be made to—

"(1) each State agricultural experiment station in an amount of \$100,000 or an amount that is equal to 10 per centum of the funds received by such station under the Act of March 2, 1887 (24 Stat. 440-442, as amended; 7 U.S.C. 361a-361i), and the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582-1—582a-7), whichever is greater: *Provided*, That of any amount in excess of \$50,000 made available under this clause during any year for allotment to a State agricultural experiment station, no payment thereof shall be made in excess of the amount that the station makes available during that year for the purposes for which grants under this clause are made available;

"(2) each accredited college of veterinary medicine and State agricultural experiment station that receives funds from the Federal Government for animal health research, in an amount that is equal to 10 per centum of the animal health research funds received by such college or experiment station from the Federal Government during the previous fiscal year;

"(3) each forestry school not included under paragraph (1) of this sentence, in an amount equal to 10 per centum of the funds received by such school during the previous fiscal year under the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7); and

"(4) each institution eligible to receive funds under the Act of August 30, 1980 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute, in an amount equal to 10 per centum of the funds received by such institution during the previous fiscal year under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977."

COOPERATIVE RESEARCH AT FORESTRY SCHOOLS

SEC. 1518. Public Law 87-788, as amended (16 U.S.C. 582a, 582a-1—582a-7) is amended by—

(1) adding at the end of section 1 a new sentence as follows: "It is recognized that assistance under this Act is essential in providing the research background for programs and activities under the Forest and Rangeland Renewable Resources Planning Act of 1974, the Renewable Resources Extension Act of 1978, and the Soil and Water Resources Conservation Act of 1977.";

(2) adding at the end of section 2 a new sentence as follows: "Whenever more than one institution within a State are certified as qualifying for assistance, it shall be the responsibility of such institutions, in cooperation with the Secretary, to develop programs of forestry research that complement one another and provide a unified forestry research plan for the State."; and

(3) amending sections 5 and 6 to read as follows:

"SEC. 5. (a) The Secretary shall prescribe such rules and regulations as may be necessary to carry out the provisions of this Act and to furnish such advice and assistance through a cooperative State forestry research unit in the Department of Agriculture as will best promote the purposes of this Act.

"(b) The Secretary shall appoint a council of not less than sixteen members to assist the Secretary in forestry research planning and coordination. Members of the council shall be selected so as to give representation on the council to—

"(1) Federal and State agencies involved in the development or use of the Nation's forest resources;

"(2) forest resources industries;

"(3) the forestry schools of institutions certified as eligible for assistance under this Act; and

"(4) volunteer public groups concerned with the Nation's forests and related natural resources.

The council shall meet with the Secretary at least once a year to (1) report to the Secretary its views on the status of regional and national planning and coordination of forestry research among Federal and State agencies, forestry schools, and the forest resources industries, and (2) advise the Secretary on the apportionment of funds that may be appropriated to carry out this Act and on any other matter in order to assist the Secretary in accomplishing efficiently the purposes of this Act.

"SEC. 6. Apportionments among participating States shall be determined by the Secretary after consultation with the council established under section 5 of this Act. In making such apportionments, consideration shall be given to pertinent factors including, but not limited to, nonfederal expenditures for forestry research made by eligible institutions and the areas of nonfederal commercial forest land and volume of timber cut annually in the States in which the eligible institutions are located. Three per centum of the funds appropriated for forestry research by eligible institutions under this Act shall be made available to the Secretary for administrative expenses under this Act."

RURAL DEVELOPMENT AND SMALL FARM RESEARCH AND EXTENSION

SEC. 1519(a). Title V of the Rural Development Act of 1972 (7 U.S.C. 2661-2670) is amended by striking out sections 501 through 508 and inserting in lieu thereof the following:

"SEC. 501. PURPOSES AND GOALS.—(a) The overall purpose of this title is to foster a balanced national development that provides opportunities for increased numbers of the people of the United States to work and enjoy a high quality of life dispersed throughout

our Nation by providing the essential knowledge necessary for successful programs of rural development. It is further the purpose of this title to—

"(1) provide multistate regional agencies, States, counties, cities, multicounty planning and development districts, businesses, industries, Indian tribes on Federal and State reservations or other federally-recognized Indian tribal groups, and others involved with public services and investments in rural areas or that provide or may provide employment in these areas the best available scientific, technical, economic, organizational, environmental, and management information and knowledge useful to them, and to assist and encourage them in the interpretation and application of this information to practical problems and needs in rural development;

"(2) provide research and investigations in all fields that have as their purpose the development of useful knowledge and information to assist those planning, carrying out, managing, or investing in facilities, services, businesses, or other enterprises, public and private, that may contribute to rural development;

"(3) increase the capabilities of, and encourage, colleges and universities to perform the vital public service roles of research, and the transfer and practical application of knowledge, in support of rural development;

"(4) expand small farm research and extend training and technical assistance to small farm families in assessing their needs and opportunities and in using the best available knowledge on sound economic approaches to small farm operations and on existing services offered by the Department of Agriculture and other public and private agencies and organizations to improve their incomes and to gain access to essential facilities and services; and

"(5) support activities to supplement and extend programs that address special research and education needs in States experiencing rapid social and economic adjustments or unique problems caused by rural isolation and that address national and regional rural development policies, strategies, issues, and programs.

"(b) The goals of this title are to—

"(1) encourage and support rural United States, in order to help make it a better place to live, work, and enjoy life;

"(2) increase income and improve employment for persons in rural areas, including the owners or operators of small farms, small businesses, and rural youth;

"(3) improve the quality and availability of essential community services and facilities in rural areas;

"(4) improve the quantity and quality of rural housing;

"(5) improve the rural management of natural resources so that the growth and development of rural communities needed to support the family farm may be accommodated with minimum effect on the natural environment and the agricultural land base;

"(6) improve the data base for rural development decisionmaking at local, State, and national levels;

"(7) improve the problem solving and development capacities and effectiveness of rural governments, officials, institutions, communities, community leaders, and citizen groups in—

"(A) improving access to Federal programs;

"(B) improving targeting and delivery of technical assistance;

"(C) improving coordination among Federal agencies, other levels of government, and institutions and private organizations in rural areas; and

"(D) developing and disseminating better information about rural conditions.

"SEC. 502. PROGRAMS AUTHORIZED.—The Secretary of Agriculture may conduct, in cooperation and coordination with colleges and universities, the following programs to carry out the purposes and achieve the goals of this title.

"(a) RURAL DEVELOPMENT EXTENSION PROGRAMS.—Rural development extension programs shall consist of the collection, interpretation, and dissemination of useful information and knowledge from research and other sources to units of multistate regional agencies, State, county, municipal, and other units of government, multicounty planning and development districts, organizations of citizens contributing to community and rural developments, businesses, Indian tribes on Federal or State reservations or other federally-recognized Indian tribal groups, and industries that employ or may employ people in rural areas. These programs also shall include technical services and educational activities, including instruction for persons not enrolled as students in colleges or universities, to facilitate and encourage the use and practical application of this information. These programs may also include feasibility studies and planning assistance.

"(b) RURAL DEVELOPMENT RESEARCH.—Rural development research shall consist of research, investigations, and basic feasibility studies in any field or discipline that may develop principles, facts, scientific and technical knowledge, new technology, and other information that may be useful to agencies of Federal, State, and local government, industries in rural areas, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other organizations involved in community and rural development programs and activities in planning and carrying out such programs and activities or otherwise be practical and useful in achieving the purposes and goals of this title.

"(c) SMALL FARM RESEARCH PROGRAMS.—Small farm research programs shall consist of programs of research to develop new approaches for initiating and upgrading small farm operations through management techniques, agricultural production techniques, farm machinery technology, new products, new marketing techniques, and small farm finance; to develop new enterprises that can use labor, skills, or natural resources available to the small farm family; or that will help to increase the quality and availability of services and facilities needed by the small farm family.

"(d) SMALL FARM EXTENSION PROGRAMS.—Small farm extension programs shall consist of extension programs to improve small farm operations, including management techniques, agricultural production techniques, farm machinery technology, marketing techniques, and small farm finance; to increase use by small farm families of existing services offered by the Department of Agriculture and other public and private agencies and organizations; to assist small farm families in establishing and operating cooperatives for the purpose of improving their family income from farming or other economic activities; to increase the quality and availability of services and facilities needed by small farm families; and to develop new enterprises that can use labor, skills, or natural resources available to the small farm family.

"(e) SPECIAL GRANTS PROGRAMS.—Special grants programs shall consist of extension and research programs to strengthen research and education on national and regional issues in rural development, including the assessment of alternative policies and strategies for rural development and balanced growth; to develop alternative strategies for national and regional investment, and the creation of

employment, in rural areas; to develop alternative energy policies to meet rural development needs; and to strengthen rural development programs of agencies of the Department of Agriculture and those in other Federal departments and agencies.

"SEC. 503. APPROPRIATION AND ALLOCATION OF FUNDS.—(a) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title.

"(b) Such sums as are appropriated to carry out the provisions of sections 502(a) and 502(b) of this title shall be distributed by the Secretary of Agriculture as follows:

"(1) Four per centum shall be retained by the Secretary for program administration and national coordination of State programs, and program assistance to the States;

"(2) Ten per centum shall be used to finance work serving two or more States in which colleges or universities in two or more States cooperate or that is conducted by one college or university to serve two or more States;

"(3) Twenty per centum shall be allocated equally among the States; and

"(4) Sixty-six per centum shall be allocated to each State as follows: One-half in an amount that bears the same ratio to the total amount to be allotted as the rural population of the State bears to the total rural population of all the States, as determined by the last preceding decennial census; and one-half in an amount that bears the same ratio to the total amount to be allotted as the farm population of the State bears to the total farm population of all the States, as determined by the last preceding decennial census: *Provided*, That, beginning with the fiscal year ending September 30, 1932, no State may receive more until all States have been allotted a minimum of \$75,000.

"(c) Such sums as are appropriated to carry out the provisions of section 502(e) of this title shall be distributed by the Secretary of Agriculture to colleges and universities, on a competitive or matching fund basis, according to the Secretary's determination of the projects and manner of funding that show the most promise of fulfilling the objectives of section 502(e) of this title.

"(d) Funds appropriated under this title may be used to pay salaries and other expenses of personnel employed to carry out the functions authorized by this title; to obtain necessary supplies, equipment, and services; and to rent, repair, and maintain facilities needed, but not to purchase or construct buildings.

"(e) Payment of funds to any State for programs authorized under sections 502(a), 502(b), 502(c), and 502(d) of this title shall be contingent upon the approval of the Secretary of Agriculture of a plan of work and budget for such programs and compliance with such regulations as the Secretary may issue under this title. Plans of work shall be jointly developed in each State by the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, and 308), and the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including Tuskegee Institute. In States in which there is no land-grant institution eligible to receive funds under the Act of August 30, 1890, the land-grant institution eligible to receive funds under the Act of July 2, 1862, shall be responsible for developing plans of work and budgets. In the development of public plans of work and budgets, consideration shall be given to involvement of the resources and expertise of the colleges and universities serving the region in which the plans and budgets are to be applied.

"(f) Funds shall be available for use by each State in the fiscal year for which ap-

propriated and the next fiscal year following the fiscal year for which appropriated. Funds shall be budgeted and accounted for on such forms and at such times as the Secretary shall prescribe.

"(g) Funds provided to each State under this title may be used to finance programs through or at private and publicly supported colleges and universities other than the institutions responsible for administering the programs, as provided under section 504 of this title.

"SEC. 504. COOPERATING COLLEGES AND UNIVERSITIES.—(a) To ensure national coordination with other federally supported agricultural research and extension programs, administration of each State program shall be the responsibility of the colleges and universities eligible to receive funds under the Act of July 2, 1862, and the Act of August 30, 1890, including Tuskegee Institute. In States that contain more than one such institution, such administration shall be the responsibility of the institution designated by mutual agreement of all such institutions, subject to approval by the Secretary of Agriculture. The Secretary shall pay funds available to each State to such institution or university. Such administration shall be coordinated with other federally-supported agricultural research and extension programs conducted in the State.

"(b) All private and publicly supported colleges and universities in a State shall be eligible to participate in programs authorized under this title. Officials at universities or colleges other than those responsible for administering the programs that wish to participate in these programs shall submit program proposals to the college or university officials responsible for administering the programs who shall be responsible for considering such proposals in the process of developing the budgets and plans of work.

"(c) The institution of each State responsible for administering the programs authorized under this title shall designate an official who shall be responsible for the overall coordination of the programs.

"(d) The institution in each State responsible for administering the programs authorized under this title shall name an advisory council to review and approve budgets and plans of work conducted under this title and to advise the chief administrative officer of the institution administering the programs on matters pertaining to the programs. An existing State rural development committee or council may be named to perform this function, or a new council may be appointed by the chief administrative officer or officers. The committee or council named or appointed shall consist of at least 12 members and shall include persons representing farmers, business, labor, banking, local government, multicounty planning and development districts, public and private colleges and universities in the State, and Federal and State agencies involved in rural development.

"SEC. 505. WITHHOLDING FUNDS.—If the Secretary of Agriculture determines that a State is not eligible to receive part or all of the funds to which it is otherwise entitled for programs under sections 502(a) and 502(b) of this title because of a failure to comply with regulations issued by the Secretary under this title, the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the expiration of the Congress next succeeding the session of the legislature of the State from which funds have been withheld in order that the State may, if it should so desire, appeal to Congress from the determination of the Secretary. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. If any portion of the moneys

that are received by the designated officers of any State for the support and maintenance of programs authorized under this title shall by any action or contingency be diminished or lost, or be misapplied, it shall be replaced by the State.

"SEC. 506. DEFINITIONS.—For the purposes of this title—

"(a) 'rural development' means the planning, financing, and development of facilities and services in rural areas that contribute to making those areas desirable places to which to live and make private and business investments; the planning, development, and expansion of business and industry in rural areas to provide increased employment and income; the planning, development, conservation, and use of land, water, and other natural resources of rural areas to maintain or improve the quality of the environment for people and business in rural areas; and the building or improvement of institutional, organizational, and leadership capacities of rural citizens and leaders to define and resolve their own community problems;

"(b) 'State' means the several States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands; and

"(c) 'small farm' means any farm (1) producing family net income from all sources (farm and nonfarm) below the median non-metropolitan income of the State; (2) operated by a family dependent on farming for a significant though not necessarily a majority of its income; and (3) on which family members provide most of the labor and management.

"SEC. 507. REGULATIONS.—The Secretary of Agriculture may issue such regulations as the Secretary determines necessary to carry out the provisions of this title."

(b) Section 509 of the Rural Development Act of 1972 (7 U.S.C. 2669) is redesignated as section 508, and section 510 of the Rural Development Act of 1972 (7 U.S.C. 2670) is hereby repealed.

AUTHORIZATIONS FOR APPROPRIATIONS FOR AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

SEC. 1520. (a) The sixth sentence of section 1419(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(a)) is amended by striking out all that follows "September 30, 1982" the second time such date appears therein down through the end of the sentence and inserting in lieu thereof a semicolon and the following: "and further there are hereby authorized to be appropriated annually thereafter such sums as may be necessary to carry out the provisions of this subsection."

(b) Section 1454 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3263) is amended by striking all that follows "September 30, 1981" down through the end of the section and inserting in lieu thereof a semicolon and the following: "and further there are hereby authorized to be appropriated annually thereafter such sums as may be necessary for the establishment of model farms and solar energy project demonstrations under the provisions of this part."

(c) Subsection (a) of section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)), and redesignated by section 1514 of this Act, is amended by striking out all that follows "September 30, 1982" down through the end of the subsection and inserting in lieu thereof a semicolon and the following: "and further there are hereby authorized to be appropriated annually thereafter such sums as may be necessary for such purpose."

(d) Subsection (b) of section 1464 of the

National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(b)), as redesignated by section 1514 of this Act, is amended by striking out all that follows "September 30, 1982" down through the end of the subsection and inserting in lieu thereof a semicolon and the following: "and further there are hereby authorized to be appropriated annually thereafter such sums as may be necessary for such purpose."

(e) Section 1465 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312), as redesignated by section 1514 of this Act, is amended by striking out all that follows "September 30, 1982" down through the end of the section and inserting in lieu thereof a semicolon and the following: "and further there are authorized to be appropriated annually thereafter such sums as may be necessary for such purposes."

(f) Section 2(b) of Public Law 89-106, as amended (7 U.S.C. 4501(b)), is amended by striking out all that follows "September 30, 1982" in the fifth sentence down through the end of the sentence and inserting in lieu thereof a semicolon and the following: "and there are further authorized to be appropriated annually thereafter such sums as may be necessary for such purpose."

(g) Section 4(a) of Public Law 88-74, as amended (7 U.S.C. 390c(a)), is amended by striking out all that follows "September 30, 1982" down through the end of the subsection and inserting in lieu thereof a semicolon and the following: "and there are further authorized to be appropriated annually thereafter such sums as may be necessary for such purpose."

TITLE XVI—EFFECTIVE DATE

SEC. 1601. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1981.

SUMMARY OF MAJOR PROVISIONS

The Food and Agriculture Act of 1981 extends and updates a number of agricultural commodity programs; extends the Public Law 480 programs; extends the food stamp program and makes changes in the program to reduce costs and improve administration; extends and updates the agricultural research, extension, and teaching programs; and extends the commodity distribution program. The bill will become effective October 1, 1981.

AGRICULTURAL COMMODITY PROGRAMS

Payment limitation.—The bill extends, through the 1985 crops, the \$50,000 limitation on the total amount of payments a farmer may receive annually under the wheat, feed grains, upland cotton, and rice programs. As under existing law, price support loans and purchase proceeds, disaster payments (if a program is in effect), and compensation for resource adjustment or public access for recreation are excluded from the limitation. If a disaster payments program is in effect, there would be a \$100,000 limitation on the total amount a farmer could receive annually under that program. (Title I.)

Dairy program. The bill—(1) extends through December 31, 1985, the authority for the inclusion of dairy base excess plans, Louisville plans, and class I dairy base plans in milk marketing orders;

(2) provides that, for each of the four years in the period beginning October 1, 1981, and ending September 30, 1985, the price of milk must be supported at a level—between 75 and 90 percent of parity—that will be higher (within the 75 to 90 percent range) to the extent that the estimated net Government purchases of dairy products during the year will be lower. (The bill contains a table that sets out amounts of estimated net Government purchases and corresponding support levels.) The bill also provides that—

(1) in no event may the support price for

milk for any such year be less, in dollar amount, than the support price during the previous year; and

(2) the support price will be redetermined whenever dairy product imports into the United States are increased as a result of the relaxation of import restrictions (in redetermining the support price, the estimate of net Government purchases will be reduced by the amount of the increase in imports);

(3) extends, through December 31, 1985, the program under which the Commodity Credit Corporation makes dairy products available to the military and veterans hospitals; and

(4) extends, through September 30, 1985, the dairy indemnity program, under which payments are provided to dairy farmers and manufacturers who sustain losses due to pesticides, nuclear radiation or fallout contamination, or chemical residues. (Title II.)

Wool and Mohair.—The bill extends through December 31, 1985, the requirement that the Secretary of Agriculture support the prices of wool and mohair to producers by means of loans, purchases, payments, and other operations. The required support price for shorn wool would be set at 85 percent of the support price formula provided under section 703(b) of the National Wool Act of 1954; and the support prices for pulled wool and mohair would be based on the support price for shorn wool. (Title III.)

Wheat.—The bill continues, through the 1985 crop, the wheat program for the 1978 through 1981 crops provided under the Food and Agriculture Act of 1977.

Under the program—

(1) price support loans and purchases are made available to producers;

(2) target price payments are made available to producers in any year in which the higher of the market price for wheat or the price support level falls below the target price, and the payment rate (per bushel) is the difference between the target price and the higher of the other two prices;

(3) the Secretary is required each year to proclaim a national wheat program acreage (based on the amount of wheat production needed to meet demand); and individual farm program acreages will be based on the national program acreage. Target price payments are only made for wheat acreage within the farm program acreage;

(4) the Secretary may provide for a set-aside of cropland, as a condition of eligibility for wheat loans, purchases, and payments, if it appears that the total national supply of wheat will be excessive in the absence of a set-aside; and

(5) the Secretary may make land diversion payments, whether or not a set-aside is in effect, if necessary to adjust the total national acreage of wheat to desirable goals.

Under the bill, for the 1982 through 1985 crops, the minimum price support loan level will be \$3.70 per bushel and the maximum loan level will be 100 percent of parity. However, if the market price of wheat falls to 105 percent, or less, of the loan level, the Secretary may reduce the loan level for the next marketing year (by not more than 10 percent nor below \$3.00 per bushel) as necessary to maintain domestic and export markets for U.S. grain. If loan rates are reduced, the Secretary would be required to provide emergency compensation to farmers by increasing target price payments.

Under the bill, the target price for wheat will be \$4.40 per bushel for the 1982 crop, and for the 1983 through 1985 crops, the target price will be the previous year's target price, adjusted to reflect changes in the cost of production.

Under the bill, any set-aside for the 1982 through 1985 crops must be announced by August 1 of the year prior to the year the crop is harvested. (Title IV.)

Feed grains.—The bill continues, through the 1985 crops, the feed grain program for

the 1978 through 1981 crops provided under the Food and Agriculture Act of 1977.

Under the program—(1) price support loans and purchases are made available to producers of corn, barley, oats, rye, and grain sorghum;

(2) target price payments are made available to producers of corn, grain sorghum, and (if designated by the Secretary) oats and barley. Payments for corn are made in any year in which the higher of the market price for corn or the price support level falls below the target price for corn, and the payment rates (per bushel) is the difference between the target price and the higher of the other two prices (the payment rate for each of the other eligible feed grains is the rate the Secretary determines to be fair and reasonable in relation to the payment rate for corn);

(3) the Secretary is required, each year, to proclaim a national feed grain program acreage (base on the amount of production needed to meet demand); and individual farm program acreages will be based on the national program acreage. Target price payments are only made for feed grain acreage within the farm program acreage;

(4) the Secretary may provide for a set-aside of cropland, as a condition of eligibility for feed grain loans, purchases, and payments, if it appears that the total national supply of feed grains will be excessive in the absence of a set-aside; and

(5) the Secretary may make land diversion payments, whether or not a set-aside is in effect, if necessary to adjust the total national acreage of feed grains to desirable goals.

Under the bill, for the 1982 through 1985 crops, the price support loan rate for corn will be set at the level (not less than \$2.50 per bushel) that the Secretary determines will encourage the exportation of feed grains and not result in excess stocks of feed grains. However, if the market price for corn falls to 105 percent, or less, of the loan level, the Secretary may reduce the loan level for the next marketing year (by not more than 10 percent nor below \$2.25 per bushel) as necessary to maintain domestic and export markets for grain. If loan rates are reduced, the Secretary would be required to provide emergency compensation to farmers by increasing target price payments.

The price support loan rates for barley, oats, rye, and grain sorghum will be set by the Secretary and must be fair and reasonable in relation to the price support loan rate for corn.

Under the bill, the target price for corn will be \$2.75 per bushel for the 1982 crop of corn, and for the 1983 through 1985 crops of corn, the target price will be the previous year's target price, adjusted to reflect changes in the cost of production. The target price payment rates for grain sorghum and (if designated by the Secretary) oats and barley will be set by the Secretary and must be fair and reasonable in relation to the target price payment rate for corn.

Under the bill, any set-aside for the 1982 through 1985 crops must be announced by November 1 of the year prior to the year the crop is harvested. (Title V.)

Upland cotton.—The bill continues, through the 1985 crop, the upland cotton program for the 1978 through 1981 crops provided under the Food and Agriculture Act of 1977 and related legislation.

Under the program—(1) price support loans are made available to producers;

(2) target price payments are made available to producers in any year in which the higher of the market price for upland cotton or the price support level falls below the target price, and the payment rate (per pound) is the difference between the target price and the higher of the other two prices;

(3) the Secretary is required, each year, to

proclaim a national upland cotton program acreage (based on the amount of production needed to meet demand) of not less than 10 million acres; and individual farm program acreages will be based on the national program acreage. Target price payments are only made for upland cotton acreage within the farm program acreage;

(4) the Secretary may provide for a set-aside of up to 28 percent of the acreage planted to upland cotton for harvest, as a condition of eligibility for upland cotton loans, purchases, and payments, if it appears that the total national supply of upland cotton will be excessive in the absence of a set-aside;

(5) the Secretary may make land diversion payments, whether or not a set-aside is in effect, if necessary to adjust the total national acreage of upland cotton to desirable goals; and

(6) when the Secretary determines that the spot market price of upland cotton for any month exceeds 130 percent of the average spot market prices for the preceding 36 months, the President must proclaim a limited 90-day import quota under which upland cotton (in an amount equal to that needed for 21 days of domestic mill consumption) may enter the United States.

Under the bill, the price support loan level for each of the 1982 through 1985 crops of upland cotton will be the smaller of 85 percent of the average U.S. spot market price for upland cotton over a 5-year period and 90 percent of the average Northern Europe price for upland cotton, as determined under formulas set out in the bill; however in no case may the loan level be less than 55¢ per pound, and the Secretary may adjust the loan level upward, when the level is based on the average Northern Europe price, to not in excess of the level based on the average U.S. spot market price. Loans will be made for a term of 10 months, but could be extended for an additional 8 months at the request of the producer.

Under the bill, the target price for upland cotton will be \$.80 per pound for the 1982 crop; and for each of the 1983 through 1985 crops of upland cotton, the target price will be the previous year's target price adjusted to reflect changes in the cost of production (based on normal historical yields). (Title VI.)

Rice.—The bill continues, through the 1985 crop, the price support loan, target price, set-aside, and paid diversion provisions of the rice program for the 1978 through 1981 crops provided under the Food and Agriculture Act of 1977. The bill suspends the rice allotment system for the 1982 through 1985 crops and substitutes therefor a national rice program acreage system similar to the systems for wheat, feed grains, and upland cotton.

Under the bill—(1) price support loans and purchases will be made available to rice producers;

(2) target price payments will be made available to rice producers in any year in which the higher of the market price for rice or the price support level falls below the target price, and the payment rate (per hundredweight) will be the difference between the target price and the higher of the two other prices;

(3) the Secretary will be required each year to proclaim a national rice program acreage (based on the amount of rice production needed to meet demand); and individual farm program acreages will be based on the national program acreage. Target price payments will be made only for the rice acreage within the farm program acreage;

(4) the Secretary may provide for a set-aside of cropland, as a condition of eligibility for rice loans, purchases, and payments, if it appears that the total national supply of

rice will be excessive in the absence of a set-aside; and

(5) the Secretary may make land diversion payments, whether or not a set-aside is in effect, if necessary to adjust the total national acreage of rice to desirable goals.

Under the bill, the target price for rice will be \$11.01 per hundredweight for the 1982 crop, and for each of the 1983 through 1985 crops of rice, the target price will be the target price for the previous year's crop adjusted to reflect changes in the cost of production.

In each such year, the price support loan level will bear the same ratio to the previous year's loan level as the target price bears to the previous year's target price. However, if the Secretary determines that loans at such level will discourage exports and result in excessive supplies of rice, the Secretary can establish a lower loan level (not less than \$8.26 per hundredweight nor more than 100 percent of parity) as needed to avoid such consequences. (Title VII.)

Peanuts.—The bill continues, through the 1985 crop, the peanut program for the 1978 through 1981 crops provided under the Food and Agriculture Act of 1977.

Under the program—(1) the Secretary must establish a national peanut acreage allotment for each year based on the acreage needed to meet domestic and export demand and provide an adequate carryover, but the national allotment cannot be less than 1,614,000 acres;

(2) the national peanut acreage allotment is apportioned among States, and then among peanut producers in a State, on the basis of previous years' allotments, adjusted to reflect allotment acreage assigned to new peanut production acreage and transfers and assignments of allotments;

(3) annual marketing quotas will be in effect for three-year periods if approved by two-thirds of the peanut producers;

(4) the Secretary must establish a national poundage quota each year in an amount that will meet domestic edible use needs and provide a minimum carryover, except that the national poundage quota may not be less than a statutory minimum (for the 1981 crop, the minimum is 1,440,000 tons);

(5) the national poundage quota is distributed among peanut acreage allotments in proportionate shares;

(6) that portion of actual production of peanuts on a farm acreage allotment that exceeds the farm poundage quota is considered as "additional" peanuts, which may be disposed of only by (a) placing them under loan to the Commodity Credit Corporation at the "additional" peanut loan rate and not redeemed, or (b) selling them to handlers for crushing or export under contracts approved by the Secretary;

(7) producers are subject to penalties for marketing peanuts that are not "quota" peanuts (peanuts produced on the peanut allotment that are within the farm poundage quota) nor "additional" peanuts; and

(8) price support loans and purchases are made available for both "quota" and "additional" peanuts, including warehouse storage loans to designated area marketing associations of producers (the associations may be used in administration of the price support program, and the loans to such associations may include amounts covering the costs incurred by the associations in performing administrative and support functions).

Under the bill, for the 1982 through 1985 crops, there will be a minimum national poundage quota for peanuts of 1,440,000 tons, but the Secretary could set the quota at a higher level as necessary to meet domestic edible use requirements and provide a reasonable carryover.

Under the bill, price support will be made

available on each of the 1982 through 1985 crops of "quota" peanuts at a level determined appropriate by the Secretary, taking into consideration supply, prices, and other market factors, the availability of funds, the importance of peanuts to the economy, and changes in production costs, although in no case may the support level be less than \$650 per ton. Price support will be made available on each of the 1982 through 1985 crops of "additional" peanuts at a level considering demand factors and the prices of other vegetable oils and protein meals. (Title VIII.)

Soybeans.—The bill continues, through the 1985 crop, the requirement under the Food and Agriculture Act of 1977 (applicable under that Act to the 1978 through 1981 crops of soybeans) that the price of soybeans be supported, through loans and purchases, at the level the Secretary determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors. The bill provides, however, that in no case may the minimum level of price support for any of the 1982 through 1985 crops of soybeans be less than \$5.44 per bushel. The bill also extends, through the 1985 crop of soybeans, the provision of the Food and Agriculture Act of 1977 that, notwithstanding any normal crop acreage requirement imposed by the Secretary, the Secretary may not require a set aside of soybean acreage as a condition of eligibility for price support on any commodity. (Title IX.)

Sugar.—The bill will require that the price of each of the 1982 through 1985 crops of sugar beets and sugarcane, respectively, be supported through loans on, and purchases of, processed sugar products. The support price would be set by the Secretary at a level adequate to assure the maintenance of U.S. sugar production capacity. (Title X.)

Standby authority for disaster payments.—The bill will give the Secretary discretionary authority to make prevented planting and reduced yield disaster payments available for producers of wheat, feed grains, upland cotton, and rice participating in the programs for the commodities under the bill for each of the 1982 through 1985 crops. The Secretary may make disaster payments available whenever he determines that—

(1) as a result of a natural disaster or other condition beyond the control of farmers, substantial losses of production of the commodity have resulted (including both prevented planting and reduced yield losses), and such losses have created an economic emergency for the farmers; and

(2) Federal crop insurance indemnities and other forms of Federal disaster assistance together are insufficient to alleviate the economic emergency, so that additional assistance must be made available.

Prevented planting and reduced yield disaster payments would be computed under formulas similar to those provided in the Food and Agriculture Act of 1977 for the 1978 and 1979 crops and later extended to the 1980 and 1981 crops. The Secretary could make adjustments in the amount of payments with respect to individual farms producing the commodity involved so as to assure equitable allotment of the payments among farmers, taking into account other forms of Federal disaster assistance provided them. (Section 1101.)

Set-aside of normally-planted acreage.—The bill provides that, whenever a set-aside is in effect for one or more of the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Secretary may require (as a condition of eligibility for loans, purchases, and payments under commodity programs) that the acreage normally planted to crops designated by the Secretary be reduced by the amount of the set-aside or diversion. Under the bill, the Secretary would determine the normal crop acreage for

a farm on the basis of the acreage planted for harvest on the farm during the most recent three years. The Secretary would have clear authority to adjust the normal crop acreage annually, as necessary to provide equity among producers.

In addition, under the bill, whenever a set-aside is in effect for one or more of the 1982 through 1985 crops of wheat, feed grains, upland cotton, or rice, the Secretary may increase the target price for the commodity to compensate producers for participation in the set-aside. If the target price for a commodity is increased, the Secretary will be authorized also to increase the target price for any of the other target price commodities, as necessary for the effective operation of the program. (Section 1102.)

Farm storage facility loans.—The bill extends, through September 30, 1985, the farm storage facility loan provisions of the Food and Agriculture Act of 1977, as amended, effective under existing law only through September 10, 1981. Under these provisions, the Commodity Credit Corporation is required to make secured loans (in amounts not to exceed \$100,000 per loan) to farmers for on-farm storage facilities for high-moisture grain, soybeans, rice, and high-moisture forage and silage. (Section 1103.)

Farmer-held reserve.—Under existing law, extended price support loans under the farmer-held reserve program for wheat and feed grains are made available at the price support level provided for under the wheat and feed grain programs. Under the bill, the Secretary could make loans available under the farmer-held reserve program at higher levels of support (but not in excess of 120 percent of the wheat or feed grain program level). The Secretary could make the higher loan available whenever he determines that the increased loan level is necessary to encourage sufficient participation in the farmer-held reserve program to achieve its purposes. (Section 1104.)

PUBLIC LAW 480

Extension of the Public Law 480 programs.—The bill extends through December 31, 1985, the authority for the President to enter into agreements for concessional sales of U.S. agricultural commodities under title I of Public Law 480, and to provide U.S. agricultural commodities for use in programs of assistance in foreign countries under title II of Public Law 480. Under existing law, the President's authorities expire December 31, 1981. (Section 1202.)

Market development under Public Law 480.—The bill extends to representatives of the domestic distilled spirits industry the authority now given to representatives of the domestic wine and beer industries to participate in developing foreign markets for U.S. agricultural commodities using foreign currencies made available from concessional sales under title I of Public Law 480. (Section 1201.)

FOOD STAMP AND COMMODITY DISTRIBUTION PROGRAMS

Amendments to the definition of "thrifty food plan."—The bill amends the definition of the "thrifty food plan" (the cost of which is used as the basis for making allotments to households participating in the food stamp program) by—

(1) revising the procedures by which annual adjustments are made in the cost of the thrifty food plan to reflect changes in food costs. Under the bill, the cost of the plan will be adjusted every January 1 to reflect changes in the costs of food for the 12 months ending the preceding September 30 (under existing law, beginning January 1, 1982, the Secretary would be required to base the annual adjustment on cost changes taking place in the immediately preceding 12 month period, which, because of the time

delay involved in obtaining data for October, November, and December, necessitates his estimating cost changes for those months). It is estimated that this change, along with similar changes made by the bill in the procedure for annually adjusting the standard household income deduction and the cap on the excess shelter deduction, will result in a savings to the program of \$422 million in fiscal year 1982; and

(2) providing for the separate calculation of the cost of the thrifty food plan for households in rural Alaska, in recognition of that area's significantly higher food costs. (Section 1301.)

Deductions allowed in the computation of household income.—The bill revises the provisions under which household income for purposes of the food stamp program is calculated. Household income is used as the basis for determining whether a household is eligible for participation in the food stamp program. The bill makes the following changes in the provisions for calculating household income:

(a) The bill deletes the requirements (now set to become effective January 1, 1982) that the annual adjustment of—

(1) the standard deduction for household income, and

(2) the cap on the excess shelter expense deduction include changes in the Consumer Price Index over the immediately preceding October, November, and December. Under the bill, the annual adjustments will be based on changes in the Index occurring during the 12 months ending the preceding September 30, and substantial savings will be effected in the cost of the program.

(b) The bill adds a provision that households will not be entitled to dependent care, excess shelter expense, or medical deductions for expenses that are paid on behalf of a household by a third party.

(c) The bill repeals two increases in deductions that are scheduled to take effect October 1, 1981. Under the program now, if both a dependent care deduction and excess shelter expense deduction are claimed, the maximum total deduction that is allowed for both combined cannot exceed the maximum excess shelter care deduction. Beginning with fiscal year 1982, unless the repeal provisions of the bill are enacted, the requirement that the two deductions be combined if both are claimed will be deleted and the maximum allowable dependent care deduction, considered separately, will be increased from \$75 to \$90. Under the program now, households with a person 60 years of age or older are entitled to an excess medical expense deduction for certain medical expenses in excess of \$35 a month. Beginning with fiscal year 1982, unless the repeal provisions of the bill are enacted, the deduction will be allowed for such expenses in excess of \$25 per month.

By deleting the provisions of law effecting these changes in the program, it is estimated that the cost of the food stamp program will be reduced by \$64 million in fiscal year 1982. (Section 1302.)

Eligibility for participation—work registration.—The bill would require that persons subject to work registration requirements under the food stamp program register for work every 12 months, rather than, as under existing law, every 6 months. In previous years under the work registration reporting system, registrants remained in the system (and efforts to place them in jobs continued) for 6 months. However, the system has been modified, so that once persons are registered, their names are not removed from the system for 12 months. Thus, the bill will eliminate the unnecessary semiannual registration without affecting the work registration requirement or the efforts to place such persons in jobs. (Section 1303.)

Liability of States for certain losses relating to food stamp coupons.—The bill clarifies

ties that State agencies will be strictly liable for losses involved in the acceptance, storage, or issuance of food stamp coupons, except that, if a household's authorization for food stamps or allotments is lost or stolen in the mails, the State will only be liable for losses that sound management can prevent. (Section 1304.)

Use of civil money penalties to increase enforcement action.—The bill provides that funds collected as penalties from food stores for violating the Food Stamp Act are to be deposited in a special revolving fund and made available for activities to reduce improper food stamp use and fraud. (Section 1305.)

Incentives for error reduction efforts; plans for corrective action to reduce errors.—Under existing law, the Secretary is authorized to pay a State 5 percent of its food stamp program administrative costs (in addition to the standard 50 percent he is also authorized to pay in any case) if the State agency is reducing its rate of error in making food stamp allotments by at least 25 percent annually. The bill would require that the State agency also have a rate of invalid decisions in denying eligibility that is less than the national standard for such errors, as established by the Secretary, in order for it to remain eligible for the 5 percent additional funding.

The bill would also require State agencies with food stamp allotment error rates in excess of 5 percent to develop corrective action plans to reduce error. (Section 1306.)

Funding for the food stamp program.—The bill (1) deletes the \$9,739,276,000 limit on funds that may be appropriated for the food stamp program in fiscal year 1981;

(2) provides general authorizations for appropriations for the program for fiscal years 1981 through 1985; and

(3) in order to eliminate technical difficulties in the administration of the food stamp program, provides that funds collected from claims against households or State agencies under the Food Stamp Act will be credited to the food stamp appropriation account for the fiscal year in which collection occurs, and that incentive payments to States for achieving low error rates will be paid from the current appropriation account. (Section 1307.)

Extension of the commodity distribution programs.—The bill extends, through September 30, 1985, the commodity distribution programs under which the Secretary may make agricultural commodities available to food assistance programs, including the commodity supplemental feeding program. Under existing law, the authority for the commodity distribution programs expires September 30, 1981. (Section 1308(1).)

Penalties for conversion.—The bill adds a provision to the law making persons who criminally convert commodities under the commodity distribution programs and certain other Department of Agriculture commodity donation programs liable for criminal penalties. (Section 1308(2).)

MULTIYEAR SET-ASIDES

The bill extends, through the 1985 crops, the multiyear set-aside program initially authorized under the Agriculture and Consumer Protection Act of 1973. Under the program, the Secretary may enter into long-term agreements with producers, as part of the wheat, feed grains, and cotton programs, for the set-aside of acreage from production. Under existing law, the program only extends through the 1981 crops. (Title XIV.)

AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING

Title XV of the bill amends title XIV of the Food and Agriculture Act of 1977 (the National Agricultural Research, Extension, and Teaching Policy Act of 1977) and related statutes, and extends the authoriza-

tions for appropriations for agricultural research, extension, and teaching programs.

Specifically, the major provisions of Title XV would—

(1) extend the terms of the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board to December 31, 1983 (sections 1503(1) and 1504(1));

(2) increase the membership of the Users Advisory Board from twenty-one to twenty-five by adding four new positions for members who are producers (section 1504(2));

(3) authorize the Secretary of Agriculture to establish an Office of Higher Education within the Department of Agriculture, to assist the Secretary in strengthening higher education in the food and agricultural sciences (section 1507(a));

(4) transfer to the Secretary all functions, programs, and offices conducted under section 22 of the Bankhead-Jones Act and the Second Morrill Act (section 1507(a));

(5) provide that 10 percent of the funds made available for nutrition education programs for low-income families under section 1425 of title XIV will be distributed equally among the States with the remainder distributed under the formula provided in section 1425 (section 1510);

(6) effective beginning in fiscal year 1982, increase the authorization for annual appropriations to support continuing agricultural and forestry extension at the 1890 colleges eligible for funding under the Second Morrill Act. The annual authorization would be increased from an amount equal to 4 percent of the amount appropriated under the Smith-Lever Act to an amount equal to 7 percent of the amount appropriated under the Smith-Lever Act (section 1512(a)(1));

(7) add a new subtitle K to title XIV containing provisions relating to Federal-State cooperation in the food and agricultural sciences. New subtitle K would—

(a) authorize the Secretary to enter into cooperative agreements or contracts with, and make grants to, land-grant colleges and universities, State agricultural experiment stations, cooperative extension services, and other eligible institutions under title XIV for the performance of agricultural research, extension, and teaching without regard to Federal competitive bidding and certain other procurement requirements when appropriate to further cooperation between the States and the Federal Government in the performance of such research, extension, or teaching;

(b) authorize the Secretary to transfer ownership of equipment and other tangible personal property that is purchased by any such cooperator, nonfederal contractor, or grantee if the transfer of ownership will further the programs of the Department of Agriculture;

(c) authorize the Secretary to establish cooperative human nutrition centers for research, extension, and teaching at such institutions;

(d) give to State officials carrying out cooperative research, extension, or teaching authorized under subtitle K the same opportunity to acquire Federal excess property that Federal officials have; and

(e) provide that such State officials will be eligible for membership on advisory and other committees operated by the Department of Agriculture without the formal clearance requirements otherwise required for nonfederal members of such committees (section 1514);

(8) provide that funds appropriated for agricultural research, extension, and teaching under title XIV may not be used for payment of indirect costs or tuition remission, and that negotiated indirect costs may not be imposed with respect to funds appropriated under the Hatch Act (for State agricultural experiment station activities), the Smith-Lever Act (for extension activities), or the

McIntire-Stennis Act (for cooperative forestry research activities), or funds awarded under Department of Agriculture cooperative agreements for agricultural research, extension, or teaching (section 1515);

(9) with respect to research facilities grants under Public Law 89-106—

(a) limit construction grants to projects for (i) renovating or refurbishing research facilities or acquiring equipment, and (ii) new construction only to the extent that the construction is for auxiliary facilities or fixed equipment used in research; and (b) make forestry schools and 1890 colleges eligible for such grants (section 1517);

(10) authorize special grants under the rural development research and extension program. The special grants would be used to strengthen research and education on national and regional issues in rural development and for related purposes (section 1519(a)); and

(11) delete provisions of existing law authorizing appropriations for certain agricultural research, extension, and teaching programs that provide specific annual limits on authorized appropriations; and substitute therefor general authorizations for appropriations. The programs affected include:

(a) the rural development and small farm research and extension programs;

(b) grants and fellowships for food and agricultural sciences education;

(c) the biomass energy research program under section 1419 of title XIV;

(d) the solar energy model farms and demonstration projects under subtitle H of title XIV;

(e) agricultural research programs under the Hatch Act;

(f) agricultural extension programs of the Department of Agriculture;

(g) other agricultural research and teaching programs under title XIV not described above;

(h) the competitive, special, and facilities research grants program under Public Law 89-106; and

(i) programs under the Research Facilities Act. (Sections 1507(a), 1519(a), and 1520).

EFFECTIVE DATE

The provisions of the bill will become effective October 1, 1981, except for provisions that specifically establish different effective dates. (Title XVI.) ●

By Mr. THURMOND (for himself, Mr. BAUCUS, Mr. DECONCINI, Mr. HEFLIN, and Mr. LAXALT):

S. 995. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4a, or 4c of the Clayton Act; to the Committee on the Judiciary.

ANTITRUST EQUAL ENFORCEMENT ACT OF 1981

● Mr. THURMOND. Mr. President, I am today introducing the Antitrust Equal Enforcement Act of 1981. This bill, which adds a new section 4I to the Clayton Act, is designed to rationalize the process of allocation of damages in antitrust price-fixing suits. The bill assures that the largest and most responsible price fixers do not escape their share of liability, and that smaller and middle-sized businesses are not left responsible for the liability caused by another's wrongdoing.

Subsection (a) of this bill provides that any parties subject to liability as defendants in antitrust price-fixing cases may claim contribution from their coconspirators. The formula for computing each coconspirator's share of the

total liability is based on the damages attributable to its own sales or purchases of the goods or services subject to the price fix. To effectuate its right of contribution, a defendant may utilize the procedural tools of the Federal Rules of Civil Procedure; a claim for contribution may be asserted by crossclaim, counterclaim, third-party claim, or in a separate action, whether or not an action has been brought or a judgment has been rendered against the entity from whom contribution is sought.

The bill also sets forth a process of claim reduction when some, but not all, defendants in a price-fixing case choose to settle rather than proceed to trial. Essentially, subsection (b) of the bill provides that when the plaintiff settles its case with one or more defendants potentially liable to it, the settlements reduce the amount the plaintiff may claim from those defendants who choose to defend their actions at trial. To assist in this process, the bill sets forth clearly delineated alternative formulas under which the amount of such claim reduction may be easily computed.

Under subsection (c) of the bill, good faith settlements entered into by defendants render them immune to contribution claims, provided such settlements are actually consummated.

Finally, it is important to note that subsection (d) of the bill makes clear that the principles of joint and several liability will continue to apply to price-fixing suits.

Mr. President, the Antitrust Equal Enforcement Act of 1981 will introduce a much-needed element of fairness into the process of determining who should be responsible for paying bona fide antitrust damages and in what amount. No longer will a defendant who chooses to defend itself rather than give in to settlement pressure be faced with the possibility of paying for the wrongs committed by others. In short, each member of a price-fixing conspiracy will be required to pay its fair share of the liability incurred and cannot escape the responsibility for its own acts.

Mr. President, I ask unanimous consent that a copy of this bill be printed in the RECORD at this time.

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

S. 995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 4H the following new section:

"Sec. 4I. (a) Two or more persons who are subject to liability for damages attributable to an agreement to fix, maintain, or stabilize prices under section 4, 4A, or 4C of this Act may claim contribution among them according to the damages attributable to each such person's sales or purchases of goods or services. A claim for contribution by such person or persons against whom an action has been commenced may be asserted by crossclaim, counterclaim, third-party claim, or in a separate action, whether or not an action has been brought or a judgment has been rendered against the persons from whom contribution is sought.

"(b) A release or a covenant not to sue

or not to enforce a judgment received in settlement by one of two or more persons subject to contribution under this section shall not discharge any other persons from liability unless its terms expressly so provide. The court shall reduce the claim of the person giving the release or covenant against other persons subject to liability by the greatest of: (1) any amount stipulated by the release or covenant, (2) the amount of consideration paid for it, or (3) treble the actual damages attributable to the settling person's sales or purchases of goods or services. Under item (3) above, actual damages shall not be trebled in proceedings under section 4A of this Act.

"(c) A release or covenant, or an agreement which provides for a release or covenant, entered into in good faith, relieves the recipient from liability to any other person for contribution, with respect to the claim of the person giving the release or covenant, or agreement, unless the settlement provided for in any such release, covenant, or agreement is not consummated.

"(d) Nothing in this section shall affect the joint and several liability of any person who enters into an agreement to fix, maintain, or stabilize prices.

"(e) This section shall apply only to actions under section 4, 4A, or 4C of this Act commenced after the date of enactment of this section." ●

By Mr. DOMENICI:

S. 996. A bill to remove artificial impediments on the use of natural gas and to facilitate the transportation of natural gas to end users; to the Committee on Energy and Natural Resources.

NATURAL GAS UTILIZATION ACT OF 1981

● Mr. DOMENICI. Mr. President, I do not believe that there are many in this body who would disagree with me when I say that our efforts of the past to legislate energy policy were done with the best intentions and the best interests of our citizens in mind. When those efforts have failed to achieve their goal or that goal becomes meaningless in the context of new circumstances, it is usually because we, the Congress, failed to have all the facts at hand or we tried to see too far into the future. The Powerplant and Industrial Fuel Use Act (PIUA) is one of those laws which suffered from these two faults in its drafting. Today I am introducing legislation to correct some of the well intentioned but misguided provisions of that act. I do this not because I have a clearer view of the future or necessarily better facts at hand about the future than did the 95th Congress, but because we have learned more in the intervening years about where our Nation's vulnerability really lies.

My legislation would, Mr. President, modify the Fuel Use Act in those areas where it prohibited existing natural gas burning electric powerplants and other major fuel-burning installations using natural gas from burning gas in the future or restricted its present use. In addition to allowing these existing facilities to continue to use natural gas beyond the present limit of January 1, 1990, my amendments would permit, but not mandate, those electric powerplants and major fuel-burning installations presently using petroleum to convert to natural gas. These amendments would not, however, affect the validity of any pending or final order which has been issued un-

der the Fuel Use Act or its predecessor, the Energy Supply and Environmental Coordination Act of 1974 (ESECA), for the conversion of an electric powerplant or major fuel-burning installation to coal.

I do not wish to send the message to utilities and industry that the Federal Government will be changing a fuel conversion policy in such a way that their plans must now be changed once again. Nothing in this legislation would prevent continued conversion to coal. Lastly, Mr. President, this legislation would facilitate the transportation of natural gas to end users by directing the Federal Energy Regulatory Commission (FERC) to establish procedures for expediting the issuance of transportation certificates. Before issuing these certificates however, the FERC would have to find that sufficient pipeline capacity exists to support these converting facilities. Nothing in this legislation would change the natural gas need rules of higher priority users nor the ability to interrupt gas transportation to these lower priority users.

When the Fuel Use Act was passed during the 95th Congress, the debate raging then was how soon natural gas would no longer be available in a reliable fashion. In fact, my colleagues will remember we faced a severe supply interruption at that time. With increased drilling and the removal of some restrictions on the interstate transportation of gas, the supply picture for natural gas looks much more positive. The debate now is whether gas will become limited in the year 2000, not 1985.

We have a better understanding of the nature of our energy problem today than we did at the time of the passage of the Fuel Use Act. It is most often posed in terms of national security problems and balance-of-trade deficits resulting from imported oil. It is in this regard that we must ask ourselves if the Fuel Use Act restrictions are relevant. At the end of the 1970's utilities were burning 1½ million barrels of oil per day. The reason, of course, is that utilities in Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, Texas, and California would be allowed to continue to use gas as they presently do while utilities in the Northeast, Florida, and California using petroleum could substitute natural gas for petroleum.

Reducing our petroleum dependence is not the sole benefit of repealing the off gas provisions of the Fuel Use Act for existing utilities and major fuel-burning installations. The use of cheaper natural gas would lower utility bills and fuel costs to industry. Also, using clean natural gas would lower fuel-related costs further by avoiding the use of expensive pollution control equipment necessary for the clean use of coal. Certainly the cost of transporting gas for existing gas users would be reduced because of the balancing of loads throughout the year against the seasonal demand created by solely residential and commercial use.

In summary, Mr. President, what I am proposing is not a massive conversion of utilities and industrial boilers to natural gas based on some unproven prediction

of unbound natural gas supplies in the future. It is a measured step which recognizes our present and near-term natural gas prospects. It deals with existing not new facilities. It would reduce our petroleum dependence as well as prices and it would not halt our equally important conversions to coal.

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. 996

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 "Natural Gas Utilization Act of 1981".

TITLE I—FINDINGS AND PURPOSES

Sec. 101. (a) Section 102(a)(2) of the Powerplant and Industrial Fuel Use Act of 1978 is hereby amended by striking out "natural gas or" (42 U.S.C. 8301(a)(2)).

(b) Sections 102(b)(2) and 102(b)(3) of the Powerplant and Industrial Fuel Use Act are hereby amended by striking out "natural gas and" (42 U.S.C. 8301(b)(2) and 8301(b)(3)).

(c) Section 102(b)(6) of the Powerplant and Industrial Fuel Use Act is hereby amended by striking out "natural gas and" and "gas and" (42 U.S.C. 8301(b)(6)).

(d) Section 102(b)(7) of the Powerplant and Industrial Fuel Use Act is hereby amended by striking out "natural gas or" and "natural gas and" (42 U.S.C. 8301(b)(7)).

(e) Section 102(b)(9) of the Powerplant and Industrial Fuel Use Act is hereby amended by striking out "natural gas and" each time such term appears (42 U.S.C. 8301(b)(9)).

PURPOSES

Sec. 102. The purposes of this Act are—

(a) to encourage the use of natural gas in existing electric powerplants and major fuel burning installations presently using petroleum as a primary energy source by removing certain artificial impediments upon natural gas use;

(b) to encourage the conversion of existing electric powerplants and major fuel burning installations using petroleum as a primary energy source from petroleum to natural gas; and

(c) to facilitate the movement of natural gas by interstate pipelines to electric powerplants and major fuel burning installations desiring to burn natural gas.

DEFINITIONS

Sec. 103. (a) Unless expressly defined otherwise in subsection (b) below, terms used herein are defined in accordance with section 103 of the Powerplant and Industrial Fuel Use Act of 1978.

(b) For the purposes of this Act—

(1) "Commission" means the Federal Energy Regulatory Commission;

(2) "Eligible seller" means any person who enters into a gas sales agreement with an eligible buyer;

(3) "Eligible buyer" means any direct-end user using or desiring to use natural gas which has entered into a gas sales agreement with an eligible seller.

TITLE II—PETROLEUM DISPLACEMENT ACT OF 1981

SHORT TITLE

Sec. 201. This title may be cited as the "Petroleum Displacement Act of 1981".

REPEAL OF CERTAIN PROHIBITIONS ON USE OF GAS BY EXISTING POWERPLANTS

Sec. 202. Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341-8483) is hereby amended by

striking out subsection (a) (42 U.S.C. 8341(a)) in its entirety.

REPEAL OF AUTHORITY TO PROHIBIT COAL-CAPABLE FACILITIES USE OF GAS AND AUTHORITY TO PROHIBIT USE OF GAS IN CERTAIN FUELS MIXTURES

Sec. 203. (a) Section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341(b)) is hereby amended by striking out "or natural gas, or both," and by redesignating said section as 301(a) (42 U.S.C. 8341(a)).

(b) Section 301(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341(c)) is hereby amended by striking out "or natural gas" and "or natural gas, or both," each place such terms appear, and by redesignating said section as 301(b) (42 U.S.C. 8341(b)).

(c) Section 302(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8342(a)) is hereby amended by striking out "or natural gas, or both,"

(d) Section 302(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8342(b)(1)) is hereby amended by striking out "or natural gas" and "or natural gas, or both," each place such terms appear.

(e) Subsections (a)(1) and (b) of section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343(a)(1) and (b)) are hereby amended by striking out "natural gas or".

(f) Subsections (a), (b), (c), (d)(1), (e), (f), and (g)(1) of section 311 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351(a), (b), (c), (d)(1), (e), (f), and (g)(1)) are hereby amended by striking out "natural gas or".

(g) Section 311(h) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351(h)) is hereby amended—

(1) by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(2) in paragraph (3) (as so redesignated), by striking out "natural gas and".

(h) Subsection (a)(1) of section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352(a)(1)) is hereby amended by striking out "natural gas or".

(i) Subsection (c)(1) of section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352(c)(1)) is hereby amended by striking out "petroleum or natural gas, or both, are" and inserting in lieu thereof "petroleum is".

(j) The heading for section 312(d) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352(d)) is hereby amended by striking out "Natural Gas or"; subsections (d)(1)(A) and (B) of section 312 are hereby amended by striking out "or natural gas"; and subsection (d)(3) is hereby amended by striking out paragraph (3) in its entirety.

(k) Subsection (g)(1)(B)(i) of section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352(g)(1)(B)(i)) is hereby amended by striking out "natural gas or".

(l) Subsections (h), (i), and (j) of section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352(h), (i), and (j)) are hereby amended by striking out those subsections in their entirety, and by redesignating subsections (k) and (l) as subsections (h) and (i), respectively.

(m) Subsection (a)(1) of section 313 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8353(a)(1)) is hereby amended by striking out "natural gas or".

REPEAL OF SYSTEM COMPLIANCE OPINION

Sec. 204. Title V of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8391) is hereby amended by striking out this title in its entirety.

CONFORMING AMENDMENTS

Sec. 205. (a) Section 701(c)(4) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411(c)(4)) is hereby

amended by striking out subsection (c)(4) in its entirety.

(b) Subsections (a)(1) and (g)(3) of section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441(a)(1) and (g)(3)) are hereby amended by striking out "or Title III".

TITLE III—GAS TRANSPORTATION PROGRAM

APPLICATION PROCEDURE

Sec. 301. (a) Within one hundred twenty days of the date of enactment of this Title, the Commission shall establish by rule procedures for expedited consideration of transportation certificates for the movement of natural gas from an eligible seller to an eligible buyer.

(b) Either an eligible buyer or a transporting pipeline may apply pursuant to the rule established in subsection (a) for a transportation certificate to move natural gas from an eligible seller. Said application shall be deemed approved unless the Commission denies said application within 60 days of the date of filing. The Commission may deny such application only if it determines, after notice and opportunity for written comments and, if requested the oral presentation of data, views, and arguments, and for that—

(1) approval of the application would impair or interfere with the natural gas need rules of higher priority users as those needs may be determined by the Commission, or

(2) the transporting pipeline has, or is likely to have, inadequate capacity to transport the gas.

TERMS AND CONDITIONS

Sec. 302 (a) No transportation certificate granted pursuant to this Title shall be for a period exceeding two years. The term of said certificate may be extended for additional two year periods.

(b) Transportation of natural gas pursuant to this Title shall be subject to interruption to the extent that natural gas is required by the transporting pipeline to provide adequate service to the pipeline's customers.

(c) The Commission may by rule or order impose other terms and conditions as it deems appropriate and in the public interest.

TITLE IV—ADMINISTRATION AND REPORTING REQUIREMENTS

Sec. 401. (a) Except to the extent otherwise provided in this section or other provisions of this Act, rules prescribed under this Act shall be made in accordance with the procedures set forth in section 553 of Title 5, United States Code.

(b) The Commission is authorized to issue such rules and regulations as it may find necessary or appropriate to carry out the functions of this Title.

Sec. 402. Section 762(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8472) is hereby amended by striking out subsection (c) (42 U.S.C. 8472(c)) in its entirety and inserting in lieu thereof;

"(c) Validity of pending and final orders.—The preceding provisions of this Act shall not affect the validity of any order issued under subsection (a), or any final order under subsection (c) of section 2 of the Energy Supply and Environmental Coordination Act of 1974; nor shall the repeal of any provisions of this Act affect the validity of any order under subsections (a) or (b) of section 301 of this Act (formerly numbered Sections 301 (b) and (c) prior to the adoption of these amendments) which is final on or before September 30, 1983 or which is proposed on or before September 30, 1983, and becomes final thereafter; and the authority of the Secretary to consider, grant, amend, modify, extend, repeal, rescind, enforce, or make final any such order, or any rules applicable thereto, shall remain in effect notwithstanding any limitation of time otherwise applicable to such authority; and this authority

shall be deemed to have been conferred pursuant to a subsequent enactment which supersedes section 2(a) of Energy Supply and Environmental Coordination Act of 1974.

REPORTS

Sec. 403. One year after the date of enactment of this Act, the Commission shall submit to the Congress a report concerning the effectiveness of the gas transportation program established herein. Said report shall contain certain information, including data concerning the identity of participating eligible sellers, eligible buyers, and transporting pipelines; the volumes of natural gas which are under contract to be transported pursuant to this Act; the transportation rates being charged; and such other information that the Commission may deem to be relevant and material.

EXPIRATION

Sec. 404. The provisions of this Act shall expire twenty years after the date of enactment.

By Mr. DOLE:

S. 997. A bill to provide a new program for producers of wheat, feed grains, and soybeans for the crop years 1982 through 1985, to amend the Food Stamp Act of 1977, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL ACT OF 1981

● Mr. DOLE. Mr. President, today I am introducing a bill to be considered as a part of the comprehensive farm legislation which Congress will address this year. The bill contains five titles: Title I—Wheat; title II—Feed Grains; title III—Grain reserves; title IV—Soybeans, and title V—Food stamps.

Mr. President, before offering the bill for inclusion in the Record, I would like to comment briefly on the conditions which grain and soybean producers in the United States are confronted with in the domestic and international marketplace, and how these conditions relate to the nature and design of our national farm program.

As we all know, American agriculture has demonstrated an unparalleled ability to respond to the needs of our country and of nations around the world for a reliable supply of food and fiber at reasonable prices. During periods of global shortages, many nations have depended on the productive capacity of the U.S. farmer to provide the essential nutritional requirements of their people, and he has unfailingly answered their needs. The growth in agricultural productivity and export earnings over the past three decades is one of the most remarkable success stories in our Nation's economic history.

As the world has increased its reliance on access to U.S. food supplies, so the U.S. producer has increasingly relied on continued access to foreign as well as domestic markets. The United States is one of very few countries—and the only major exporter of agricultural commodities—which allows its products to be sold overseas at prices determined in the free marketplace. Prices for U.S. wheat, feed grains, soybeans, and other basic foodstuffs are subject to sharp and rapid changes resulting not only from fluctuations in our own supply and demand conditions, but on fluctuations in

crop production and import requirements around the world. Other factors, including the value of the dollar, interest rates, and international crises also have a significant impact on market prices, and on the farm prices which are determined by them.

In contrast, other countries have for many years chosen to isolate their agricultural industries—and their producers—from the volatility of the free market in recognition of the strategic importance of a healthy and dependable source of food. Wherever we look today, nations are providing their farmers with guaranteed prices often far above those for the same commodities sold in international trade. This practice has required the governments of other exporting countries to subsidize their products from their national treasuries in order to compete in the world market. The most notable example is the European Economic Community, which has paid exporters as much as \$3.40 per bushel of wheat in order to sell its surpluses to third-country markets. To varying degrees and through other means, our other principal competitors—Canada, Australia, and Argentina—also back up their national export programs with government payments and incentives. In each case, the world price against which these countries determine their export pricing strategies is based on current prices in the U.S. commodity markets. Thus, in years of global abundance, the United States has become the residual supplier, filling the needs of food-deficit nations after the other exporters have disposed of their excess production at subsidized prices.

I have gone into some detail on this subject, Mr. President, because it relates directly to the role of the U.S. Government in our agricultural economy. No one—and particularly the U.S. farmer—wants the Government to control prices and make marketing decisions. There is a strong belief in the countryside that the less Government regulation and interference in our farm sector, the better. All the producer wants is free access to foreign markets without unfair competition from other exporting countries. Under these conditions, I am sure that we would not need many of the safeguards which have been provided in our national farm program.

There has been considerable discussion on reducing the role of Government in managing production levels of our basic commodities—to let the farmer take his signal directly from the free market. I can assure you, Mr. President, that planting decisions are already made in accordance with the relative market prices of various crops, and with the price outlook for the coming year. As I have explained, however, the external factors which affect prices, and the limitations which the policies of importing and other exporting nations impose on access to world markets, subject our markets to severe and often depressed conditions.

For these reasons, I cannot see how we can alter the balance of Government incentives and production controls until the world market can be made truly "free." If there is a more proper role

for Government in assisting agriculture, it would be in negotiating an end to the unfair export policies of our competitors and the highly restrictive import barriers of some of our major customers. Until these practices are liberalized, and until their effect on our domestic market prices can be ended, I could not, in good faith to the American farmer, reduce the modest amount of support which the Government currently provides.

TITLE V—FOOD STAMP PROGRAM

Mr. President, included in the comprehensive measure is a fifth title which not only reflects my support for most of the administration's proposed changes in the food stamp program but also my longstanding commitment to the goals and concept of this program. I think the administration has gone about trying to slow the growth of the program in constructive ways, and I recognize the need for substantial savings in this most expensive Federal social program. However, there are some changes that I cannot support, because of their potential impact.

I am not in favor of reducing a family's food stamp allotment if they have children who are eligible for a free school lunch. Not only would this kind of proposal be extremely complex to administer, but there are even greater arguments on the side of nutritional benefits.

The thrifty food plan on which the food stamp program is based has been proven to be inadequate in terms of providing nutritional benefits to recipients. This plan consists of minimal dietary standards, which are consistent with the supplemental nutritional nature of the program. Other Federal nutrition programs have served to complement the potential shortcomings of the food stamp program by focusing on especially vulnerable segments of our population—pregnant women and infants, the elderly, and school-age children. These programs all work together to fill an existing need among our people. It is the opinion of this Senator that reducing food stamp benefits because of a perceived overlap with free school lunches would primarily hurt low-income families with several children, who are among the poorest of the poor.

For this reason, I think that we should consider substitute measures to achieve a comparable amount of savings. In order to reach this goal, I am looking at other options, such as an increase in the benefit reduction rate. However, I do have some reservations about this kind of proposal to reduce spending. It would be preferable to the Senator from Kansas to consider possibilities other than an increase in the benefit reduction rate, because this would have an impact on program participants across the board.

I have also included in my bill a provision to essentially remove the cap for this program. Given the problems that have occurred in past years and the potential funding crises that have been narrowly avoided due to last minute action on the part of Congress, I think it is simply unwise to impose such an arti-

cial restraint on program spending. This is not a good way to go about trying to cut back on expenses, because it ultimately necessitates a reduction or suspension of benefits across the board when funds run out.

I think the other provisions in this piece of legislation go about attempting to restrain program growth in a more constructive way. Taking into consideration the uncertain economic factors that exist in our country today, we need to leave as much flexibility as possible to assure that needy individuals within our population receive the assistance they deserve.

Mr. President, aside from the introduction of this comprehensive measure I will be submitting amendments to the administration's proposals for other crops and areas of general farm legislation to be covered under this year's omnibus farm package. ●

By Mr. McCLURE (for himself and Mr. WARNER):

S. 998. A bill to amend the Energy Policy and Conservation Act and the Energy Security Act to improve the administration of the Strategic Petroleum Reserve, to provide for transition in fiscal year 1982 to an alternative off-budget funding mechanism for financing the purchase of petroleum for the Strategic Petroleum Reserve, and for other purposes; to the Committee on Energy and Natural Resources.

STRATEGIC PETROLEUM RESERVE AMENDMENTS
ACT OF 1981

● Mr. McCLURE. Mr. President, when the budget reconciliation resolution for fiscal year 1981 was approved by the Senate last week, the instruction to the Committee on Energy and Natural Resources assumed an off-budget mechanism would be enacted for fiscal year 1982 for financing \$3 billion of the \$3.8 billion recommended by President Reagan for strategic petroleum reserve (SPR) petroleum acquisition.

I, as does the committee, support the objective of finding an off-budget funding mechanism. In our March 20 report to the Senate Budget Committee, the Energy and Natural Resources Committee stated:

The Committee supports President Reagan's budgetary totals for programs within the jurisdiction as contained in the Administration's proposed budget for fiscal year 1982. Further, it is the sense of the Committee, in the case of funding for the Strategic Petroleum Reserve, that the Committee will move expeditiously to consider and report an alternative off-budget funding mechanism. When such an alternative mechanism is developed by the Committee on Energy and Natural Resources, or any other Committee, and is enacted into law, we will support an appropriate reduction in authorizations and appropriations for the Strategic Petroleum Reserve.

The Budget Committee supported the objective of the SPR on economic as well as national security grounds. The Budget Committee did not dispute the fact that the SPR can provide insurance against the economic dislocations, protection against international blackmail, and a source of fuel supplies for our military in the event of wartime mobilization. On these points we are in agreement.

Where we were in disagreement was whether an off-budget financing mechanism to raise the necessary funds to purchase petroleum is already known.

Several funding mechanisms are postulated. The committee is currently conducting a review of various proposals. Further hearings will be held the week of April 20 by Senator WARNER's Subcommittee on Energy and Mineral Resources.

In the spirit of the reconciliation resolution, today I introduce for myself and Senator WARNER the Strategic Petroleum Reserve Amendments Act of 1981. The bill would provide for transition in fiscal year 1982 to an off-budget funding mechanism for financing the purchase of petroleum for the strategic petroleum reserve, and for other purposes.

The strategic petroleum reserve was created by the Energy Policy and Conservation Act, Public Law 94-163, and signed into law on December 22, 1975. Motivated by concern for national security, the objective of the strategic petroleum reserve is to reduce the U.S. vulnerability to serve interruptions of petroleum supplies through the acquisition and storage of up to 1 billion barrels of petroleum.

The initial storage target was 500 million barrels by 1982. The Congress subsequently approved the implementation of a Government reserve of 750 million barrels with congressional approval on the timing and method for the fourth 250-million-barrel increment being deferred.

Last year the Congress in the Energy Security Act directed to the President to immediately undertake and continue crude oil acquisition, transportation, and oil injection activities at a minimum annual rate of 100,000 barrels per day during fiscal year 1982 and beyond.

In recognition of the vital role that the strategic petroleum reserve can serve in providing for our national security President Reagan proposed the requisite fiscal year 1982 appropriations to achieve an average annual fill rate of approximately 230,000 barrels per day. At this rate existing reserve capacity of approximately 260 million barrels will essentially be filled by the end of fiscal year 1982.

This measure would continue the current concept of petroleum storage in a Federal strategic reserve until 750 million barrels are available to American consumers in the event of an interdiction of imported energy supplies. The measure also endorses the goal set forth in the fiscal year 1981 Interior Appropriation Act of an annual average fill rate of 300,000 barrels of crude oil per day.

In summary, the bill would establish an interim financing mechanism in fiscal year 1982 for the purchase of petroleum for the strategic petroleum reserve, while an off-budget financing mechanism is being implemented during fiscal year 1982. The proposed interim financing mechanism would—

Establish a subaccount within the Energy Security Reserve appropriation account—established by the fiscal year 1980 Supplemental Appropriation Act. The purposes of the subaccount would be to provide a mechanism for an orderly transition to off-budget financing while

insuring a continuing and predictable source of funds for purchase of oil to fill the reserve and to provide a cushion to absorb fluctuations between receipts from the sales of strategic petroleum reserve securities and expenditures for the purchase of petroleum for the reserve;

Authorize an appropriation of \$705 million in fiscal year 1982 into the subaccount;

Authorize the transfer of any prior year carryover funds for oil purchases into the subaccount; and

Authorize for fiscal year 1982 a set-aside of borrowing authority—or line of credit—against the existing appropriations within the energy security reserve. The amount of available borrowing authority would be the difference between \$3.7 billion and the sum of first, the actual fiscal year 1982 appropriations; second, carryover funds from previous appropriations; and third, the total estimated revenues—or the value of Federal oil—from sources specified in this proposal.

Additionally, the measure would dedicate certain sources of oil, such as royalty oil from Federal lands, for storage in the strategic petroleum reserve. Specifically, the bill would—

Authorize and direct the President to deposit the proceeds—in cash or in-kind—from the sale of Elks Hills oil into, respectively, the strategic petroleum reserve or the appropriation subaccount;

Authorize and direct the President to deposit the proceeds—in cash or in-kind—from the sales of Federal royalty oil—as defined in sec. 805(D)(4) of the Energy Security Act—into the strategic petroleum reserve or the appropriation subaccount; and

Authorize and direct the President to issue by October 1, 1981, a strategic petroleum reserve security for sale in the private securities market. The proposed plan for issuance of the securities would be submitted to the Congress by September 1, 1981, subject to 30-calendar-day-layover. An issuance of \$3 billion in energy security reserve securities is authorized in fiscal year 1982.

In addition the bill would:

Authorize the President to enter into contract arrangements with States for the storage of State oil in the SPR.

The measure also directs the President to submit to Congress by October 1, 1981, a study on implementation of an industrial reserve as part of phase III of the strategic petroleum reserve or as additional storage.

Mr. President, I ask unanimous consent that a factsheet and section-by-section analysis of the measure, as well as the text of the Strategic Petroleum Reserve Amendments Act of 1981 be printed in the RECORD.

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

S. 998

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 "Strategic Petroleum Reserve Amendments Act of 1981".

DECLARATION OF POLICY

SEC. 2. (a) The Congress declares that in the interest of national security it is the policy of the United States to continue to provide for implementation of the concept of the Strategic Petroleum Reserve established by Part B of Title I of the Energy Policy and Conservation Act.

(b) Section 160 of the Energy Policy and Conservation Act, as amended by section 801 of the Energy Security Act, is amended further by adding at the end of subsection (c) (1) before the period, the following:

"Provided, That the President shall immediately seek to undertake, and thereafter continue, crude oil acquisition, transportation, injection activities at a level sufficient to assure that crude oil storage in the Strategic Petroleum Reserve will be increased to an average annual rate of at least 300,000 barrels per day or a sustained average annual daily rate of fill which would fully utilize funds available in the Strategic Petroleum Reserve Account".

(c) Section 160 of the Energy Policy and Conservation Act, as amended by section 801 of the Energy Security Act, is amended further by adding at the end thereof, the following:

"(f) For the purposes of this Part—

"(1) the term 'Strategic Petroleum Reserve Account' means the subaccount of the Energy Security Reserve established pursuant to section 802(c) of the Energy Security Act; and

"(2) the term 'Energy Security Reserve' means the Department of the Treasury Appropriation account established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126)."

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3. Section 801 of the Energy Security Act is amended by adding at the end thereof the following new subsections:

"(c) There is hereby established in the Energy Security Reserve a subaccount that is hereinafter referred to as the Strategic Petroleum Reserve Account. Funds deposited in such account shall be available to the President for the purpose of Strategic Petroleum Reserve petroleum acquisition pursuant to Part B of Title I of the Energy Policy and Conservation Act, as amended, and this Title.

"(d) There are authorized to be appropriated to the Strategic Petroleum Reserve Account for the fiscal year ending September 30, 1982, \$704,900,000.

"(e) There are authorized to be transferred to the Strategic Petroleum Reserve Account any previously appropriated but unobligated funds for Strategic Petroleum Reserve petroleum acquisition.

"(f) From funds appropriated to the Energy Security Reserve, there is authorized to be made available to the President for Strategic Petroleum Reserve petroleum acquisition borrowing authority in an amount not to exceed \$3,704,900,000, less the sum of—

"(1) funds appropriated pursuant to subsection (d);

"(2) funds transferred to such account pursuant to subsection (e);

"(3) proceeds deposited in such account pursuant to—

"(A) section 805(b) of this Act; and

"(B) sections 7430 (k) or (l) of title 10, United States Code;

"(4) the fair market value of any petroleum stored in the Strategic Petroleum Reserve pursuant to—

"(A) section 1430 (k) or (l) of title 10, United States Code;

"(B) section 160(d) of the Energy Policy and Conservation Act; and

"(C) section 805 (b) of the Energy Security Act; and

"(5) proceeds from the sale of securities pursuant to section 807.

"(g) Any borrowing authority from the Energy Security Reserve utilized pursuant to subsection (f) for Strategic Petroleum Reserve petroleum acquisition shall be repaid to the Secretary of the Treasury from funds available in the Strategic Petroleum Reserve Account within a reasonable period of time, as determined by the President, in order to support the objectives established by other law for other programs supported by funds from the Energy Security Reserve."

USE OF CRUDE OIL FROM ELK HILLS

SEC. 4. (a) Section 160(d) (1) of the Energy Policy and Conservation Act, as added to said Act by the Energy Security Act, is amended to read as follows:

"(d) (1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1, 2, or 3 may be—

"(A) (i) sold, other than by transactions where the proceeds will be deposited in the Strategic Petroleum Reserve Account;

"(ii) exchanged for crude oil, other than crude oil which will be stored in the Strategic Petroleum Reserve; or

"(iii) otherwise disposed of, other than storage in the Strategic Petroleum Reserve, during any fiscal year, except as provided in paragraph (2), unless—

"(B) (i) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 750,000,000 barrels; or

"(ii) acquisition, transportation, and injection activities for the Strategic Petroleum Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 300,000 barrels per day for that fiscal year."

USE OF NAVAL PETROLEUM RESERVE OIL

SEC. 5. Section 7430(k) (1) of title 10, United States Code as amended by Section 804(b) of the Energy Security Act, is amended further to read as follows:

"(k) (1) Except as provided in subsection (2), with respect to all or any part of the United States share of petroleum produced from the Naval Petroleum Reserves, the President shall direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations; or

"(C) sell that petroleum at its fair market value and deposit the proceeds from such sale in the Strategic Petroleum Reserve Account."

(b) Section 7430 (1) of title 10, United States Code, as added by Section 804(c) of the Energy Security Act, is amended to read as follows:

"(1) (1) Notwithstanding any other provision of this Chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under

this subsection. Any proceeds from such reimbursement shall be deposited in the Strategic Petroleum Reserve Account and any such reimbursement as petroleum shall be stored in the Strategic Petroleum Reserve, either directly or by exchange.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations: *Provided*, That any petroleum acquired by the Secretary pursuant to this paragraph shall be subject to the requirements and limitations of subsection (k).

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section."

(c) Section 804 of the Energy Security Act is amended by adding at the end thereof the following new subsection:

"(d) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) For the purposes of this chapter—

"(1) the term 'Strategic Petroleum Reserve Account' means the subaccount of the Energy Security Reserve established pursuant to section 802(c) of the Energy Security Act; and

"(2) the term 'Energy Security Reserve' means the Department of the Treasury Appropriation account established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126)."

USE OF FEDERAL ROYALTY OIL

SEC. 6(a) Section 805(b) of the Energy Security Act is amended to read as follows:

"(b) In addition to the requirement under subsection (a), the President shall direct that—

"(1) all or any portion of Federal royalty oil be placed in storage in the Strategic Petroleum Reserve,

"(2) all or any portion of Federal oil be exchanged (directly or indirectly) for other crude oil for storage in the Strategic Petroleum Reserve; or

"(3) Prior to October 1, 1981, all of the proceeds from the sales of Federal royalty oil be transferred to the account established by subsection (c) for use for the purchase of crude oil for the Strategic Petroleum Reserve, as provided in subsection (c): *Provided*, That effective October 1, 1981, (A) any unobligated balances in said account shall be transferred to the Strategic Petroleum Reserve Account; and (B) beginning on October 1, 1981, all of the proceeds from the sales of Federal royalty oil shall be deposited in the Strategic Petroleum Reserve Account."

(b) Section 805 of the Energy Security Act is amended by adding the following new subsection (d) as follows:

"(d) Notwithstanding any other provision of law, no portion of the Federal royalty oil may be—

"(1) (A) sold, other than by transactions where the proceeds from the sale of Federal royalty oil will be deposited in the Strategic Petroleum Reserve Account;

"(B) exchanged for crude oil, other than crude oil which will be stored in the Strategic Petroleum Reserve; or

"(C) otherwise disposed of, other than storage in the Strategic Petroleum Reserve, "during any fiscal year, unless—

"(2) (A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 750,000 barrels; or

"(B) acquisition, transportation, and injection activities for the Strategic Petroleum Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 300,000 barrels per day for that fiscal year."

(c) The existing Section 805(d) of the

Energy Security Act is amended by redesignating such subsection as subsection "(e)".

SEC. 7. Title VIII of the Energy Security Act is amended by adding the following new section at the end thereof:

"STORAGE OF STATE ROYALTY OIL

"SEC. 806. The President, acting through the Secretary of Energy, is authorized to contract, upon such terms and conditions necessary to protect the interests of the United States, with any State of the United States to store in the Strategic Petroleum Reserve petroleum the title to which shall remain with such State: *Provided*, That any drawdown and distribution of such State petroleum shall be made in accordance with Distribution Plan contained in the Strategic Petroleum Reserve Plan pursuant to section 159 of the Energy Policy and Conservation Act. Any such contract shall provide that the United States, upon any drawdown and distribution of such oil pursuant to such Distribution Plan, shall pay the State the fair-market value for such State oil, as determined by the President, as of the date of such drawdown and distribution, from proceeds derived from the sale of such oil during the drawdown and distribution."

CAPITALIZATION AND FINANCE

SEC. 8. Title VIII of the Energy Security Act is amended further by adding the following new section at the end thereof:

"ISSUANCE OF STRATEGIC PETROLEUM RESERVE SECURITIES

"SEC. 807. (a) Not later than October 1, 1981, in accordance with subsection (b), the President is authorized and directed, acting by and for the Secretary of the Treasury, to issue Strategic Petroleum Reserve Securities for sale in the private securities market. Proceeds from the sale of such securities shall be made to the Secretary of the Treasury for deposit to the Strategic Petroleum Reserve Account. Proceeds from such sale shall be used for the purpose of (1) Strategic Petroleum Reserve petroleum acquisition in accordance with Part B of Title I of the Energy Policy and Conservation Act and Title VIII of the Energy Security Act, and (2) repayment of funds borrowed from the Energy Security Reserve pursuant to section 802(f).

"(b) (1) Not later than September 1, 1981, the President shall submit a Strategic Petroleum Reserve Securities Plan to the Congress. Such Plan shall—

"(A) set forth a schedule for the issuance of such securities;

"(B) specify the terms and conditions for the issuance of such securities; and

"(C) include any recommendations regarding any proposed legislation the President considers appropriate.

"(2) Thirty (30) calendar days after the Strategic Petroleum Reserve Securities Plan is transmitted to the Congress, unless withdrawn by the President, such plan shall become effective. At such time the President is directed, acting by and through the Secretary of the Treasury, to issue such securities in accordance with such Plan.

"(c) For purposes of this section, the term "securities" means an instrument of the United States Government representing a financial interest in the Strategic Petroleum Reserve established pursuant to Part B of Title I of the Energy Policy and Conservation Act, as amended.

"(d) Effective October 1, 1981, the issuance of securities pursuant to the section is authorized in an aggregate principal amount of \$3,000,000,000 to finance Strategic Petroleum Reserve Petroleum acquisition during Fiscal Year 1982."

CONFORMING AMENDMENT TO TITLE VIII OF THE ENERGY SECURITY ACT

SEC. 9. Title VIII of the Energy Security Act is amended further by adding at the end thereof:

"DEFINITIONS

"SEC. 808. For the purpose of this title, "(1) the term 'Strategic Petroleum Reserve Account' means the subaccount of the Energy Security Reserve established pursuant to section 802(c) of the Energy Security Act; and

"(2) the term 'Energy Security Reserve' means the Department of the Treasury Appropriation account established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126)."

STUDY

SEC. 10. Title VIII of the Energy Security Act is amended further by adding the following new subsection at the end thereof:

"STUDY ON IMPLEMENTATION OF INDUSTRIAL RESERVE

"SEC. 809. The President shall, not later than September 1, 1981, transmit to the Congress a study on implementation of an Industrial Petroleum Reserve pursuant to section 156 of the Energy Policy and Conservation Act as part of the Strategic Petroleum Reserve, or as additional storage. Such report shall include such recommendations for legislation as the President deems appropriate."

FACT SHEET—STRATEGIC PETROLEUM RESERVE AMENDMENTS ACT OF 1981

CONCEPT

Continue the current concept of the Strategic Petroleum Reserve (SPR) through Phase III (750 million barrels of storage) with a transition in Fiscal Year 1982 to an alternative off-budget funding mechanism for petroleum acquisition. The SPR program would continue to be managed by the Department of Energy (DOE). The SPR construction activities would remain on-budget. The SPR is authorized by the Energy Policy and Conservation Act (Title I, Part B), as amended by Title VIII of the Energy Security Act.

SPR FILL RATE

Endorses as the goal an annual average SPR fill rate of at least 300,000 barrels of crude oil per day (as earlier enacted in the FY 1981 Interior Appropriations Act).

INTERIM FINANCING MECHANISM

Amends Title III of the Energy Security Act to—

Establish SPR Treasury subaccount within the Energy Security Reserve (created by the FY 1980 Supplemental Appropriations Act). The purpose of the SPR Subaccount would be to a cushion of funds to absorb fluctuations between receipts and expenditures for the purchase of petroleum for the SPR. (The proposed sources of funds are discussed below.)

Authorize an appropriation of \$705 million in FY 1981 into the SPR subaccount and transfer of any unobligated prior year appropriations for SPR petroleum purchases into the subaccount.

Authorize for Fiscal Year 1982 a set-aside of borrowing authority (or a line-of-credit) against the existing appropriations within the Energy Security Reserve. The amount of borrowing authority available would be the difference between \$3.7 billion and the sum of (a) the FY 1982 appropriation, (b) carry-over unobligated funds, and (c) the market value of the oil stored in the SPR (or proceed from the sale thereof deposited in the SPR subaccount) derived from sources established by this proposal.

SOURCES OF REVENUES OR PETROLEUM

Until Phase III of the SPR is completed or at least 300,000 barrels per day of petroleum are being stored in the SPR, the President is—

Authorized and directed to store Elk Hills and other Naval Petroleum Reserve oil in the SPR or deposit the proceeds from the sale of

such oil into the SPR subaccount for the acquisition of SPR petroleum.

Authorized and directed to store Federal royalty oil (as defined in Sec. 805(d)(4) of the E.S.A.) into the SPR or the proceed from the sale of such oil into the SPR subaccount.

Authorized and directed to issue by October 1, 1981, an SPR Security for sale in the private securities market. The proposed plan for such issuance would be submitted to the Congress by September 1, 1981, subject to a 30 day layover requirement, after which the President is required to issue the SPR Security. An SPR Security issuance of \$3 billion is authorized during Fiscal Year 1982.

Authorized to contract with States for the storage of State royalty oil in the SPR.

STUDY

In addition the President is directed to submit to the Congress by September 1, 1981, a study on implementation of an Industrial Petroleum Reserve pursuant to section 156 of the Energy Policy and Conservation Act. Such an industrial reserve could be either as a part of the Strategic Petroleum Reserve or in addition to the Federal reserve.

BACKGROUND

The Strategic Petroleum Reserve was created by the Energy Policy and Conservation Act (P.L. 94-163), signed into law on December 22, 1975. The Congress has approved implementation of the SPR of 750 million barrels.

President Reagan has proposed a Fiscal Year 1982 budget authority of \$3,883 billion for the Strategic Petroleum Reserve. The Strategic Petroleum Reserve Amendments Act of 1981 would authorize \$3.704 billion in Fiscal Year 1982 for the acquisition of petroleum for the SPR. Funds for the construction of facilities will be authorized separately in the Department of Energy authorization act for FY 1982 in the amount of \$178.5 million.

This level of funding is estimated to support a FY 1982 fill rate of 230,000 barrels per day, which is an increase of 23,000 barrels per day over FY 1981. In addition the Strategic Petroleum Reserve Amendments Act of 1981 would make available petroleum from other sources so that this fill rate can be increased.

The Energy Security Act defines—

"Federal royalty oil" to mean crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

"Proceeds from the sale of Federal royalty oil" to mean that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of Section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

SECTION-BY-SECTION ANALYSIS

Section 1—This section includes the short title of the bill.

Section 2—Subsection (a) reiterates Congressional policy supporting continuation of the current concept for the Strategic Petroleum Reserve (SPR).

Subsection (b) adds to the Energy Policy and Conservation Act the 300,000-barrel/day average annual fill rate goal adopted by Congress in the FY 1981 Interior Appropriations Act.

Subsection (c) adds to the Energy Policy and Conservation Act definitions for the "Strategic Petroleum Reserve Account" and the "Energy Security Reserve" as used in the bill.

Section 3—This section contains the authorizations necessary to provide a total of \$3.7 billion for SPR petroleum acquisition in FY 1982.

Subsection 802(c) establishes the Strategic Petroleum Reserve Account.

Subsection 802(d) authorizes direct appropriations of \$704,900,000 into the SPR account.

Subsection 802(e) authorizes transfer of any carry-over SPR funds for petroleum acquisition into the SPR account.

Subsection 802(f) authorizes the use of borrowing authority currently available in the Energy Security Reserve for petroleum acquisition at a level of \$3,704,900,000 less funds or oil fair market value placed in the SPR account from other sources available under the bill, including direct appropriations, carry-over appropriations, sales of Naval Petroleum Reserve oil, the sale of SPR securities, sales of the federal share of royalty oil.

Subsection 802(g) establishes the requirement for repayment of any borrowing authority from the Energy Security Reserve which is used for petroleum acquisition from funds available in the SPR account within a reasonable period of time.

Section 4.—This section modifies the Energy Policy and Conservation Act to establish the general requirement that oil produced from Naval Petroleum Reserves 1, 2, or 3 shall be used for the SPR until the fill rate reaches 300,000 barrels a day or the SPR has been filled to a total 750,000,000 barrels.

Section 5.—This section modifies existing law in Title 10, U.S.C. relating to the Naval Petroleum Reserves to implement the policy contained in Section 4. This section also modifies the provisions to incorporate the concept of the SPR account.

Section 6.—This section modifies the Energy Security Act provisions related to federal royalty oil to incorporate the concept of the SPR account and the policy of dedicating the federal royalty oil or the federal share of the proceeds from federal royalty oil (except those proceeds dedicated to the states under other law) to the SPR, until the fill rate reaches 300,000 barrels a day or the SPR has been filled to a total of 750,000,000 barrels.

Section 7.—This section grants the President the authority to enter into contracts with individual States for the storage in the SPR of state royalty oil. The contracts would provide for payment for the oil at the time it is distributed from the SPR with funds derived from the sale at that time. Such payments would be based upon the fair market value of the oil at the time it is distributed.

Section 8.—This section amends the Energy Security Act to provide for the issuance of SPR securities beginning in FY 1982. Funds received from sale of securities will be deposited in the SPR account for petroleum acquisition. The President and the Secretary of the Treasury are directed to prepare a plan for such issuance for transmittal to the Congress no later than September 1, 1981. The plan would be subject to a 30-calendar-day layover before the Congress prior to implementation. The plan would specify all the relevant details associated with the issuance of SPR securities. The section authorizes a total of \$3 billion in aggregate principal amounts for such securities in FY 1982.

Section 9.—Section 9 amends the Energy Security Act to add definitions of the SPR account and the Energy Security Reserve to conform to this bill.

Section 10.—This section requires the President to submit prior to September 1, 1981 a study on the implementation of an Industrial Petroleum Reserve as authorized in the Energy Policy and Conservation Act to be a part of the SPR or a supplement to it.●

By Mr. BAKER (for himself and Mr. DIXON):

S.J. Res. 69. Joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States; to the Committee on the Judiciary.

THE MARIGOLD AS AMERICA'S NATIONAL FLOWER

● Mr. BAKER. Mr. President, the Senate is a body steeped in history and precedent. There are many who feel, as I do, that reverence for our traditions is one of the characteristics which have made the Senate a unique and enduring institution. Many years ago, my father-in-law, the late Senator Everett McKinley Dirksen of Illinois, started a tradition by introducing a resolution to designate the marigold as our national flower. His support for the marigold was a cause to which he was devoted until the day he died, and his colorful and impassioned oratory on behalf of that flower endeared him to thousands.

After his death in 1969, I have introduced his resolution in each succeeding Congress and am happy to do so today with the distinguished Senator from Illinois, Mr. DIXON.

The United States is one of the few nations of the world which has not adopted a national flower. While I am aware that many flowers have been nominated for this honor, I believe that the marigold, which was brought to our shores in the earliest days of our history and which has flourished in every part of our great country, is uniquely suited to become our floral symbol. I have been delighted, moreover, to learn that the marigold, which is known as the friendship flower, is attracting a growing number of admirers. The legislatures of three States, Georgia, Indiana, and Illinois, have approved resolutions recommending its adoption as our national flower. And the Marigold Society of America, which was founded in 1978 by the late David Burpee of the W. Atlee Burpee Co. in Doylestown, Pa., now is a sizable organization with members in 45 States, the District of Columbia, and Canada. The society's president, Mrs. Charlotte Bass of Stillwell, Ind., continues to serve as one of the marigold's most effective promoters.

Because it is hardy, colorful and very easy to grow, civic groups in hundreds of communities scattered across the United States have used marigolds to beautify public buildings, parks, and monuments. The Marigold Society recently made a gift of marigold seeds to the hometowns of the American hostages released by Iran. Planted this spring, these bright and cheerful yellow flowers will serve as a reminder of the outpouring of joy and the rekindling of the American spirit occasioned by the hostages' release.

Mr. President, I would like to share with my colleagues an eloquent statement of the reasons why the marigold deserves to be adopted as our national flower which was written by the late Mr. Burpee, and I ask unanimous consent that the statement, along with the text

of the resolution, be printed at this point in the RECORD.

There being no objection, the joint resolution and the statement were ordered to be printed in the RECORD, as follows:

S.J. Res. 69

Whereas the peoples of the world have from time immemorial adopted emblems—flags, birds, flowers—for their countries, representatives of their national virtues; and

Whereas the people of the United States have similarly adopted emblems—the American flag and the American eagle—to represent the virtues of this country; and

Whereas each of the fifty sovereign States of the United States, in addition to its State flag, has a floral emblem which it cherishes as its own; and

Whereas the United States is the only major "free" country in the world without a floral emblem; and

Whereas the American marigold represents the character of the United States more appropriately as an emblem than does any other flower in that it is an American native and native of nowhere else in the world; grown in abundance in the home gardens of every State in the Union yet not the floral emblem of any State in the Union; grown easily and quickly from seed; already acknowledged as a symbol of religious faith; a flower in its very appearance representing not just beauty but a rugged humility of character; and, like the American eagle and the American flag, an exclusively American emblem, unclaimed by any foreign nation: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the flower commonly known as the American marigold is hereby designated and adopted as the national floral emblem of the United States, and the President is requested to declare such fact by proclamation.

REASONS WHY THE AMERICAN MARIGOLD SHOULD BE THE FLORAL EMBLEM OF THE UNITED STATES OF AMERICA

There are many reasons why the American Marigold (*Tagetes erecta*), the Friendship Flower, should be the Floral Emblem of the United States.

Let me tell you some of them: The Marigold is native to Southwestern United States and to Mexico. It grows well and is popular in every state of our Union from Florida to Maine and from Hawaii to Alaska and also in every civilized country of the world. And it is known as the Friendship Flower.

The Marigold is not the state flower of any one of our states and is not the national flower of any foreign nation and as it is American, it can truly represent the United States of America.

The Rose is the national flower of England and is considered a symbol of warfare—The War of the Roses. The Rose is also the national flower of six other nations, two of which are behind the Iron Curtain. The Rose would not be appropriate as our national flower.

When Cortez conquered ancient Mexico, he found Marigolds growing there. The gorgeous golden Marigolds were so beautiful Cortez took seed with him back to Spain. In Spain the beautiful golden Marigolds became the favorite flower of the devout to place at the altar of the Virgin Mary and because of that they were called Mary's Gold and then became known as Marigolds.

Then seed of Marigolds was taken to every civilized country of the world. They were so easy to grow everywhere and so beautiful, they became popular everywhere.

In India Marigolds became, and still are, the favorite flower to put in leis to place around a person's neck to indicate friendship and because of that they have become known as friendship flowers.

It is my thought that since we are the only great nation in the world that does not have a floral emblem, that especially when world affairs are so troubled, it would be very desirable to name as our National Floral Emblem the American Marigold, the Friendship Flower. It would indicate that we desire to be friends with all the peoples of the world and through friendship, it would perhaps help to deter future wars.

I urge you to support the American Marigold for the National Floral Emblem of the United States of America. ●

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 70. Joint resolution proposing an amendment to the Constitution of the United States with respect to the length of the term of office of the President and Vice President and the number of terms a President may serve; to the Committee on the Judiciary.

TIME LIMITATION ON THE OFFICE OF THE PRESIDENT

● Mr. THURMOND. Mr. President, today I am introducing a joint resolution proposing an amendment to the Constitution limiting the tenure of a President to a single 6-year term. This is a measure that has long been needed to insure the office of the President will be one of emphasis on national issues and problems and not one of concern for reelection.

Although the problem is one that affects both Democratic and Republican administrations, the activities in the past administration illustrate clearly the need for this amendment. Almost everything the President did or said was interpreted as being designed to enhance his chances for reelection. Polls which seemingly were taken every week by both private and public groups reflected the President's weathervaning popularity, and all too often they formed the basis for new policies which he felt enhanced his reelection efforts. This inconsistent process placed an undue burden on the President, as he tried to please everyone and hesitated to use, or abandoned totally his independent discretion.

The Presidency is one of three cornerstones in our Federal system, and I am introducing this resolution because I believe we need to rescue it. The tempo, pressures, and problems of these times, which we in the Senate know well, have accumulated to a point at which we cannot be certain that it is possible for a President of the United States to meet the responsibilities which come with his office while he is involved with all the aspects of mounting a national campaign for reelection.

The pressures of the job combined with the pressures of campaigning bend an incumbent President physically, just as they bend his policies. As if it were not enough to preside over the departments and agencies of the executive branch, to be Commander-in-Chief of the Armed Forces and ceremonial head of state, we ask our Presidents to go to the country as candidates, defend their policies in a

heavy schedule of State primaries, and exercise their powers of incumbency in a long struggle for renomination and reelection.

The single-term reform was not conceived in the stress of modern politics. The issue of Presidential reeligibility was heavily debated during the Constitutional Convention. Thomas Jefferson was initially inclined to favor a single term of 7 years but he gradually became persuaded that George Washington's precedent of retirement after two terms was preferable.

But the experiences of the early Presidents renewed the advocacy of the single term, and the case was put strongly in 1828 by Virginia Representative Alexander Smyth—

The honor, the welfare, the tranquility of the nation, the fairness of elections require that the President should not be a candidate.

President Andrew Jackson was persistent in urging the reform in each of his annual messages to Congress. He stressed his special concern that Presidents are tempted to abuse their powers in pursuing reelection.

Many leading public figures, including Henry Clay, Benjamin Harrison, Benjamin F. Wade, and Charles Sumner, endorsed the reform in the 19th century. Rutherford B. Hayes proposed it in his inaugural address and Grover Cleveland, accepting the Presidential nomination in 1886, described a President's eligibility for reelection as a "most serious danger to that calm, deliberate, and intelligent action which most characterize a government by the people." By 1896 the proposal to limit the President to one 6-year term has been introduced in Congress more than 50 times.

In 1912, the Democratic platform advocated a single-term President. After the general election, the Senate, by a vote of 47 to 23, proposed such an amendment on February 1, 1913. However, the House did not adopt the resolution.

In acting to avert a repetition of Franklin D. Roosevelt's four terms, Congress voted in 1947 to adopt the George Washington precedent, amending the Constitution to set a mandatory limit of two 4-year terms. Some Members argued for the single-term alternative, but it stirred no wide enthusiasm.

The lameduck issue is the major argument that is raised against the single, 6-year term. The contention is that a President's power will be seriously diminished if he is obliged to enter the Oval Office as a lameduck. Many insist that a President gains strength from his exertions to be reelected. But in enacting the 22d amendment, Congress committed any President who wins a second term to a lameduck status.

Dwight Eisenhower, the only President who has served a full second term under the limitations of the 22d amendment, did not feel that his inability to run again imposed any handicaps or loss of influence. Eisenhower became, in fact, a strong proponent of the single-term Presidency.

President Carter was a recent convert. The reason, he explained—

Is that no matter what I do as President now, where I am really trying to ignore politics and stay away from any sort of campaign plans and so forth, a lot of the things I do are colored through the news media and in the minds of the American people by, "Is this a campaign ploy or is it genuinely done by the incumbent President in the best interest of our country without any sort of personal advantage involved?" I think that if I had a 6-year term, without any prospect of re-election, it would be an improvement.

The Nation will gain more, it seems to me, from the services of a President who is liberated from reelection pressures than it will lose in sacrificing its right to pass upon a President's performance after 4 years. With the increased pressures of a long string of hard-fought primaries before him and the general election after that, a President's judgment on issues of substance are inevitably colored by his necessity to build a political base for reelection. He is harder and harder pressed to find time and attention to deal with the issues which confront him, but at the same time he is obliged to allocate increasing amounts of time and attention to his political prospects. This lead him to rely on aides whose preoccupation is politics more than on those aides directly concerned with the substance of Government. As he behaves more and more like a candidate, he is viewed as a candidate by the media and the public. As he gains political momentum, his capacity to exert moral leadership is greatly diminished.

The 4-year cycle is being shortened by the pace of events. A newly installed President has only a short time to gear up his administration and get his program started before the Nation's attention turns to the congressional elections. There once was a hiatus between the congressional elections and the start of Presidential campaigning. Presidential candidates now believe in starting early so the incumbent faces challengers when he is barely into his third year. The quadrennial cycle is allocating more and more time to politics, less and less to the serious business of Government.

In closing, Mr. President, let me point out that as we enter our 205th year as a nation, a new President prepares to tackle the prodigious problems now plaguing our Nation. These problems, allowed to continue unchecked for years, are in most part the byproducts of our national evolution. They pose a serious threat to our Nation and demand the President's full attention, as well as our own. It is my opinion that we will serve ourselves well by giving our Presidents more time to govern, and especially more time to face these problems unhindered by the outside pressures created during a reelection campaign. This amendment will provide him with that opportunity.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD at this point.

There being no objection, the joint res-

olution was ordered to be printed in the RECORD, as follows:

S.J. RES. 70

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 proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. The term of office for the President and the Vice President shall be six years. No person otherwise eligible under this Constitution to be President shall be eligible to be President if he has previously been elected to such office, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be eligible to be elected to the office of the President.

"SEC. 2. The term of office provided for the President and Vice President by section 1 of this article shall apply to the terms of office of President and Vice Presidents elected after the date on which this article is ratified.

"SEC. 3. This Article shall be valid only if it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification."●

By Mr. McCLOURE (by request):

S.J. Res. 71. Joint resolution to approve the constitution of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

CONSTITUTION OF THE VIRGIN ISLANDS

● Mr. McCLOURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a joint resolution to approve the constitution of the Virgin Islands, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the joint resolution and the executive communication which accompanied the proposal from the Under Secretary be printed in the RECORD.

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

S.J. RES. 71

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fourth Constitution of the Virgin Islands (1980) is amended as follows:

(1) In Article I, section 2, delete the last comma and the word "and", and insert after the word "assemble," the word "and";

(2) In Article III, section 2(b), delete the words "have been" and insert in lieu thereof the word "are", and delete the words "for at least one year";

(3) In Article V, section 7, last sentence, delete the word "filed" and insert in lieu thereof the word "filled";

(4) In Article VI, section 3, delete the word "fifteen", and insert in lieu thereof the word "ten";

(5) In Article VI, section 4(g), delete "imminent", and insert the word "imminent";

(6) In Article VII, section 3, insert after the word "has", the word "not";

(7) In article VII, section 4, delete the words "Permanent disabilities", and insert in lieu thereof the words "The position of any judge suffering permanent disability";

(8) In Article XI, delete section 2, and

redesignate sections 3 and 4 as sections 2 and 3, respectively;

(9) In Article XI, section 3(c), delete the words "by the Government of the United States;" and the words "; by any state, territory, or possession, or any political subdivision thereof, or by the District of Columbia";

(10) In Article XI, section 3(f), delete "(b)" and insert in lieu thereof "(a)";

(11) In Article XI, section 3(g), delete the words "or to meet casual deficits";

(12) In the Transitional Schedule, section 3, insert in the second sentence after the word "requirements" the words "that have been enacted or issued by the legislature of the Virgin Islands or by local executive authorities, respectively"; and

(13) In the Transitional Schedule, section 5, delete the first three sentences, and insert in lieu thereof the following language:

"Until the Senate creates an appellate court as called for in Article VII, section 1, judicial matters shall continue to be handled as provided in the Revised Organic Act of the Virgin Islands."

SEC. 2. (a) This section shall only take effect upon approval of the Fourth Constitution of the Virgin Islands (1980) by the qualified voters of the Virgin Islands, and the establishment of an appellate court as provided in subsection (b) of this section.

(b) Section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1611) is amended to read as follows:

"SEC. 21. The judicial power of the Virgin Islands shall be vested in a court of record to be designated the 'District Court of the Virgin Islands,' and such appellate court and lower court or courts as may have been or may hereafter be established by the local law."

(c) Sections 22 and 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. §§ 1612 and 1613) are amended by substituting the words "lower local" for the word "inferior" wherever that word appears in that section.

(d) In the third sentence of section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1612) substitute the word "a" for the word "an".

(e) Section 24 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1614) is amended by substituting the words "a local" for the words "the Municipal".

(f) Section 27 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1617) is amended by substituting the word "local" for the word "inferior" wherever that word appears in that section.

(g) The last sentence of section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1612) is repealed. Notwithstanding such repeal, any appeal or other measure of review from the decisions of the lower local courts of the Virgin Islands pending at the time of the repeal in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit or the Supreme Court of the United States shall be prosecuted to final determination.

(h) Section 22 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1612) is amended by inserting "(a)" after "Sec. 22" and by adding the following two new subsections:

"(b) The appellate court established under the authority of Sec. 21 shall have jurisdiction to review the judgments and orders of the lower local courts of the Virgin Islands to the extent prescribed by local law.

"(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction to review by appeal the final judgments, decrees, or orders of the highest court of the Virgin Islands from which a decision could be had in cases involving the Constitution, treaties, or laws of the United States, or any

authority exercised thereunder. The United States Court of Appeals for the Third Circuit shall have the power to promulgate the rules necessary to carry out the provisions of this paragraph."

(1) Section 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1613) is amended by inserting the word "and" after the phrase "oaths and bonds," and by deleting the phrase "; and the procedure for appeal to the district court".

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 24, 1981.

HON. GEORGE P. BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: By message dated October 25, 1980, a proposed constitution for the Virgin Islands drafted by a popularly elected Virgin Islands Constitutional Convention was transmitted to the Congress. Enclosed with the message was a draft bill designed to rectify substantial discrepancies between the proposed constitution and Federal law.

We recommend that the draft bill be enacted. Section 501 of Public Law 96-59 (gives the 97th Congress 60 legislative days, beginning January 5, 1981, in which to consider the proposed constitution.

The draft bill proposed changes involving, among other issues, (1) citizenship provisions that may unconstitutionally disenfranchise certain citizens, (2) a provision requiring 15-years residence in the Virgin Islands for persons holding the offices of Governor and Lieutenant Governor, (3) judicial provisions that differ from Federal law, (4) provisions that purport to authorize the local legislature to enact laws regarding Federal tax provisions applicable to the Virgin Islands, and (5) a transitional schedule that could exceed the authority of the Constitutional Convention if read to affect Federal law.

We urge that the Congress enact the draft bill prior to expiration of the 60 legislative days, in order to clarify the nature of the proposed constitution and avoid probable ambiguity and litigation in the future.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's programs.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.●

ADDITIONAL COSPONSORS

S. 114

At the request of Mr. DeCONCINI, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 114, a bill to establish rational criteria for the imposition of the sentence of death, and for other purposes.

S. 164

At the request of Mr. MELCHER, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 164, a bill to prohibit proposed regulatory increases in imputed interest rates for tax purposes on loans between related entities and on deferred payments in the case of certain sales of property.

S. 195

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 195, a bill to incorporate the U.S. Submarine Veterans of World War II.

S. 391

At the request of Mr. CHAFFEE, the Senator from Alabama (Mr. DENTON), and

the Senator from Iowa (Mr. JEPSEN) 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, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

S. 496

At the request of Mr. MELCHER, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 496, a bill to amend the Federal Mine Safety and Health Act of 1977.

S. 655

At the request of Mr. MATHIAS, the Senator from Kentucky (Mr. FORD) was added as a cosponsor of 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.

S. 796

At the request of Mr. ZORINSKY, the Senator from North Dakota (Mr. BURDICK), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 796, a bill entitled the "Rural Telephone Bank Amendment Act of 1981."

SENATE JOINT RESOLUTION 50

At the request of Mr. DeCONCINI, the Senator from California (Mr. CRANSTON), the Senator from Rhode Island (Mr. PELL), the Senator from Michigan (Mr. LEVIN), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Joint Resolution 50, a joint resolution designating July 17, 1981 as "National POW-MIA Recognition Day."

SENATE JOINT RESOLUTION 60

At the request of Mr. THURMOND, the Senator from West Virginia (Mr. RANDOLPH), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of Senate Joint Resolution 60, a joint resolution to authorize and request the President to designate the week of May 3 through May 9, 1981, as "National Physical Fitness and Sports for All Week."

NOTICE OF HEARINGS

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. QUAYLE. Mr. President, the Subcommittee on Employment and Productivity will hold hearings on the Farm Labor Contractor Registration Act on June 2 and 3.

During the course of these hearings we intend to explore how the act has been administered over the past few years and whether that administration has been consistent with the congressional intent. We also will be taking testimony on S. 922 introduced by Senator BOREN, as well as on any proposed amendments that may have been introduced by that time.

I am of course aware that a slightly different version of Senator BOREN's bill passed the Senate in the last session. As I was a cosponsor of the companion bill in the House, there is no question in my mind that this bill is a needed attempt to deal with the problems that have

arisen under the FLCRA. I hope that during the course of these hearings we will be able to clarify the extent to which these problems can be solved through administrative actions by the Department of Labor and to focus on the detailed language of the bill to insure that we exclude from coverage only those who were never intended to be considered as farm labor contractors while not undermining the needed protection that the migrant workers require to shield them from unscrupulous labor contractors.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public that the following hearings have been scheduled before the Committee on Energy and Natural Resources.

The committee will hold a hearing to consider pending nominations on Monday, April 27, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

The committee will hold a hearing on standby oil controls on Tuesday, May 9 at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings, you may wish to contact Charles Trabandt at 224-7141.

ADDITIONAL STATEMENTS

ERNEST LEFEVER

● Mr. HAYAKAWA. Mr. President, there has been a great deal of public attention given to the nomination of Dr. Ernest Lefever to be Assistant Secretary of State for Human Rights and Humanitarian Affairs. Unfortunately, much of it has been focused on the groups that oppose his nomination.

What is not so well known, however, is that Dr. Lefever enjoys the support of many religious, academic, and public leaders. These people have sent letters endorsing his nomination to Senator PERCY, myself, and others. They make for interesting reading and I feel it is important that my colleagues are aware of these favorable comments.

Therefore, Mr. President, I ask that excerpts from these letters be printed in the RECORD.

The excerpts follow:

GENERAL COUNSEL, AMNESTY INTERNATIONAL, 1971-PRESENT

I have been a member of the Board of Directors of Amnesty International of the USA, Inc., the American branch of Amnesty International, since 1966. I was General Secretary at that time under Michael Straight, our first Chairman, and succeeded him in that position, from 1968 through 1971. I have been general counsel since 1971. I write to give my—not AI-USA's view on the appointment of Ernest Lefever as Assistant Secretary of State for Human Rights and Humanitarian Affairs. AIUSA has not taken a position on the appointment and it is unlikely that it will do so.

Nevertheless members of our Board have

received a communication from one of us, on the letterhead of the International Human Rights Law Group, urging us to write to you to object to Dr. Lefever's appointment. I am instead writing to support him.

Yesterday I interviewed Dr. Lefever and I am now satisfied that he will serve as Assistant Secretary in a manner consistent both with the national interest, and our tradition of respect and support for those ideals of human rights, which were historically among the most important causes for the creation of the United States.

MARK K. BENENSON,
New York, N.Y.

Excerpt from letter March 13, 1981.

ROMAN CATHOLIC PROFESSOR OF PHILOSOPHY

I am addressing the question of the moral principles involved in the position taken by Dr. Ernest W. Lefever with reference to United States foreign policy decisions and human rights.

I express a critique based on the Roman Catholic moral tradition, in which my intellectual development has taken place. I hold a doctorate in philosophy from The Catholic University of America. I am presently professor of philosophy in a Roman Catholic college-seminary, and I also conduct seminars in a Roman Catholic Theologate. I was rector of the theological seminary of my religious order from 1954 to 1960. I was Moderator of Theological Conferences in the Roman Catholic Diocese of Albany, New York, from 1960 to 1970. I have published articles on moral issues in Roman Catholic periodicals and proceedings. Some of these are listed in the Catholic Periodical Index (between the years 1957 and 1978).

I can discover no violation of moral principles in the position taken by Dr. Lefever. On the contrary, I find his position to be in perfect accord with the teaching of the Roman Catholic moral tradition.

REV. OWENN BENNETT,
St. Hyacinth's Seminary,
Granby, Mass.

Excerpt from letter March 31, 1981.

UNIVERSITY EXECUTIVE AND THEOLOGIAN

In the twenty years I have known Dr. Lefever and his work, his steady, untiring efforts have affirmed the end of human betterment for all the world's people.

Where he differs from some others, and rightly as I would see it, is in the area of means and practical devices to defend and advance human wellbeing. Thus, for example, he has seen clearly, and argued against, the destructive capacity of unachievable promises, and inconsistently enunciated human rights slogans. He has argued that, instead of such counterproductive efforts, the United States must, not just for its own sake but precisely for the welfare of all, ensure first that the beacon it holds out is protected and secure—it is no less a beacon for that.

Given such clear values and underpinnings, and given the tremendous base of experience from which he would proceed, I believe Dr. Lefever is an outstanding candidate for Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Prof. QUENTIN L. QUADE,
Marquette University,
Milwaukee, Wis.

Excerpt from letter March 12, 1981.

PROFESSOR, THEOLOGIAN, AND RESEARCHER

My association with Dr. Lefever dates back to the time he was on the staff of the Division of International Justice and Good Will of the National Council of Churches in New York City and a member of the Executive Council of an organization called Christian Action, which I served as Executive Secretary in 1953 and 1954. From 1961 to 1964, we served together as staff members of the In-

ternational Studies Division of the Institute for Defense Analyses, working on issues of arms control.

During all the time I have known Dr. Lefever, I have found him to be a man of high personal integrity and deep devotion to principles of Christian social ethics as seen through a tradition shaped primarily by Reinhold Niebuhr. Although he has not previously held a position in the U.S. Government, he has been a public servant in all essential respects, devoting his tough scholarship and his tireless energy to public issues, particularly in the foreign policy area, and bringing the insights of his Christian faith and ethics to analyses of these issues.

Dr. Lefever and I have not always agreed on our analyses of public issues, but I have always found his analyses to be fully informed, rich in insight into political relationships, sensitive to human aspirations and rights, and guided by consistent principles of justice and order.

Where he and I have disagreed, I have found our differences to be in nuances and in degree more than in kind. Where others have seen significant change in Dr. Lefever's political and ethical positions over the years, I have seen admirable and well-founded consistency combined with adaptability to significantly changed circumstances, including the regrettable polarization of public debate about foreign policy in general and human rights in particular that has taken place over the past decade or so.

ROBERT A. GESSERT,
Washington, D.C.

Excerpt from letter March 27, 1981.

RELIGIOUS EDUCATOR

I have known Dr. Lefever personally and also professionally in my work at St. Albans School. His broad and deep commitment to the cause of human rights, and his record of compassion and work with people over the world could not be better known, for he has worked after World War II among the poor in Europe and among the Japanese-Americans in this country. His compassion is not selective.

JOHN C. DAVIS,
St. Albans School,
Washington, D.C.

Excerpt from letter March 10, 1981.

PROFESSOR AND RELIGIOUS LEADER

I have known Dr. Lefever for more than thirty years and have the highest regard for him as a Christian thinker and scholar. In spite of a vicious and well-orchestrated attack on him at the present time, his record of devotion to the rights and dignities of the human person is at least equal to that of any of his critics. He has had the good judgment to perceive, however, that moralizing resolutions and pious posturing do not of themselves further human rights.

Dr. Lefever has also had the good judgment to perceive that the most massive threat to the dignity, liberty and integrity of the human person comes today from the Soviet Union and its satellites and fellow-travelers. In this, too, he has aroused the wrath of those who perceive with great clarity the limitations on liberty and self-government imposed by some governments friendly to the USA but seem never able to perceive with equal clarity the debased condition of the human conscience and person under governments friendly to the Soviet Union—or even criminal governments controlled by terrorists.

Rev. Dr. FRANKLIN H. LITTELL,
Temple University,
Philadelphia, Pa.

Excerpt from letter March 11, 1981.

LOCAL RELIGIOUS GROUPS

The Wesley Chapel United Methodist Women of the Ehrhardt Charge, of the

Orangeburg District of the South Carolina Conference, at their monthly meeting yesterday voted unanimously to write requesting you and the Senate Foreign Relations Committee to approve the nomination of Dr. Ernest Lefever for Assistant Secretary of State heading the human rights division. We feel his background well equips him for this work and he will make a positive contribution for our country.

Mrs. I. N. RIZER,
United Methodist Church,
Lodge, S.C.

Excerpt from letter March 10, 1981.

LOCAL RELIGIOUS LEADER

We, the ladies group of Andrew Chapel United Methodist Church, would like to express our positive opinion that Dr. Lefever receive his nomination to the State Department. We appreciate Dr. Lefever's views concerning foreign policy, and his desire to see America stay away from any kind of Red aggression and terrorism from the left as well as the right. We feel that he is well-qualified to fill the position to which he has been nominated by President Reagan.

RUTH ALEXANDER,
United Methodist Church,
Americus, Ga.

Excerpt from letter March 9, 1981.

UNIVERSITY RELIGIOUS LEADER

I have read a good deal of what he has recently written, and recommended his visit to a group of my colleagues for a couple of days last month—days during which we quizzed him at length about his views and intentions.

I was well satisfied with his responses, and urge his confirmation.

GILBERT E. DOAN, Jr.,
National Lutheran Campus Ministry,
Philadelphia, Pa.

Excerpt from letter March 11, 1981.

GREEK ORTHODOX PASTOR

As concerns his positions on political rights, moral freedom and cultural vitality between authoritarian and totalitarian regimes, I would agree with him (Dr. Lefever) that the former permits a significantly greater degree of freedom and diversity in all spheres—political, cultural, economic and religious—and that we may be more successful in advancing human rights by nudging forward the cause of human dignity among our wayward friends than by ostracizing them totally from our fold. Finally, I know that Dr. Lefever is a Philhellene in the strictest sense and that he is imbued with those same ideals which made our ancestral homeland historically a shining example for the world.

Rev. THEODORE H. CHELPON,
Excerpt from letter March 11, 1981.

PROFESSOR OF PHILOSOPHY AND POLITICS

... one questions concerning human rights, the conditions for a just war, and other ethical concerns that have occupied the minds of men in Western Civilization for centuries. I always noted a finely honed sense of honor and decency in everything Ernest Lefever said.

I can only hope that your committee will act favourably on Doctor Lefever's nomination and I am pleased to be able to submit this testimony of my high regard for him.

FREDERICK D. WILHELMSEN,
University of Dallas.

Excerpt of letter March 13, 1981.

PROFESSOR OF INTERNATIONAL AFFAIRS

I have been personally and professionally acquainted with Dr. Lefever since the mid-1950s, when we both joined in the activities of the Council on Religion and International Affairs. I can attest to his concern for values of the human person in domestic and foreign affairs, which concern, has led him to be an

outstanding critic of all forms of Totalitarianism, whether of the Right or the Left.

I know that he has sustained such views to the present, and that he will unreservedly apply them, without prejudice or accommodation, to any special interest.

FRANK N. TRAGER,
National Security Program,
New York University.

Excerpt from letter March 12, 1981.

PROFESSOR FROM MIDWESTERN UNIVERSITY

Dr. Lefever understands the distinction between rigid totalitarianism and an authoritarian government which may move toward normal democratic practices. He should be able to make real progress toward a greater observance of human rights. His appointment to this position is a step forward in the conduct of American foreign policy. The fact that Dr. Lefever refuses to oversimplify the human rights issue is an asset rather than a liability. I strongly support his nomination.

CHESTER L. HUNT,
Department of Sociology,
Western Michigan University.

Excerpt from letter March 15, 1981.

POLITICAL PHILOSOPHER

As my many writings show, the most recent of which is *Philosophy and Public Affairs* (Southern Illinois University Press), I have been a strong partisan of the policy that concern for human rights should be an integral element in American foreign policy. Because of that, I am writing to you concerning the nomination of Dr. Ernest W. Lefever as Assistant Secretary of State for Human Rights and Humanitarian Affairs.

I have been a close reader of Dr. Lefever's writings on the subject and have found that he is a courageous and intelligent defender of the basic concepts of human rights. I have been appalled by the evidence of a veritable campaign of misrepresentation of his position by those who are more hostile to current American foreign policy than dedicated to the even handed defense of human rights. Dr. Lefever is being criticized because he is not an absolutist about human rights and recognize that sometimes considerations involving the defense of the entire system of human rights must be given priority over the expression of a particular human right in a specific place and time.

It is the logic that has guided Dr. Lefever's reflections and advocacy, and it should be sufficient to expose the unfairness and intellectual dishonesty of those criticisms of him that impugn his dedication to the philosophy enshrined in our Bill of Rights. Dr. Lefever's merit warrants his confirmation.

SIDNEY HOOK,
Department of Philosophy,
New York University.

Excerpt from letter March 23, 1981.

PROFESSOR OF INTERNATIONAL RELATIONS

I know of no one who would be more qualified than Dr. Lefever to clear up the misunderstandings and deliberate misconstructions that have accumulated in the last decade. His concern with human rights in their greatly various contexts is of long standing. In fact, he was among the first to draw national attention to the complexities of the issue. Having followed his work for many years, I am persuaded that his assessments are grounded in thorough knowledge of the political, legal and moral contexts in which human rights problems are apt to arise.

Specifically, I find that Lefever has known all along how to pinpoint the essential difference between totalitarian and authoritarian regimes and how to coordinate the nation's concern for the protection of human rights in non-American jurisdictions with its commitment to respect the domestic jurisdiction of other sovereign state. Thus I can think of no one who would be more

successful than Lefever to communicate and implement the Administration's felicitous decision to view terrorism as the most flagrant violation of human rights.

Lastly, I find Dr. Lefever particularly suited for the post because he has a rare gift for lucid exposition, and that in oral as well as written expositions.

ADDA B. BOZEMAN,
Sarah Lawrence College,
Bronxville, N.Y.

Excerpt from letter March 13, 1981.

PROFESSOR OF INTERNATIONAL POLITICS

I am writing to support the nomination of Dr. Ernest W. Lefever to be Assistant Secretary of State for Human Rights and Humanitarian Affairs. It is extremely important that this country's policies be discussed in an environment free from character assassination, innuendo, misrepresentation, intimidation, and hostility toward diversity of opinion. The recent characterization of Dr. Lefever's (N.Y. Times, Feb. 25, 1981, p. A10) views as "a perversion of internationally recognized human rights values" certainly violates normal accepted scholarly standards against exaggerated charges which may harm the reputation of an individual.

The American tradition, and the predominant Western tradition, is that of ethical realism. The tradition recognizes the relativity of circumstances but postulates the absoluteness of values in a hierarchy derived from a just understanding of natural law. *Fundamentum totius juris Deus est*. This tradition is not universally shared but it is sensitive to complex circumstances, it is aware that others may hold different values, it is not surprised by the will to power of states, groups or individuals, and it does seek to be guided by the right or just principle appropriate to the factual circumstances in all its complex domestic and international settings. Dr. Lefever is clearly rooted in this tradition which is founded on the traditional understandings in the classical and Christian heritage.

DAVID C. JORDAN,
University of Virginia.

Excerpt from letter March 13, 1981.

PROFESSOR OF INTERNATIONAL POLITICS

For over a quarter of a century, Dr. Lefever has vigorously upheld the vital contribution moral principles make to a sound foreign policy. On the issue of human rights he recently wrote, "We believe our government should uphold the full range of human rights and that peoples everywhere should enjoy them. With freedom under siege throughout the world, we should by precept and example continue to hold high the torch of human dignity."

The other side of Dr. Lefever's untiring emphasis on the importance of morality has been his attack on moralism, i.e., single-factor approaches that do violence to the deepest teachings of the Judeo-Christian tradition. In his writings he develops at length why he sees the "human rights standard", and its oft-fickle application by the Carter Administration, as an expression of moralism rather than morality.

WHITTLE JOHNSTON,
University of Virginia.

Excerpt from letter March 17, 1981.

FORMER U.S. GOVERNMENT OFFICIAL

I am writing to express my support of the nomination by President Reagan of Dr. Ernest W. Lefever as Assistant Secretary of State of Human Rights and Humanitarian Affairs.

As a retired career Foreign Service Officer with extensive experience initially in study, and subsequently through 25 years of per-

sonal observation of the policy and tactics of the Soviet Union and its dominions in the field of human rights, I could not help but draw the conclusion that those groups now critical of Dr. Lefever's nomination have ironically themselves exhibited an interesting pattern of selectivity in expounding the virtues of one state and highlighting the violations of another in the field of human rights. Certainly, all freedom loving people share a keen interest in urging the freedom of others to participate in and taste the fruits of a free political system.

R. E. WHITE,
Alexandria, Va.

Excerpt from letter March 9, 1981.

FORMER U.S. GOVERNMENT OFFICIAL

On the human rights issue, there is no more decent, compassionate human being, and with a higher regard for human rights, than Dr. Ernest Lefever.

Before writing this letter, I reviewed several articles by Dr. Lefever on human rights in order to arrive at an independent evaluation of his political philosophy. His writing only reinforces my conviction that he is a man of the highest integrity, and more sincerely devoted to human rights than a lot of self-anointed tribunes of the people.

I am appalled at the irresponsibility of some journalists and religious pressure groups who have suggested that Dr. Lefever favors "repressive dictatorships" or favors "downgrading human rights". These are totally false allegations and constitute a distortion of his fundamental philosophy. What he has maintained is that any genuine effort to persuade authoritarian regimes to allow a greater degree of freedom and diversity must be accomplished through diplomacy and the exercise of the leverage we retain over regimes friendly to the U.S. The extravagant and self-righteous rhetoric of Mr. Carter accomplished nothing but the alienation of our friends and allies. The fact that Dr. Lefever does not intend to imitate Mr. Carter's diplomacy "by loudspeaker" does not imply any lack of concern for human rights.

DAVID S. LICHTENSTEIN,
Rockville, Md.

Excerpt from letter March 19, 1981.

FORMER U.S. AMBASSADOR

I think he (Lefever) would be an excellent choice for Assistant Secretary of State for Human Rights and Humanitarian Affairs, for the following reasons:

1. Excellent grounding in a study of ethics and morals. He has a B.D. and Ph.D. in Christian Ethics from Yale.

2. Concrete demonstration of his devotion to civil rights. For 15 years he was active in the American civil rights movement, with James Farmer and Bayard Rustin.

3. An understanding of the difference between "moralism" and morality in foreign affairs. As defined by him in a seminal article in *Orbis* (1972), a moralist is someone who approaches a complex moral problem from a single-issue perspective. True moral analysis, on the other hand, requires consideration of all the moral issues involved. (It is not surprising, then, that single-issue "moralists" are up in arms about his prospective appointment.)

4. Demonstrated capacity for the clarification of complex moral issues. We owe to Lefever, among others, the awareness that it is easy to be in favor of peace and against war, in favor of justice and against injustice, in favor of freedom and against tyranny. In practical terms, however, moral dilemmas arise because it may sometime be necessary to sacrifice one of those goods in order to fight a great evil: It would have been easy, for instance, for the United

States to have preserved the peace with Nazi Germany—but at the cost of sacrificing freedom and justice for millions in Europe and elsewhere, and ultimately for ourselves as well.

Because he would bring such a moral calculus to his responsible position, Lefever's appointment would be a vast improvement over the incumbency by a simplistic single-issue advocate. Lefever is a moral philosopher with a profoundly humanitarian outlook on foreign affairs. But he is against a double-standard in those affairs. He believes that there are greater evils and lesser evils.

MARTIN F. HERZ,
School of Foreign Service,
Georgetown University.

Excerpt from letter February 7, 1981.

CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, 1971-1977

His Center for Ethics and Public Policy has for a number of years been known for its scrupulous objectivity, for the degree of public interest manifested by its publications, and for the high quality of its governing board. Mr. Lefever's own positions on international relations have been arrived at by painstaking scholarship. He represents academic scholarship at its best and most objective.

I hope that this account of several years of knowledge and observation will help the committee. My own view is that Mr. Lefever will be an excellent addition to the Department of State, and that he should, of course, be confirmed as soon as possible.

RONALD BERMAN,
Department of Literature,
University of California, La Jolla.

Excerpt from letter March 4, 1981.

FORMER DIRECTOR, PEACE CORPS, ECUADOR

I have known Lefever for over 35 years . . . he realized early that Carter's sledgehammer approach to human rights, abroad was not only counterproductive to the United States' policies and image abroad, but more often than not had the opposite effect.

In my frequent travels all over Latin America I have seen again and again the futility of the Carter approach to human rights. Proud nations feel insulted to the extent of rejecting much-needed U.S. aid, without changing their deplorable repressive policies. Surely, a more quiet, diplomatic approach, coupled in certain cases with non-public pressures, would have been more successful. This is part of the approach advocated by Lefever.

To call Lefever a "foe of human rights" is gross slander. Throughout his life, his work, his writings he has demonstrated true concern for human rights throughout the world. It is because of this demonstrated concern that he denounces human rights violations in right-wing dictatorships and authoritarian regimes as well as in Communist regimes. His approach is certainly more evenhanded than his predecessor's.

Lefever deserves the chance to show that his approach is more effective and should receive Senate confirmation promptly.

ERICH HOFMANN,
Bethesda, Md.

Excerpt from letter March 6, 1981.

CENTER FOR CITIZENSHIP EDUCATION

I offer my support of the nomination of Dr. Ernest W. Lefever to be Assistant Secretary of State for Human Rights and Humanitarian Affairs. Dr. Lefever is a fellow colleague in the quest for better citizenship education, and he has been a valuable asset to the Maryland Values Education Commission, the first of its kind in America.

There are no perfect analogies, but promoting human rights and promoting values education in Maryland has to come pretty close.

The velvet-glove, nonthreatening approach has been a catalyst for positive activity in Maryland. It can be the same in other areas of the world where the values of human rights are at issue. It would be a positive thing, indeed, for Dr. Lefever's detractors to open their eyes and really look at his positive approach.

MARY ANN KIRK,
Executive Director,
Washington, D.C.

Excerpt from letter March 13, 1981.

U.S. INDUSTRIAL COUNCIL

Dr. Lefever is not an adherent of dogmatic utopianism. He is a political realist. He knows that America has enemies who do not share our vision of democracy and who exploit every opportunity to subvert our interests . . .

Ernest Lefever is a man of high character and intellectual stature. He is eminently qualified for the position of Assistant Secretary of State for Human Rights and should be confirmed with a minimum of political harangue.

ANTHONY HARRIGAN,
President,
Washington, D.C.

Excerpt from letter March 1981.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

Ernest Lefever, an early fighter for civil rights in this country, will weigh not only ends and means, but also consequences of envisioned human rights policies and pronouncements. He will be a champion of freedom.

He will, I am convinced, be a discriminating and astute policy advisor and advocate.

On behalf of the nearly two million men and women of the Veterans of Foreign Wars of the United States, I proudly and unhesitatingly call, for the confirmation of Mr. Ernest W. Lefever as the Assistant Secretary of State for Human Rights and Humanitarian Affairs.

ARTHUR FELLWOCK,
Commander-in-Chief.

Excerpt from letter February 25, 1981.

FOUNDATION EXECUTIVE

Ernest Lefever differs from his predecessor in his capacity to think in reasonable terms and to function as an integral part of a high quality foreign policy team, which will hopefully re-establish the credibility of the United States with both its friends and adversaries overseas. A balanced and ethically consistent view of human rights in this context is most important, and I believe that Dr. Lefever is extremely competent to provide this input.

CURTIN WINSOR, Jr.,
Trustee and Secretary,
Washington, D.C.

Excerpt from letter March 9, 1981.

BIPARTISAN COMMITTEE ENDORSES LEFEVER'S HUMAN RIGHTS POLICY; URGES IMPLEMENTATION OF ADMINISTRATION POLICY

The Committee for a Balanced Human Rights Policy, a bipartisan, independent group of citizens representing over 20 million Americans, has extended its endorsement and support to Dr. Ernest W. Lefever for the position of Assistant Secretary of Human Rights and Humanitarian Affairs.

In its statement of support, the Committee noted "widespread concern by the American people that human rights considerations had been allowed to influence and even determine policy directed towards Third World and allied countries—often in a manner inconsistent with United States and Free World security interests.

According to the Committee, a substantial segment of the American electorate has

been concerned about a "double standard" in the implementation of human rights policy. "While numerous voices were raised . . . in protest of violations in certain pro-Western Latin American, African and Asian countries, little public outcry was heard concerning such outrages as were occurring in Cambodia, Ethiopia, Cuba, Eastern Europe, the Soviet Union and other countries subject to Marxist totalitarian rule."

In providing an analysis of Dr. Lefever's human rights policy, the Committee approvingly quotes Dr. Lefever's position that "the greatest threat to human rights comes from Messianic totalitarian regimes whose brutal grip brooks no opposition." It concludes that opponents of Dr. Lefever believe that Chile, El Salvador and the Republic of the Philippines—not Soviet-backed totalitarianism—are "the greatest threat to peace and freedom in the world today."

In endorsing Dr. Lefever, the Committee, listing dozens of the major organizations representing Americans who trace their ancestry to countries presently under Marxist totalitarian control or subject to subversion by Soviet-backed forces, "urges the Members of the Senate to unanimously confirm Dr. Lefever's appointment."

COMMITTEE FOR THE DEFENSE OF PERSECUTED ORTHODOX CHRISTIANS, INC.

DEAR SENATOR PERCY: On behalf of the Committee for the Defense of Persecuted Orthodox Christians, I would like to express to you our full support of the nomination of Ernest Lefever as Assistant Secretary of State for Human Rights. We are very pleased that someone of his particular experience and commitment has been chosen for this position, and we share his views and deep concern for the violation of human rights—especially religious rights—in the USSR. As an activist for human rights, Mr. Lefever will make an important contribution to this area of vital concern.

We urge you to confirm his nomination.

Yours sincerely,
REV. VICTOR S. POTAPOV,
Chairman.

BUSINESS EXECUTIVE

I speak for a large number of people in this area who enthusiastically support this nomination. Dr. Lefever is a clear headed realist who understands the nature of world politics and can discern the genuine from the imitation.

W. DAN CHANCE,
Carrollton, Ga.

Excerpt from letter March 9, 1981.●

REVENUE PROCEDURE 80-55

● Mr. MOYNIHAN. Mr. President, yesterday's editions of the New York Times and Wall Street Journal carried articles about the decision by the Internal Revenue Service to withdraw Revenue Procedure 80-55. This is good news indeed, for it means that State and local governments will be spared the terrible ordeal of having the costs of borrowing money increase even more.

This decision by the IRS is an important one, though somewhat confusing to many people. We are in the debt of the Times and Journal for doing what they have done for many years—getting to the heart of the matter of difficult and complex issues. Mr. President, I ask that the fine articles on Revenue Procedure 80-55 be printed in full in today's RECORD.

The articles follow:

IRS DROPS RULE BARRING BANK DEDUCTION OF INTEREST ON SAME STATE, LOCAL ACCOUNTS

WASHINGTON.—The Internal Revenue Service has decided to withdraw a controversial ruling that would have prevented banks from deducting the interest paid on state and local accounts secured by tax-exempt bonds.

Meantime, a Treasury tax official told a House Ways and Means subcommittee that the department hasn't finished reviewing the impact of small-issue industrial revenue bonds. John Chapoton, assistant Treasury Secretary for tax policy, added that he didn't expect to make any recommendations on whether to limit use of the state and local bonds until Congress has acted on President Reagan's proposed tax-cut package.

Although the IRS is withdrawing the bank ruling, which would have taken effect May 31, it warned in a statement issued with the Treasury that the agency intends "to study closely the extent to which banks should be treated differently from other taxpayers" on interest related to borrowing for tax-exempt securities. "Depending upon the conclusions of this study, legislation may be proposed," the statement said.

The IRS decision was hailed by the American Bankers Association, which had been fighting the ruling since it was announced last December. "We're glad to see some sanity return to the management at the IRS," said Lee Gunderson, president of the banking trade group. "This ruling never did make any sense."

At issue was the deductibility of the interest banks pay on negotiated time deposit accounts maintained by state, county and local governments. Because the accounts aren't insured by federal authorities, as are most individual savings accounts, the governments require the banks to provide collateral as security for their deposits. More than 30 states require that the collateral be tax-exempt state or local securities.

Under IRS rules, interest generally isn't deductible when it is related to debt for purchasing or holding tax-exempt securities.

Bank industry officials said that if the IRS ruling hadn't been withdrawn, banks might have begun refusing to bid for government deposits or offering lower interest rates. Local government officials and bond market experts warned that the ruling also could have discouraged banks from buying state and local securities.

The IRS had twice delayed the effective date of the ruling before deciding to withdraw it.

The House Ways and Means subcommittee is studying whether limits should be put on small-issue industrial revenue bonds, which are tax-exempt securities that state and local governments issue to finance private business projects. Large issues are already restricted by law.

A congressional Budget Office study released earlier this month found that sales of the bonds soared to \$8.4 billion last year from about \$1.3 billion in 1975. The study estimated the federal government's tax revenue loss at \$1 billion for the fiscal year ended Sept. 30 and said that by 1986, the annual revenue loss could reach \$4.4 billion.

The Treasury's Mr. Chapoton noted that some critics of the development bonds believe they are pushing up the interest rates on other government bonds by increasing the supply of tax-exempt issues relative to demand. He added that they "have been used increasingly for commercial, as opposed to industrial or manufacturing, projects."

Mr. Chapoton said the department would consider whether state or local government issuers should be required to provide matching funds "to demonstrate the public purpose of the bond-financed facility." Other "possible modifications" could include re-

quirements that local governments insure or guarantee the bonds or issue them subject to state-by-state limits, he said.

The congressional Budget Office says that 47 states currently issue industrial revenue bonds and that fewer than half have restrictions on the projects that can be financed. As a result, the office says, the bonds are being used to finance "all manner of ventures, from shopping centers to grocery stores to private sports clubs."

[From the New York Times, Apr. 9, 1981]

I.R.S. WITHDRAWS DISPUTED BANK RULE

(By Steven Rattner)

WASHINGTON.—The Internal Revenue Service today withdrew a controversial ruling that could have increased borrowing costs for state and local governments while subjecting banks to millions of dollars of liability for back taxes.

The issue was whether banks could deduct on their tax returns interest paid on deposits by state and local governments if the banks used tax-exempt securities as collateral against these deposits.

In general, the law forbids deducting interest payments when tax-exempt securities are used. However, the application of this doctrine late last year by the Carter Administration prompted a storm of criticism from banks, localities and others.

In a statement today, the I.R.S. emphasized that it stood by the general principle at issue. "The I.R.S. and Treasury intend to study closely the extent to which banks should be treated differently from other taxpayers," the I.R.S. statement said. "Depending upon the conclusions of this study, legislation may be proposed."

The decision was hailed today by critics of the original ruling.

"I'm just delighted that the I.R.S. and the Treasury have seen the error of their ways," said Representative Thomas J. Downey, Democrat of Long Island, who said that New York school districts would have lost \$75 million under the aborted plan. "The taxpayers of America won a major victory today."

Lee Gunderson, president of the American Bankers Association, said: "We're glad to see some sanity returned to the management of the I.R.S. This ruling never did make any sense."

The opponents of the initial ruling contended that it would have made holding tax-exempt securities less attractive for banks, which in turn would have led to higher borrowing costs for states and localities.

In addition, losing the tax deduction on the interest paid on the deposits would have resulted in lower interest rates being paid on the deposits, which generally involve money received from tax collections and the like and held in banks for short periods.

The banks were further upset that the initial ruling would have made them liable for taxes going back three years, a sum they contended could reach hundreds of millions of dollars.

The banking system currently holds \$145 billion of tax-exempt state and local debt, representing roughly half of such debt outstanding.

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THE RIGHT TO KEEP AND BEAR ARMS

● Mr. HATCH. Mr. President, if anyone is particularly curious as to why such large numbers of Americans feel so strongly about their second amendment right to "keep and bear arms," I would suggest that the following item from yesterday's Washington Star might be of

passing interest, and ask that it be printed in the RECORD.

The article follows:

ONE OUT OF THREE HOUSEHOLDS HIT BY CRIME

(By Kenneth R. Walker)

Nearly a third of all U.S. households were touched by crime last year, a Justice Department report disclosed yesterday.

The report compiled by the Justice Department's Bureau of Justice Statistics, disclosed that of the crime that touched 24 million American homes during 1980, 6 percent was violent, including rape, robbery and assault.

Although the report stated that crime has remained relatively stable since 1974, "it shows clearly that (crime) touches all segments of the society to an unacceptable degree," the acting bureau director, Benjamin H. Renshaw, said in a statement.

The findings were based on a new bureau indicator that measures the number of U.S. households that were the site of a burglary or theft, or those in which a member was a victim of theft or a violent crime.

The survey is compiled through two separate interviews each year with 132,000 people.

Fourteen percent of American households experienced crimes of personal larceny including purse snatching and pocket picking, according to the survey.

Nearly 7 percent of all households experienced burglaries last year, and 10 percent experienced household larceny.

Although household crime varied according to income and location, the report showed no significant difference in victimization of black and white households.

Black and white households were victimized by an almost equal number of crimes—32 percent and 30 percent, respectively.

However, urban households—34 percent of which were touched by crime last year—were the site of a higher percentage of crimes than homes in other areas. Thirty-two percent of suburban homes and 23 percent of rural households experienced crime.

Families with incomes over \$25,000 were the hardest hit, according to the survey, with 38 percent of those households being victimized. The figure for medium income homes was 31 percent, while 25 percent of the households with incomes of less than \$7,500 experienced crime.

Last week, the FBI released its 1980 crime index based on reports submitted by more than 12,000 law enforcement agencies nationwide. That report said crime rose by 10 percent over the previous year and violent crime increased by 13 percent. ●

EGYPT RATIFIES THE NONPROLIFERATION TREATY

● Mr. KENNEDY. Mr. President, on February 26 the Arab Republic of Egypt deposited in London its instrument of ratification of the treaty on the Nonproliferation of Nuclear Weapons (NPT). The Egyptian Parliament voted on February 17 to ratify this treaty, which the Egyptian Government had signed on July 1, 1968, when this cornerstone of the multilateral effort to prevent the spread of nuclear weapons was first opened for signature.

This is an important contribution to security in the Middle East, and I welcome this constructive step by our Egyptian friends. The acceptance of full-scope safeguards and of the binding obligation not to acquire nuclear explosives will help to strengthen the present nuclear-free status of the region. I am hopeful that all other Middle Eastern

States not presently parties to the Nonproliferation Treaty will take steps to adhere to it, or to develop an agreement permanently excluding nuclear explosives from the area along the lines of the resolution sponsored last year by Israel at the U.N. General Assembly and adopted by consensus.

On the occasion of the deposit of the instrument of ratification, the Ministry of Foreign Affairs of the Egyptian Government issued a thoughtful and powerful statement that reminds the nuclear weapon states of their failure to achieve meaningful steps to reduce offensive nuclear arms and to stop all nuclear tests. These will be necessary steps if the parties to the NPT are to fulfill their solemn undertaking to halt the nuclear arms race. I ask that this statement be printed in the RECORD.

The text of the statement follows:

STATEMENT ISSUED BY THE MINISTRY OF FOREIGN AFFAIRS

The signing by Egypt of the Treaty on the Non-Proliferation of Nuclear Weapons, in 1968, and now its ratification, emanate from Egypt's conviction of the need to put an end to the proliferation of nuclear weapons, which threaten the security of all mankind. Egypt was among the first countries to urgently call for the conclusion of the Treaty, so as to complement the earlier efforts which successfully culminated in the conclusion of the 1963 Treaty banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water.

While Egypt is committed in accordance with the provisions of the Non-Proliferation Treaty to refrain, in any way, from the acquisition or the manufacture of nuclear weapons, this, however, should not impair its inalienable right to develop and use nuclear energy for peaceful purposes, in conformity with the provisions of Article IV of the Treaty. The latter affirms the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination. The affirmation of that right in the Treaty itself should, in fact, be considered a codification of a basic human right, which cannot be waived or tampered with under any circumstances.

Basing itself on the above, Egypt also pays special importance to the provisions of Article IV of the Treaty calling on the Parties to the Treaty who are in a position to do so to cooperate in contributing to the further development of the application of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration to the needs of the developing areas of the world.

Since Egypt is embarking on a number of projects for the construction of nuclear power reactors for electric generation, in order to meet its increasing energy needs that have now proved necessary for the prosperity and welfare of its people, Egypt expects that the industrial developed countries would wholeheartedly render it their assistance and support, and this in conformity with the letter and spirit of Article IV of the Treaty. It, especially, expects this since Egypt has now undertaken to accept the application of the International Atomic Energy Agency safeguards to its peaceful nuclear activities within its territory, in accordance with the provisions of Article III of the Treaty.

Within the framework of the rights provided for in the Treaty for its Parties in the field of peaceful uses of nuclear energy, Egypt wishes to refer to the provisions of

Article V of the Treaty, which affirms that benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to this Treaty. Though Egypt admits that these applications are difficult to realize at the present time, particularly in view of their detrimental environmental effects, yet this should not relieve the nuclear-weapon States Party to the Treaty from their responsibilities in investing in the research and development of these applications, in order to overcome all the difficulties encountered at present.

Egypt wishes to express its great dissatisfaction with the nuclear-weapon States, and in particular the two Super Powers, for failing, so far, in taking effective measures relating to the cessation of the nuclear arms race and to nuclear disarmament. Although Egypt welcomes the 1972 and 1979 Strategic Arms Limitation Treaties, the so-called SALT I and SALT II, yet it cannot but stress that the Treaties fail to realize an effective cessation of the nuclear arms race, quantitatively and qualitatively. These Treaties have even permitted the development of a new generation of weapons of mass destruction.

On the other hand, and in spite of the fact that more than 17 years have elapsed since the conclusion of the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water, the nuclear-weapon States are still arguing about a variety of difficulties, thus, hampering the conclusion of a permanent ban on all nuclear weapon tests. What lacks, in fact, is the political will to accomplish this.

In the light of the above, Egypt takes the opportunity of depositing its instruments of ratification of the Treaty on the Non-Proliferation of Nuclear Weapons, to appeal to the nuclear-weapon States Party to the Treaty to fulfill their undertakings to halt the nuclear arms race and to achieve nuclear disarmament.

Egypt equally calls upon all nuclear-weapon States to exert all efforts conducive to the permanent banning of all nuclear weapon tests as soon as possible. This would contribute to bring an end to the development and the manufacture of new types of weapons on mass destruction, as much as the cut off of fissionable material for military purposes would contribute to bring to an end the quantitative increase of nuclear weapons.

Within the framework of achieving security for the non-nuclear-weapon States, Egypt believes that Security Council Resolution 255, of 19 June 1963, is still far from providing a real guarantee for the non-nuclear-weapon States against the use or threat of use of nuclear weapons by the nuclear-weapon States. Therefore, Egypt appeals to the nuclear-weapon States to exert their effort to reach an agreement which would prohibit once and for all the use or threat of use of nuclear weapons against any State.

The realization of the previously mentioned steps would be consistent with the letter and spirit of the basic guiding principles formulated by the General Assembly of the United Nations for the conclusion of the Non-Proliferation Treaty, the most relevant of which are the principle of balance of mutual responsibilities and obligations of the nuclear and non-nuclear Powers and the principle prescribing that the Treaty should be a step towards the achievement of general and complete disarmament and, more particularly, nuclear disarmament.

Convinced that the establishment of nuclear-weapon-free zones in different parts of the world is bound to increase the effectiveness of the Non-Proliferation Treaty in the realization of its objectives and aims, Egypt has exerted special effort to establish a nuclear-weapon-free zone in the Middle East, as well as in Africa.

In this respect, Egypt wishes to express its great satisfaction with the United Nations General Assembly Resolution adopted by

consensus during its 35th session inviting the countries of the Middle East, pending the establishment of a nuclear-weapon-free zone in the area, to declare solemnly their support for the achievement of this objective, and that they will refrain on a reciprocal basis from producing, acquiring or possessing nuclear weapons, and to deposit their declarations with the United Nations Security Council.

In conclusion, Egypt wishes to point out that its ratification of the Treaty on the Non-Proliferation of Nuclear Weapons emanates from its belief that this step is in conformity with its vital interests as long as the Treaty succeeds in preventing the proliferation of nuclear weapons worldwide, and more particularly in the Middle East, which should remain completely free of nuclear weapons, if it is to play a constructive role in the erection of peace, security and prosperity for its people and the world at large. ●

HUMAN LIFE BILL: A LEGAL RATIONALE

● Mr. HATCH. Mr. President, the Senate Judiciary Committee will begin hearings shortly on the issue of abortion. In particular, the committee will focus upon legislation introduced by Senator HELMS (S. 158) and Representatives HYDE and MAZZOLI (H.R. 900) that would employ the enforcement clause of the 14th amendment to define "person" for the purposes of that amendment.

As strongly as I feel about the right-to-life issue and the need for Congress to take strong action in prohibiting abortions, I feel equally strongly about the Constitution. As chairman of the Constitution Subcommittee, I will play no part in reporting to the full Senate any legislation that I believe to be of dubious constitutional merits.

It is with this premise in mind that I would like to outline a tentative legal and constitutional justification for S. 158. I would emphasize that I am not yet endorsing this argument, in part or in whole. My own priority remains a human life constitutional amendment. I will restrict my attention now to those provisions of this measure which deal with the 14th amendment issue, although I recognize that there are equally difficult constitutional issues stemming from other provisions that would limit the jurisdiction of the Federal judiciary.

A LEGAL RATIONALE

Congress' authority under the Constitution to enact S. 158 depends on two questions. First, does Congress have power to investigate and to determine when human life begins? Second, if Congress determines that human life exists from conception, or from some other point, may Congress enforce the 14th amendment in accordance with this determination, by declaring that unborn children are persons for purposes of enforcing the obligation of States under the 14th amendment not to deprive persons of life without due process of law?

The 14th amendment already protects human life from the action of States, by providing—

Nor shall any State deprive any person of life, liberty, or property without due process of law.

Today, unborn children enjoy no protection under this provision because no branch of the National Government has

determined whether they are, in fact, living human beings. So long as their status as human beings remains legally unresolved, the Supreme Court will not protect them as persons.

The Supreme Court has refused to determine whether unborn children are human life on grounds that the issue is "sensitive and difficult," that there is a "wide divergence of thinking" on the issue, and that the judiciary is "not in a position to speculate as to the answer." *Roe v. Wade*, 410 U.S. 113, 159-60 (1973).

It makes little sense for our Nation to continue with its present policy toward abortion without seeking an answer to the fundamental question of when human life begins. For difficult questions such as this, concerning which the courts properly do not consider themselves competent to provide an answer, it often falls to the Congress to make a political decision for the country. The courts have traditionally deferred to Congress power to decide questions of policy which are "delicate" and "complex," which are "of a kind for which the judiciary has neither aptitude, facilities nor responsibility," or which are "confided by the Constitution to the political departments of government, the Executive and Legislative." *Chicago & Southern Air Lines, Inc. v. Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948). See *Baker v. Carr*, 369 U.S. 186, 217 (1962); *Coleman v. Miller*, 307 U.S. 433, 454-55 (1939).

Congress has power under the Constitution to investigate and determine when human life begins, just as it has power to decide countless other policy questions involving difficult decisions on unclear facts and conflicting values. Life-and-death decisions of the most difficult nature come before Congress frequently—decisions whether to legalize particular drugs that may save some lives but endanger others; whether to require automobile safety devices that may save the lives of some but at great expense and inconvenience to others; whether, in extreme circumstances of international conflict, to declare war. The list could go on without end. No court is qualified to make such decisions. That task falls to Congress. And that is precisely the case in determining when human life begins.

Congress power to resolve difficult policy questions is especially clear when those questions are related to the enforcement of rights guaranteed by the 14th amendment. Section 5 of the 14th amendment provides:

The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

When the courts are not capable of resolving a difficult question which is fundamental to the application of a provision of the amendment, that provision can be effectively enforced only if Congress addresses the question.

Although Supreme Court Justices have differed over the proper scope of Congress enforcement power, it is clear that Congress may make findings of fact that are relevant to the application of the amendment's terms to concrete situations. Justice Harlan, who took perhaps the narrowest view of any modern Justice toward Congress power to interpret the 14th amendment, nevertheless, ac-

knowledge a legitimate role for Congress in enforcing the terms of the amendment:

To the extent legislative facts are relevant to a judicial determination, Congress is well equipped to investigate them, and such determinations are, of course, entitled to due respect. *Katzenbach v. Morgan*, 384 U.S. 641, 668 (1966) (Harlan, J., dissenting).

The majority opinion in *Katzenbach* against *Morgan* gives Congress even broader power to define the meaning of 14th amendment terms. The Supreme Court majority in that case gave an affirmative answer to the following question:

Without regard to whether the judiciary would find that the equal protection clause itself nullifies New York's English literacy requirement as so applied, could Congress prohibit the enforcement of the State law by legislation under § 5 of the Fourteenth Amendment? 384 U.S. at 649; See also *Fullilove v. Klutznick* 65 L.Ed.2d 902.

By either view of Congress power, and I would personally reject strongly that of the *Katzenbach* majority, Congress can appropriately investigate the legislative facts available from scientific evidence on the beginnings of human life. Based on this evidence, in light of Congress beliefs as to the value of human life in all forms and external manifestations, Congress can declare its finding of when human life begins and from what point human beings should be protected under the law.

Congress may declare human life to be protected from a specified point even if some uncertainty exists. President, Reagan, in his press conference of March 6, 1981, expressed the crucial insight that, if we are uncertain whether something is a living human being, we must give the benefit of the doubt to life:

Until we determine and make to the best of our ability, a determination of when life begins. . . . I think that everything in our society calls for opting that [unborn children] might be alive.

Supreme Court precedents support this commonsense view. Congress can use its power to enforce the 14th amendment whenever it perceives a likelihood, a danger, or a risk, that 14th amendment rights might be violated. *City of Rome v. United States*, 100 S. Ct. 1548, 1562 (1980); *South Carolina v. Katzenbach*, 383 U.S. 301, 326 (1966).

If Congress determines unborn children to be living human beings, it follows from the intent of the framers of the 14th amendment, that Congress has constitutional power to declare unborn children to be persons for purposes of securing and enforcing their rights under the 14th amendment. The author and primary sponsor of section 1 of the 14th amendment, Congressman JONATHAN A. BINGHAM of Ohio, spoke of the right to equal protection and the right to life, liberty, and property for "every human being." (Congressional Globe, 39th Cong. 1st sess. 1089 (1866)). Senator Jacob M. Howard of Michigan, who sponsored the amendment on the floor of the Senate, spoke of its provisions as protecting the rights of "common humanity." (Congressional Globe, 39th Cong., 1st sess. 2766 (1866)).

These statements reflect the intent of the framers to overcome a Supreme Court decision that had created a distinction between human beings and persons entitled to protection under the Constitution. That decision was *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857). The framers of the 14th amendment made it clear that no distinction is to be drawn between "person" and "human being." Since the ratification of the 14th amendment, the term "person" has been expanded to include more than just human beings. See, e.g., *Gulf, C. & S.F. Ry. v. Ellis*, 165 U.S. 150, 154 (1897) (holding that corporations are persons for purposes of the 14th amendment). But that term has never been restricted by the Supreme Court to include less than every living human being.

The Supreme Court in *Roe* against *Wade*, of course, found that "person" did not include fetuses which the Court did not know, and could not determine, to be human life. 410 U.S. at 157-60. The Court did not, however, find any indication that the 14th amendment was intended to exclude the unborn. The Court did not say whether a determination that life exists from conception would have led it to conclude that unborn children are persons. But it is obvious that such a determination should lead the Court to precisely that conclusion. The intent of the framers of the 14th amendment is compelling justification in itself for Congress to enforce the amendment by declaring every human being to be a person within the scope of the amendment's protection of life.

This justification is further confirmed by the values that formed the basis of our country at its beginning and that guided the leaders who overcame the *Dred Scott* decision to establish equal rights under the law for all human beings. The Declaration of Independence holds it to be a self-evident truth that "all men are created equal" and that all "are endowed by their Creator with certain inalienable rights," including the right to life. If all human beings are created equal, there can be no doubt that constitutional protections of the right to life must apply equally from the point when they are created.

Opponents of slavery, during and after the War Between the States, emphasized the importance of protecting all human beings under the law. Senator Charles Sumner of Massachusetts said—

In the eye of the Constitution every human being within its sphere . . . is a person. Congressional Globe, 37th Cong., 2d Sess. 1449 (March 31, 1862).

Congressman BINGHAM equated "person" with "human being" for purposes of protecting civil rights. (Congressional Globe, 37th Cong., 2d Sess. 1638-40 April 11, 1862). And again, Congressman BINGHAM recognized—

[t]he great truth that all men are created equal . . . Id. at 1640-41.

This fundamental principle, repeated time and again at crucial points in our Nation's history, points to only one conclusion: That all human beings are equally entitled to protection of their right to life, under the 14th amendment,

from the time they come into being. Under the compelling force of this principle, if Congress finds unborn children to be living human beings, it follows that Congress can declare them to be persons for purposes of enforcing their rights under the 14th amendment.

The only way to avoid this conclusion is to say that some human beings are not equally worthy of legal protection of their lives. But if we begin to divorce the meaning of person from the definition of human life, we will have to decide which human beings are persons. Any attempt to define what is a "meaningful" life, to decide which human beings are wanted or unwanted, to differentiate between a baby in the womb and one already born, will lead to purely arbitrary decisions and also to grave danger for the weakest and most easily neglected members of the human race. Any such attempt to play God by judging the value of innocent human lives is contrary to our fundamental beliefs as a nation and would have to be rejected by this Congress.

It is unreasonable to assume that the Supreme Court's definition of "person" in *Roe* against *Wade* is so inflexible that it cannot change in response to a legislative determination that unborn children are human beings. Cf. *N.Y. Times*, March 21, 1981, p. 22 (editorial). Such an assumption depends on the unacceptable notion that some human beings can be held to be nonpersons under the law. The Supreme Court has never stated that it simply does not care whether unborn children are human beings. Congress should not presume that the Court would refuse to protect all human beings as persons, including those not yet born, if the Court were presented with a congressional determination that life begins at conception.

Because there can be no valid distinction between "person" and "human being," the judicial determination of personhood rests inescapably on the legislative fact question of what is human life. Congress power to determine when human life begins is at the same time a power to inform the judiciary whether unborn children are persons.*

There may be legitimate differences of opinion whether S. 158 will be binding on the Supreme Court, as suggested by the majority opinion in *Katzenbach* against *Morgan*, or will only serve to inform the judiciary of a legislative determination which is entitled to due deference but not binding force, under Justice Harlan's dissenting view in *Morgan* quoted above. Even, however, under Justice Harlan's relatively narrow view of congressional enforcement power, Congress at the very

*A misleading statement concerning the *Roe v. Wade* opinion has appeared in *Tribe & Ely*, "Let There Be Life," *N.Y. Times*, March 17, 1981, p. A17. Professors Tribe and Ely say that "the Government," according to *Roe v. Wade*, may not override the rights of a pregnant woman by adopting one theory of life. In fact *Roe v. Wade* said only that the State of Texas may not define life. 410 U.S. at 162. No one disagrees that states lack power to expand the scope of the 14th amendment right to life. But Congress stands in a different position from the states since Congress has express power to enforce the 14th amendment and the right to life contained therein.

least has authority to make a determination of when life begins, to define "person" accordingly, and to leave it to the Supreme Court to make a judicial determination informed by the legislative facts.

There could hardly be a more appropriate instance than the human life bill for Congress to exercise its power to enforce the 14th amendment. The question of the beginning of life is one which Congress is competent to decide and the courts admittedly are not. The legislative facts on the beginning of life are directly relevant to the judicial determination of personhood. In light of the relative competence of Congress and the courts to determine when life begins, the degree of deference properly due to Congress determination should be great indeed. Far from setting a broad precedent, S. 158 would assert the power of Congress only to influence those few judicial determinations that turn fundamentally on questions of legislative fact which the courts are unable to decide.

No Supreme Court opinion, either majority or dissent, has ever denied that Congress may use its enforcement power under the 14th amendment to determine legislative facts and influence judicial determinations when the factual matter is so closely related to the judicial determination as human life is to personhood. While Congress may well lack power to restrict constitutional rights by defining some human beings as non-persons, it does have power to expand rights by declaring that all human beings are persons.

Congress declaration that unborn children are human beings and persons will present the Supreme Court with an entirely different question than it faced in defining "person" in *Roe* against *Wade*. When the Court gives due deference to Congress determination, it should arrive at a different answer to that question from its answer in *Roe* against *Wade*.

Mr. President, I am continuing to examine the constitutional issues related to S. 158. It is my intention that these be the focus of Judiciary Committee hearings in the near future. In the meantime, however, I do feel that it is important to recognize that there is at least a credible case that can be made in behalf of this measure. There has already been too much misstatement and confusion about S. 158. I would hope that proponents and opponents of the right-to-life movement, as well as proponents and opponents of S. 158, would all make an effort at least to understand the arguments of the other.●

A SALUTE TO MAESTRO HOWARD MITCHELL

● Mr. THURMOND. Mr. President, on Tuesday, April 14, the National Symphony Orchestra will celebrate its 50th anniversary with a salute to Maestro Howard Mitchell.

Maestro Mitchell is a remarkable man. He is highly gifted and extremely talented. His talent was visible at an early age. He was playing five instru-

ments at the age of 12, and at 16 had received a scholarship to study the cello.

He joined the National Symphony Orchestra in 1933 and became its conductor in 1949. Since Maestro Mitchell joined the orchestra, its size has increased, more recordings have been made, and new works have been commissioned.

Maestro Mitchell is a creative and innovative man who is respected internationally for his contribution to the music world. Currently, he performs 80 concerts annually and assists various other groups with their music.

I am sure my colleagues will join me in a salute to Maestro Mitchell, who through his musical enrichment of American society, has become a national treasure.●

FEDERAL COURT JURISDICTION

● Mr. HART. Mr. President, a number of bills have been introduced in both Houses of Congress to strip the Supreme Court and the lower Federal courts of their authority to decide cases in several controversial areas. Whether one agrees or disagrees with the Supreme Court's opinions, one should oppose these bills, for the real issue at stake is the independence of the Federal judiciary and the role it plays in our constitutional system of checks and balances.

In a recent statement, Yale Law School Prof. Paul Gewirtz explained why proposed legislation to restrict Federal court jurisdiction is unwise and unconstitutional. I ask that his remarks be printed in the RECORD.

The remarks follow:

WHY PROPOSED LEGISLATION TO RESTRICT FEDERAL COURT JURISDICTION IS UNWISE AND UNCONSTITUTIONAL

(Remarks prepared by Prof. Paul Gewirtz, Yale Law School)

The Congress is currently considering a number of bills which strip both the Supreme Court and the lower federal courts of the power to hear cases involving school prayers, abortion and busing. The announced purpose of these bills is to try to change the results reached in specific Supreme Court decisions over the past 20 years. These bills are unwise as a matter of policy and unconstitutional as a matter of law. They should be opposed whether one is for or against school prayer, for or against abortion, for or against busing. What is at stake is something far more fundamental than any particular issue such as school prayer. What is at stake is a central feature of our democratic political system for two centuries: the essential role played by an independent federal judiciary in our system of checks and balances and separation of powers.

At least since John Marshall's famous decision in *Marbury v. Madison*, 1 Cranch 137 (1803), it has been established that the federal judicial power is supreme over Congress in resolving federal constitutional questions and enforcing federal constitutional guarantees. The federal courts are the ultimate interpreters of the Constitution. In the much quoted words of Chief Justice Marshall, it is "the province and duty of the judicial department to say what the law is." *Id.* at 177. While most of us can point to some decisions of the Supreme Court with which we disagree, we recognize that, overall, this power of judicial review, exercised by an independent federal judiciary, is a critically impor-

tant element of our constitutional democracy. Overall, it has served us well—whether it has been to vindicate the rule of law when challenged by a corrupt President, or to protect ordinary citizens against an overreaching government, or to open the way to greater racial equality, or to help mediate conflicts between nation and state or executive and legislature. The reason that the proposed jurisdictional limitations are so dangerous is that they would undercut, in a fundamental and unprecedented way, that essential function of interpreting and enforcing the constitution. Congress, in effect, would be assuming the power to change specific constitutional results by simple majority vote and without a constitutional amendment.

Consider, for example, the effect of the bill that strips jurisdiction from all federal Courts to hear cases involving school prayers. In the early 1960's, the Supreme Court ruled that the First Amendment of the U.S. Constitution, which prohibits the establishment of religion, prohibits the government from requiring the reading or recitation of prayers in public schools. If a public school introduces prayers and a parent sues to enforce those earlier Supreme Court decisions, the state courts might well fail to provide a remedy; but if that happens, under current law the parents could appeal to the United States Supreme Court, a federal court, to enforce their federal constitutional rights. The proposed jurisdictional legislation seeks to prevent the Supreme Court from hearing such a case. The State court decision allowing school prayers would stand. Thus, as its sponsor Senator Helms admits, the proposed legislation seeks to manipulate jurisdiction so as to restore prayer to the schools—in short to change a constitutional result.

Such legislation is nothing less than an assault on the independence of the federal judiciary. Perhaps the Framers of the First Amendment of our constitution were wrong in seeking to prevent the establishment of religion by the government. Perhaps the Supreme Court's decisions interpreting the meaning of the First Amendment should be changed. That is not the issue. The question is whether it is appropriate for Congress, by a simple majority, to try to achieve those ends by means of manipulating the jurisdiction of federal courts to hear cases. The answer is no. The constitution itself provides a method for changing the content of constitutional guarantees: amending the constitution through the procedures specified in Article V. It is a difficult process, requiring approval by a two-thirds vote in each House of Congress and ratification by three-fourths of the states. But it was designed to be difficult. The proposed jurisdictional provisions seek to end-run this constitutional amendment process by asserting Congress' power, by simple majority, to strip away from federal courts the jurisdiction to hear cases enforcing existing constitutional rights.

It is a power that, once unleashed, would be difficult to confine. It would work a fundamental reallocation of power between Congress and the Supreme Court. Recognizing that a constitutional democracy is a delicate thing, and that ours has been a uniquely successful experiment, it would be terribly unwise and terribly risky for Congress to act in a way that surely undercuts the role and function of an independent federal judiciary in our system of separation of powers. No short-runs gain justifies such a long-term risk.

This is not an issue that should divide conservatives and liberals, or Democrats and Republicans. It should not divide those who support or disagree with one or another constitutional decision of the Supreme Court. The issue at stake is one of our basic constitutional structure and institutional ar-

rangements—whether we really want to tamper so fundamentally with the basic allocation of powers in our political system. When the proposed legislation is understood in these terms, the opposition to it should grow.

Significantly, constitutional scholars of all political stripes have concluded that jurisdictional limits of the sort involved here are unconstitutional. The late Alexander Bickel, perhaps the most respected constitutional scholar of his generation, was of this belief, in spite of his sharp criticism of Supreme Court decisions such bills sought to change. Said Professor Bickel: "I deplore as more destructive than the worst of busing the attempt to work such a reallocation of powers between Congress and the Supreme Court."¹ Professor Robert Bork of the Yale Law School, a conservative who served as Solicitor General of the United States under Presidents Nixon and Ford, opposes such congressional restrictions on jurisdiction as a "cure that may set a precedent more damaging than . . . wrong Supreme Court decisions."²

The only argument in favor of the constitutionality of Congress' power to regulate the federal court's jurisdiction in this way relies upon Article III of the Constitution itself, the Article which discusses the judicial power. Article III provides that the "Judicial Power of the United States, shall be vested in one supreme Court"—thereby specifically mandating the existence of the Supreme Court—"and in such inferior Courts as the Congress may from time to time ordain and establish." Article III also provides that the judicial power of the United States shall extend to various categories of cases, including "all Cases . . . arising under this Constitution." Article III provides that in some of these cases the Supreme Court shall have original jurisdiction, but it then goes on to state that in "all the other Cases . . . the Supreme Court shall have appellate Jurisdiction, both as to Law and Facts, with such Exceptions, and under such Regulations, as Congress shall make." According to proponents of the legislation being discussed here, this "exceptions and regulations" clause gives Congress unfettered authority to prevent the Supreme Court from hearing on appeal whatever cases Congress sees fit to withhold from the Supreme Court. Moreover, Congress' power to ordain and establish the lower federal courts allegedly gives Congress the plenary authority to withhold from those courts the power to hear such cases as an initial matter.

But neither Article III, nor the history of its interpretation, will sustain such a radical view of Congress' powers. To be sure, Congress does have significant authority to regulate the jurisdiction of the federal courts. But given the status of the Supreme Court as a constitutionally mandated court, and given the distinctive role that the Framers of the Constitution understood the Supreme Court would play in the constitutional plan—to assure the supremacy and uniform application of the Constitution—the "exceptions and regulations" clause should most plausibly be seen as authorizing only neutral "housekeeping" measures (such as the congressional provision for discretionary certiorari jurisdiction), and not the selective exclusion of

cases of the sort involved here, which interferes with the Court's central constitutional functions. In short, such legislation violates Article III itself and the requirements of separation of powers that prevade the entire Constitution.

At the very least, Congress may not exercise its powers under Article I.I in a way which violates other provisions of the constitution—just as Congress may not exercise its admittedly broad powers to regulate commerce or to tax in a way which violates other constitutional provisions. Thus, Congress obviously could not "except" from the Supreme Court's appellate jurisdiction cases in which the plaintiff was black. Such a law would deprive blacks of rights to equal protection of the laws guaranteed by provisions of the Constitution other than Article III itself.

More generally, if the purpose and effect of a Congressional restriction on federal court jurisdiction is to interfere with the vindication of substantive constitutional rights, such a restriction on federal jurisdiction is a violation of the substantive constitutional right involved. If Congress sought to restore school prayers to the public schools by means of a substantive statute, that would surely violate the First Amendment. So too does a jurisdictional statute which, its sponsors concede, is designed to have the same effect. Congress is simply trying to achieve indirectly what it could not achieve directly. The bill disadvantages a category of Constitutional rights because of Congress' opposition to those rights. However broad Congress' power to regulate federal court jurisdiction, it does not extend this far. (Obviously, Congress could not claim that its purpose in singling out school prayer cases or abortion cases is to regulate the Supreme Court's workload or to serve some other neutral housekeeping objective.)

It is no answer to assert that the state courts remain open and will fully enforce existing constitutional rights. The sponsors of the bills have obviously made the judgment themselves that many state courts will enforce existing rights with far less vigor and effectiveness than their Federal court counterparts; that is the point of the proposed legislation. (Nor is this Congressional judgment without reasonable foundation. For a variety of reasons, the federal Supreme Court and federal lower courts have traditionally been more favorably disposed to claims of federal rights than state courts, and more effective in implementing those rights.) Congress' action will presumably have the effects that Congress desires.³ This is particularly apparent with respect to the restrictions of the Supreme Court's appellate jurisdiction. Denying Supreme Court review is not outcome-neutral but, weighted against effectuation of that Court's settled law. For the Court to accept such restrictions on its jurisdiction would not only violate the principles of *Marbury v. Madison* but the substantive rights that Congress seeks to override.

In short, the proposed bills are not truly provisions aimed at regulating jurisdiction, but rather are aimed at achieving a desired result—indeed at changing settled constitutional rules. That such legislation would be unconstitutional is, in the end, the lesson of *United States v. Klein*, 80 U.S. (13 Wall.) 128 (1872). In *Klein*, Congress had passed legislation which prevented certain claimants

who had received Presidential pardons from receiving claim awards and which deprived the Supreme Court of jurisdiction to review claims based upon Presidential pardons. While noting that in general Congress had power to regulate the Court's jurisdiction, the Court concluded that the legislation here was unconstitutional since "the language of the proviso shows that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny pardons granted by the President the effect which this court had adjudged them to have." 80 U.S. (13 Wall.) at 145.

Finally, a word about the famous Reconstruction case, *Ex parte McCordle*, 74 U.S. (7 Wall.) 506 (1869). In *McCordle*, the Court upheld Congress' power to repeal the Supreme Court's appellate habeas corpus jurisdiction that had previously been authorized by an 1867 statute. This outcome, along with some language in the Court's opinion, is sometimes read to establish that Congress has very broad power to withhold Supreme Court jurisdiction under the power to make "exceptions." Plainly the case cannot support such a reading. The opinion explicitly and carefully states that the repeal did not affect other jurisdictional statutes giving the Supreme Court power to review habeas corpus decisions. Indeed, in the very same Term as *McCordle* the Supreme Court held that denial of habeas corpus could be reviewed under those other provisions. *Ex parte Yerger*, 75 U.S. (8 Wall.) 85 (1869). Far from establishing Congress' broad power to remove access to the Supreme Court's appellate jurisdiction, *McCordle* actually stands for the proposition that in constitutional cases Congress may withhold one jurisdictional basis for Supreme Court review only if another jurisdictional basis is available.⁴ The recent round of legislative proposals restricting the Supreme Court's appellate jurisdiction contains none of *McCordle*'s escape hatches, and for that reason they are patently unconstitutional.

A SALUTE TO SENATE SUPERINTENDENT J. LEWEY CARAWAY

● Mr. THURMOND. Mr. President, for more than one-quarter of the life of the U.S. Senate, one man has served it.

In doing so, he has become an institution himself.

J. Lewey Caraway came to Washington from his native Arkansas at the height of the Great Depression to stay but a short time. That was more than 50 years ago. He never left.

As a youth, he finished high school here and went on to get a law degree. For the past 32 years, he has been Superintendent of the Senate Office Buildings.

During his Senate years he has known hundreds of Senators, and many who became Presidents and Vice Presidents, or candidates for those jobs. Thousands

⁴ Professor Bickel thought *Ex Parte McCordle* "aberrational", presumably because of the extraordinary Reconstruction background. In light of current constitutional doctrine which makes legislative motives and purposes one measure of constitutionality, e.g., *Washington v. Davis*, 426 U.S. 229 (1976), *Ex Parte McCordle* is also aberrational in its methodology, for it reflects the outdated view that "We are not at liberty to inquire into the motives of the legislative." ●

¹ "What's Wrong With Nixon's Busing Bills," *The New Republic*, April 22, 1972.

² *New York Times*, March 16, 1981; p. A16. The literature on the subject is vast. The starting point is Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 *Harv. L. Rev.* 1362 (1953). See also Theodore Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 *Yale L. J.* 483 (1974).

³ In any event, actions "animated by such a purpose have no credentials whatsoever; for [a]cts generally lawful may become unlawful when done to accomplish an unlawful end . . . whatever [their] actual effect may be." *City of Richmond v. United States*, 422 U.S. 358 (1975).

upon thousands of staffers have come and gone during the past half century. He has seen many of the notables of the world who have visited the Senate.

During that time, he rose from an elevator operator to positions in supply and purchasing, and finally to superintendent.

As the years have gone by, the responsibilities and magnitude of his job have increased tremendously, with the number of employees growing, and several buildings being added, some on a temporary basis pending the completion and occupancy of the Hart Building.

Lewey's style is one of friendly reserve, with a gentle nature, a quick smile, and total willingness to be of assistance. He is specially helpful to new Senators and their staffers in becoming acquainted with the ways of the Senate regarding the everyday needs of heat, power, furniture, changes in office configurations, air-conditioning, and so forth.

As President pro tempore of the Senate, it is a pleasure to salute Lewey Caraway and to bring to the Senate's attention the recognition due to him.

On April 1, I was happy to join with his colleagues, fellow workers, and friends at a party in the Office of the Architect of the Capitol honoring him. The Senate Staff Club is to be congratulated for its part in helping arrange the observance.

Lewey has accomplished what many Senators would like to have—50 years of seniority. Well done. With all that experience, the next 50 should be much easier. ●

DEATH OF GEN. OMAR N. BRADLEY

● Mr. THURMOND. Mr. President, Omar Nelson Bradley, a great man and a great American who was the Nation's last five-star general, passed away in New York City on April 8.

I served under General Bradley when he commanded the First Army during the invasion of Normandy in June 1944. He was a fine military strategist and leader. In reflecting on Normandy he later wrote:

The resoluteness of our fighting men and our allies on the Normandy beaches gives us the opportunity today to build a better America in a better and more bountiful life . . . nourished by sacrifice, devotion and service.

The general always had high praise for his men which, at one point during World War II, consisted of four armies made up of 1.3 million men. In discussing the role of his men at Normandy, he later wrote:

Had a less experienced division than our First Infantry stumbled into the enemy resistance, it might have easily been thrown back into the channel. The choice of the First to spearhead the invasion probably saved us Omaha Beach and a catastrophe on the landing.

Omar Bradley came from middle American roots. He was born in Clark, Mo., and had a grandfather on each side of the war between the States. He attended the U.S. Military Academy at

West Point where he graduated in the class of 1915. Counting his days as a West Point cadet, General Bradley had more than 69 years military service to his credit.

During the 28 years after he left West Point and first challenged America's enemies on the battlefield, he worked hard in training and planning endeavors and attended various staff and command schools.

He was tapped by the late Gen. George C. Marshall to go to northern Africa as a member of the staff of the U.S. II Corps. Shortly after that, Omar Bradley had the chance to serve as deputy corps commander under the great Gen. George Patton.

Because of his developing skills and abilities in the African theater, Marshall and Gen. Dwight Eisenhower chose him to serve in the role which earned him fame: field commander of American forces during the Normandy invasion.

Despite all of the landing difficulties and the fact that the general had to call upon all of his skills and strategies to repel violent German counterattacks, the operation succeeded.

The general went off active duty—five-star generals do not retire—in 1953, but his interest in military and corporate affairs—and his zest for life—did not diminish. At the age of 65, when many men retire, he became an executive of the Bulova Watch Co. and in 1958 assumed the chairmanship of the corporation.

I am extremely proud to have served under this outstanding man. My deepest sympathy is extended to his lovely wife Kitty, relatives, and wide circle of friends. He will be missed, but all can take solace in the service he devoted to his country.

Mr. President, in order that I may share with my colleagues these excellent articles from the Washington Star of April 9 about this man, I ask that they be printed in the RECORD.

The articles follow:

OMAR BRADLEY, 5-STAR GENERAL, IS DEAD AT 88

NEW YORK.—Gen. Omar Bradley, the last of the nation's great World War II commanders and the last of its five-star generals, died last night. He was 88.

Bradley, a lanky, bespectacled Missourian who commanded U.S. invasion forces on D-Day at Normandy and was the first to chair the Joint Chiefs of Staff, suffered a heart attack while attending a dinner at the 21 Club here and was pronounced dead shortly afterward at a hospital.

In Washington, President Reagan issued a statement joining all Americans in mourning his death:

"Nancy and I were honored to have Omar Bradley as our friend and honored that one of his last public appearances was at my inauguration. Both of us extend to . . . [his] family our deepest sympathies," Reagan said.

Bradley, who had come to New York from his Fort Bliss, Texas, home for a dinner of the local chapter of the Association of the United States Army, collapsed in an elevator of the 21 Club.

GEN. OMAR BRADLEY, THE HONEST MECHANIC, IS DEAD AT 88

NEW YORK.—General of the Army Omar N. Bradley, a World War II hero who was the

last of the nation's five-star generals, died yesterday in Manhattan. He was 88.

A spokesman for St. Lukes-Roosevelt Hospital said Bradley was pronounced dead on arrival at the hospital after apparently suffering a heart attack. He was accompanied by his wife, Kitty, and aides, the spokesman said.

Bradley, who had served as the first chairman of the Joint Chiefs of Staff, celebrated his last birthday on Feb. 12 at Fort Bliss in El Paso, Texas, where he and his wife had been living since 1977.

Bradley was recovering from a viral infection in February and had earlier been confined to a wheelchair because of knee problems going back to his days as a West Point football player.

He attended President Reagan's inauguration in January in a wheelchair pushed by actor James Stewart.

Making up in competence what he lacked in battlefield glamour, Omar Nelson Bradley won four stars in World War II (a fifth was added later) and the sobriquet of "the honest mechanic."

He commanded, successively, a division, a corps, an army and finally the 12th U.S. Army Group in Europe, which numbered more than 1.3 million combat troops of four armies. In this capacity he was the senior commander of American ground forces in the mid-1944 invasion of Europe and the subsequent defeat of the Nazi forces on the Western Front.

It was Bradley who linked up with Soviet Marshal Ivan Stepanovich Konev on the banks of the Elbe River on April 25, 1945, a dramatic meeting that symbolized the eclipse of German arms.

Earlier, on April 6, with the Germans' doom imminent, Bradley had raised the Stars and Stripes over the frowning fortress of Ehrenbreitstein, across the Rhine from Coblenz, and declared that the Germans could have no doubt about the war's outcome.

"This time we shall leave the German people with no illusions about who won the war—and no legends about who lost the war," he said. "They will know that the brutal Nazi creed they adopted has led them ingloriously to total defeat."

In plowing across France from the Normandy landings of June 1944, and through Germany to the Elbe, Bradley achieved a reputation as a brilliant tactician, the foundations of which had been laid in his campaigns in North Africa and Sicily. The essence of his tactics was that the best way to fight a modern battle was "slow and sure."

"Don't let this blitzkrieg business fool you," he once said. "Today we can move our troops into position much faster than ever before. We can throw a whole division (13,000 men) 150 miles a day, instead of 15 as in the last war. And we can exploit our victories with even greater speed."

"But the actual fighting of the battle itself is a different proposition. That's the same old ground battle fought by the soldier on foot, and it takes almost as much time as it ever did."

Tall (just over 6 feet), erect, lanky, bespectacled, bony-faced, Bradley was a commander the G's liked for the care he took with their lives—and because he looked the part of an infantryman.

In the field he wore an old, stained trench coat, his GI trousers were stuffed into paratrooper boots, and his field cap was unpretentious. His voice, a Missouri drawl, was rarely raised in anger. He gave the impression of being a plain, homely, stable man, which indeed he was.

The late A. J. Liebling, the writer who covered a number of Bradley's campaigns, described him as "the least dressed-up commander of an American army in the field

since Zachary Taylor, who wore a straw hat." And contrasting him with the flamboyant Gen. George S. Patton Jr., Liebling wrote:

"After the Green Hornet, with his ruddy truculent face and his beefy, leathersheathed calves, the new general, lanky and diffidently amiable, seemed a man of milk."

At the same time, however, he impressed a war correspondent as "a tough, knotty fighter with the tremendous sledge-hammer-persistence of Gen. (U.S.) Grant, the shrewdness of a New England horse trader and the personal dignity of character and integrity that can be compared only to the same spacious qualities shown always by Gen Robert E. Lee."

He also possessed enormous self-confidence. Bradley recounted the following colloquy that took place when, with Maj. Gen. William B. Kean Jr., he was drawing up an officer roster for the Normandy invasion:

"What a helluva responsibility this is for you and me to be pulling off the biggest invasion of the war."

"Kean nodded and stared at the map of Europe on the wall. 'But Bill,' I said frankly. 'Who in the army knows more about it than we?'"

Remarkably, Bradley had entered the war without combat experience. A "book general" and the product of an army establishment that placed a high premium on honesty and honor, he had spent his prewar years in routine professorial assignments.

And by 1940 he was an obscure lieutenant colonel in civilian clothes who rode a bus to work in the old Munitions Building in Washington.

But being a "book general" (and the habit of composure that went with it) paid dividends in the war, for he planned each battle and had confidence in his decisions and in his men. To him war was a series of mathematical problems, and he went about the business of reaching his solutions by methods that had been tried and proved.

Born in the hamlet of Clark, Mo., on Feb. 12, 1893, Omar Nelson Bradley was the son of a schoolteacher, who died when his son was 13. The boy was named Omar for a Missouri newspaper publisher and Nelson for the family doctor. In Moberly, Mo., where the youth grew up, he acquired a love for hunting and fishing and was known for shooting a gun expertly. His high school yearbook described him as "calculative."

He went to West Point because his Sunday school superintendent suggested it as the best choice for a poor boy. His class at the United States Military Academy, that of 1915, has become known as the class the stars fell on. It provided more than 30 generals in World War II, including General of the Army Dwight D. Eisenhower and Gen. George E. Stratemeyer, Air Force commander in the China-India-Burma theater.

Cadet Bradley played football and baseball and was graduated 44th in a class of 164. (Eisenhower's rank was 25th.)

The serious and shy second lieutenant served a tour of duty along the Mexican border in 1916 and received a temporary promotion to major in World War I without seeing service outside the United States.

After the war, he drew duty as a teacher of military science and tactics at South Dakota State College, and in 1920 he was posted to West Point for four years as an instructor in mathematics. These followed the well-worn groove of a professional soldier in peacetime: teaching courses and taking them; duty at the Command and General Staff School and the Army War College. His most glamorous tour was a hitch in Hawaii.

In 1939, Bradley was assigned to the general staff in Washington. Ten years earlier his work at Fort Benning, Ga., had caught the attention of Lt. Col. George C. Marshall, and in 1941 Marshall plucked Bradley out of Washington and sent him to Fort Benning, Ga., to convert the tiny infantry school there into a massive center capable of handling 14,000 officer candidates at a time.

Bradley did the job with commendable dispatch and without raising his voice.

In February 1943, the situation in Tunisia was deteriorating after the Anglo-American landing in Morocco and Algeria in November 1942. The combined forces had narrowly failed to take Tunis by a coup de main to catch Gen. Erwin Rommel's Afrika Korps in the rear as Gen. Bernard Law Montgomery's British army had driven it across Libya.

The British, Americans and French were bogged down in mud, cold and discouragement in Tunisia, and there had been much criticism of the quality of the American command in operation.

Bradley became deputy commander of the U.S. II Corps fighting in the Tebessa area under Patton. His main duty, however, was to act as Eisenhower's eyes and ears along the entire front.

The presence of a senior officer out of the chain of command is always irksome to the responsible commanders, and this occasion was no exception.

But Eisenhower had appraised his men correctly when he wrote of Bradley: "He was a keen judge of men and their capabilities and was absolutely fair and just in his dealings with them. Added to this, he was emotionally stable and possessed a grasp of the larger issues that clearly marked him for high office."

Generals, junior officers and GIs dug in among the hills of Tunisia soon became familiar with the grave, low-voiced officer who peered over his glasses in a fatherly fashion as he made it clear to them that he was not on hand to criticize, but to gather information to prevent another setback such as the Americans suffered at Kasserine Pass.

Bradley was placed in command of II Corps after Patton had received another assignment, and he led it to the capture of the French naval base of Bizerte. He was promoted to lieutenant general.

When Patton's Seventh Army and Montgomery's Eighth Army landed in Sicily, Bradley was in command of the U.S. II Corps, which saw its share of the fighting. Before the campaign was over Marshall, the chief of staff, notified Bradley that he was to proceed to England, where he was to prepare to command the First United States Army, then mustering with British forces for the assault across the English Channel.

When he could spare the time, Bradley was with his troops in field inspections, watching them run obstacle courses and engage in mortar practice. "I will see you on the beaches," he told the G.I.'s.

Although Montgomery was in direct command of the assault landings in Normandy on June 6, 1944, the command of the First Army and ultimately of the 12th Army Group was held by Bradley through the remainder of the fighting in France and Germany. He was ashore less than 24 hours after the first Allied units hit the Normandy beaches.

The First Army, numbering 21 divisions, began its breakout from the coastal regions late in June behind a tremendous carpet of air bombardment.

On Aug. 1, the Allied ground force com-

mand changed. Montgomery was given command of the British 21st Army Group, while the 12th Army Group was placed under Bradley, who was responsible only to Eisenhower.

In the Normandy beachhead, Montgomery's British and Canadian force had the primary mission of holding the anchor of the line in the Caen area. Meanwhile, plans were made for the American forces to execute an end run around the German defensive positions.

Patton's Third Army managed a breakthrough at Avranches and fanned southward and finally eastward and northward to close in on the rear of the German Seventh Army at Falaise. Supporters of Montgomery have pointed out that he was facing more formidable opposition, but Bradley felt the British should have made a greater effort to close the narrow Falaise gap through which the greater part of the German Seventh Army managed to squeeze to temporary safety. As it was, more than 70,000 Germans were caught in the trap.

While the British and Canadian armies were pushing north along the English Channel, Paris was recaptured by the Second French Armored Division and other elements of the First French Army, aided by Patton's V Corps and the French Forces of the Interior. As the Germans retreated toward the Rhine, hopes ran high for a quick end to the war in Europe.

September 1944 was, as Bradley put it, "the month of the Big Bust." Paris had fallen, and by Sept. 14 the front line extended from a region north of the channel port of Dunkirk through Antwerp and Aachen, Metz and Nancy down to the Swiss and Italian borders.

On Sept. 3, American tanks broke across the German border near Aachen, and Bradley pulled up stakes at Dreux, a few miles east of Paris, and established his army group command post at Verdun.

But the impetuous Americans had outrun their supply lines and lost their momentum. For the next two months, Bradley and the impatient Patton were to wait at the German border for gasoline and ammunition. The dash for the Rhine had fallen just short of success.

There ensued a lengthy period of tug-of-war between Bradley and Montgomery in the matter of priority for supplies. German resistance had stiffened on the British front as well as in front of Bradley's men, and Eisenhower was called upon to make a decision between the British proposals for operations and those proposed by Bradley. Montgomery wanted to ram a spearhead through to the industrial Ruhr Valley. Bradley favored a broad advance along the line into Germany.

The Germans, however, were massing for a desperate attempt to break through the Ardennes to capture the port of Antwerp. Field Marshal Gerd von Rundstedt had accumulated 600 tanks for this last garrison finish.

"In the face of this astonishing build up, I had greatly underestimated the enemy's offensive capabilities," Bradley recalled in his memoirs. "My embarrassment was not unique, for it was shared not only by the army commanders but by Montgomery and Eisenhower as well."

When the German blow fell on Dec. 16, the 12th Army Group was caught without a division in reserve.

Remnants of four German armies participated in the Battle of the Bulge, but while many units were overrun, Bastogne held and the Germans were too weak to exploit their initial success.

The check administered to the 12th Army

Group in the Battle of the Bulge led to pressure from the British to return Montgomery to his former position as commander of the ground forces. Bradley told Eisenhower flatly that he would not serve under Montgomery and that "you must send me home, for if Montgomery goes in over me, I will have lost the confidence of my command. It was Winston Churchill, British prime minister, who poured oil on the troubled waters.

Bradley's men crossed the Rhine at Remagen on March 7, were across in strength by March 22 and sped on toward the heart of Germany. A total of 325,000 German prisoners were captured in an encircling movement south of Essen and Dortmund.

United States troops joined with the Soviet Union forces at Torgau on April 25, and Bradley paid a courtesy visit to the Russian commander, Marshal Konev, who entertained the American commander with a troupe of women ballet dancers whom he identified as members of the Red Army.

Later Bradley invited Marshal Konev to his headquarters, where Jascha Helfetz entertained them with violin solos.

After Germany's capitulation, Bradley returned to Washington and took over as head of the Veterans Administration from 1945 to 1947. He then became Chief of Staff of the Army and served two terms as chairman of the Joint Chiefs of Staff, departing in 1954. He was made a five-star general in 1950.

After stepping down—he did not retire because Generals of the Army are considered as always available for recall to active duty—he joined the Bulova Research and Development Laboratories. He was later named board chairman of its parent company, the Bulova Watch Company. He was also on the board of the Food Fair Stores and of Metro-Goldwyn-Mayer.

He married Mary Elizabeth Quayle in 1916, a year after his graduation from West Point. They had a daughter, Elizabeth.

Bradley's wife died in 1965, and the next year he married Esther Buhler, who survives.

A memorial service for Bradley was planned at Fort Bliss, although details were incomplete. His body was scheduled to be flown to an El Paso funeral home today and later transferred to the Main Post Chapel at Fort Bliss.

An Army spokesman said burial of the general was expected to be scheduled for Monday at Arlington National Cemetery, with other details to be announced.●

THE CURRENT INTERNAL CONFLICT IN LEBANON

● Mr. RIEGLE. Mr. President, the recent outbreak of hostilities in Lebanon has once again focused international attention on the internal political struggles which beset that nation. The loss of 150 lives and the wounding of over 500 persons during a recent 6-day period are grim reminders of the hostilities which have continued to plague Lebanon since the eruption of the bloody civil war in 1976.

The massive destruction wrought by the war has displaced over 1 million people and caused another 500,000 to leave their country. Reconstruction efforts have raised the question of what kind of Lebanon the conflicting parties want to build.

Despite U.N. and Syrian peacekeeping efforts, Lebanese forces continue to use violence against each other to achieve their own ends. Fighting between the leftist-Moslem alliance and the rightist-Christian forces has thwarted efforts to achieve a peaceful settlement of the issues which divide them.

The persistent internal political problems cry out for a peaceful resolution. We cannot stand by and witness the deterioration of a nation which is a haven of political democracy and economic freedom in the Middle East.

The survival of the country's democratic institutions throughout years of civil strife evidences the strong commitment of all Lebanese citizens, regardless of their political aspirations and beliefs, to their existing form of government.

Similarly, the country's free enterprise system continues to flourish and enjoys the support of all the people. The fact that the economy continues to function at all is an indicator of the resilience of the Lebanese people and the capacity of the economy to grow and overcome the present obstacles.

President Sarkis' government has committed itself to economic reconstruction in the hope that a rebuilt, sound economy will serve as the basis for political stability. Lebanese expertise in commerce and trade will lend itself well to this effort.

However ambitious the government's programs for rebuilding both the political and private sectors might be, any such plans are doomed for failure as long as the internal strife continues. Indeed, whether Lebanon can regain its economic role in the Mideast will depend, in large part, on the measure of political stability which can be achieved.

As an important trade partner, the United States has a special interest in the survival of a free and prosperous Lebanon. Beyond that, a peaceful, prosperous and stable Lebanon is vital in insuring peace and stability in the Middle East.

The United States, along with other free nations, must join together in a sincere international effort to encourage the warring Lebanese factions to lay down their arms and work together toward achieving a peaceful resolution of their differences. Diplomatic efforts must be made to encourage the Lebanese leaders to use the existing governmental mechanisms to realize a lasting resolution of the conflicts.●

END THE MARRIAGE TAX PENALTY

● Mr. PERCY. Mr. President, earlier this year Senator MATHIAS introduced S. 2, a bill which eliminates the marriage tax penalty. I am pleased to be a cosponsor of this legislation as I was in the last Congress.

As April 15 rolls around this year, thousands of families will be mailing in their tax returns. Although I hear from

constituents throughout the year about the tax burden, this time of year brings in an especially large volume of comments, as married taxpayers are reminded again of the inequity in the present tax structure.

Mr. President, one of our Chicago radio stations, WFYR, recently presented an editorial on this subject.

This legislation, S. 2, would allow married taxpayers to file their returns as if they were single, using the rate schedule for single taxpayers. It allows couples to choose the tax system that benefits them most and eliminates the penalty they now pay just because they are married. I think this simple, straightforward approach is the best one because it is understandable to the average taxpayer.

Last year the Senate Finance Committee put together tax cut legislation, the Tax Reduction Act of 1980. Although the bill was unfortunately not scheduled for a vote prior to Congress adjournment, this bill was important because it contained a partial rollback of the tax on marriage. I would like to quote a brief passage from the Finance Committee's report on the 1980 Tax Reduction Act which describes the situation under the present law:

Under present law, a married couple generally is treated as one tax unit which must pay tax on its total taxable income. While couples may elect to file separate returns, the law is structured so that filing separate returns almost always results in a higher tax than filing joint returns. In addition, different tax rate schedules apply to single persons and to single heads of households. Along with other provisions of the law, these rate schedules give rise to a "marriage penalty" when persons with relatively equal incomes marry each other and a "marriage bonus" when persons with relatively unequal incomes marry each other. In general, if two persons' combined income is allocated between them more evenly than 80%-20%, their combined income tax liability will increase when they marry.

I was pleased last year when the Finance Committee adopted this reform and regret that it was not passed and signed into law. It was an important first step, however, and I will encourage my colleagues on the Finance Committee to include the elimination of the marriage tax penalty in omnibus tax legislation when that is considered later this year.

The marriage tax penalty is becoming more acute as more and more families find that both the husband and wife are working. In many cases, wives are entering the job market by choice, as they pursue careers that may have been interrupted during childbearing years. In other cases, women may be working to help keep the bills paid in a time of high inflation.

Just last year, for the first time, over 50 percent of all married American women were working outside the home. This is a major change from just 20 years ago, when the number of working, married women was much lower. It has been estimated that between now and the year 2000, the number of working,

married women will continue to increase, hitting 70 percent in 10 years.

With the increase in the number of two wage-earner families, the marriage penalty has come more and more into play. The family with just one bread winner is no longer the norm and over half of all married couples have two wage earners. As incomes of both the husband and wife approach the same level—with each contributing about 50 percent to the couple's total income—the penalty becomes most severe. The following chart is excerpted from last year's Finance Committee report on the Tax Reduction Act and it shows the discrepancy between taxes paid by a one-wage earner family and the marriage penalty paid by a family in which each spouse earns half of their total income.

MARRIAGE PENALTY

	1 wage-earner couple	2 wage-earner couple ¹
Family income:		
\$10,000	—\$475	\$202
\$20,000	—1,092	391
\$30,000	—1,929	903
\$50,000	—3,344	2,674
\$100,000	—3,464	4,394

¹ Assumes each couple earns 50 percent of the total income.

Mr. President, the above table shows quite graphically what happens under the present tax system. As the committee's explanatory note regarding this table states—

The marriage bonus or penalty is the difference between the tax liability of a married couple and the sum of the tax liabilities if the two spouses had each been taxed as a single person on his or her portion of their combined income. Marriage bonuses are negative in the table; marriage penalties are positive.

There is evidence that suggests that a reduction in the marriage tax penalty would have a stimulative effect on the economy and the savings rate, in addition to removing a tax inequity. If this penalty were removed, as we advocate in S. 2, it can be expected that a number of women not now working would enter the labor market. More importantly, however, a reduction in the second earners' marginal tax rates would have a significant impact on their work effort. As the work effort and incomes of second earners rose, so presumably would their savings rate, as more income would be available for savings. Such families would have less reason to borrow and go into debt.

Eliminating the tax on marriage is not only fair, but makes good economic sense. I commend my good friend Senator MATHIAS for his hard work over the years to put forward this legislation. In the House of Representatives, the champion of the bill is also a Republican, Representative MILLICENT FENWICK of New Jersey. It is time to make this important change in the tax laws.

Mr. President, I ask that the editorial by radio station WFYR be printed in the RECORD.

The editorial follows:

[From Radio Station WFYR]

MARRIAGE TAX

With the tax season upon us, a lot of couples are questioning what has been called the "marriage tax". As it exists today, the marriage tax penalizes two-career couples for the privilege of being married. The IRS and accountants agree; there's only one way out; Don't get married! . . . And that's just what some couples are doing. A north suburban accountant has clients who live together to avoid the higher tax.

And how 'bout this quickie tax evasion scheme the IRS has just caught up with. Couples leave the country at the end of the year, get divorced, take a vacation, return, re-marry, throw themselves a party and still come out ahead.

In 1948, joint returns were originally conceived to give the traditional one-income family a tax break. One-income families continue to benefit from this. But with more and more two-income families, the marriage tax has become outdated.

Today, two-career couples have a legitimate complaint. Their combined incomes throw them into a higher tax bracket, forcing them to pay more than one-income marrieds and singles.

As the Reagan Administration launches its campaign for "a new beginning together", it can't overlook the marriage tax that's keeping families apart. I'm Jim Barker.●

RAOUL WALLENBERG

● Mr. RIEGLE. Mr. President, it is my privilege and honor to lend my support as a cosponsor to Senate Joint Resolution 65, which proclaims Raoul Wallenberg an honorary citizen of the United States and requests the President to ascertain from the Soviet Union his exact whereabouts.

We all owe a deep debt of gratitude to Raoul Wallenberg, not only as a friend of America, but as a humanitarian. Wallenberg's efforts to save Hungary's Jewish population during World War II is one of the great acts of valor in the history of mankind. Working at the request of President Roosevelt, Wallenberg single handedly saved the lives of thousands of Hungarian Jews. Our colleague, TOM LANTOS, is a living reminder to us all of the courage, determination, and vigor of this all-too-often forgotten Swedish diplomat.

I find myself particularly moved by these new efforts to discover the truth of Raoul Wallenberg's disappearance after World War II. Raoul Wallenberg holds a special place in the hearts of the people of Michigan. I am proud to say that Raoul Wallenberg attended the University of Michigan from September 1931 to March 1, 1935, and distinguished himself by receiving a B.S. degree in architecture.

Raoul Wallenberg was no ordinary man. Raised in a wealthy and powerful Swedish family, Wallenberg could easily have ignored the pleas of the Roosevelt administration. Approached by Ambassador Johnson, acting for President Roosevelt's War Refugee Board, Wallenberg agreed to undertake a one-man mis-

sion to rescue Hungarian Jews from the Nazi regime. Relying on his personal courage, wit, imagination, and diplomatic immunity, Wallenberg would attempt to sidestep protocol and gain the release of as many entrapped Jews as possible.

During the final days of the war, Wallenberg began his efforts to save as many citizens as he possibly could. Between May and June of 1944, for example, over 500,000 Jews were murdered. Wallenberg abandoned all vestiges of protocol as no rules applied for this tumultuous period. Resorting to a number of techniques, Wallenberg would pull 5, 10 or, if he was lucky, 100 Jews from trains bound for the concentration camps of Dachau, Auschwitz, or Mauthausen. Wallenberg used every means at his disposal to secure the safety of Hungary's Jews. At one point, Wallenberg rented 32 "safe" houses all over Budapest to protect the Jewish inhabitants. By flying Swedish flags on these "diplomatic residences" and printing Swedish passports freely, Wallenberg was able to protect increasingly more Jewish residents.

Wallenberg's rescue task was made doubly hard because civil order and social administration in Budapest in 1944 were eroding under the pressures of the Allied advance. Wallenberg also had to face and overcome SS leader Adolf Eichmann. In numerous confrontations with Wallenberg, Eichmann promised to personally eradicate the Swedish diplomat.

Wallenberg's string of successes in saving Budapest's Jewish population is unprecedented. In one famous incident, he personally saved over 70,000 Jews huddled in a walled-in Budapest ghetto. Wallenberg's style was direct and often brazen; in order to prevent the impending massacre, Wallenberg threatened German Gen. August Schmidhuber that he would personally see to it that the German would be tried as a war criminal if the upcoming massacre was not stopped. With Allied bombers flying overhead and Wallenberg promising imminent execution, Schmidhuber countermanded the order. This single act saved over 70,000 lives.

Wallenberg's successes also stunned the world community. As many as 100,000 people were alive in large part because of his efforts. In many ways, Wallenberg's success in outsmarting the Nazis became his major liability in dealing with the new occupiers, the Soviets. On January 13, 1945, Raoul Wallenberg presented himself to a Soviet street patrol in Budapest. Even as the Soviets rolled into Eastern Europe, Wallenberg was intent on contacting the Russians about the postwar restoration of property for Hungary's Jews.

After being taken into custody on that January day in 1945, Wallenberg's life and whereabouts become increasingly more confused. Wallenberg had no way of knowing that he had surrendered to the NKVD, the Soviet State Security Service, the forerunner of the KGB.

After the war, it is known that Wallenberg was taken to Moscow and retained in "protective custody." Swedish diplomats attempted to gain the release of one of their most famous amateur ambassadors. Unfortunately, this diplomatic rescue mission failed.

From 1945 to 1947, conflicting and confusing stories circulated about the health and whereabouts of Wallenberg. The only Soviet communication ever issued on Raoul Wallenberg was circulated on February 6, 1957. The statement, issued by then Deputy Foreign Minister Gromyko, claimed that Wallenberg had "fallen victim to the criminal activities" of the Stalinist past. The February 6 document did verify that Wallenberg was imprisoned in Russia, but the Russians claimed Wallenberg had died of heart failure in Lubyanka on July 17, 1947.

For almost 24 years, the Soviet Union has stood by the validity of the Gromyko document. During this postwar period, over 30 personal contacts have been investigated to determine if Wallenberg is, indeed, still alive. The Swedish Government now has an unclear picture from stories gathered around the world, but all evidence points to the unmistakable fact that Wallenberg might still be alive in a Soviet prison.

Raoul Wallenberg's whereabouts deserve to be a matter of public record, not a collection of myths. If he is dead, let us know the full truth. If he is alive, languishing in a Soviet prison, it is our duty to seek freedom for one of the great heroes of World War II. I think it is highly significant and very important that the Congress of the United States embrace Raoul Wallenberg as an honorary citizen. In a way, it is the smallest gesture a grateful country can do for this great humanitarian, and I hope this action will be a stepping stone for our efforts to discover the truth about Raoul Wallenberg.●

BYELORUSSIAN INDEPENDENCE DAY

● Mr. RIEGLE. Mr. President, Wednesday, March 25, marked the 63d anniversary of the Proclamation of the Byelorussian Democratic Republic, which took place in Minsk, the capital of Byelorussia. The proclamation on March 25, 1918, of the Byelorussian Democratic Republic was a high point in the political history of Byelorussia and marked a brief period of genuine national freedom and sovereignty for that nation. The Red Army's forceful establishment of the Byelorussian Soviet Socialist Republic was specifically designed to extinguish the idea of a free and independent Byelorussia.

This ideal of freedom, however, still lives on in the hearts of Byelorussians everywhere and this year's celebrations of Byelorussian Independence Day are an expression of the endurance of this

goal. Recognizing this ideal, I urge support for all efforts to secure the release of Byelorussian prisoners of conscience from Soviet jails.

U.S. national security interests and world peace are well served when captive nations such as Byelorussia are informed of the nature of Soviet activities and the vitality of their respective cultural heritages in the United States. Indeed, these are major objectives of Voice of America broadcasts.●

SUPPRESSION OF FREEDOM IN THE SOVIET UNION

● Mr. MATHIAS. Mr. President, with the many pressing issues demanding our attention—our troubled economy, the precarious situation in Poland—it is easy to push aside other concerns.

The one issue that we must not forget is the continued suppression of basic freedoms in the Soviet Union. We must not forget the thousands of people who, having been denied exit visas, live in fear of harassment and imprisonment nor the hundreds who are in prison for speaking out against the regime. One such person is Anatoly Shcharansky, who is being held in prison despite his deteriorating physical condition and is being prevented from joining his wife in Israel. As honorary cochairman of the Maryland Committee for Shcharansky, I have long taken an interest in his case. I have met with Dr. Shcharansky in Moscow and with his wife here in Washington.

I am heartened to know that many of my constituents have not forgotten the suffering of Anatoly Shcharansky or the many other Soviet Jews and dissidents. For example, I recently received a letter from Eitan Gorlin expressing his deep concern for these people. I ask that the text of his letter be printed in the RECORD.

The letter follows:

DEAR SENATOR MATHIAS: My name is Eitan Gorlin. I am 12 years old. I'd like to tell you that I really care for Anatoly Scharansky and all the other prisoners of conscience in Russia. It is outrageous and unfair how in Russia there is no freedom of religion. If the KGB sees somebody going to a synagogue on a regular basis, terrible things will happen to him. People are arrested and put into hard labor camps just for being Jewish or asking to go to Israel. For instance Anatoly Scharansky, a full grown man, since being in prison is a fraction of a normal man's weight. They are tortured there. Please, Senator Mathias, help Russian Jewry. Help these innocent men be released from the hard labor camps they are now in and help the Russian Jews leave Russia and come to freedom. Please.

Thank you.

Sincerely yours,

EITAN GORLIN.●

SALE OF AWACS TO SAUDI ARABIA

● Mr. MOYNIHAN. Mr. President, the administration's reported intention to

sell AWACS (Airborne Warning and Command System) aircraft to Saudi Arabia is a mistake. Many of us who have found hopeful signs in the new administration's Middle East policy are alarmed by it.

We have been told, after all, that the United States must do what is necessary to protect Saudi security. I agree. Now we are told that we must sell an aircraft that the United States has not found it necessary to sell either to our NATO allies or to Israel—the most sophisticated electronic warfare system flying today. What can justify this?

We have been told that the administration will protect Israel's technological edge over her neighbors. Now we are asked to sell a system that will allow Saudi Arabia to monitor all of Israel's airspace. What will happen then to Israel's edge?

We have been told that the sale of arms to Saudi Arabia will be part of a larger American role designed to stabilize this region. Now the administration proposes, in effect, a smaller role. AWACS planes now manned by Americans in Saudi Arabia will be replaced by systems manned by the Saudi Air Force itself. Does this show American leadership?

We were told that the Saudi request for additional F-15 equipment could be deferred no longer, that the administration was fulfilling its predecessor's commitments. Now the administration has made new commitments of its own. Can it show that it has gained anything in return?

Finally, we have been told that the new administration is committed to showing that the United States can once more act like a great power. Yet we appear unable to say no to Saudi Arabia. How will stability be created in this world if a great power cannot say no to a small one?

I urge the President to reconsider this step. If he proceeds with this sale the bipartisan support that is needed to conduct a successful Middle East policy will be in jeopardy. A decision not to proceed with the sale would be a reassuring signal—to the Congress, to the public, and to our allies—that American policy remains on a sound course.●

COMMENDATION OF CRS

● Mr. RIEGLE. Mr. President, I would like to take this opportunity to extend an expression of gratitude to Gilbert Gude and the professional staff of the Congressional Research Service for the excellent service which they have provided Members of Congress since the Legislative Reorganization Act of 1970. Without the Congressional Research Service, assimilating the masses of information available in today's increasingly complex world would be a formidable task. Under the direction of Gilbert Gude, the Congressional Research Serv-

ice has become an integral force in the work of Congress.

I would especially like to thank the staff of the CRS Office of Member and Committee Relations for coordinating issue seminars on pertinent subjects and legislative institutes for congressional staffers. Over the past weekend, CRS held their third Graduate Legislative Institute at the Federal Executive Institute in Charlottesville, Va. This graduate institute is the final stage in an educational training program for legislative staffers of congressional offices.

By simulating the mechanics of legislative procedure in a comprehensive and realistic manner, the CRS graduate institute is a unique and stimulating method of learning parliamentary procedure. Each participant in the CRS "mock" Congress is assigned a role as either a Senator or Members of Congress and is provided with a working draft of a bill. The two Chambers hold hearings, committee mark ups, and floor debate, ultimately going to conference to reconcile differences. The CRS Office of Member and Committee Relations provides professional support staff, legislative counsel, and parliamentary experts to assist the "Senators" and "Congressmen" in fulfilling their legislative responsibilities. Regardless of whether or not the two Chambers successfully "pass" legislation, each participant returns to Washington with an enhanced understanding of legislative and parliamentary procedure—knowledge invaluable to their respective offices.

Mr. President, I want to commend the Congressional Research Service for the excellent contribution and dedicated service it provides Members of Congress. Unquestionably, the efforts of the Congressional Research Service facilitate and strengthen the work of the legislative branch.

Thank you. ●

INDEXING TAXES

● Mr. PERCY. Mr. President, April 15 falls during the congressional recess period when many of us will be in our home States. I am sure we will be hearing a lot from constituents about their tax returns, as they will be fresh on their minds. It is not only during April, of course, that we hear from constituents about taxes. The tax burden is a year-round concern and it should be, be-

cause taxes continue to rise at record rates.

This year, President Carter's last budget forecast a rise in revenues of over \$100 billion. This gigantic increase in the tax burden follows last year's nearly \$90 billion increase and the \$54 billion increase the previous year. Moreover, the predictions for future tax years are much like this year: Taxes will rise in the range of \$100 billion a year for the foreseeable future.

Looked at in another way, taxes are rising as a percent of our gross national product (GNP).

Mr. President, the following chart shows the budget receipts as a percent of GNP at this point.

TAX BURDEN
(Dollar amounts in billions)

	Gross national product	Budget receipts	
		Amount	Percent of GNP
Fiscal year:			
1979.....	\$2,357.8	\$465.9	19.8
1980.....	2,567.5	520.0	20.3
1981 estimate.....	2,843.7	607.5	21.4
1982 estimate.....	3,214.8	711.8	22.1
1983 estimate.....	3,612.5	809.5	22.4
1984 estimate.....	4,044.0	922.3	22.8

Source: Fiscal year 1982 Carter budget, January 1981.

Mr. President, I call to my colleagues' attention the last column in this chart, which shows the steady rise in taxes over the next several years, expressed in terms of GNP. Since I came to the Senate in 1967, the tax rate has never been so out of control. In fiscal year 1967, for example, revenues as a percent of GNP were 19.3 percent. Although there is some rise and fall of budget receipts relative to GNP, it has been relatively stable over the past 20 years, breaching 20 percent of GNP only twice during this period. Now we seem to see a pattern in which this relative balance is changing, rising to a higher plateau in the 22- to 23-percent range.

Mr. President, I am very concerned about this rising tax burden and feel it is incumbent on Congress to pass tax reduction legislation this year.

One of the proposals I support and am a cosponsor of is the Tax Equalization Act, S. 1, introduced by my good friend, Senator DOLE.

Indexation is a relatively simple concept. As inflation increases, taxes are adjusted downward to keep taxpayers from

paying more and more tax. In so many cases, taxpayers who receive a cost-of-living increase find that they are in a higher tax bracket and must pay more tax than before the cost-of-living increase. The net effect is that workers are worse off than if they had had no increase in income.

Under S. 1, the personal income tax rates, the personal exemption, and the zero bracket amount would be adjusted each year to reflect the cost of living. The basis for determining the cost-of-living increase would be the previous year's Consumer Price Index. Our bill is written to take effect in 1981. It will remain in effect for 4 years. This sunset provision is an important part of the bill, for it will mandate a review by Congress after 4 years.

Who is affected by the present tax system? Of course every taxpayer is harmed by this, but the worst off presently are the low- and moderate-income taxpayers. The Congressional Budget Office has prepared a valuable study, "Indexing the Individual Income Tax for Inflation." This report, sent to Congress last fall, shows the impact of the present tax system on taxpayers.

The CBO chart which I shall place in the RECORD assumes an inflation rate of 13.3 percent. Fortunately, the 1980 rate of inflation was lower than this—about 12½ percent. But the CBO did use the previous year's inflation rate in computing this table, so it is not unrealistic of them to base their computations on so high a rate. The most relevant column in their chart is (3), which shows the percent increase in tax liability due to inflation. The most seriously affected income group is in the \$5,000-a-year group, which experiences an increase of over 100 percent. The average increase for all taxpayers would be 4.5 percent, but this fact would be of little consolation to those low-income taxpayers who earn less than \$10,000 a year but who find their tax liability increased by so much.

It is time for our Tax Code to change this bias. Other countries, including Canada, Brazil, Australia, and France, already have some form of tax indexing. We should move now to put it in place in this country.

Mr. President, I ask unanimous consent that the attached chart be printed with my remarks at this point in the RECORD.

The chart follows:

EFFECT OF A 13.3-PERCENT INFLATION RATE ON INDIVIDUAL INCOME TAX LIABILITY BY EXPANDED INCOME CLASS, 1980¹

Expanded income class	Average tax liability before inflation	Average increase in tax liability due to inflation ²	Percent increase in average tax liability due to inflation	Percent change in after-tax income due to inflation	Expanded income class	Average tax liability before inflation	Average increase in tax liability due to inflation ²	Percent increase in average tax liability due to inflation	Percent change in after-tax income due to inflation
Below \$5,000.....	—\$4	\$69	(*)	(*)	\$30,000 to \$50,000.....	6,365	573	9.0	—2.0
\$5,000 to \$10,000.....	475	82	17.2	(*)	\$50,000 to \$100,000.....	15,509	1,164	7.5	—2.5
\$10,000 to \$15,000.....	1,226	130	10.6	—1.9	\$100,000 to \$200,000.....	41,122	1,753	4.3	—2.2
\$15,000 to \$20,000.....	2,054	194	9.4	—1.4	\$200,000 and over.....	171,849	2,006	1.2	—1.1
\$20,000 to \$30,000.....	3,350	291	8.7	—1.6	All incomes.....	2,995	135	4.5	(*)

¹ For an explanation of procedures, see description in text footnote 4. Figures may not add to indicated totals because of rounding.

² Assumes incomes increase by the rate of inflation.

* Over 100 percent, because average tax liability becomes positive.

⁴ Cannot be accurately estimated, because data are not available on the before-tax incomes of previous nonfilers who would now have to file returns.

Source: Treasury tax model, 1979 law at 1979 income levels. Congressional Budget Office, "Indexing the Individual Income Tax for Inflation," p. 10. ●

AIRLINE EMPLOYEES ATTEMPTING TO BUY THEIR COMPANY

● Mr. LONG. Mr. President, on April 7 I received a letter from an employee association representing the 10,400 employees of Continental Airlines. This employee group is involved in negotiations to acquire a majority interest in their company with an employee stock ownership plan (ESOP).

These employees are hoping to convert the "sweat equity" that they have invested in their company into true equity ownership. The pilots have already negotiated to forego 15 percent of future earnings to fund their portion of the ESOP. Other employee groups are expected to make similar sacrifices in order to insure that they can buy a majority interest in their company.

These employees have an opportunity to create a showcase airline—one in which the employees themselves become the major shareholders in the company. If they are successful in their efforts—and I hope that they will be—they may well become the model airline in the industry—the one to which other carriers will look when seeking a formula for success.

These employees are not seeking Government assistance. This is not a group asking for a Government bail out or for protection from competition. They want to make it on their own in their highly competitive industry. However, they feel that they can best survive as an employee-owned company. I expect that they are right. Several studies have shown that employee-owned companies are more productive and more profitable than their conventionally owned competitors. As this employee group explained it to me, they would not only be willing to make sacrifices in pay, they would also be willing to work harder and to work smarter. Thus, I would expect this already-healthy company not only to survive but to thrive under an arrangement whereby the employees gain a majority of the stock with an ESOP. Personally, I would prefer to fly with an airline that is employee-owned. I think the service would be better, the maintenance more thorough, and the overall flight far safer.

I hope that my colleagues join me in wishing these employees well. If they are successful in this effort, the success of the company itself will be more widely shared, and its eventual success or failure will be placed in the hands of those upon whom its success or failure will largely depend.

I would like to recite a portion of the text of an advertisement that this employee group has developed. They anticipate utilizing this type of advertising to promote themselves as an employee-owned carrier:

We are no longer just employees of our company—we are the new owners of Continental Airlines—every one of us! Because it is in our best interest, we are working hard—together—to make Continental the number one airline in the world. We even

know how to do it! All we have to do is give you the world's best service!

If you have flown with us before, You know there has always been something "special" about Continental. I know it too. It's the pride I feel—we all feel—in our airline. I am proud of Continental's history and its amazing growth from a plucky little one-stop airline to the big international carrier it is today. I am proud of Mr. Bob Six who made it all happen and of Mr. Al Feldman who is now leading our company for us. I am proud of my fellow workers and mostly—proud of myself, my training, and the knowledge I have that I am doing my very best . . . for you . . . for my company . . . and for me!

I ask to have printed in the RECORD the text of a recent advertisement for Eastern Airlines. Although Eastern has only a relatively modest employee stock ownership arrangement, it is clear that they, too, think that the public is far better served when an air carrier is partly employee-owned.

The text follows:

FROM NOW ON, YOUR COFFEE WILL BE SERVED BY A STOCKHOLDER

Now, whenever you fly Eastern Airlines, your reservation will be confirmed by a stockholder, your bags checked by a stockholder, and your plane will be maintained and flown by stockholders.

Because every full-time Eastern employee with us as of January 1 now owns a piece of the airline—ten shares each. The stock is symbolic of the stake each of us has in the future of Eastern Airlines.

We've always said it's service that makes the difference when you choose an airline. Now that difference will be even greater. The service you'll get from us as stockholders—the extra thought and effort you'd expect from a part owner—will be your dividend for flying with us. We'll be trying even harder to earn our wings every day.

In this country, there are a lot of airlines you can call. But there's only one where the stockholders answer the phones.●

VOTING RIGHTS ACT

● Mr. HART. Mr. President, I strongly support the Voting Rights Act Amendments of 1981 and I am pleased to join as a cosponsor of the legislation. Without congressional action, the vitally important Voting Rights Act of 1965 will expire in 1982.

The right to vote in free elections is powerful and precious. It is the foundation of a free society. As Lyndon Johnson said when speaking in support of voting rights legislation in 1957—

This right to vote is the basic right without which all others are meaningless. It gives people—people as individuals—control over their own destinies.

The right to vote is explicitly protected by our Constitution, but it is the Congress that is constitutionally charged with the responsibility to make sure that right is more than a promise.

In 1965, Congress took decisive steps to secure the franchise for all Americans by enacting the Voting Rights Act. These protections have been extended twice since then, in 1970 and 1975. They have also been extended to language minori-

ties, particularly, Hispanic Americans of the Southwest. Now, Congress must once more determine the fate of this historic legislation before its protections expire.

The Voting Rights Act has brought dramatic changes in minority registration and voting. The number of black Americans registered to vote in the southern States, for example, has more than doubled since 1965. In my own State of Colorado, Hispanic voter registration has continually increased, including a 41-percent increase between the 1976 and 1980 Presidential elections, with actual voter turnout up by 23,000. Hispanics are participating in the political process not just as voters but also as successful candidates for office, thanks to the Voting Rights Act.

Despite substantial progress, the protections of the act are still needed. Unfortunately, the potential for abuse of the electoral process is still great. If the Voting Rights Act is not extended, there will be virtually no remedy for discrimination at the voting booth. If it is extended, however, it will assure protection of the basic and fundamental right to vote in three important ways:

First, it will extend for 10 years the section 5 preclearance requirements by which some jurisdictions must obtain Federal approval for any change in voting procedures. These requirements apply to jurisdictions which have historically withheld the ballot from a significant number of their citizens, and prohibits them from changing their election laws without a showing that the changes are not discriminatory. This section, the heart of the Voting Rights Act for the last decade, has been particularly effective in blocking racial gerrymandering—attempts to evade the law through unfair redistricting, at-large elections, annexations, new runoff requirements, and last minute shifts in policy plans. The Voting Rights Act, if extended, will prevent attempts to dilute the power of any individual's vote. Extension is particularly important at this time in view of the upcoming redistricting which will result from our recent census.

Next, it would amend section 2 of the act, to clarify the burden of proof in voting discrimination cases. This amendment would restate Congress intent that violations of the act can be established by proof of discriminatory effect as well as discriminatory intent.

Finally, the legislation would extend for 7 years the language minority protections added in 1975. These provisions mandate bilingual elections in counties with a large non-English speaking population and have played a key role in encouraging those who speak languages other than English to participate in the electoral process. These provisions must be preserved.

The progress we have made in securing free access to the ballot for all our citizens cannot be denied. We can continue this progress if we once again extend the Voting Rights Act.●